SPECIAL CITY COUNCIL MEETING
NEW BRAUNFELS MUNICIPAL BUILDING – CONFERENCE ROOM B
424 S. CASTELL AVENUE
JUNE 28, 2010 @ 4:00 P.M.

The City of New Braunfels will add value to our community by planning for the future, providing quality services, encouraging community involvement and being responsive to those we serve.

AGENDA

CALL TO ORDER: JUNE 28, 2010 @ 4:00 P.M.

CALL OF ROLL: CITY SECRETARY

1. INTERVIEWS
   (A) Interview applicants for terms on the City of New Braunfels Planning Commission.

2. EXECUTIVE SESSIONS
   In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.
   (A) Deliberate and consider issues related to Power Supply Resources, in accordance with Section 551.086, of the Texas Government Code.
       (A. Wayland, City Attorney)

ADJOURNMENT

CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the New Braunfels Municipal Building on June 25, 2010, at 3:00 p.m.

Michael A. Resendez, City Secretary

NOTE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 221-4010 at least (2) work days prior to the meeting so that appropriate arrangements can be made.
MISSION STATEMENT
The City of New Braunfels will add value to our community by planning for the future, providing quality services, encouraging Community involvement and being responsive to those we serve.

AGENDA

CALL TO ORDER: June 28, 2010 @ 6:00 P.M.

CALL OF ROLL: City Secretary

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

INVOCATION: Councilmember Mike Ybarra

REQUEST ALL PAGERS AND PHONES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL.

1. MINUTES

Consider approving the minutes of the regular meeting of June 14, 2010.
(M. Resendez, City Secretary) Pages 1-11

2. CITIZENS’ COMMUNICATIONS

This time is for citizens to address the City Council on issues and items of concern, not on this agenda. There will be no City Council action at this time.
(Mayor Boyer) Page 13
3. **CONSENT AGENDA**

All items listed below are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a councilmember or citizen so requests, in which case the item will be removed from the consent agenda and considered as part of the normal order of business.

**Resolutions & Action Items**

(A) Approval of the recommendation of the New Braunfels Public Library Advisory Board regarding the Technology Plan for the E-Rate Internet Grant to the New Braunfels Public Library.
   (G. Pruett, Library Director) Pages 15-22

(B) Approval of a resolution amending the Plan of Action for the Loan Star Libraries grant award to the New Braunfels Public Library.
   (G. Pruett, Library Director) Pages 23-26

(C) Approval of the renewal of the annual contract with Bound Tree Medical, LLC for medical supplies.
   (J. Robinson, Fire Chief/M. Quinones, Purchasing Manager) Page 27

(D) Approval of the renewal of the annual contracts with Terracon Consultants, Inc. and Arias and Associates, Inc. for construction material testing.
   (M. Quinones, Purchasing Manager) Page 29

(E) Approval of Transportation and Traffic Advisory Board's recommendation to deny a request for the installation of traffic control devices (stop signs) at the SE corner of S. Grant Avenue at E. Mather Street and the SE corner of S. Veramendi Avenue at E. Mather Street.
   (J. Klein, City Engineer) Page 31

(F) Approval of Transportation and Traffic Advisory Board's recommendation to deny a request for the installation of traffic control devices (stop signs) on W. Mill Street at N. Hickory Avenue.
   (J. Klein, City Engineer) Page 33

**Ordinances**

*(In accordance with Section 3.10 of the City’s Charter, a descriptive caption of each ordinance shall be read on two separate days.)*

(G) Approval of the second and final reading of an ordinance amending Ordinance Number 75-10 dated April 28, 1975 to approve installation of the traffic control devices (stop signs) at the intersections of Allison Drive at Rolling Valley Drive and Rolling Valley Drive at Devin Drive.
   (S. Ramsey, Public Works Director) Pages 35-38
(H) Approval of the second and final reading of an ordinance amending and replacing Chapter 130, Article V, Division 4, Wastewater Collection, Treatment, Sections 130-301 through 130-312, with Sections 130-301 through 130-316, of the Code of Ordinances related to uniform requirements for Wastewater Collection and Treatment Systems operated by the New Braunfels Utilities.  
(P. DiFonzo, Chief Executive Officer, NBU) Pages 39-84

(I) Approval of the first reading of an ordinance amending Ordinance Number 75-10 dated April 28, 1975 to approve installation of the traffic control devices (stop sign) at the SW corner of Redbud Drive at Honeysuckle Lane.  
(J. Klein, City Engineer) Pages 85-87

4. PRESENTATIONS

(A) Update on flood recovery efforts related to the June 9, 2010 flood event.  
(M. Morrison, City Manager) Page 89

(B) Departmental presentation from the New Braunfels Public Library.  
(G. Pruett, Library Director) Page 91

5. INDIVIDUAL ITEMS FOR CONSIDERATION

(A) Discuss and consider a resolution expressing the appreciation and gratitude of the City of New Braunfels for the aid and assistance contributed by the City of Kyle in the immediate aftermath of the June 9, 2010 flood event.  
(M. Morrison, City Manager) Pages 93-94

(B) Discuss and consider the appointment of three individuals to the Planning Commission of the City of New Braunfels for terms ending May 31, 2013.  
(M. Resendez, City Secretary) Pages 95-106

(C) Discuss and consider approval of the second and final reading of an ordinance amending Chapter 110 “Solid Waste” of the Code of Ordinances as relating to the Solid Waste Residential, Recycling and Commercial Rates and proposed operational changes.  
(S. Ramsey, Public Works Director) Pages 107-131

(D) Discuss and consider approval of a conditional sign permit for 1015 S. Seguin Avenue.  
(S. Mattingly, Planning and Community Development Director) Pages 133-147

This Item was tabled at the June 14, 2010 City Council Meeting.

(E) Update and discussion on the North Tributary Regional Flood Control Project.  
(S. Digges, Councilmember, District 6) Page 149
(F) Discuss and consider approval of a resolution determining the public necessity for improving the North Tributary within the City by constructing a detention pond and drainage improvements between Walnut Avenue and McQueeney Road; authorizing the acquisition of property rights for two (2) parcels of land including acquiring the same by the filing of proceedings in eminent domain, if necessary.

(A. Wayland, City Attorney) Pages 151-153

(G) Public hearing and first reading of an ordinance rezoning Lot 19C, Latter Day Saints Subdivision, located at 1259 Loop 337, from “C-1” Local Business District to “C-4A” Resort Commercial District.

(S. Mattingly, Planning & Community Development Director) Pages 155-178

(H) Public hearing and first reading of an ordinance rezoning 107.914 acres located on the east side of West Klein Road, approximately 2,000 feet from FM 1044, from “APD Agricultural/Pre-Development District” to “C-1B General Business District”.

(S. Mattingly, Planning & Community Development Director) Pages 179-197

(I) Public hearing and first reading of an ordinance designating 186 S. Castell Avenue to be known as the New Braunfels Herald Building, as a historic landmark.

(S. Mattingly, Planning & Community Development Director) Pages 199-213

(J) Public hearing and first reading of an ordinance designating 794 West Mill Street to be known as the Combs-Schwab House, as a historic landmark.

(S. Mattingly, Planning & Community Development Director) Pages 215-229

(K) Discuss and consider ratification of prior actions and approval of contracts related to the June 9, 2010 flood event.

(D. Korinchock, Support Services Director) Page 231

(L) Discussion and action on an amendment to the FY 2009/10 Convention and Visitors Budget due to an increased marketing effort in response to the June 9, 2010 flood event.

(D. Korinchock, Support Services Director) Page 231 A

6. EXECUTIVE SESSIONS

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.

(A) Deliberate and consider the purchase, exchange, lease or value of real property, in accordance with Section 551.072, of the Texas Government Code.

(A. Wayland, City Attorney) Page 233
(B) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code.
(A. Wayland, City Attorney) Page 233

(C) Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code.
(A. Wayland, City Attorney) Page 233

NOTE: The City Council reserves the right to retire into executive session concerning any of the items listed on this Agenda whenever it is considered necessary and legally justified under the Open Meetings Act (Chapter 551 of the Texas Government Code).

ADJOURNMENT

CERTIFICATION

I hereby certify that a Notice of Meeting was posted on the Bulletin Board at the New Braunfels Municipal Building on June 28, 2010 at 4:00 p.m.

Michael A. Resendez, City Secretary

NOTE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 221-4010 at least two (2) work days prior to the meeting so that appropriate arrangements can be made.
MINUTES
REGULAR CITY COUNCIL MEETING
JUNE 14, 2010

The City Council of the City of New Braunfels, Texas, met in Regular Session on June 14, 2010.

City Councilmembers present were: Mayor Bruce Boyer, presiding; Mayor Pro-tem Kathleen Krueger, and Councilmembers Richard Zapata, Mark Goodner, Mike Ybarra, Sandy Nolte, and Steven Digges.

City Staff present were: City Manager Michael E. Morrison, Assistant City Manager Robert Camarena, City Attorney Alan C. Wayland, City Secretary Michael A. Resendez, Planning and Community Development Director Shannon Mattingly, Support Services Director Deborah Korinchock, Public Works Director Steven Ramsey, Human Resources Director Julie O’ Connell, Library Director Gretchen Pruett, Fire Chief John Robinson, Interim Chief of Police Bobby Whitmire, Human Resources Manager Liz Hancock, Emergency Management Coordinator Steve Harris, Watershed Program Manager Nathan Pence, Human Resources Analyst Heather Harrison, and Information and Technology Specialist Joy Abernathey.


The meeting was called to order by Mayor Boyer in the New Braunfels Municipal Building City Council Chambers at 6:04 p.m. All Councilmembers were present. Mayor Boyer led the Pledge of Allegiance and the Salute to the Texas Flag and Councilmember Goodner gave the invocation.

Minutes: Councilmembers considered approval of the minutes of the special meeting of May 19, 2010, the special meeting of May 24, 2010, and the regular meeting of May 24, 2010.

Councilmember Nolte moved to approve the minutes as presented. Councilmember Digges seconded the motion which was unanimously approved by City Council.

Citizens’ Communications:

No communications were received from the public under this agenda item.

Consent Agenda:

Before the reading of the Consent Agenda, Mayor Boyer noted that items (B), (D), and (F) had been pulled from it and would be addressed individually. Mayor Boyer continued by reading the remainder of the Consent Agenda as listed below.
Councilmember Digges moved to approve the Consent Agenda as listed below. Mayor Pro-tem Krueger seconded the motion which was approved by the following roll call vote; AYES: Councilmembers Zapata, Goodner, Ybarra, Nolte, Krueger, Digges, and Mayor Boyer; NAYS: None.

(A) Approval of the Appointment of Penelope Speier of 278 Dallas Street, New Braunfels, Texas, to the Arts Commission as an At-Large member for a term ending January 31, 2013.

(C) Approval of the purchase of three additional Incode (Municipal Court software) modules funded from Court Technology Funds. As noted in the agenda packet, the initial year cost to add these modules was approximately $14,000 with a recurring annual cost of approximately $7,000.

(E) Approval of a resolution setting a schedule for public hearings to consider annexation of 30.202 acres of land located east of FM 1101 and north of Barbarosa Road, adjacent to the existing City Limits.

Resolution No. 2010-R24

(G) Approval of a resolution setting a schedule for public hearings to consider annexation of 29.898 acres of land located east of FM 1101 and south of Barbarosa Road, adjacent to the existing City Limits. Councilmember Nolte abstained from the vote on this item.

Resolution No. 2010-R25

(H) Approval of the second and final reading of an ordinance amending Section 126-354 to modify the permit parking ordinance in Area “B”.

Ordinance No. 2010-36

(I) Approval of the second and final reading of an ordinance amending the Code of Ordinances of the City of New Braunfels, Texas, by modifying Section 126-138 to establish speed limits on County Line Road from FM 1044 to FM 725 within the corporate limits of the City of New Braunfels.

Ordinance No. 2010-37

(J) Approval of the first reading of an ordinance amending Ordinance Number 75-10 dated April 28, 1975 to approve installation of the traffic control devices (stop signs) at the intersections of Allison Drive at Rolling Valley Drive and Rolling Valley Drive at Devin Drive.
**Consent Agenda Item (B) - Approval of the recommendation of the Water and Wastewater Impact Fee Advisory Committee concerning the semiannual water and wastewater impact fees report for the period of July 1, 2009, through December 31, 2009:** Mayor Boyer noted that this item had been pulled from the Consent Agenda by Elizabeth Weston of 1851 S. Seguin Avenue, New Braunfels, Texas.

Ms. Weston noted that she had asked for this item to be pulled from the Consent Agenda for a full explanation of it.

Roger Biggers, Executive Director of Water Services for New Braunfels Utilities, noted that according to Chapter 35 of the State Government Code, a report needed to be filed semiannually with the New Braunfels Impact Fee Advisory Committee. Mr. Biggers continued his presentation by referring to numbers in the report submitted to the New Braunfels Impact Fee Advisory Committee specifically noting the impact fees collected and expended during the period of July 1, 2009 through December 31, 2009. He specifically noted that $10,774,565.95 had been collected in impact fees since the inception date of February 1, 2001 and that the net impact fee total from the inception date was $7,148,265.63. He closed by noting that the recommendation of the New Braunfels Impact Fee Advisory Committee was for the Council to accept the semi-annual report submitted by New Braunfels Utilities.

Continuing with the item, Councilmember Digges moved to approve the recommendation of the Water and Wastewater Impact Fee Advisory Committee concerning a report for the period of July 1, 2009 through December 31, 2009. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.

**Consent Agenda Item (D) - Authorization for the City Manager to approve change order 4 to the contract with Yantis Company for construction services on the South Tributary Regional Flood Control Project:** Mayor Boyer noted that this item had been pulled from the Consent Agenda by Elizabeth Weston of 1851 S. Seguin Avenue, New Braunfels, Texas.

Ms. Weston noted that she had also asked for this item to be pulled from the Consent Agenda for a full explanation of it.

Public Works Director Ramsey noted that the City had contracted with the Yantis Company for construction of the South Tributary Regional Flood Control Project from northeast of FM 725 to upstream of FM 1044 at a cost of $3,996,630.00. He stated that the Lou Ann Drive improvements were added to the project under Change Order 3 at a cost of $429,998.25. He further stated that Change Order 4 consisted of additional curbing to complete the Lou Ann Drive Project at a cost of $80,012.00.

Following Director Ramsey's introduction to the item, Councilmember Digges moved to authorize the City Manager to approve Change Order 4 to the contract with the Yantis Company for construction services on the South Tributary Regional Flood Control Project.
Project. Councilmember Zapata seconded the motion which was unanimously approved by City Council.

**Presentation on flood mitigation efforts related to the June 9, 2010 flood event:** Mayor Boyer read the above and foregoing caption.

City Manager Morrison commenced his presentation by noting the efforts that were taken by City's first responders, the morning of June 9th, in response to the flood event. He stated that once flood waters started to recede, assessment teams were dispatched to conduct preliminary assessments. He noted that about 127 properties had been identified as receiving damage due to river flooding or drainage issues. City Manager Morrison informed City Council that the dollar amounts of damage were still being calculated and that numerous cars, buses, boats, and other material had been recovered. City Manager Morrison continued by noting that City crews and other outside contractors were still in the process of removing trees and other large objects and there was hope the City's parks and golf course could be opened by the latter part of the week. He mentioned City staff had gone through the neighborhoods to work with property owners on the reconstruction process and staff would be requesting Council to consider waiving building permits for those affected. In closing, City Manager Morrison stated that City staff had negotiated a discounted rate for landfill fees and also identified things that were done well during this event and areas where improvements could be made before the next event.

Fire Chief Robinson then followed with rainfall data information as well as information on the rescue and recovery efforts by the City's emergency personnel and mutual aid resources on June 9th.

Next, Planning and Community Development Director Mattingly explained a map to City Council that represented areas flooded throughout the City based on the preliminary assessments.

Additionally, Paula DiFonzo, Chief Executive Officer of New Braunfels Utilities (NBU), informed City Council of how the storm caused electrical outages for several thousand people and caused very expensive damages to transformers. She also noted how the sewer system was impacted by the flood event and what efforts were being taken to bring operations to a normal status.

To conclude the presentation, City Manager Morrison noted some of the companies, organizations, and restaurants that had contributed towards the flood recovery effort and informed City Council of the damage status of some of the City's parks and facilities.

Mayor Boyer then took time to commend all of the community volunteers, organizations, businesses, and City and NBU personnel involved in the rescue and recovery efforts related to the June 9th flood event.
**Presentation from the New Braunfels Parks Foundation:** Mayor Boyer read the above and foregoing caption.

Gale Pospisil of 6 Mission Drive, New Braunfels, Texas, appeared on behalf of the New Braunfels Parks Foundation to give an overview of it. Ms. Pospisil stated that the New Braunfels Parks Foundation was started in 2006 as a 501(c)3 non-profit organization to promote, protect, and enhance the parks system and to educate and promote community partnerships. She continued by listing the goals of the New Braunfels Parks Foundation and some future projects that included Hike/Bike Trails, the development of Fischer Park and the West Loop/Off-leash Dog Park. Next, Ms. Pospisil made reference to the size, in acres, of the City's main parks, neighborhood parks, greenbelts and historic cemeteries and noted some of the future challenges the parks system would be confronted with as the population continues to increase in the City of New Braunfels. Lastly, Ms. Pospisil addressed the different levels of membership available for anyone interested in joining the Foundation.

**Discuss and consider authorization for the City Manager to approve a contract with CIGNA for administrative services for the City's self-funded medical, prescription, dental and vision employee benefit plan, and stop loss (reinsurance) coverage for the medical and prescription plan:** Mayor Boyer read the above and foregoing caption.

Human Resources Director O'Connell introduced this item to City Council noting a brief history and current status of the City's self-funded medical, prescription, dental and vision employee benefit plan. She covered information related to employee insurance premiums, insurance claims, the employee wellness program, an employee benefits committee, and potential partnerships with other local agencies.

City Manager Morrison reminded City Council that the City's health program was currently self-funded and that the purpose of this contract was for CIGNA to administer the program.

Following questions from Councilmembers, Councilmember Digges moved to authorize the City Manager to enter into a contract with CIGNA for administrative services for the City's self-funded medical, prescription, dental and vision employee benefit plan, and stop loss (reinsurance) coverage for the medical and prescription plan. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.

**Discuss and consider approval of the first reading of an ordinance amending Chapter 110 “Solid Waste” of the Code of Ordinances as relating to the Solid Waste Residential, Recycling and Commercial Rates and proposed operational changes:** Mayor Boyer read the above and foregoing caption.

This item commenced with Public Works Director Ramsey providing City Council with background information and a history on this matter dating back to August 18, 2009. He informed Councilmembers that the City's solid waste collection service (garbage pick-up) receives no financial support from property or sales taxes. He added that the service...
was completely self-supporting through the rates the City charges to residents and businesses and that the cost of personnel, general operating costs, fuel, equipment, landfill fees, a contribution for wear and tear on streets, administrative costs, and an operating reserve were all included in the cost of operating the system.

Public Works Director Ramsey noted that the City was switching to once a week refuse pickup and once a week automated Citywide recycling for its residential customers to help offset higher landfill costs and would be part of the overall efforts to keep the costs of solid waste collection relatively low while maintaining the financial health of the solid waste program. He stated that under this operational plan, the residential rate would increase from $16.39 to $17.66 and that the Solid Waste Program was projected to have approximately $1.7 million in operating reserve, and was suggested that the residential increase could be delayed until April 2011, drawing down the reserves in the short term.

Continuing with his presentation, Public Works Director Ramsey noted that at the April 12, 2010 meeting, Council approved a once a week refuse and recycling collection; transition to Citywide automated recycling by October 2010; draw down of fund balance to offset initial costs; a residential rate increase from $16.39 to $17.66 in April 2011; and, commercial rate increases becoming effective in October 2010. He further stated that Council approval included moving forward with the proposal introduced in all of its aspects, which included purchasing necessary recycling carts and approval of a budget transfer. He noted that some residents believed that one garbage container would not be sufficient for them with collection occurring once per week and for these residents, staff had included in the ordinance, a rate for collection of a second garbage can each week. Public Works Director Ramsey noted that the rate would be $9.00 monthly which was about 2/3 of the cost of a single container collection. He further noted that the total monthly cost for garbage collection for these residents would be $26.66 and that the second can would be entirely at the resident's option.

Concluding his presentation, Public Works Director Ramsey stated that staff was requesting that Council approve the first reading of this ordinance amending Chapter 110 "Solid Waste" of the Code of Ordinances as relating to the Solid Waste Residential, Recycling and Commercial Rates and proposed operational changes.

Proceeding with the agenda item, Councilmembers took the opportunity to gather additional information related to the subject matter.

Mayor Pro-tem Krueger then moved to approve the first reading of this ordinance with the further contemplation that staff would take a look at the second can with an incremental cost analysis perspective. Councilmember Zapata seconded the motion.

Next, Mayor Boyer asked for input from the audience.

Wayne Rudolph of 1216 Shenandoah Drive, New Braunfels, Texas, made comments related to the revenues of the Solid Waste Enterprise Fund.
Following Mr. Rudolph's comments, Councilmembers held a discussion regarding the Solid Waste Enterprise Fund in comparison to the City’s three other enterprise funds.

To conclude the item, Mayor Boyer called for a vote on the matter.

City Council approved the first reading of this ordinance as proposed by Mayor Pro-tem Krueger by a 5/2/0 vote with Councilmembers Goodner and Nolte casting dissenting votes.

Public Hearing and consideration of a resolution amending the 2006 Future Land Use Plan from “Commercial/Industrial and Residential Medium/High Density” to “Commercial/Industrial” and a second and final reading of the ordinance rezoning 22.563 acres consisting of Lot 1B-R, Greenway Plaza Subdivision, Lot 1, Reininger Subdivision, and 15.2 acres out of the J Thompson SUR-21, ABS-608, located at 3455 IH 35 South, 150 South Rueckle Road, and 144 Rueckle Road, from “C-3 Commercial District” and “APD Agricultural/Pre-Development” to “M-2A Heavy Industrial District” with permission for bulk storage of gasoline, liquefied petroleum, and flammable liquids: Mayor Boyer read the above and foregoing caption.

Before the presentation on this item, Mayor Pro-tem Krueger recused herself from the matter due to her husband’s involvement with properties adjacent to the subject property.

Planning and Community Development Director Mattingly provided City Council with background information on this item noting that at the May 24, 2010 City Council meeting, the City Council approved the first reading of this ordinance zoning the property with the modifications laid out in the letter from MidTex Oil dated May 21, 2010. Director Mattingly further noted that the current version of the ordinance reflected changes discussed at the May 24, 2010 City Council meeting.

Mayor Boyer then opened the floor to public input.

Following no input from the audience, Councilmember Digges moved to close the public hearing regarding the resolution amending the 2006 Future Land Use Plan. Councilmember Nolte seconded the motion which was approved by a 6/0/1 vote with Mayor Pro-tem Krueger abstaining from the vote.

Continuing with the agenda item, Councilmember Digges moved to approve a resolution amending the 2006 Future Land Use Plan for the subject property from “Commercial/Industrial and Residential Medium/High Density” to “Commercial/Industrial” and the second and final reading of this ordinance rezoning the subject property as presented. Councilmember Nolte seconded the motion which was approved by the following roll call vote; AYES: Councilmembers Zapata, Goodner, Ybarra, Nolte, Digges, and Mayor Boyer; NAYS: None; ABSTENTIONS: Mayor Pro-tem Krueger.

Resolution No. 2010-R26
Ordinance No. 2010-38

Discuss and consider approval of a conditional sign permit for 1015 S. Seguin Avenue: Mayor Boyer read the above and foregoing caption.

Planning and Community Development Director Mattingly noted that the subject property was located at 1015 S. Seguin Avenue, between Faust Street and Business IH 35, with the property zoned as “C-3 Commercial District”, and a Pit Stop convenience store and fuel station occupying the property.

She further noted there was an existing pylon sign on the property advertising Shell, Pit Stop and the gasoline and diesel fuel prices. She stated that the property owner wanted to advertise the fuel price for the E85 fuel, however, Shell Oil would not allow Midtex to install the E85 fuel sign on the existing pylon. Therefore, the property owner was proposing a new monument sign that would digitally advertise the price of the E85 fuel. She stated that the proposed sign would be 9’2” in height and 6’ wide with 37 square feet of sign face per side. Director Mattingly also noted that the digital fuel price portion of the sign would consist of numbers 24 inches in height.

Director Mattingly continued her introduction on this item by noting the criteria allowed under the Sign Ordinance for C-3 properties. She stated that the proposed monument sign did comply with the C-3 district dimensional sign requirements, but the property lacked the required road frontage to allow the additional sign.

Director Mattingly informed Council that staff recommended denial of the conditional sign permit, as the existing non-conforming sign might be able to be altered to include the Midtex product signage with the constraints of the Sign code. She further noted that if approved, the property would exceed the maximum number of free-standing signs allowed by the Sign Ordinance.

Next, Rodney Fischer of 409 Acorn Cove, New Braunfels, Texas, provided Councilmembers with additional information on visibility issues and potential monument signs.

Following Mr. Fischer’s comments, Councilmembers shared their perspectives on the subject matter and following a full and fair discussion formed a consensus that all options be explored and presented at a future Council meeting.

To conclude the matter, Councilmember Digges moved to table this matter to the June 28, 2010, City Council meeting. Councilmember Zapata seconded the motion which was unanimously approved by City Council.
Public hearing and first reading of an ordinance amending and replacing Chapter 130, Article V, Division 4, Wastewater Collection, Treatment, Sections 130-301 through 130-312, with Sections 130-301 through 130-316, of the Code of Ordinances related to uniform requirements for Wastewater Collection and Treatment Systems operated by the New Braunfels Utilities: Mayor Boyer read the above and foregoing caption.

Roger Biggers, Executive Director of Water Services for New Braunfels Utilities (NBU), made a presentation to City Council regarding the modification to NBU’s Technically Based Local Limits (TBLL) and Pretreatment standards.

Mr. Biggers noted that the current ordinance was adopted by the New Braunfels City Council in 2002 and changes in U.S. Environmental Protection Agency (EPA) pretreatment and discharge standards required NBU to update its pretreatment and discharge program. He stated that the Texas Commission on Environmental Quality’s (TCEQ’s) reassessment of the TBLL involved extensive sample collections and analysis throughout the NBU sewer collection system over an extended period of time to accurately determine the domestic and industrial pollutant levels in the system. He further stated that as a result of the evaluation of this data, TCEQ set new TBLL for the NBU wastewater system.

It was further noted that the updated limits, that more accurately reflect the pollutant removal rates at the NBU Publicly Owned Treatment Works (POTW), included changes that were relaxed in some areas and more stringent in other areas.

Following Mr. Bigger’s presentation, Mayor Boyer opened the floor to public input.

Hearing no public input from the audience, Councilmember Digges moved to close the public hearing. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.

Proceeding with the agenda item, Councilmember Digges moved to approve the first reading of this ordinance as presented. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.

Discuss and consider authorizing the City Manager to take certain emergency actions as necessary to facilitate remediation and recovery from the June 9, 2010 flood event:

Discuss and consider approval of a resolution of the City Council of the City of New Braunfels, Texas, waiving building permit fees for “structures affected by the June 2010 Floods” for a 30 day period:

Consent Agenda Item (F) – Approval of a budget transfer in the FY 2009-10 Facilities Maintenance Fund Adopted Budget to provide funds for flood remediation and needed repairs:
Mayor Boyer read the three, above and foregoing captions simultaneously and stated they would be handled together since they were related to the recent flood event.

Support Services Director Korinchock brought before Council the ratification of three contracts with D&M Construction, MAC Construction and Davey Tree Removal for emergency debris removal services and authorization to spend up to $250,000 across all three contracts since it was unknown at this time what the efforts would end up costing.

Secondly, Support Services Director Korinchock noted that staff was requesting authorization to reimburse City of New Braunfels residents for landfill fees. She stated that a special rate was negotiated with Waste Management for the residents to pay $25.00 per load of debris taken to the landfill. She added that each resident would be advised to keep their receipts to eventually be turned in to the City to facilitate a reimbursement through New Braunfels Utilities.

Following comments and questions from Councilmembers, Councilmember Digges moved to ratify the three contracts with D&M Construction, MAC Construction and Davey Tree Removal for emergency debris removal services and authorized expenditures up to $250,000 across all three contracts and authorization to reimburse City of New Braunfels residents for landfill fees incurred related to the recent flood event. Councilmember Zapata seconded the motion which was unanimously approved by City Council.

Next, Support Services Director Korinchock, presented a budget transfer to City Council, in the FY 2009-10 Facilities Maintenance Fund Adopted Budget to provide funds for flood remediation and needed repairs. She noted that Facilities Maintenance Fund currently had $400,000 appropriated for unexpected maintenance and repair for City facilities, including parks. Director Korinchock added that because of the damage from the June 9, 2010 flood event, that it might not be sufficient to meet all the immediate repair and replacement needs, particularly at the City's park facilities. She stated that to make funds available as quickly as possible, the following budget transfer was being recommended.

**General Fund**

From: Facilities Maintenance Fund – Appropriated Fund Balance  ($1,002,627)
To: Facilities Maintenance Fund – Operations Expense  $500,000
To: Facilities Maintenance Fund – Capital Expense$502,627

Following brief comments from Councilmembers, Councilmember Digges moved to approve the hereinabove mentioned budget transfer in the FY 2009-10 Facilities Maintenance Fund Adopted Budget to provide funds for flood remediation and needed repairs. Councilmember Nolte seconded the motion which was unanimously approved by City Council.

Next, City Council considered approval of a resolution waiving building permit fees for "structures affected by the June 2010 Floods" for a 30 day period. Councilmember
Digges moved to approve the resolution as presented. Mayor Pro-tem Krueger seconded the motion which was unanimously approved by City Council.

Resolution No. 2010-R27

Following a short explanation from City Attorney Wayland regarding the seven day Declaration of Emergency issued by Mayor Boyer, Mayor Pro-tem Krueger authorized the emergency declaration to be extended 30 days over the initial seven day period with the understanding that the declaration could be terminated before that time if conditions changed. Councilmember Digges seconded the motion which was unanimously approved by City Council.

Deliberate and consider the purchase, exchange, lease or value of real property, in accordance with Section 551.072, of the Texas Government Code.

At 9:18 p.m., Mayor Boyer announced that City Council would move into executive session in Conference Room B to discuss issues related to the above-mentioned caption.

City Council returned into public/open session at 9:25 p.m., with no action being taken during the closed session or public/open session.

City staff present during the executive session were City Manager Morrison, Assistant City Manager Camarena, City Attorney Wayland and City Secretary Resendez.

Councilmember Ybarra recused himself from the entire executive session and did not participate in the discussion of the item.

Adjournment: This Regular meeting adjourned at 9:26 p.m.

Date Approved: June 28, 2010

By: 

R. BRUCE BOYER, MAYOR

Attest:

MICHAEL A. RESENDEZ,
CITY SECRETARY
SUBJECT: CITIZENS' COMMUNICATIONS

BACKGROUND/RATIONALE:
This time is for citizens to address the City Council on issues and items of concern, not on this agenda. There will be no City Council action at this time.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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<td>City Plan/Council Priority:</td>
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FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A
SUBJECT: Approval of the recommendation of the New Braunfels Public Library Advisory Board regarding the Technology Plan for the E-Rate Internet Grant to the New Braunfels Public Library.

BACKGROUND/RATIONALE:
The New Braunfels Public Library has applied for reimbursement for amounts spent for public telecommunications and internet access under the Federal Library Services and Technology Act of 1996.

 ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

| Yes | City Plan/Council Priority: | Strategic Priorities: Objective 2 – Use a variety of funding sources for operational and capital needs. (2b) - Pursue opportunities for state and federal grants and legislative earmarks for priority projects |

FISCAL IMPACT:
None.

BOARD/COMMISSION RECOMMENDATION:
The library’s Technology Plan for FY 2010-11 was unanimously endorsed by the Library Advisory Board at the February 16, 2010 meeting and submitted for State approval, which was received in May, 2010.

STAFF RECOMMENDATION:
Staff requests Council to approve the Technology Plan for the fiscal year 2010-2011.
Technology Plan in Support of E-Rate

Library Name: New Braunfels Public Library
City: New Braunfels Texas

Plan Starting Date: July 1, 2010
Plan Ending Date: June 30, 2011
Original Creation Date: December 17, 2009

Mission Statement: What is the mission statement for this library?

The mission of the New Braunfels Public Library is to provide access to informational, educational, cultural, and recreational library materials and services in a variety of formats and to be responsive to the public library needs of the community.

Current Technology

What is the current level of technology in this library? List computing and telecommunications resources currently in use.

Hardware:

- 1 public domain fileserver
- 1 private domain fileserver
- 1 CISCO PIX 506E Firewall
- 4 Netgear 10/100 hubs
- 1 Netgear 10/100 switch
- 29 public access workstations less than 3 years old
- 8 Online Public Access Stations less than 3 years old
- 18 laptops less than 3 years old for public computer training classes
- 4 early literacy workstations for children
- 25 staff workstations less than 3 years old
- 2 wireless access points

Software:

- Apollo by Biblionix, the library's Integrated Library System
- PC Reservation computer management system and LPT:One print management system
- Microsoft Office 2003 and 2007
Deep Freeze workstation security software

Telecommunications:
- Public domain with dedicated 5Mbps broadband connection – open to public
- Private domain with shared 10 Mbps broadband connection – open to staff only and shared with the City of New Braunfels

Information Technologies:
- Ancestry Library Edition (ProQuest)
- Biography Resource Center (Gale)
- BookNews (DearReader.com)
- Chilton Library (Gale)
- Library of Texas (Texas State Library and Archives Commission)
- NovelList (Ebsco)
- Online Book Clubs (DearReader.com)
- Small Business Resource Center (Gale)
- Testing and Education Reference Center (Gale)
- Texas Legal Forms (Gale)
- TexShare Databases (Texas State Library and Archives Commission)
- Tumblebooks (Tumblebook Library)

Future Technology

What is the desired future level of technology in this library?

Hardware:
- Increase the number of public access workstation to 40 by adding laptops that may be circulated within the library building
- Update Cisco PIX firewall with Cisco ASA 5510 firewall
- Update 4 Netgear hubs with 4 CISCO 3750 switches
- Add Network monitoring and analysis hardware and software
- Add 1 private domain fileserver (for failover)

Software:
- None

Telecommunications:
- Increase the speed of current broadband connections on public domain from 5mbps to 10mbps
• Increase the strength and speed of wireless access points

Information Technologies:

• None

What specific hardware and software, telecommunications, and information technologies (such as access to the Internet, remote databases, distance learning, web-based catalogs, reference services, etc) are you planning to acquire and implement?

Hardware:

• Increase the number of public access workstation to 40 by adding laptops that may be circulated within the library building
• Update Cisco PIX firewall with Cisco ASA 5510 firewall
• Add Network monitoring and analysis hardware and software
• Add 1 private domain fileserver (for failover)

Software:

• a children's catalog interface for the integrated library system

Telecommunications:

• Increase the speed of current broadband connections on public domain from 5mbps to 10mbps
• Increase the strength and speed of wireless access points

Information Technologies:

• additional databases for job searching
• instant messaging and texting for the reference desk
• additional computer classes
• scanning for the public
• downloadable audio and video circulation
Timeline: What are the planned dates to implement this desired future level of technology in this library? List the approximate dates when you expect to reach important milestones in your technology implementation.

Hardware:

- Increase the number of public access workstation to 40 by adding laptops that may be circulated within the library building (Spring – Summer 2010)
- Update Cisco PIX firewall with Cisco ASA 5510 firewall (Summer 2011)
- Add Network monitoring and analysis hardware and software – (Summer 2011)
- Add 1 private domain fileserver (for failover) – (Spring 2011)

Software:

- a children’s catalog interface for the integrated library system (Winter 2010)

Telecommunications:

- Increase the speed of current broadband connections on public domain from 5mbps to 10mbps
- Increase the strength and speed of wireless access points

Information Technologies:

- additional databases for job searching (Spring 2010)
- instant messaging and texting for the reference desk (Winter 2010)
- additional computer classes (Spring 2010)
- scanning for the public (Spring 2011)
- downloadable audio and video circulation (Spring 2011)

Budget: What are the approximate costs of this desired future level of technology, and how does the library plan to secure the necessary funds for each technology component, i.e., what are the sources for these funds?

Hardware:

- Increase the number of public access workstation to 40 by adding laptops that may be circulated within the library building - $15,000 – Loan Star Grant
- Update Cisco PIX firewall with Cisco ASA 5510 firewall - $4,000 – City funds
- Add Network monitoring and analysis hardware and software - $6,000 – City funds
- Add 1 private domain fileserver (for failover) - $5,000 – City funds
Software:

- a children's catalog interface for the integrated library system - $6,000 – City budget

Telecommunications:

- Increase the speed of current broadband connections on public domain from 5mbps to 10mbps - $700/month or $8400 per year
- Increase the strength and speed of wireless access points - $500

Information Technologies:

- additional databases for job searching - $3000 - Friends of the Library
- instant messaging and texting for the reference desk – $1200 - Friends of the Library
- additional computer classes – $2000 – Friends of the Library
- distance learning service – $10,000 – Library Foundation
- scanning for the public - $1000 – Friends of the Library
- downloadable audio and video circulation - $6000 – Friends of the Library

Education and Training: What are this library's plans to accomplish the training necessary for staff and patrons to use the desired technology effectively? What types and sources of training will this library participate in?

Training will be provided by vendors of the technology, or we will seek training from Amigos, Sunteleo or LEAD. We will also work with the Alamo Area Library System to share distance training burden with other libraries.

Technology Integration: How will this library integrate the use of these technologies into the services it provides for its users?

Library will train staff to use and teach the technology. All technology will be installed on public access computers and will be available throughout the library. Library will also develop classes to teach the technology in group settings, as well as individualized instruction.


**Evaluation Process:**

1. How will this library evaluate the success of this plan?

Library will utilize statistical data gathered on usage of technology, survey patrons of the library both via paper and computer, and gather anecdotal evidence of success.

2. How will you determine if the technology plan was successful in meeting the goals of your institutional plans?

Library will establish a gain threshold criteria before technology implementation and look for evidence of increased patron usage and understanding.

3. How frequently will you update the plan?—Annually.

---

This Technology Plan has been reviewed and submitted on behalf of this library.

**Signatures**

Library Director

________________________________________________________

Date _______________________

Library Board Chair

________________________________________________________

Date _______________________

As Applicable: Mayor, City Manager, County Judge, or School Superintendent (*Circle appropriate title*)

________________________________________________________

Date _______________________

( )
FOR USE BY THE TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

This plan has been reviewed and certified by the Texas State Library. This certification will be effective for the term of this plan, but not to exceed three years.

Approved by Texas State Library:

________________________________________

Date ______________________

This certification expires ______________________
SUBJECT: Approval of a resolution amending the Plan of Action for the Loan Star Libraries grant award to the New Braunfels Public Library.

BACKGROUND/RATIONALE:
The need for additional Early Literacy Stations in the Children's area has been apparent for some time, and in reviewing possible funding sources, library staff is recommending that the cost of acquiring two additional stations at $5,600 be expended from the Loan Star grant, leaving $8,696 in funds for additional laptops.

This will allow us to start smaller in the acquisition and implementation phase of the laptops and immediately bring the Children's computers to the library for use.

ADDRESS A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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<td>Strategic Priorities: Objective 2 – Use a variety of funding sources for operational and capital needs. (2b) - Pursue opportunities for state and federal grants and legislative earmarks for priority projects</td>
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FISCAL IMPACT:
None. Award amount of $14,296 remains the same.

BOARD/COMMISSION RECOMMENDATION:
The library's Plan of Action for the FY2009 grant award amendment was unanimously endorsed by the Library Advisory Board at the February 16, 2010 meeting. Approval for this amendment is pending with the Texas State Library & Archives Commission.

STAFF RECOMMENDATION:
Staff requests Council to approve a resolution spending of these funds in accordance with the Amended Plan of Action submitted to the Texas State Library & Archives Commission.
MEMORANDUM

DATE: June 24, 2010
TO: Library Advisory Board
FROM: Gretchen Pruett
SUBJECT: Loan Star Grant Amendment

We have received our Loan Star funds for the 2009-2010 funding cycle in the amount of $14,296. We were planning to expend the entire amount on acquiring laptops and software to circulate within the library. The need for additional Early Literacy Stations in the Children’s area has been apparent for some time, and in reviewing possible funding sources, library staff is recommending that the cost of acquiring two additional stations at $5600 be expended from the Loan Star grant, leaving $8796 in funds for additional laptops.

This will allow us to start smaller in the acquisition and implementation phase of the laptops and immediately bring the Children’s computers to the library for use.
RESOLUTION NO. 2010-R____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AUTHORIZING THE AMENDMENT OF THE PLAN OF ACTION AS SUBMITTED TO THE TEXAS STATE LIBRARY AND ARCHIVES COMMISSION.

WHEREAS, the Texas Legislature has appropriated funds for Direct Aid to Texas public libraries known as the Loan Star Libraries program;

WHEREAS, the Loan Star Libraries program is predicated on a partnership between the State of Texas and local political jurisdictions intended to improve public library services;

WHEREAS, funds appropriated for the program are intended to supplement, not replace, local funding received by the library;

WHEREAS, the New Braunfels Public Library is eligible for a grant as a legally established public library in Texas that meets the Minimum Standards for Accreditation of Public Libraries in the State Library System as set forth in the Library Systems Act; and

WHEREAS, the Texas State Library & Archives has awarded a grant of $14,296 to the New Braunfels Public Library to be spent for library materials in accordance with the approved Plan of Action, as amended, for the Loan Star Libraries Grant for State Fiscal Year 2010.

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

THAT the City Manager of the City of New Braunfels, Texas is hereby authorized to expend the Loan Star Libraries grant as in accordance with the amended Plan of Action for the State Fiscal Year 2010 on behalf of the New Braunfels Public Library.

PASSED, ADOPTED AND APPROVED this the 28th day of June, 2010.

CITY OF NEW BRAUNFELS, TEXAS

BY: ____________________________
   R. BRUCE BOYER, Mayor
ATTEST:

MICHAEL A. RESENDEZ, City Secretary
SUBJECT: Approval of the renewal of the annual contract with Bound Tree Medical, LLC for medical supplies.

BACKGROUND/RATIONALE:
The City of New Braunfels entered into a contract with Bound Tree Medical, LLC for medical supplies on June 9, 2008. This contract was effective through June 30, 2010. This contract has an option to renew, in one year increments, for a combined total of five years. Staff is satisfied with the performance of the vendor. Bound Tree Medical, LLC has opted to renew.

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FISCAL IMPACT:
Funding for the cost of these supplies is included in the Fire Department's FY 2009-10 Adopted Budget.

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Approval of the renewal of the annual contract with Bound Tree Medical, LLC for medical supplies.
SUBJECT: Approval of the renewal of the annual contracts with Terracon Consultants, Inc. and Arias and Associates, Inc. for construction material testing.

BACKGROUND/RATIONALE:
The City of New Braunfels entered into contracts with Terracon Consultants Inc. and Arias and Associates, Inc. for construction material testing on June 23, 2008. These contracts are effective through June 30, 2010. These contracts have an option to renew, in one year increments, for a combined total of five years.

These contracts provide construction material testing services related to laboratory and field testing of soils, Portland cement concrete, and asphaltic cement concrete on various City projects.

The contractors' work has been satisfactory and staff is requesting renewal.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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FISCAL IMPACT:
The funds for these contracts are included in the various capital improvement project budgets. Testing services should not exceed $100,000 for the projects involved.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:
Approval of the renewal of annual contracts with Terracon Consultants, Inc. and Arias and Associates, Inc. for construction material testing.
SUBJECT: Approval of Transportation and Traffic Advisory Board’s recommendation to deny a request for the installation of traffic control devices (stop signs) at the SE corner of S. Grant Avenue at E. Mather Street and the SE corner of S. Veramendi Avenue at E. Mather Street.

BACKGROUND/RATIONALE:
A resident requested the installation of stop signs at the following locations:

- SE corner of S. Grant Avenue at E. Mather Street
- SE corner of S. Veramendi Avenue at E. Mather Street

The Transportation and Traffic Advisory Board considered these requests at their meeting of May 13, 2010 and supported staff’s recommended denial of the request. Staff’s recommendation was based on the low volume of traffic expected on these segments of S. Grant and S. Veramendi given they are one block long and dead end at Cross River.

ADDRESS A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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<td>City Plan/Council Priority:</td>
<td>2006 Comprehensive Plan: Transportation Goal 21: Provide a system of convenient and safe transportation facilities through comprehensive, cooperative a continuing transportation system planning and development.</td>
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FISCAL IMPACT:
Stop signs cost approximately $135 each.

BOARD/COMMISSION RECOMMENDATION:
The Transportation and Traffic Advisory Board considered these requests at their meeting of May 13, 2010 and recommended denial of the request.

STAFF RECOMMENDATION:
Staff concurs with the recommendation of the Transportation and Traffic Advisory Board.
City Council Agenda Item Report  
June 28, 2010  

Agenda Item No. 3-F  
Presenter/Contact – Jim Klein, City Engineer  
(830) 221-4020 – jklein@nbtexas.org  

SUBJECT: Approval of Transportation and Traffic Advisory Board’s recommendation to deny a request for the installation of traffic control devices (stop signs) on W. Mill Street at N. Hickory Avenue.

BACKGROUND/RATIONALE:  
A resident requested installation of stop signs at the following locations:

- NE corner of W. Mill Street at N. Hickory Avenue
- SW corner of W. Mill Street at N. Hickory Avenue

The Transportation and Traffic Advisory Board considered this request at their meeting of May 13, 2010 and recommended denial of the request. The Board discussed the proximity of this intersection to Walnut Avenue and the upcoming construction on Walnut Avenue. They noted that the initial request indicated speeding on Mill Street as the reason for the requested stop signs. They also noted, with the proximity to Walnut Avenue, cars traveling on Mill Street do not have much opportunity to gain speed.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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FISCAL IMPACT:  
Stop signs cost approximately $135 each.

BOARD/COMMISSION RECOMMENDATION:  
The Transportation and Traffic Advisory Board considered these requests at their meeting of May 13, 2010 and recommended denial of the request.

STAFF RECOMMENDATION:  
Staff concurs with the recommendation of the Transportation and Traffic Advisory Board.
SUBJECT: Approval of the second and final reading of an ordinance amending Ordinance Number 75-10 dated April 28, 1975 to approve installation of the traffic control devices (stop signs) at the intersections of Allison Drive at Rolling Valley Drive and Rolling Valley Drive at Devin Drive.

BACKGROUND/RATIONALE:
This ordinance was approved unanimously at the June 14, 2010 City Council meeting. The City Council previously discussed this issue at their May 24, 2010 meeting.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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City Plan/Council Priority:
2006 Comprehensive Plan: Transportation Goal 21: Provide a system of convenient and safe transportation facilities through comprehensive, cooperative a continuing transportation system planning and development.

FISCAL IMPACT:
Stop signs cost approximately $135 each.

BOARD/COMMISSION RECOMMENDATION:
The Transportation and Traffic Advisory Board considered these requests at their meeting of October 8, 2009 and did not act on carrying forward a recommendation to install stop signs at the proposed locations.

STAFF RECOMMENDATION:
Staff recommends the installations of stop signs at the locations presented though the approval of the attached ordinance.
ORDINANCE NO. 2010-___

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS AMENDING ORDINANCE NUMBER 75-10 DATED APRIL 28, 1975 TO APPROVE INSTALLATION OF THE TRAFFIC CONTROL DEVICES (STOP SIGNS) AT THE INTERSECTIONS OF ALLISON DRIVE AT ROLLING VALLEY DRIVE AND ROLLING VALLEY DRIVE AT DEVIN DRIVE, PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, after engineering and field investigation, the City Engineer has recommended that traffic control signs be installed on certain streets, avenues, thoroughfares and boulevards within the corporate limits of the City of New Braunfels in order to protect the health, safety and welfare of the citizens.

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

I.

THAT Ordinance Number 75-10 dated April 28, 1975, is hereby amended to authorize the installation of additional Traffic Control signs at the following location in the corporate limits of the City of New Braunfels, Texas:

STOP SIGNS:

1071 On the NE corner of ALLISON DRIVE at ROLLING VALLEY DRIVE to stop traffic prior to entering ROLLING VALLEY DRIVE

1072 On the SW corner of ALLISON DRIVE at ROLLING VALLEY DRIVE to stop traffic prior to entering ROLLING VALLEY DRIVE

1073 On the NW corner of ROLLING VALLEY DRIVE at DEVIN DRIVE to stop traffic prior to entering DEVIN DRIVE

II.

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain
the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

III.

THAT all provisions as set forth in Ordinance Number 75-10 dated April 28, 1975, will be and remain in full force and effect as though written in full in this ordinance.

IV.

THAT all provisions hereof are hereby declared to be severable and if any provisions hereof is declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.

V.

This Ordinance shall take effect from and after its second and final reading.

PASSED AND APPROVED: First reading this the 14th day of June, 2010.
PASSED AND APPROVED: Second reading this the 28th day of June, 2010.

CITY OF NEW BRAUNFELS, TEXAS

R. BRUCE BOYER, MAYOR

ATTEST:

MICHAEL A. RESENDEZ, CITY SECRETARY

APPROVED AS TO FORM:
City Council Agenda Item Report
June 28, 2010

Agenda Item No. 3-H
Presenter/Contact – Paula DiFonzo, CEO, NBU
Roger Biggers, Executive Director, Water Services
(830) 629-8400

SUBJECT: Approval of the second and final reading of an ordinance amending and replacing Chapter 130, Article V, Division 4, Wastewater Collection, Treatment, Sections 130-301 through 130-312, with Sections 130-301 through 130-316, of the Code of Ordinances related to uniform requirements for Wastewater Collection and Treatment Systems operated by the New Braunfels Utilities.

BACKGROUND/RATIONALE:

6/28/10 Update: This item was approved unanimously at the City Council’s June 14, 2010 meeting.

State and Federal laws set uniform requirements for wastewater collection and treatment systems operated by the New Braunfels Utilities (NBU) for the City of New Braunfels. The requirements for Technically Based Local Limits (TBLL) are established by the U.S. Environmental Protection Agency (EPA) and administered and supervised by the Texas Commission on Environmental Quality (TCEQ). The local governing body must approve and accept the program standards and regulations.

The current ordinance was adopted by the New Braunfels City Council in 2002. Changes in EPA pretreatment and discharge standards required NBU to update its pretreatment and discharge program. The TCEQ reassessment of the TBLL involved extensive sample collections and analysis throughout the NBU sewer collection system over an extended period of time to accurately determine the domestic and industrial pollutant levels in the system. As a result of the evaluation of this data TCEQ set new TBLL for the NBU wastewater system. These updated limits, that more accurately reflect the pollutant removal rates at the NBU Publicly Owned Treatment Works (POTW), include changes that are relaxed in some areas and more stringent in other areas. All limits continue to provide protection of the POTW without being so stringent that local industry cannot attain compliance. Overall the changes are expected to be a benefit to new businesses interested in locating in the NBU service area.

After extensive review and negotiations with NBU, TCEQ has accepted and approved the revised ordinance that is attached.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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Legal/Common/Forms/Agenda Item/2010/Ordinance.NBU Wastewater Treatment and Collection Program.1st Reading
FISCAL IMPACT:

There is no immediate financial impact on NBU customers. However, the new ordinance requires restaurants to pump their grease traps quarterly. This will be a cost for some restaurants in the NBU service area that historically have not serviced their grease traps in a timely manner.

BOARD/COMMISSION RECOMMENDATION:

The New Braunfels Utilities Board of Trustees supports the new ordinance

STAFF RECOMMENDATION:

Staff recommends approval of the Ordinance amending and replacing Chapter 130, Sections 130-301 through 130-312, Wastewater Collection, Treatment, with the new Ordinance, Chapter 130, Sections 13-301 through 301-316, effective July 8, 2010.
ORDINANCE NO.___________

AN ORDINANCE AMENDING AND REPLACING CHAPTER 130, “UTILITIES,” ARTICLE V. “SEWER SERVICE,” DIVISION 4 – “WASTEWATER COLLECTION, TREATMENT” OF THE CODE OF ORDINANCES, CITY OF NEW BRAUNFELS, TEXAS IN ITS ENTIRETY RELATING TO UNIFORM REQUIREMENTS FOR WASTEWATER COLLECTION AND TREATMENT SYSTEMS OPERATED BY THE NEW BRAUNFELS UTILITIES; REPEALING ALL OTHER ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; CONTAINING A SAVINGS CLAUSE; AND HAVING AN EFFECTIVE DATE.

WHEREAS, the Council of the City of New Braunfels has established an ordinance containing the rules and regulations affecting wastewater collection and treatment by the New Braunfels Utilities (“NBU”), which ordinance has been codified as Chapter 130 “Utilities,” Article V. “Sewer Service,” Division 4 – “Wastewater Collection, Treatment” of the Code of Ordinances of the City of New Braunfels; and

WHEREAS, state and federal laws set uniform requirements for wastewater collection and treatment systems; and

WHEREAS, the current Code provisions were adopted by the City Council in 2002 and changes in the U.S. Environmental Protection Agency’s pretreatment and discharge standards require that NBU update its pretreatment and discharge program; and

WHEREAS, the NBU Board of Trustees has reviewed the proposed changes and recommends approval of the same to the City Council; and

WHEREAS, the City Council hereby finds that Division 4 – “Wastewater Collection, Treatment” of Chapter 130, Article V. of the Code of Ordinances should be repealed in its entirety and a new Division 4 – “Wastewater Collection, Treatment” of Chapter 130, Article V. to the New Braunfels Code of Ordinances should be adopted in order to provide for the continued preservation of the public health, safety and welfare of the people;

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

SECTION 1. That the findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. That Chapter 130 “Utilities,” Article V. “Sewer Service,” Division 4 – “Wastewater Collection, Treatment,” Sections 130-301 through 130-312 of the Code of Ordinances, City of New Braunfels as they currently exist are repealed and a new
Chapter 130 “Utilities,” Article V. “Sewer Service,” Division 4 – “Wastewater Collection, Treatment,” Sections 130-301 through 130-316 are adopted which Division and Sections shall hereinafter read as shown on Exhibit “A” attached hereto and incorporated herein.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. All provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 5. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 6. In accordance with the provisions of Section 3.10 of Article III of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 7. This Ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this 14th day of June, 2010.
PASSED AND APPROVED: Second reading this 28th day of June, 2010.

CITY OF NEW BRAUNFELS, TEXAS

By: __________________________

Bruce Boyer, Mayor

ATTEST:

Michael A. Resendez, City Secretary

APPROVED AS TO FORM:

Alan C. Wayland, City Attorney
# TABLE OF CONTENTS

**DIVISION 4. WASTEWATER COLLECTION, TREATMENT**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>130-301</td>
<td>Definitions</td>
<td>3</td>
</tr>
<tr>
<td>130-302</td>
<td>Purpose and objectives</td>
<td>9</td>
</tr>
<tr>
<td>130-303</td>
<td>Administration</td>
<td>10</td>
</tr>
<tr>
<td>130-304</td>
<td>Abbreviations</td>
<td>10</td>
</tr>
<tr>
<td>130-305</td>
<td>Compliance with pretreatment standards</td>
<td>11</td>
</tr>
<tr>
<td>(a)</td>
<td>Prohibited discharges and limitations in general</td>
<td>11</td>
</tr>
<tr>
<td>(b)</td>
<td>Specific pollutant limitations</td>
<td>14</td>
</tr>
<tr>
<td>(c)</td>
<td>Preemption of limitations</td>
<td>15</td>
</tr>
<tr>
<td>(d)</td>
<td>Accidental discharges</td>
<td>15</td>
</tr>
<tr>
<td>(e)</td>
<td>Ordinance amendments</td>
<td>16</td>
</tr>
<tr>
<td>(f)</td>
<td>Special agreements</td>
<td>16</td>
</tr>
<tr>
<td>130-306</td>
<td>Pretreatment and disposal of prohibited wastes</td>
<td>16</td>
</tr>
<tr>
<td>(a)</td>
<td>Pretreatment of prohibited wastes</td>
<td>16</td>
</tr>
<tr>
<td>(b)</td>
<td>Materials removed from pretreatment facilities</td>
<td>17</td>
</tr>
<tr>
<td>(c)</td>
<td>National pretreatment standards</td>
<td>17</td>
</tr>
<tr>
<td>(d)</td>
<td>Hazardous waste activity</td>
<td>17</td>
</tr>
<tr>
<td>(e)</td>
<td>Dilution limitations</td>
<td>17</td>
</tr>
<tr>
<td>(f)</td>
<td>Hauled wastewater</td>
<td>18</td>
</tr>
<tr>
<td>(g)</td>
<td>Vandalism</td>
<td>18</td>
</tr>
<tr>
<td>130-307</td>
<td>Pretreatment Facilities</td>
<td>18</td>
</tr>
<tr>
<td>130-308</td>
<td>Additional pretreatment measures</td>
<td>18</td>
</tr>
<tr>
<td>130-309</td>
<td>Discharge permits</td>
<td>19</td>
</tr>
<tr>
<td>(a)</td>
<td>Wastewater analysis</td>
<td>19</td>
</tr>
<tr>
<td>(b)</td>
<td>Permit requirements</td>
<td>19</td>
</tr>
<tr>
<td>(c)</td>
<td>Permit application</td>
<td>20</td>
</tr>
<tr>
<td>(d)</td>
<td>Contents of permit</td>
<td>22</td>
</tr>
<tr>
<td>(e)</td>
<td>Issuance of permits</td>
<td>23</td>
</tr>
<tr>
<td>130-310</td>
<td>Reporting requirements</td>
<td>26</td>
</tr>
<tr>
<td>(a)</td>
<td>Baseline reports</td>
<td>26</td>
</tr>
<tr>
<td>(b)</td>
<td>Compliance reports</td>
<td>27</td>
</tr>
<tr>
<td>(c)</td>
<td>Periodic reports on continued compliance by categorical industrial users</td>
<td>27</td>
</tr>
<tr>
<td>(d)</td>
<td>Reporting requirements for significant industrial users not subject to categorical pretreatment standards</td>
<td>27</td>
</tr>
<tr>
<td>(e)</td>
<td>Notice of potential problems</td>
<td>28</td>
</tr>
<tr>
<td>(f)</td>
<td>Compliance monitoring and analysis</td>
<td>28</td>
</tr>
<tr>
<td>(g)</td>
<td>Sample collection</td>
<td>29</td>
</tr>
<tr>
<td>(h)</td>
<td>Timing</td>
<td>29</td>
</tr>
<tr>
<td>(i)</td>
<td>Notification of changed discharge</td>
<td>29</td>
</tr>
<tr>
<td>(j)</td>
<td>Certification and signatory requirements</td>
<td>29</td>
</tr>
<tr>
<td>(k)</td>
<td>Fraud and false statements</td>
<td>29</td>
</tr>
<tr>
<td>130-311</td>
<td>Recordkeeping requirements</td>
<td>30</td>
</tr>
<tr>
<td>130-312</td>
<td>Inspection, sampling and monitoring</td>
<td>30</td>
</tr>
</tbody>
</table>
(a) Inspection of user facilities ................................................................. 30
(b) Monitoring facilities ................................................................. 31
(c) Laboratory procedures ................................................................. 31
(d) Use of representative analysis ................................................................. 31
(e) Public identification of industrial users in significant noncompliance ................................................................. 31
(f) Surveillance of industrial users ................................................................. 31
(g) Search warrants ................................................................. 32

SEC. 130-313. FEES AND COSTS ................................................................. 32
(a) Purpose ................................................................. 32
(b) Charges and fees ................................................................. 32
(c) Surcharges ................................................................. 33

SEC. 130-314. REMEDIES AND ENFORCEMENT ................................................................. 34
(a) Administrative enforcement remedies ................................................................. 34
(b) Judicial remedies ................................................................. 37
(c) Supplemental enforcement remedies ................................................................. 38
(d) Remedies nonexclusive ................................................................. 38
(e) Applicability of more stringent regulations ................................................................. 39
(f) Affirmative defenses ................................................................. 40

SEC. 130-315. CONFIDENTIAL INFORMATION ................................................................. 41
SEC. 130-316. EFFECTIVE DATE ................................................................. 42
SEC. 130-317-130-335. RESERVED ................................................................. 42
DIVISION 4. Wastewater Collection, Treatment

Sec. 130-301. Definitions.

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

Act as used in this Article V, means the Federal Water Pollution Control Act (PL 92-500), also known as the Clean Water Act of 1977, as amended, 33 USC 1251 et seq.

Applicable pretreatment standard means any pretreatment limit or prohibitive standard (federal and/or local) contained in this division deemed to be the most restrictive with which nondomestic users will be required to comply.

Approval authority means the Chief Administrative Officer of the TCEQ, or a duly authorized representative acting on behalf of the TCEQ, so long as the State has an approved state pretreatment program; otherwise, the regional administrator of the EPA.

Approved methods means the laboratory procedures and methods approved by the administrator of the EPA and listed in 40 CFR 136.

Authorized representative of industrial user means:

(1) A responsible corporate officer as that term is defined in 40 CFR 403.12(l), if the industrial user is a corporation;

(2) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively, or

(3) The principal executive officer or director having responsibility for the overall operation of the discharging facility if the industrial user submitting the reports is a federal, state or local governmental entity, or their agents; or a duly authorized representative of the individual designated above, if the authorization conforms to the requirements of 40 CFR 403.12(l).

Biochemical Oxygen Demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

Categorical standards means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to a specific category of industrial user.

Categorical Industrial User (CIU) means any industrial user of the city's POTW which is subject to a national categorical pretreatment standard.

City means the City of New Braunfels, Texas.
Composite Sample means a sample formed either by continuous sampling or by mixing discrete samples. If discrete sampling is employed, at least 12 aliquots should be composited. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected at constant time intervals providing a sample irrespective of stream flow; or as a flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots. For wastewater discharges consisting of a single batch discharge in a 24-hour period, a grab sample of the batch discharge may be used to represent the 24-hour composite quality of the wastewater, as long as the batch is mixed prior to sample collection. For wastewater discharges consisting of two or more batch discharges in a 24-hour period, the 24-hour composite quality of the wastewater may be determined via compositing of one grab sample collected from the discharge of each batch, as long as each batch is mixed prior to sample collection.

Control authority means the Chief Executive Officer (CEO) of New Braunfels Utilities (NBU) or that person's authorized representative, as long as the City has an approved pretreatment program. In the absence of an approved POTW pretreatment program, such term shall mean the approval authority.

Cooling water means a significant amount of water discharged from any system of condensation, such as air conditioning, cooling and refrigeration systems.

Daily Maximum Limit means the highest allowable daily discharge.

Director means the CEO of NBU or that person's authorized representative.

Discharge permit means the document issued to control the contribution to the POTW by each significant industrial user and other person deemed necessary by the Control Authority to ensure compliance with applicable pretreatment standards and requirements.

Dissolved solids means the total amount of dissolved material, organic and inorganic, contained in water or waste.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

Garbage means any solid wastes from the domestic or commercial preparation, cooking or dispensing or manufacturing of food or from the handling, storage, and sale of food products and produce.

Grab sample means an individual sample which is taken from a wastestream collected over a period of time not exceeding 15 minutes with no regard to the flow of the wastestream and without consideration of time.

Hazardous Waste means those substances described and listed in 40 CFR 261, which is adopted hereby and incorporated by reference in this division, and a copy of which shall be maintained at the offices of NBU.
Holding tank waste means any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, vacuum pump tank trucks, or similar type facilities or equipment, other than industrial waste.

Indirect Discharge or Discharge means the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Act.

Industrial user or user means a source of nondomestic waste; any nondomestic source discharging pollutants to a POTW.

Industrial Waste means any amount of solid, liquid or gaseous substance or form of energy discharged by, disposed of, or permitted to flow or escape from any industrial, manufacturing, trade or commercial establishment, including nonprofit organizations, governmental agencies or business activities or educational institutions. It shall not include sewage discharge from sanitary conveniences on the premises unless the sewage is commingled with industrial waste.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

1. Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use, or disposal; and

2. Causes a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder, or more stringent state or local regulations: Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA), including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

Monthly Average Limit means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

National pretreatment standard or pretreatment standard or standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to a specific category of industrial users and provides limitations on the introduction of pollutants into POTWs. This term includes the prohibited discharge standards under 40 CFR 403.5, including local limits.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act and any amendments, which will be applicable to such source if standards are thereafter promulgated in accordance with that section, subject to the conditions and limitations of 40 CFR 403.3(k)(1).
Noncontact cooling water means cooling water which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Nondomestic user means any person who discharges, causes or permits the discharge of wastewater from any facility other than a residential unit.

Normal domestic sewage means wastewater, excluding industrial wastewater requiring special treatment, discharged into the POTW and in which the average concentration of total suspended solids is not more than 250 mg/l and COD is not more than 500 mg/l.

NPDES permit means a permit issued to the POTW pursuant to section 401 of the Act.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant means any dredged spoil, spoil waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rocks, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution means the manmade or man-induced alteration of the physical, thermal, chemical, radiological or biological quality of or the contamination of any waters of the State to a degree which unreasonably affects such waters for beneficial uses.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. Such reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment program manager means NBU's authorized representative, as long as the City has an approved pretreatment program. In the absence of an approved POTW pretreatment program such term shall mean the approval authority.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

Process Wastewater means any water which, during manufacturing or processing,
comes into direct contact with, or results from, the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

**Publicly Owned Treatment Works (POTW)** means a treatment works as defined by section 212 of the Act, which is owned by a state or municipality as defined by section 502(4) of the Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant.

*Receiving stream* means the watercourse, stream, or body of water receiving the treated effluents from the POTW.

**Sanitary convenience** means any plumbing fixture (except for a food waste disposal unit) not required to have a sand and/or grease trap (interceptor) according to provisions of the plumbing code of the City.

*Shall, may.* The use of the word "shall" indicates a mandatory condition. The use of the word "may" indicates a discretionary condition.

**Significant Industrial User (SIU).**

(1) Except as provided in subsection (2) of this definition, the term "significant industrial user" means:

a. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter 1, subchapter N, and

b. Any other industrial user that:

1. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

2. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

3. Is designated as such by the Control Authority, in accordance with 40 CFR 403.8(f)(6) if applicable.

(2) Upon a finding that an industrial user meeting the criteria in subsection (1)b of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6) if applicable, determine that such industrial user is not a significant industrial user.
Significant noncompliance. An industrial user is in "significant noncompliance" if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter;

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC equal to 1.4 BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;

(5) Failure to meet within 90 calendar days after the scheduled date a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 30 calendar days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; and

(8) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the pretreatment program of NBU.

Slug loading means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than five minutes more than five times the average 24-hour concentration or flow during normal operation and shall adversely affect the sewage works.

Standard Industrial Classification (SIC) means a classification scheme based on the type of manufacturing or commercial activity at a facility pursuant to the Standard Industrial Classification Manual prepared by the Executive Office of the President, Office of Management and Budget, 1987 (NIS Order no. PB 87-10001Z). Some facilities have several activities which will cause them to have more than one classification code number.
State means the State of Texas.

Storm Water means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Surcharge means the additional sewer service charge levied against any person for discharging into a sanitary sewer waste greater in strength than the concentration of values established as representative of normal charges or are greater in flow.

Total Suspended Solids (TSS) means a measure of the suspended solids in wastewater, effluent, or water bodies, determined by tests for "total suspended non-filterable solids.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of section 307(a) of the Clean Water Act.

Waters of the State means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, the Edwards and Trinity Aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Texas or any portion thereof.

Sec. 130-302. Purpose and Objectives.

(a) This division sets forth uniform requirements for users of the wastewater collection and treatment systems for the City operated by NBU, and enables NBU to comply with all applicable state and federal laws required by the Clean Water Act of 1977 (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403).

(b) The objectives of this division are to:

(1) Prevent the introduction of pollutants into the City's wastewater system which will interfere with the operation of the system, including interference with its use or disposal of resulting sludge;

(2) Prevent the introduction of pollutants into the City's wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system;

(4) Ensure the quality of sludge to allow its use and disposal in compliance with statutes and regulations; and

(5) Provide for equitable distribution of the cost of the City's wastewater collection and treatment systems.

(6) Prevent pollutants which result in the presence of toxic gases, vapors or fumes.
within the POTW in a quantity that may cause acute worker health and safety problems from being introduced into a POTW.

(7) Protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(c) This division provides for the regulation of users of the City's wastewater collection and treatment systems through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this division.

(d) This division shall apply within the City and to persons outside the City who are, by contract or agreement with the City, users of the Publicly Owned Treatment Works of the City operated by NBU. Except as otherwise provided in this division, the CEO of NBU shall administer, implement, and enforce the provisions of this division.

(e) The pretreatment program is intended to enable the POTW to comply with the NPDES permit conditions, sludge use and disposal requirements and federal and state laws in accordance with 40 CFR §403.2.

Sec. 130-303. Administration

Except as otherwise provided herein, the Control Authority shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Control Authority may be delegated by the Pretreatment Program Manager to other NBU personnel.

The Pretreatment Program Manager will evaluate the data furnished by the user and may require additional information. Within 45 calendar days of receipt of a complete permit application, the Pretreatment Program Manager will determine whether to issue an individual wastewater discharge permit. The Pretreatment Program Manager may deny any application for an individual wastewater discharge permit.

Sec. 130-304. Abbreviations.

The following abbreviations, when used in this division, shall have the meanings designated in this section:


BOD means Biochemical Oxygen Demand.


COD means Chemical Oxygen Demand.
Sec. 130-305. Compliance with Pretreatment Standards.

(a) **Prohibited discharges and limitations in general.** No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause pass through or interference. These general prohibitions and the specific prohibitions listed in this section apply to all such users of a POTW whether or not the user is subject to other national pretreatment standards or any other national, state, or local pretreatment standards or requirements. The following substances are specifically prohibited and shall not be introduced into the POTW:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW, including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) as determined by the testing methods specified in 40 CFR 261.21. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system or at any point in the system, be more than five percent nor shall any single reading be over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include substances in sufficient quantities that NBU, the State or the EPA has notified the user that the materials constitute a fire hazard or a hazard to the system.
(2) Solid or viscous substances in amounts which will cause obstruction to the flow in the POTW resulting in interference with the operation of the wastewater treatment facilities, including, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or more than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW. Samples used shall be grab samples.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with (a) sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act, (b) any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or (c) state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit) unless the approval authority, upon request of the POTW, approves alternate temperature limits.
(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation, as permitted by the Control Authority.

(11) Any wastewater which causes a hazard to human life or creates a public nuisance.

(12) Water or waste containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of the state and other agencies having jurisdiction over discharge to the receiving waters.

(13) Any trucked or hauled pollutants, except at discharge points designated by the POTW. Any hauled septic, industrial, or other wastes or pollutants shall not be discharged to the POTW collection system. Any removal of manhole lids or other access to the collection system for the purpose of discharging wastes at times and/or locations other than those designated by NBU shall be considered a violation and shall be subject to enforcement action including fines and penalties.

(14) Any waters or wastes containing any toxic substances in quantities that are sufficient to interfere with the biochemical processes of the wastewater treatment plant, that will pass through the plant into the receiving stream in amounts exceeding the standards set by federal, state or other competent authority having jurisdiction, that contaminate sewage sludge, or that contain iron or any other toxic ions, compounds, or substances that exert an excessive chlorine requirement on the POTW due to concentrations or amounts exceeding the limits established from time to time by NBU.

(15) Any slug load, which shall mean any pollutant, including oxygen demanding pollutants (BOD or any other similar pollutant), released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW.

(16) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water or other unpolluted water, unless first approved by the control authority.

(17) Any water or waste containing suspended solids or dissolved solids of such character and quantity that unusual provisions, attention, and expense would be required to handle such materials at the wastewater treatment plant, its pumping stations, or other facilities.

(18) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
(19) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

When the CEO determines that a user is contributing to the POTW any of the above specifically prohibited pollutants in such amounts as to cause interference or pass through, the CEO shall: (i) advise the user of the impact of the contribution on the POTW, (ii) develop effluent limitations for such user to correct the interference or pass through, and (iii) take appropriate enforcement action if the user does not comply or make a reasonable effort to eliminate the prohibited discharge.

(b) Specific pollutant limitations.

(1) Without limiting the generality of the prohibited discharges set out in section 130-305(a), no person shall discharge over a 24-hour period any of the following elements in solution or suspension in concentrations exceeding the limits for the specific wastewater treatment plant which serves such user, as follows:

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Daily Maximum (mg/l)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arsenic, Total</td>
<td>0.10</td>
</tr>
<tr>
<td>Cadmium, Total</td>
<td>0.11</td>
</tr>
<tr>
<td>Chromium (Tot)</td>
<td>2.96</td>
</tr>
<tr>
<td>Copper</td>
<td>2.21</td>
</tr>
<tr>
<td>Cyanide, Total</td>
<td>1.60</td>
</tr>
<tr>
<td>Lead, Total</td>
<td>0.33</td>
</tr>
<tr>
<td>Mercury, Total</td>
<td>0.06</td>
</tr>
<tr>
<td>Molybdenum</td>
<td>0.59</td>
</tr>
<tr>
<td>Nickel, Total</td>
<td>1.99</td>
</tr>
<tr>
<td>Selenium, Total</td>
<td>0.055</td>
</tr>
<tr>
<td>Silver, Total</td>
<td>2.03</td>
</tr>
<tr>
<td>Zinc, Total</td>
<td>2.84</td>
</tr>
</tbody>
</table>

Dilution of these elements in solution or suspension in lieu of treatment or removal is specifically prohibited. The Director may further restrict the discharges of those wastes which contain these elements to a definite limit expressed in the units of "pounds per day" to prevent the employment of dilution of such pollutants in order to meet the concentration limits of this subsection.

(2) Phenols or other substances in such concentrations as to produce odor or taste in the waters receiving wastewater treatment effluent if the water is used as drinking water for human consumption.
(3) Phosphorus in excess of 15 milligrams per liter or phosphates in excess of 46 milligrams per liter.

(4) Sulphates at a concentration that will increase the concentration at the treatment plant influent to 50 milligrams per liter or higher.

(5) Fluorides in excess of five milligrams per liter.

(6) Any herbicides, pesticides, fungicides and similar poisonous or toxic substances in quantities that would injure or interfere with the wastewater treatment process or constitute a hazard to human or animal plant life, including aquatic organisms, or create any hazards in the waters receiving the wastewater treatment plant effluent.

(7) Polychlorinated biphenyls (PCB) in excess of 0.0001 milligrams per liter.

(8) Waste containing radioactive materials or isotopes in concentrations greater than allowable under applicable state and federal regulations.

(c) Preemption of limitations. Upon the promulgation of federal pretreatment standards for a particular industrial category, the federal standard, if more stringent than the limitations imposed under this division for sources in that category, shall immediately supersede the limitations imposed under this division. The CEO shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12. Further, State requirements and limitations on discharges shall apply in any case where those requirements are more stringent than federal requirements and limitations or those in this division.

(d) Accidental discharges.

(1) Each permitted user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Director for review, and shall be approved by the Director before construction of the facility. No user who commences contribution to the POTW after the effective date of Ordinance No. 92-22 shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Director. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this division. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of the discharge, type of waste, concentration and volume, and corrective actions taken.

(2) Within 5 days following an accidental discharge, the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such
notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property. Such notification shall not relieve the user of any fines, civil penalties, or other liability that may be imposed by this division or other applicable law.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place informing employees whom to call in the event of a harmful discharge. Employers shall ensure that all employees who may cause or suffer such a harmful discharge to occur are informed of the emergency notification procedure.

(e) **Ordinance amendments.** The City and the Control Authority reserve the right to establish by ordinance more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in section 130-302. References in this division to sections of 40 CFR shall include those sections as they are currently promulgated and as subsequently amended from time to time.

(f) **Special agreements.** NBU is authorized to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. It may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

**Sec. 130-306. Pretreatment and Disposal of Prohibited Wastes.**

(a) **Pretreatment of prohibited wastes.** NBU may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants to the POTW by non-domestic users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit.

Any person contributing waste prohibited from discharge into a sanitary sewer by this division shall pretreat or otherwise dispose of the prohibited waste so as to make the waste to be discharged into the POTW acceptable under the standards established in this division and in compliance with all federal pretreatment standards. All facilities required to pretreat wastewater to a level acceptable to the standards of this division shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facility and operating procedures shall be submitted to NBU for review, and shall be acceptable to NBU before construction of such facility. However, the review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce effluent acceptable to NBU under the provisions of this division. Any subsequent changes in the pretreatment facilities or methods of operation shall be reported to and be acceptable to NBU prior to the user's initiation of the changes.
Materials removed from pretreatment facilities. Storage, handling, disposal and transportation of wastes shall be done according to all applicable federal, state and local regulations and statutes that pertain to the type and/or class of waste generated.

(c) National pretreatment standards. Any industrial user subject to categorical pretreatment standards promulgated pursuant to section 307(b) and (c) of the Act shall comply with all regulations, pretreatment requirements, and/or discharge limits applicable to that particular industrial category. National pretreatment standards take precedence over this division; provided, however, that the industrial user shall continue to meet specific discharge limits set forth in this division which are not inconsistent with the categorical pretreatment standards applicable to that industry, and more stringent local standards. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Control Authority may impose equivalent concentration or mass limits in accordance with CFR 40 403.6 (c).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Control Authority shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(d) Hazardous waste activity. Any industrial user or person, by site, whose act or process produces hazardous waste identified or listed in 40 CFR 261 or whose act or process first causes a hazardous waste to become subject to regulation, shall provide the Director with the United States EPA Identification Number assigned to that generator as notice of conformance with applicable state and federal regulations regarding the disposal of hazardous waste. An industrial user shall provide the proper notices required by 40 CFR 403.12(p) with respect to substances discharged into the POTW otherwise considered hazardous waste as provided in section 130-310(g).

(e) Dilution limitations. Dilution as a means of meeting concentration limits shall be prohibited. No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the applicable pretreatment standards, or in any other pollutant-specific limitation developed by the Control Authority or State. However, dilution under certain circumstances may be an acceptable means of complying with pretreatment of some of the substances described in section 130-305 if
such dilution is used in connection with procedures approved by the Control Authority consistent with this division. The Director may impose mass limitations on users that are using dilution to meet applicable pretreatment standards, or in other cases, where the imposition of mass limitations is appropriate. In such cases, the periodic compliance report shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production in mass, where requested by the Director, of pollutants contained therein which are limited by the applicable pretreatment standards.

(f) Hauled wastewater.

(1) Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the Director, provided such waste does not violate section 130-305 or any other requirements established or adopted by NBU. Wastewater discharge permits for individual vehicles to use such facilities shall be issued by the Director.

(2) The discharge of hauled industrial waste as industrial septage requires prior approval and a wastewater discharge permit from NBU. The Director shall have authority to prohibit the disposal of such waste if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other sections of this division.

(3) Fees for dumping septage will be established as part of the industrial user fee system as authorized in section 130-313.

(g) Vandalism. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this subsection shall be subject to the sanctions set out in section 130-314.

Sec. 130-307. Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 130-305 (a) of this ordinance within the time limitations specified by the EPA, the State, or the Control Authority, whichever is the most stringent. Any facilities necessary for compliance must be provided, operated and maintained at the user’s expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Control Authority for review, and shall be acceptable to the Control Authority before such are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Control Authority under the provisions of this ordinance.

Sec. 130-308. Additional Pretreatment Measures

(a) Whenever deemed necessary, the Control Authority may require users to restrict their discharge during peak flow periods, to designate that a certain wastewater be
discharged only into specific sewers, to relocate and/or consolidate points of discharge, and to separate sewage from industrial wastestreams, and impose such other conditions as may be necessary to protect the POTW and determine the user’s compliance with the requirements of this ordinance.

(b) The Control Authority may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Control Authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Control Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. Interceptors shall be cleaned and serviced at a minimum frequency of 90 calendar days or more often if necessary.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detector meter, or other control device as deemed necessary by the Control Authority.

Sec. 130-309. Discharge Permits.

(a) Wastewater analysis. When requested by the Control Authority, a user must submit information on the nature and characteristics of its wastewater within 30 calendar days of the request. The Control Authority is authorized to prepare a form for this purpose and may periodically require users to update this information.

(b) Permit requirements.

(1) Non-domestic users must notify the Director of the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Director is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this division.

(2) It shall be unlawful for industrial users to discharge wastewater, either directly or indirectly, into the City’s sanitary sewer system without first obtaining a discharge permit from NBU. Any violation of the terms and conditions of an industrial user discharge permit shall be deemed a violation of this division. Obtaining a discharge permit does not relieve a permittee of its obligation to obtain other permits required by federal, state or local law.

(3) The Director may require that other industrial users, including liquid waste haulers, obtain discharge permits as necessary to carry out the purposes of this division.
(4) Any significant industrial user located beyond the city limits shall obtain a permit application in accordance with subsection (b) of this section. New industrial users located beyond the city limits shall submit such applications to the Director 90 calendar days prior to discharging into the sanitary sewer. Upon review and approval of such application, the Director may enter into a contract with the user which requires the user to subject itself to and abide by this division, including all permitting, compliance monitoring, reporting, and enforcement provisions of this division.

(5) Existing connections: Any significant industrial user which discharges non-domestic waste into the sanitary sewer system prior to the effective date of this division and that wishes to continue such discharges in the future shall apply to NBU for a discharge permit and shall not cause or allow discharges to the POTW to continue, except in accordance with the permit issued by the Director.

(6) New connections: Any significant industrial user proposing to begin or recommence discharging non-domestic waste into the sanitary sewer system must obtain a discharge permit prior to beginning or recommencing such discharge. An application for this permit must be filed at least 90 calendar days prior to the anticipated start-up date.

(7) Minor contributors as defined in this section may also be required to obtain a discharge permit in accordance with this division. A "minor contributor" is defined as a person/ entity that has potential for discharging pollutants that exceed specific local ordinance limits and/or has potential for accidental spillage of slug discharges of pollutants into the sanitary sewer system.

(c) Permit application.

(1) In order to be considered for a discharge permit, persons required to obtain a discharge permit shall submit the following information on an application form approved by NBU:

a. Name, address and location (if different from the address);

b. Standard industrial classification (SIC) code of both the industry as a whole and any processes for which federal categorical standards have been promulgated;

c. Wastewater constituents and characteristics including any pollutants in the discharge which are limited by any federal, state or local standards. Sampling and analysis will be undertaken in accordance with 40 CFR 136;

d. Time and duration of discharge;

e. Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly and seasonal variations, if any;
f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains and appurtenances by size, location and elevation;

g. Description of activities, facilities and plant processes on the premises, including a list of all materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the POTW;

h. Each product produced by type, amount, process or processes and rate of production;

i. Type and amount of raw materials processed (average and maximum per day);

j. Number and type of employees, and hours of operation and proposed or actual hours of operation of the pretreatment system; and

k. Compliance schedule: Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable federal, state and local standards. If additional pretreatment and/or O&M will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to accomplish installation or adoption of such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable categorical pretreatment standard. The following conditions apply to this schedule:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to in this subsection shall exceed 9 months.

2. No later than 14 calendar days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than 9 months elapse between such progress reports to the Director.

(2) All plans required in subsection (b)(1) of this section must be certified for accuracy by a state registered professional engineer.
All applications must contain the following certification statement and be signed by an authorized representative of industrial user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with the system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

If an authorization under subsection (b)(3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (b)(3) must be submitted to NBU prior to or together with any reports to be signed by an authorized representative.

NBU will evaluate the data furnished by the industrial user and may require additional information. After evaluation of the data furnished, the Director may issue an industrial user a discharge permit subject to the terms and conditions provided in this section.

Contents of permit. Discharge permits shall include such conditions as are reasonably deemed necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate POTW sludge management and disposal, protect ambient air quality, and protect against damage to the POTW collection system or plant. Permits may contain, but need not be limited to, the following:

(1) Statement of duration - in no case more than 5 years.

(2) Statement of non-transferability without first obtaining the prior approval of NBU in accordance with section 130-309(e)(5).

(3) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(4) Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties.

(5) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(6) Development and implementation of spill control plans or other special conditions
including additional management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.

(7) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.

(8) Requirements for installation and maintenance of inspection and sampling facilities.

(9) Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(10) Compliance schedules.

(11) Requirements for submission of technical reports or discharge reports.

(12) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Director and affording access to the Director or the Director's representatives.

(13) Requirements for notification of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW.

(14) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.

(15) Requirements for notification of excessive, accidental, or slug discharges.

(16) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(17) Other conditions as deemed appropriate by the Director to ensure compliance with this division and state and federal laws, rules, and regulations.

(18) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal pretreatment standards, including those which become effective during the term of the permit.

(e) Issuance of permits.

(1) Permit duration. Permits shall be issued for a specified time period, not to exceed 5 years. A permit may be issued for a period less than 5 years at the discretion of the Director. Each wastewater discharge permit will indicate a specific expiration date.
(2) **Public notification.** The Director will publish in the newspaper in Comal County, Texas, with the largest circulation, notice of intent to issue a pretreatment permit, at least 14 calendar days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.

(3) **Appeals.** The Director will provide all interested persons with notice of a final permit decision. Within 30 calendar days of the date the Director issues a decision, any person, including an industrial user, may petition for a review of the Director's permit decision as outlined below. Failure to submit a timely petition shall be considered waiver of an appeal.

a. The appealing party shall submit a written petition for review to the Chief Executive Officer (CEO) of NBU at the administrative offices of NBU.

b. The petition for review must identify the specific permit provision(s) objected to, the reasons for each objection, and the relief sought, including any alternative permit provision(s) requested, if any.

c. The CEO shall issue a written decision on the petition for review within 14 calendar days of receipt of the petition. The CEO may request additional information from the appealing party or NBU staff while the review is pending at the CEO's discretion.

d. The appealing party may seek a re-consideration of the CEO's decision by submitting a written request for re-consideration to the NBU Board of Trustees. The Board of Trustees may request a written response from NBU or may convene a hearing on the re-consideration request, or both, at the sole discretion of the Board of Trustees. The Board of Trustees shall affirm the decision of the CEO or remand the permit to the CEO with instructions for modification of the permit in accordance with the ruling of the Board of Trustees.

e. The NBU Board of Trustees shall issue a written decision concerning the appeal and its decision shall be considered the final administrative decision on the permit for purposes of judicial review.

f. The appealing party seeking judicial review of the final administrative decision on the permit must file a petition in the District Court, Comal County Texas, within 30 calendar days of the date the final administrative decision is signed.

g. Filing an appeal shall not suspend or stay the permit issued by NBU. However, enforcement of the specific provision or provisions subject to appeal shall be stayed during the pendency of an appeal.

(4) **Permit modifications.** The Director may modify the permit for good cause, including, but not limited to, the following:
a. To incorporate or implement any new or revised federal, state, or local pretreatment standards or requirements.

b. To address material or substantial alterations or additions to the discharger's operation processes, discharge volume, or discharge character that were not considered in the provisions of a current permit.

c. To address a change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

d. To evaluate information indicating that the permitted discharge poses a threat to the Control Authority's collection and treatment systems, POTW personnel or the receiving waters.

e. To adjudicate a violation of any terms or conditions of the permit.

f. To assess a misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.

g. To consider a revision or grant of variance from such categorical standards pursuant to 40 CFR 403.13.

h. To correct typographical or other errors in the permit.

i. To reflect transfer of the facility ownership and/or operation to a new owner/operator.

j. To respond to the request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition or provision.

(5) Transfer of permit. Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the Director, as follows:

a. The permittee must give at least 30 calendar days advance notice to the Director.

b. The notice must include a written certification by the new owner which:

1. States that the new owner has no immediate intent to change the facility's operations and processes;

2. Identifies the specific date on which the transfer is to occur; and
3. Acknowledges that the new owner and/or operator accepts full responsibility for complying with the existing permit.

(6) Termination of permit. Pretreatment permits may be terminated as provided in section 130-314(a)(8).

(7) Reissuance of permit. The user shall apply for permit reissuance by submitting a complete permit application a minimum of 90 calendar days prior to the expiration of the user's existing permit.

(8) Continuation of expired permits. An expired permit will continue to be effective and enforceable until the permit is reissued if:

a. The industrial user has submitted a complete permit application at least 90 calendar days prior to the expiration date of the user's existing permit; and

b. The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user.

(9) Special agreements. Nothing in this division shall be construed as preventing any special agreement or arrangement between the POTW and any user whereby wastewater of unusual strength or character is accepted into the POTW and specially treated and subject to any payments or user charges as may be applicable. However, no discharge which violates pretreatment standards will be allowed under the terms of such special agreements. If, in the opinion of the Director, the wastewater may have the potential to cause or result in any of the following circumstances, no such special agreement will be made:

a. Pass through or interference;

b. Endangering of municipal or utility employees or the public.

Sec. 130-310. Reporting Requirements.

(a) Baseline reports. Within 180 calendar days after the effective date of a categorical pretreatment standard, or 180 calendar days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Control Authority a report which contains the information listed in 40 CFR 403.12(b)(1)–(7). Where reports containing this information already have been submitted to the Director or regional administrator of the EPA in compliance with the requirement of 40 CFR 128.140(b)(1977), the industrial user will not be required to submit this information again. At least 90 calendar days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Control Authority a report which contains the information listed in 40 CFR 403.12(b)(1)–(5). New sources shall also be required to include in this report information
on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of flow measurements and measurement of pollutants as required in 40 CFR 403.12(b)(4) and (5).

(b) Compliance reports. Within 90 calendar days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in 40 CFR 403.12(b)(4)--(6). For industrial users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

(c) Periodic reports on continued compliance by categorical industrial users.

(1) Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standard or by the Control Authority or the approval authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in 40 CFR 403.12(b)(4), except that the Control Authority may require more detail reporting of flows. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may agree to alter the months during which the above reports are to be submitted.

(2) Where the Control Authority has imposed mass limitations on industrial users, the report required by subsection (c)(1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

(3) For industrial users subject to equivalent mass or concentration limits established by the Control Authority, the report required by subsection (c)(1) of this section shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by subsection (c)(1) of this section shall include the user's actual average production rate for the reporting period.

(d) Reporting requirements for significant industrial users not subject to categorical pretreatment standards. Non-categorical significant industrial users are required to submit to the Control Authority at least once every 6 months on dates specified by the
Control Authority a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. The report shall be based on sampling and analysis performed in the period covered by the report, and, where possible, performed in accordance with the techniques described in 40 CFR 136. The sampling and analysis may be performed by the Control Authority in lieu of the significant non-categorical industrial user.

(e) **Notice of potential problems.** All categorical and non-categorical industrial users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings by the industrial user.

(f) **Compliance monitoring and analysis.**

(1) The reports required in subsections (a), (b), (c) and (d) of this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production in mass where requested by the Control Authority, of pollutants contained therein which are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the Control Authority in lieu of the industrial user. Where the POTW performs the required sampling and analysis in lieu of the industrial user, the user will not be required to submit the compliance certifications required by this division. In addition, where the POTW itself collects all the information required for the report, including flow data, the industrial user will not be required to submit the report.

(2) If sampling performed by an industrial user indicates a violation, the user shall notify the Control Authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 calendar days after becoming aware of the violation.

(3) The reports required in subsections (c) and (d) of this section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period.

(4) All analyses shall be performed in accordance with procedures established by the administrator of the EPA pursuant to section 304(h) of the Act and contained in 40 CFR 136 and amendments thereeto, or with any other test procedures approved by the administrator of the EPA. Sampling shall be performed in accordance with the techniques approved by the administrator. Where such regulations do not include sampling or analytical techniques for the pollutants in question, or where the administrator determines that 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the administrator.

(5) If an industrial user subject to the reporting requirements of subsections (c) and
(d) of this section monitors any pollutant more frequently than required by the Control Authority, using the procedures prescribed in subsection (f)(4) of this section, the results of this monitoring shall be included in the applicable reports.

(g) Sample collection

(a) Except as indicated below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the Control Authority may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection technique.

(h) Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(i) Notification of changed discharge. All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which the industrial user has submitted initial notification under 40 CFR 403.12(p). An industrial user shall notify the POTW, the EPA regional waste management division director and the approval authority in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification shall be in accordance with 40 CFR 403.12(p). This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued hereunder, or any applicable Federal or State law.

(j) Certification and signatory requirements. The reports required by subsections (a), (b), (c) and (d) of this section shall include the certification set out in section 130-309(c)(3) and be signed by an authorized representative of the industrial user.

(k) Fraud and false statements. The reports and other documents required to be submitted or maintained under this section shall be subject to:

(1) The provisions of 18 USC 1001 relating to fraud and false statements;

(2) The provisions of section 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and

(3) The provisions of section 309(c)(6) of the Act regarding responsible corporate officers.
Sec. 130-311. Recordkeeping Requirements.

(a) Users shall maintain suitable operating records of all pretreatment facilities. Such records shall include summary reports of the character of the influent and effluent as the POTW may prescribe. All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority upon request.

(b) Any industrial user subject to the reporting requirements established in this division shall maintain records of all information resulting from any monitoring activities required by this division. Such records shall include for all samples:

1. The date, exact place, method, and time of sampling and the name of the person taking each sample;
2. The dates analyses were performed;
3. The name and title of the person who performed the analyses;
4. The analytical techniques or methods used; and
5. The results of such analyses.

(c) Any industrial user subject to the reporting requirements established in this division shall be required to retain for a minimum of 3 years any records of monitoring activities and results, whether or not such monitoring activities are required by this division, and shall make such records available for inspection and copying by the Director and the regional administrator of the EPA (and POTW in the case of an industrial user). This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the Director or the regional administrator of the EPA.

(d) Any reports submitted to the POTW by an industrial user shall be retained for a minimum of 3 years and the POTW shall make such reports available for inspection and copying by the Director and the regional administrator of the EPA. This period of retention shall be extended during the course of any resolved litigation regarding the discharge of pollutants by the industrial user or the operation of the POTW pretreatment program or when requested by the Director or the regional administrator of the EPA.

Sec. 130-312. Inspection, Sampling and Monitoring.

(a) Inspection of user facilities. NBU shall inspect the facilities of any user to ascertain whether the requirements of this division are being met. Persons or occupants of premises where wastewater is created or discharged shall allow NBU or its representatives ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying, or in the performance of any of their duties. NBU, the TCEQ and the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspections, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance
before entry into its premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from NBU, the TCEQ and the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(b) **Monitoring facilities.** NBU shall require user to provide and operate, at the user's expense, monitoring facilities to allow inspection, sampling and flow measurement of the premises' sewer and internal drainage systems. The monitoring facility shall normally be situated on the user's premises, but NBU may, when such a location would be impractical or cause undue hardship on the user, allow the monitoring facility to be constructed in public areas. There shall be ample room in or near such sampling manholes or other monitoring facilities to allow accurate sampling and preparation of samples for analysis. The monitoring facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. The sampling and monitoring facility shall be provided in accordance with the requirements of NBU and all applicable City construction standards and specifications. Construction shall be completed within 90 calendar days following written notification by NBU. Any relocation expense of monitoring facilities from public property to the user's property shall be the responsibility of the user.

(c) **Laboratory procedures.** Analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR 136 and amendments thereto, or with any other test procedures approved by the administrator of the EPA. The POTW may charge the user a fee for the standard initial analyses of the user's wastes, as well as for other nonstandard tests as required by the user's specific process waste loading. Regular periodic check analysis and analysis made by the POTW at the request of the user may be charged to the user according to standard work order billing practice. All such analysis shall be binding in determining strength of waste surcharges and other matters dependent upon the character and concentration of wastes.

(d) **Use of representative analysis.** Until an adequate analysis of a representative sample of the user's wastes has been obtained, the POTW shall, for the purpose of this division, make a determination of the character and concentration of the user's wastes by using data based on analysis of similar processes or data for this type of business that are available from the EPA or from industry-recognized authoritative sources. This method, if selected by the POTW, shall continue at the POTW's discretion or until an adequate analysis has been made.

(e) **Public identification of industrial users in significant noncompliance.** All data collected pertaining to industrial wastes, including records kept by each industrial user, shall be subject to audit, review and copying by the EPA, the TCEQ or the Control Authority upon request. The POTW shall annually publish in the newspaper with the largest daily circulation published in Comal County, Texas, a list of those industrial users who are deemed in significant noncompliance during the 12 previous months. The published notice shall also summarize any enforcement action taken against such industrial users in significant noncompliance during the same 12 month period.

(f) **Surveillance of industrial users.**
(1) Surveillance of industrial users for the purposes of verifying industry self-monitoring information will be done at such intervals as determined by the Director to be necessary to detect prohibited discharges.

(2) A 7-day monitoring period shall be allowed if deemed warranted in order to obtain representative data. The surveillance period will normally be for a period of 1 day, representative of the normal production day, but can be of longer duration at the discretion of the Director. In cases where the surveillance period extends for more than 7 consecutive days, the POTW shall have the prerogative of selecting the 7 consecutive days of its choice for establishing rates and charges.

(3) The POTW may sample and conduct surveillance and inspection activities on any industrial user when deemed necessary by the Director to verify, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards. For scheduled surveillance, the user shall be given the option of splitting the obtained sample such that it may be analyzed by the user.

(4) In addition to surveillance monitoring conducted by the POTW, a significant industrial user shall conduct self-monitoring and submit monthly monitoring reports to the POTW unless specified otherwise in the user's permit conditions or by the Director and report the results of all applicable monitoring to the POTW.

(g) Search warrants. If the Director has been refused access to a building, structure or property or any part thereof, and if the Director has demonstrated probable cause to believe that there may be a violation of this division or that there is a need to inspect as part of a routine inspection program of NBU designed to verify compliance with this division or any permit or order issued under this division, or to protect the overall public health, safety and welfare of the community, then upon application by counsel for the City and NBU, the municipal court judge of the City shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Director in the company of a uniformed police officer of the City. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

Sec. 130-313. Fees and Costs.

(a) Purpose. It is the purpose of this section to recover from users of the City's wastewater disposal system the costs for the implementation of the program established in this division. The applicable charges or fees shall be set forth in NBU's schedule of charges and fees.

(b) Charges and fees. NBU may adopt charges and fees to include:

(1) Fees for reimbursement of costs of setting up and operating the NBU pretreatment program;
(2) Fees for monitoring, sampling, testing, inspections and surveillance procedures;

(3) Fees for reviewing accidental discharge procedures and construction;

(4) Fees for permit applications;

(5) Fees for filing appeals;

(6) Fees for consistent removal of pollutants otherwise subject to federal pretreatment standards;

(7) Other fees as NBU may deem necessary to carry out the requirements contained in this division.

These fees relate solely to the matters covered by this division, are separate from all other fees chargeable by NBU, and intended to be used by NBU for the costs of the pretreatment program.

(c) Surcharges.

(1) Cost calculations. Users that are discharging COD or TSS in excess of "normal domestic sewage" as defined in section 130-301 shall be required to pretreat the industrial wastes to meet the requirements of normal domestic sewage. However, such wastes may be accepted for treatment if all the following requirements are met:

a. The waste will not cause damage to the collection system;

b. The waste will not impair the treatment process; and

c. The user agrees to pay a surcharge over and above the existing sewer rates with the basis for surcharge on the industrial waste to be computed in the following manner:

$ Surcharge =

(Volume in 1000 gallons)\( \frac{COT}{1000 \text{ gal}} \) +

(Avg. BOD mg/l \( \times 8.34 \times Q \text{ mgd} \))\( \frac{COT}{\text{lb}} \) +

(Avg. TSS mg/l \( \times 8.34 \times Q \text{ mgd} \))\( \frac{COT}{\text{lb}} \)

Cost of treatment (COT): Determined annually

(2) Volume determination. The volume of wastes may be determined by the same methods used to calculate the regular sewer service charge, or as a percentage of user's water bill. For users discharging less than 20,000 gallons/day, the BOD and suspended solids values may be determined from standard values for various industries established by the control authority. In cases where the discharge exceeds 20,000 gallons/day, or in the event that the user desires to
determine accurate values of COD and TSS, the user shall install at user's expense a sampling point at a location near the outlet of each building drain or connection with any sanitary sewer of the City. COD and TSS calculated from samples collected from any establishment shall be determined by the Director or a qualified professional employed by the user. Such report shall contain a statement that the samples collected and values determined are based on samples representative of the establishment's discharge. Each sampling point shall be installed and shall be so maintained by the user so that any authorized representative of NBU may readily and safely obtain samples at all times. Plans and location of such sampling points shall be approved by the Director prior to construction.

(3) **Annual review.** All flow rates and COD and TSS in determination of the industrial sewer service charge shall be re-evaluated on an annual basis. If there is a major change in the operation to cause changes in value, however, the values may be increased or decreased on a study of changes or actual measurements.

(4) **Surcharge review.** The basis for determining the surcharge shall be reviewed annually and shall be adjusted to reflect any increase or decrease in wastewater treatment costs based on the previous year's experience.

**Sec. 130-314. Remedies and Enforcement.**

(a) **Administrative enforcement remedies.**

(1) **Notification of violation.** Whenever the Director finds that any industrial user has violated or is violating this division or a discharge permit or order issued under this division, the Director may serve upon such user written notice of the violation. Within 14 calendar days of the receipt date of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(2) **Consent orders.** The Director is authorized to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include the specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsection (a)(4) of this section.

(3) **Show cause hearing.** The Director may order any industrial user which causes or contributes to violation of this division or discharge permit or order issued under this division to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the
meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least 14 calendar days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer of the industrial user. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

4) Compliance order. When the Director finds that an industrial user has violated or continues to violate this division or a permit or order issued under this division, the Director may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Such orders may also contain such other requirements as may be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

5) Cease and desist orders. When the Director finds that an industrial user has violated or continues to violate this division or any permit or order issued under this division, the Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

a. Comply immediately;

b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

6) Administrative fines. Notwithstanding any other section of this division, any user who is found to have violated any provision of this division, or permits or orders issued under this division, shall be fined in an amount not to exceed $1,000.00 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the Director shall have such other collection remedies as available to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must submit to the Director a request for reconsideration of the fine within 10 calendar days of being notified of the fine. If the Director determines a request has merit, the Director shall convene a hearing on the matter within 15 calendar days of receiving the request from the industrial user.

7) Emergency suspensions.

a. The Director may suspend the wastewater treatment service and/or discharge permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting
or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

b. Any user notified of a suspension of the wastewater treatment service and/or the discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving waters, or endangerment to any individuals. The Director shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in subsection (a)(8) of this section are initiated against the user.

c. An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director no later than 2 business days prior to the date of the hearing described in subsection (a)(3) of this section.

Nothing in this subsection shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(8) Termination of permit. Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the Control Authority. Any user who violates the following conditions of this division or a discharge permit or order, or any applicable state and federal law, is subject to permit termination:

a. Violation of permit conditions.

b. Failure to accurately report the wastewater constituents and characteristics of its discharge.

c. Failure to report significant changes in operations or wastewater constituents and characteristics.

d. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

e. Falsifying self-monitoring reports.

f. Tampering with monitoring equipment.

g. Refusing to allow timely access to the facility premises and records.

h. Failure to meet effluent limitations.

i. Failure to pay fines.
(b) Judicial remedies.

(1) Commencement of action in district court. If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this division, or any order or permit issued under this division, the Director, through the attorney for NBU or the attorney for the City, may commence an action for appropriate legal and/or equitable relief in the district court for Comal County, Texas.

(2) Injunctive relief. When an industrial user has violated or continues to violate the provisions of this division, or any permit or order issued under this division, the Director, through counsel, may petition the court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, which restrains or compels activities on the part of the industrial user. The Control Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) Civil penalties.

a. Any industrial user who has violated or continues to violate this division or any order or permit issued under this division shall be liable for a civil penalty of not more than $1,000.00 plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above-described penalty and damages, the Director may recover on behalf of NBU reasonable attorney's fees, court costs and other expenses associated with the enforcement activities, including sampling and monitoring expenses. The Director is entitled to such remedies for collection of these fees as is provided for collection of other sewer service charges and as may be permitted by law. Penalties recovered under this subsection are intended to be used for the operation of the wastewater collection and treatment systems of NBU.

b. The Director shall petition the court to impose, assess, and recover such sums. In determining the amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history
of the user, and any other factor as justice requires.

(4) **Criminal prosecution.**

a. Any industrial user who willfully or negligently violates any provision of this division or any orders or permits issued under this division shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed $1,000.00 per violation per day.

b. Any industrial user which knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or its discharge permit, or which falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division shall, upon conviction, be punished by a fine of not more than $1,000.00 per violation per day.

(c) **Supplemental enforcement remedies.**

(1) **Annual publication of users in significant noncompliance.** The Director shall publish a description of those industrial users which are found to be in significant noncompliance, as set out in section 130-312(e).

(2) **Performance bonds and assurances.** The Director may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this division or any order or previous permit issued under this division unless such user first delivers to the Director a satisfactory bond, in an amount not to exceed a value determined by the Director to be necessary to ensure consistent compliance, or such user first submits proof that it has obtained other financial assurances sufficient to restore or repair POTW damage caused by its discharge.

(3) **Water supply severance.** When an industrial user violates or continues to violate the provisions of this division, or an order or permit issued under this division, water service to the industrial user may be severed and service will only recommence, at the user's expense, after such user has satisfactorily demonstrated its ability to comply with this division.

(4) **Public nuisances.** Any violation of the prohibitions or effluent limitations of this division, or any permit or order issued under this division, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director or the Director's designee. Any person(s) creating a public nuisance shall be subject to the provisions of the Code Of the City of New Braunfels governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating, orremedying such nuisance.

(d) **Remedies nonexclusive.** The remedies provided for in this ordinance are not exclusive. The Control Authority may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in
accordance with the enforcement response plan. However, the Control Authority may take other action against any user when the circumstances warrant. Further, the Control Authority is authorized to take more than one enforcement action against any noncompliant user.

(e) **Applicability of more stringent regulations.**

(1) If national pretreatment standards, categorical or otherwise, more stringent than the discharge limits prescribed in this division are promulgated by the United States Environmental Protection Agency for certain industries, the more stringent national pretreatment standards will apply to the affected industrial user. A violation of the more stringent national pretreatment standards will also be considered a violation of this division.

(2) If more stringent pretreatment standards, Texas surface water quality standards, or Texas Pollutant Discharge Elimination System permit conditions are promulgated, the Control Authority reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(3) An industrial user within the City who discharges industrial waste ultimately received and treated by another governmental entity pursuant to a wholesale wastewater contract or a reciprocal agreement with the City is subject to the following additional rules:

a. If the governmental entity has more stringent discharge limits than those prescribed by this Ordinance, or by a discharge permit issued hereunder, because the United States Environmental Protection Agency requires the more stringent discharge limits as part of the governmental entity's wastewater pretreatment program, the more stringent discharge limits shall prevail.

b. The Pretreatment Program Manager is authorized to issue a discharge permit to an industrial user affected by subsection (e)(3)a above, to insure notice of and compliance with the more stringent discharge limits. If the industrial user already has a discharge permit, the Control Authority may amend the permit to apply and enforce the more stringent discharge limits. An industrial user shall submit to the Control Authority an expected compliance date and an installation schedule if the more stringent discharge limits necessitate technological or mechanical adjustments to discharge facilities or plant processes.

c. If the Control Authority chooses not to issue or amend a permit under subsection (e)(3)b above, the Pretreatment Program Manager shall notify the affected industrial user in writing of the more stringent discharge limits and their effective date. Regardless of whether or not a permit is issued or amended, an industrial user shall be given a reasonable opportunity to comply with the more stringent discharge limits.
d. The more stringent discharge limits cease to apply upon termination of the city's wholesale wastewater contract or reciprocal agreement with the governmental entity, or upon modification or elimination of the limits by the government entity or the United States Environmental Protection Agency. The Control Authority shall take the appropriate action to notify the affected industrial user of an occurrence under this subsection

(4) Variances in compliance dates. The Control Authority may grant a variance in compliance dates to an industry when, in the Pretreatment Program Manager's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case shall the Pretreatment Program Manager grant a variance in compliance dates to an industry affected by national categorical pretreatment standards beyond the compliance dates established by the United States Environmental Protection Agency.

(5) Authority to regulate. The Control Authority may establish regulations, not in conflict with this Ordinance or other laws, to control the disposal and discharge of industrial waste into the wastewater system and to insure compliance with the pretreatment enforcement program with all applicable pretreatment regulations promulgated by the United States Environmental Protection Agency. The regulations established shall, where applicable, be made part of any discharge permit issued to an industrial user by the Control Authority.

(f) Affirmative defenses.

(1) Act of God defense. The Act of God defense constitutes a statutory affirmative defense pursuant to Texas Water Code Section 7.251 in an action brought in municipal or State court. If a person can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, riot, or other catastrophe, the event is not a violation of the ordinance or permit.

An industrial user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:

a. An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and

b. The industrial user has submitted the following information to the POTW and the City within 24 hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance. If this information was provided orally, a written submission with the information below was provided within 5 calendar days.

1. A description of the event

2. The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and
3. Steps being taken or planned to reduce eliminate and prevent recurrence of the event.

c. In any enforcement proceeding, the industrial user seeking to establish the Act of God affirmative defense shall have the burden of proving by a preponderance of evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance was caused solely by an act of God, war, strike, riot or other catastrophe

(2) Treatment bypasses.

a. A bypass of the treatment system is prohibited unless all of the following conditions are met:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and

3. The industrial user properly notified the Director as described in subsection (2)b below.

b. Industrial users must provide immediate notice to the Director upon discovery of an unanticipated bypass. If necessary, the Director may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass, and the steps being taken to prevent its recurrence.

c. An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the Director at least 14 calendar days in advance. The Director may only approve the anticipated bypass if the circumstances satisfy those set forth in subsection (2)a above.

Sec. 130-315. Confidential Information.

(a) Information and data provided to the Control Authority pursuant to this division which is effluent data shall be available to the public without restriction. All other information which is submitted to the state or the POTW shall be available to the public at least to the extent provided by 40 CFR 2.302.

(b) Information and data on an industrial user obtained from reports, surveys, questionnaires, permit applications, permits and monitoring programs and from inspections and sampling shall be available to the public without restriction unless the
subject industrial user specifically requests and is able to demonstrate to the satisfaction of NBU that the release of such information will divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user under applicable state law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made immediately available upon request to the EPA and other governmental agencies for uses related to the NPDES program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Sec. 130-316. Effective Date

This ordinance shall be in full force and effective immediately following the passage, and approval of New Braunfels Utility's (NBU) Texas Pollutant Discharge Elimination System (TPDES) permit issued by the Texas Commission on Environmental Quality (TCEQ), as provided by law.

READ, PASSED AND ADOPTED ON ________________, 2010.

Mayor

ATTEST:

City Secretary

Sec. 130-317-130-335. Reserved.
SUBJECT: Approval of the first reading of an ordinance amending Ordinance Number 75-10 dated April 28, 1975 to approve installation of the traffic control devices (stop sign) at the SW corner of Redbud Drive at Honeysuckle Lane.

BACKGROUND/RATIONALE:
A resident of the neighborhood requested that the City consider installing a stop sign at the intersection of Redbud Drive and Honeysuckle Lane. This request was considered by the Transportation and Traffic Advisory Board at their May 13, 2010 meeting and they recommended installation of the stop sign.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<table>
<thead>
<tr>
<th>N/A</th>
<th>Yes</th>
<th>City Plan/Council Priority:</th>
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<tbody>
<tr>
<td>2006 Comprehensive Plan: Transportation Goal 21: Provide a system of convenient and safe transportation facilities through comprehensive, cooperative a continuing transportation system planning and development.</td>
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FISCAL IMPACT:
Stop signs cost approximately $135 each

BOARD/COMMISSION RECOMMENDATION:
The Transportation and Traffic Advisory Board recommended installation of the stop sign.

STAFF RECOMMENDATION:
Staff recommends the installation of the stop sign as indicated in the attached ordinance.
ORDINANCE NO. 2010-

AN ORDINANCE AMENDING ORDINANCE NUMBER 75-10 DATED APRIL 28, 1975 TO APPROVE INSTALLATION OF THE TRAFFIC CONTROL DEVICES (STOP SIGNS) AT THE INTERSECTION OF REDBUD DRIVE AT HONEYSUCKLE LANE PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, after engineering and field investigation, the City Engineer has recommended that traffic control signs be installed on certain streets, avenues, thoroughfares and boulevards within the corporate limits of the City of New Braunfels in order to protect the health, safety and welfare of the citizens.

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

I.

THAT Ordinance Number 75-10 dated April 28, 1975, is hereby amended to authorize the installation of additional Traffic Control signs at the following location in the corporate limits of the City of New Braunfels, Texas:

STOP SIGN:
1075 On the SW corner of REDBUD DRIVE at HONEYSUCKLE LANE to stop traffic prior to entering HONEYSUCKLE LANE

II.

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

III.

THAT all provisions as set forth in Ordinance Number 75-10 dated April 28, 1975, will be and remain in full force and effect as though written in full in this ordinance.
THAT all provisions hereof are hereby declared to be severable and if any provisions hereof is declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.

V.

This Ordinance shall take effect from and after its second and final reading.

PASSED AND APPROVED: First reading this the 28th day of June, 2010.

PASSED AND APPROVED: Second reading this the 12th day of July, 2010.

CITY OF NEW BRAUNFELS, TEXAS

R. BRUCE BOYER, MAYOR

ATTEST:

MICHAEL A. RESENDEZ, CITY SECRETARY

APPROVED AS TO FORM:

ALAN C. WAYLAND, CITY ATTORNEY
SUBJECT: Update on flood recovery efforts related to the June 9, 2010 flood event.

BACKGROUND/RATIONALE:
Receive an updated on flood recovery efforts related to the June 9, 2010 flood event.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A
City Council Agenda Item Report
June 28, 2010

Agenda Item No. 4-B
Presenter/Contact – G. Pruett, Library Director
Ph. 830-221-4300 / E-mail: gpruett@nbtexas.org

SUBJECT: Departmental presentation from the New Braunfels Public Library.

BACKGROUND/RATIONALE:
Receive a departmental presentation from the New Braunfels Public Library.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A
City Council Agenda Item Report
June 28, 2010

Agenda Item No. 5-A
Presenter/Contact – M. Morrison, City Manager
Ph. 830-221-4280 / E-mail: mmorrison@nbtexas.org

SUBJECT: Discuss and consider a resolution expressing the appreciation and gratitude of the City of New Braunfels for the aid and assistance contributed by the City of Kyle in the immediate aftermath of the June 9, 2010 flood event.

BACKGROUND/RATIONALE:
Council will receive a brief update and presentation from City staff regarding the aid and assistance provided by the City of Kyle to help the City of New Braunfels recover from the June 9, 2010 flood event.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A

WHEREAS, on June 9, 2010, the City of New Braunfels was stricken by extreme rainfall and severe flooding conditions; and

WHEREAS, the flood event caused significant damage and degradation to private property and City facilities; and

WHEREAS, the resources of the City of New Braunfels were stretched to capacity dealing with relief and recovery efforts during and after the flood event; and

WHEREAS, the City of Kyle, uncompelled by any motives save compassion and charity, swiftly and unreservedly dispatched significant resources to aid the City of New Braunfels during its time of urgent need; and

WHEREAS, the resources provided by the City Kyle, including a ten man work crew and numerous pieces of heavy equipment, remained diligently committed, for two difficult and arduous days, to the work of recovery until relieved by New Braunfels workers and volunteers; and

WHEREAS, the resources provided by the City Kyle were a significant force in the timely recovery of the City of New Braunfels and its Parks;

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

THAT the City of New Braunfels hereby expresses its deep and heartfelt gratitude and appreciation to the City of Kyle and its people for the generous aid and assistance provided during our efforts to recover from the June 9, 2010 flood event. Furthermore, the City Council gives its positive assurance that the aid provided not only succeeded in speeding the recovery of the City of New Braunfels, but has also earned the City of Kyle and its people a place of Honor and Affection within the memory and heart of the citizens of the City of New Braunfels.

PASSED, ADOPTED AND APPROVED this the 28th day of June, 2010.

CITY OF NEW BRAUNFELS, TEXAS

BY: _______________________
R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary
SUBJECT: Discuss and consider the appointment of three individuals to the Planning Commission of the City of New Braunfels for terms ending May 31, 2013.

BACKGROUND/RATIONALE:

Notice of three regular vacancies on the Planning Commission were advertised from May 21st to June 21st, 2010. During the application period, four qualified applications were received:

James Lowe, 417 Saddletree St.
Tonja Perez, 2033 Gruene Rd.
William Robinson, 506 Oakwood St.
Matthew Hoyt, 2330 Sean St.

Applicant's current & prior service on Boards and Commissions

James Lowe has no previous service on City Boards or Commissions.

Tonja Perez has no previous service on City Boards or Commissions.

William Robinson has no previous service on City Boards or Commissions.

Matthew Hoyt has previous service as a member of the Community Development Advisory Committee from September 2005 to February 2010, during which time he attended 17 of 20 called meetings.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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City Plan/Council Priority:

FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:

Staff recommends that the City Council consider appointing three of these applicants to the City of New Braunfels Planning Commission for terms ending May 31, 2013.
BOARDS AND COMMISSIONS
MEMBERSHIP APPLICATION

NAME: James Lowe

LAST Lowe
FIRST James
MIDDLE Edward

PHYSICAL ADDRESS
STREET 417 SAPPLETREE
CITY, STATE, ZIP NB TX 78130

MAILING ADDRESS
STREET
CITY, STATE, ZIP Same as physical

CONTACT INFORMATION
HOME PHONE (830) 708-3132
WORK PHONE (830) 606-1610
EMAIL ADDRESS JamesEdwardLowe@gmail.com

EMPLOYMENT INFORMATION
EMPLOYER Iron Horse Well
ADDRESS 1030 N. Business 1435
PHONE (830) 606-1610
TITLE Owner

RESIDENCY INFORMATION
ARE YOU A RESIDENT OF THE CITY OF NEW BRAUNFELS?
☑ YES ☐ NO

IF NO, ARE YOU A RESIDENT OF THE CITY'S EXTRA TERRITORIAL JURISDICTION?
☐ YES ☐ NO ☑ N/A

ARE YOU A REGISTERED VOTER?
☑ YES ☐ NO ☑ N/A

BOARD/COMMISSION INFORMATION
FOR WHICH CITY BOARD/COMMISSION ARE YOU APPLYING?

ARE YOU CURRENTLY OR HAVE YOU EVER SERVED ON ANY CITY BOARD OR COMMISSION?
☐ YES ☑ NO

IF YES, PLEASE LIST EACH BOARD AND DATES OF MEMBERSHIP

PLEASE NOTE THAT THIS APPLICATION IS ONLY VALID FOR THE VACANCIES FOR WHICH YOU ARE APPLYING. IF YOU WISH TO APPLY FOR VACANCIES IN THE FUTURE, YOU WILL NEED TO FILE A NEW APPLICATION AT THAT TIME.
QUALIFICATIONS
PLEASE GIVE A BRIEF RESUME, INCLUDING EDUCATION, PAST EMPLOYMENT, ANY SPECIAL BACKGROUND OR QUALIFICATIONS YOU HAVE FOR SERVING ON THIS BOARD/COMMISSION. USE ATTACHMENTS IF NECESSARY.

- BA in Economics from UT Austin (99)
- Senior Director of Business Development for Hendangas (99-05). This was an international software company based in Dallas. I opened their European office in London, UK and was responsible for operations, P&L, marketing, sales & strategy.
- Owner Iron Horse Grill - Revived a local favorite into a family friendly destination.
- Board member United Way of Comal County (06-present) & campaign chair for 09.
- Member NB Downtown Rotary (Board member 09 & 10)
- Board member Big Brother & Big Sisters of Comal County
- In process of obtaining my real estate license. Have taken all required course work.

PLEASE STATE WHY YOU WISH TO SERVE THE CITY OF NEW BRAUNFELS AS A MEMBER OF A BOARD, COMMISSION, OR COMMITTEE. USE ATTACHMENTS, IF NECESSARY.

I am a local business owner who hopes my experience & perspective would be valuable. I am also a husband & father & plan to remain in New Braunfels for a long while & I am passionate about the future of this city.

ADDITIONAL INFORMATION
DO YOU HAVE ANY RELATIVES THAT WORK FOR THE CITY OF NEW BRAUNFELS? ☐ YES ☑ NO
IF YES, WHAT IS THEIR NAME AND POSITION:

DO YOU RECEIVE ANY DIRECT COMPENSATION OR GAIN FROM ANY GOVERNMENTAL BODY? ☐ YES ☑ NO
IF SO, WHAT TYPE?

SIGNATURE

DATE 6/2/10
NAME: PÉREZ
LAST PÉREZ
FIRST TONSA
MIDDLE BENSON

PHYSICAL ADDRESS
STREET 2033 Gruene RD
CITY, STATE, ZIP NEW BRAUNFEELS TX 78130

MAILING ADDRESS
STREET same as above
CITY, STATE, ZIP

CONTACT INFORMATION
HOME PHONE 830 609 5339
WORK PHONE 830 625 7754
EMAIL ADDRESS benson appraisals @satx.rr.com

EMPLOYMENT INFORMATION
EMPLOYER Benson Appraisers Inc
ADDRESS 2033 Gruene RD NB 78130
PHONE 830 625 7754
TITLE owner - appraiser

RESIDENCY INFORMATION
ARE YOU A RESIDENT OF THE CITY OF NEW BRAUNFELS?
☑ YES ☐ NO
IF NO, ARE YOU A RESIDENT OF THE CITY'S EXTRA TERRITORIAL JURISDICTION?
☐ YES ☐ NO ☐ N/A
ARE YOU A REGISTERED VOTER?
☐ YES ☐ NO ☐ N/A

BOARD/COMMISSION INFORMATION
FOR WHICH CITY BOARD/COMMISSION ARE YOU APPLYING?
Planning & Zoning
ARE YOU CURRENTLY OR HAVE YOU EVER SERVED ON ANY CITY BOARD OR COMMISSION?
☐ YES ☐ NO
IF YES, PLEASE LIST EACH BOARD AND DATES OF MEMBERSHIP

PLEASE NOTE THAT THIS APPLICATION IS ONLY VALID FOR THE VACANCIES FOR WHICH YOU ARE APPLYING. IF YOU WISH TO APPLY FOR VACANCIES IN THE FUTURE, YOU WILL NEED TO FILE A NEW APPLICATION AT THAT TIME.
QUALIFICATIONS

PLEASE GIVE A BRIEF RESUME, INCLUDING EDUCATION, PAST EMPLOYMENT, ANY SPECIAL BACKGROUND OR QUALIFICATIONS YOU HAVE FOR SERVING ON THIS BOARD/COMMISSION. USE ATTACHMENTS IF NECESSARY.

I have worked in the appraisal industry for the past 20 years and have held a certification as a residential real estate appraiser for the past 6 years. During this time I have actively served the community as a member of the New Braunfels Noon Lions Club and as a member of the New Braunfels Chamber of Commerce.

PLEASE STATE WHY YOU WISH TO SERVE THE CITY OF NEW BRAUNFELS AS A MEMBER OF A BOARD, COMMISSION, OR COMMITTEE. USE ATTACHMENTS, IF NECESSARY.

As a professional appraiser I would like the opportunity to share my home town in a manner that allows me to make a difference in the growth of my community. Working on the Commission would afford me the added benefit of sharing ideas with other like-minded service-oriented members of the community.

ADDITIONAL INFORMATION

DO YOU HAVE ANY RELATIVES THAT WORK FOR THE CITY OF NEW BRAUNFELS? ☐ YES ☐ NO

IF YES, WHAT IS THEIR NAME AND POSITION:

DO YOU RECEIVE ANY DIRECT COMPENSATION OR GAIN FROM ANY GOVERNMENTAL BODY? ☐ YES ☐ NO

IF SO, WHAT TYPE?

SIGNATURE

DATE

Sonja B. Berg
6- - 2010
BOARDS AND COMMISSIONS
Membership Application

NAME: Robinson
LAST Robinson
FIRST William
MIDDLE Porter

PHYSICAL ADDRESS
STREET 506 Oakwood
CITY, STATE, ZIP New Braunfels, Texas, 78130

MAILING ADDRESS
STREET Same as above
CITY, STATE, ZIP

CONTACT INFORMATION
HOME PHONE 930-632-9742
WORK PHONE 210-828-3743 / Cell 210-365-7313
EMAIL ADDRESS porter.robinson@yahoo.com

EMPLOYMENT INFORMATION
EMPLOYER Stoughter & Associates
ADDRESS 525 Busby Drive, San Antonio, TX 78209
PHONE 210-828-3743
TITLE Associate Appraiser

RESIDENCY INFORMATION
ARE YOU A RESIDENT OF THE CITY OF NEW BRAUNFELS? 
☑ YES ☐ NO

IF NO, ARE YOU A RESIDENT OF THE CITY’S EXTRA TERRITORIAL JURISDICTION? 
☑ YES ☐ NO ☐ N/A

ARE YOU A REGISTERED VOTER? 
☑ YES ☐ NO ☐ N/A

Board/Commission Information
FOR WHICH CITY BOARD/COMMISSION ARE YOU APPLYING? 
☐ PLANNING ☐ COMMISSION

ARE YOU CURRENTLY OR HAVE YOU EVER SERVED ON ANY CITY BOARD OR COMMISSION? 
☐ YES ☐ NO

IF YES, PLEASE LIST EACH BOARD AND DATES OF MEMBERSHIP

PLEASE NOTE THAT THIS APPLICATION IS ONLY VALID FOR THE VACANCIES FOR WHICH YOU ARE APPLYING. IF YOU WISH TO APPLY FOR VACANCIES IN THE FUTURE, YOU WILL NEED TO FILE A NEW APPLICATION AT THAT TIME.
QUALIFICATIONS
PLEASE GIVE A BRIEF RESUME, INCLUDING EDUCATION, PAST EMPLOYMENT, ANY SPECIAL BACKGROUND OR QUALIFICATIONS YOU HAVE FOR SERVING ON THIS BOARD/COMMISSION. USE ATTACHMENTS IF NECESSARY.

2001 - Graduated with a Bachelor of Science Degree from Clemson University in Parks, Recreation, and Tourism Management with a minor in Business Management.
2003 - Received Master’s Degree in Parks, Recreation, and Tourism Management from Clemson University.
2007 - Completed course work and state examination to receive my license to act as a general appraiser in the state of Texas.
2009 - Received the state certification as a general appraiser.
2002-2003 - Worked for the Strom Thurmond Institute, analyzing and compiling social data.
2004 - Present - Associate Appraiser for Spaulding & Associates, working as a commercial appraiser specializing in vacant land, subdivisions, development properties, office warehouses, and retail properties.

PLEASE STATE WHY YOU WISH TO SERVE THE CITY OF NEW BRAUNFELS AS A MEMBER OF A BOARD, COMMISSION, OR COMMITTEE. USE ATTACHMENTS, IF NECESSARY.

I feel that there is an expectation within New Braunfels that people who live here are to serve in some capacity that benefits the city. People who live here understand how special of a place this is and feel compelled to act to keep it that way. I also hope that my experience as an appraiser will help to give insight to planning and zoning issues, which are part of my everyday job, such as highest and best use and need assessment. For instance, knowledge of current retail office, or industrial vacancies and the need for more or less of this type development in the area. Overall, I feel that my experience as a commercial appraiser will help to fulfill a desire to serve here in New Braunfels, and the planning and zoning board seems like an obvious place to do this.

ADDITIONAL INFORMATION
DO YOU HAVE ANY RELATIVES THAT WORK FOR THE CITY OF NEW BRAUNFELS? □ YES □ NO
If YES, what is their name and position: __________________________

DO YOU RECEIVE ANY DIRECT COMPENSATION OR GAIN FROM ANY GOVERNMENTAL BODY? □ YES □ NO
If SO, what type? ____________________________________

SIGNATURE __________________________
DATE 6/3/10
# BOARDS AND COMMISSIONS
MEMBERSHIP APPLICATION

**NAME:**

**LAST**  Hoyt  **FIRST**  Matthew  **MIDDLE**  Edwin

**PHYSICAL ADDRESS**

**STREET**  2330 Sean St.  **CITY, STATE, ZIP**  New Braunfels, TX 78130

**MAILING ADDRESS**

**STREET**  **CITY, STATE, ZIP**  

**CONTACT INFORMATION**

**HOME PHONE**  830-387-4624  **EMAIL ADDRESS**  Matthew@thehoystagency.com

**EMPLOYMENT INFORMATION**

**EMPLOYER**  The Hoyt Agency  **ADDRESS**  1119 E. Common St., suite B1201, NB TX

**PHONE**  830-387-4624

**TITLE**  Owner

**RESIDENCY INFORMATION**

ARE YOU A RESIDENT OF THE CITY OF NEW BRAUNFELS?  
☐ YES  ☐ NO  

IF NO, ARE YOU A RESIDENT OF THE CITY'S EXTRA TERRITORIAL JURISDICTION?  
☐ YES  ☐ NO  ☐ N/A

ARE YOU A REGISTERED VOTER?  
☐ YES  ☐ NO  ☐ N/A

**BOARD/COMMISSION INFORMATION**

FOR WHICH CITY BOARD/COMMISSION ARE YOU APPLYING?  
Plano

ARE YOU CURRENTLY OR HAVE YOU EVER SERVED ON ANY CITY BOARD OR COMMISSION?  
☐ YES  ☐ NO

IF YES, PLEASE LIST EACH BOARD AND DATES OF MEMBERSHIP

- Community Development Advisory Committee  9/05 - 2/10
  - Vice Chair  2008
  - Chair  2009

**PLEASE NOTE THAT THIS APPLICATION IS ONLY VALID FOR THE VACANCIES FOR WHICH YOU ARE APPLYING. IF YOU WISH TO APPLY FOR VACANCIES IN THE FUTURE, YOU WILL NEED TO FILE A NEW APPLICATION AT THAT TIME.**
QUALIFICATIONS
PLEASE GIVE A BRIEF RESUME, INCLUDING EDUCATION, PAST EMPLOYMENT, ANY SPECIAL BACKGROUND OR QUALIFICATIONS YOU HAVE FOR SERVING ON THIS BOARD/COMMISSION. USE ATTACHMENTS IF NECESSARY.

See attachment #1

PLEASE STATE WHY YOU WISH TO SERVE THE CITY OF NEW BRAUNFELS AS A MEMBER OF A BOARD, COMMISSION, OR COMMITTEE. USE ATTACHMENTS, IF NECESSARY.


ADDITIONAL INFORMATION
DO YOU HAVE ANY RELATIVES THAT WORK FOR THE CITY OF NEW BRAUNFELS?  □ YES  □ NO
IF YES, WHAT IS THEIR NAME AND POSITION:

DO YOU RECEIVE ANY DIRECT COMPENSATION OR GAIN FROM ANY GOVERNMENTAL BODY?  □ YES  □ NO
IF SO, WHAT TYPE?

SIGNATURE
DATE  6-21-10
Matthew Edwin Hoyt
2330 Sean Street
New Braunfels, TX 78130
830-387-4698
matthew@thehoytagency.com

Work History
May 2003-July 2003
Washington D.C.
House of Representatives
Congressman Chet Edwards
Intern

May 2004 - Dec 2005
San Antonio, TX
Center Stage Booking Agency
Agent

Dec 2005 – Feb 2009
Austin, TX
Austin Universal Entertainment
Agent

Feb 2009 – Present
New Braunfels, TX
The Hoyt Agency Inc
Owner/Agent

Education
Southern Methodist University '04
Bachelor of Arts
Major in political science

References
Congressman Chet Edwards
United States House of Representatives
2369 Rayburn Building
Washington, DC 20515-4311
202-225-6105

Nancy Davison
City of New Braunfels
424 South Castell
New Braunfels, TX 78130
(830) 221-4081
Matthew Edwin Hoyt
2330 Sean Street
New Braunfels, TX 78130
830-387-4698
matthew@thehoytagency.com

I have served the City of New Braunfels for 5 years on the Community Development Advisory Committee and feel as though I might be able to continue to bring my skills and experience to the table in helping my colleagues serve the city on the Planning Committee.
SUBJECT: Discuss and consider approval of the second and final reading of an ordinance amending Chapter 110 “Solid Waste” of the Code of Ordinances as relating to the Solid Waste Residential, Recycling and Commercial Rates and proposed operational changes.

BACKGROUND/RATIONALE: The Council of the City of New Braunfels has established an ordinance containing the rules, regulations, policies, and rate provisions affecting solid waste within the City limits and the collection and disposal of same (Chapter 110 “Solid Waste”, Code of Ordinances of the City of New Braunfels). The City engaged a consultant to review the financial aspects of the City's solid waste program and to make recommendations to the City Council for improving, changing, and amending the Solid Waste rates. In making its recommendations, the consultant considered applicable rate making standards and policy service considerations. At the June 14, 2010 City Council meeting Staff recommended that Chapter 110 “Solid Waste” be repealed in its entirety and a new Chapter 110 “Solid Waste” to the New Braunfels Code of Ordinances be adopted in order to provide for the continued preservation of the public health, safety and welfare of the people. At that meeting City Council approved the first reading of an ordinance amending Chapter 110 “Solid Waste” of the Code of Ordinances as relating to the Solid Waste Residential, Recycling and Commercial Rates and proposed operational changes.

The City's solid waste collection service (garbage pick-up) receives no financial support from property or sales taxes. The service is completely self-supporting through the rates the City charges to residents and businesses. The cost of personnel, general operating costs, fuel, equipment, landfill fees, a contribution for wear and tear on streets, administrative costs, and an operating reserve are all included in the cost of operating the system.

At a City Council meeting on April 12, 2010, and policies as incorporated by the referenced ordinance presented at the June 14, 2010 meeting, Council approved: once a week refuse and recycling collection; transition to Citywide automated recycling by October 2010; draw down of fund balance to offset initial costs; a residential rate increase from $16.39 to $17.66 in April 2011; and, commercial rate increases becoming effective in October 2010. Council approval included moving forward with the proposal introduced and all of its aspects, which included purchasing necessary recycling carts and approval of a budget transfer.

As discussed at the June 14, 2010 meeting it is evident some residents believe that one garbage container will not be sufficient for them with collection occurring once per week. For these residences, staff has included in the ordinance a rate for collection of a second garbage container each week. Based on Council discussion, Staff has revised the rate to $6.50 monthly and also conducted a survey where the rates for similar service ranged from $5.00 to $17.44. The total monthly cost for garbage collection for these residents would be $24.16. The second cart would be entirely at the resident's option with the revised administrative fee for an additional cart set at
$10.00 per request for service. Staff also discussed billing requirements with New Braunfels Utilities and there is some concern with an individual customer (both residential and commercial) requesting to change service on a regular basis. To address this issue, the Ordinance has been revised to include a 30 day notice requirement for a commercial change and four month minimum on a service change with a new rate for both commercial and residential customers. One final issue brought to staff's attention is the unlawful accumulation of discarded tires. The Ordinance has been revised to allow such accumulation if tires are properly covered and site runoff controlled to the satisfaction of the Solid Waste Manager.

Addresses a Need/Issue In a City Plan or Council Priority:

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City Plan/Council Priority:
- FY 2009-10 Budget
- Strategic Priorities Update
- Objective 2 – Strategy 2a
- Review user fees and update as appropriate.

**Fiscal Impact:**

As authorized, the new rate structure establishes funds to support the operational changes to the Solid Waste program as well as maintain the fund’s financial stability and required fund balance.

To facilitate automated recycling throughout the City, new containers will be ordered to support the City wide recycling program in 96-gallon carts at a cost of $781,150. As approved at the April 12, 2010 meeting a budget transfer was required to appropriate the funding needed.

**Board/Commission Recommendation:**

N/A

**Staff Recommendation:**

That the second and final reading of an ordinance amending Chapter 110 “Solid Waste” of the Code of Ordinances as relating to the Solid Waste Residential, Recycling and Commercial Rates and proposed operational changes be passed and approved.
ORDINANCE NO. __________

AN ORDINANCE AMENDING AND REPLACING CHAPTER 110, SOLID WASTE OF THE CODE OF ORDINANCES, CITY OF NEW BRAUNFELS, TEXAS IN ITS ENTIRETY INCLUDING, BUT NOT LIMITED TO, DEFINITIONS, GENERAL PROVISIONS, DUMPING, DISPOSAL, COLLECTION AND RATES; REPEALING ALL OTHER ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; CONTAINING A SAVINGS CLAUSE; AND HAVING AN EFFECTIVE DATE.

WHEREAS, the Council of the City of New Braunfels has established an ordinance containing the rules, regulations, policies, and rate provisions affecting solid waste within the city limits and the collection and disposal of same, which ordinance has been codified as Chapter 110 “Solid Waste”, Code of Ordinances of the City of New Braunfels; and

WHEREAS, the City engaged a consultant to review the financial aspects of the City’s solid waste program to make recommendations to the City Council for improving, changing, and amending the same; and

WHEREAS, in making its recommendations, the consultant considered applicable rate making standards and policy service considerations; and

WHEREAS, the City Council hereby finds that Chapter 110 “Solid Waste” should be repealed in its entirety and a new Chapter 110 “Solid Waste” to the New Braunfels Code of Ordinances should be adopted in order to provide for the continued preservation of the public health, safety and welfare of the people;

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. That Chapter 110 “Solid Waste” of the Code of Ordinances, City of New Braunfels as it currently exists is repealed and a new Chapter 110 “Solid Waste” is adopted which chapter shall hereinafter read as shown on Exhibit “A” attached hereto and incorporated herein.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity
shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. All provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 5. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 6. In accordance with the provisions of Section 3.10 of Article III of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 7. This Ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this ___ day of __________, 2010.
PASSED AND APPROVED: Second reading this ___ day of __________, 2010.

CITY OF NEW BRAUNFELS, TEXAS

By: ______________________________

Bruce Boyer, Mayor

ATTEST:

Michael A. Resendez, City Secretary

APPROVED AS TO FORM:

Alan C. Wayland, City Attorney
Chapter 110 SOLID WASTE*

Article I. In General
Sec. 110-1. Short title.
Sec. 110-2. Definitions.
Sec. 110-3. City to provide Solid Waste services.
Sec. 110-4. Placement of Residential garbage, recycling and green waste.
Sec. 110-5. Services not furnished by City.
Sec. 110-6. Collection methods.
Sec. 110-7. Solid Waste Collection Services.
Sec. 110-8. Service charges; billings.
Sec. 110-9. Dumping prohibited.
Sec. 110-10. Meddling and scavenging.
Sec. 110-12. Licensing of private haulers.
Sec. 110-13. Hardship Residents; carry out service.
Sec. 110-14. Duty of property owners to trim hanging trees, etc. and remove debris.
Sec. 110-16. Penalty for violation of chapter.
Secs. 110-17--110-38. Reserved.

Article II. Containers
Division 1. Generally
Sec. 110-40. Automated Recycling Collection.
Sec. 110-41. Green Waste.
Sec. 110-42. Residential bulk trash placement and collection services.
Sec. 110-43. Garbage collection on private streets
Sec. 110-44. Household medical and infectious waste
Secs. 110-45--110-55. Reserved.

Division 2. Business, Commercial, Industrial and Institutional Users
Sec. 110-56. Commercial containers furnished by City, use of.
Sec. 110-57. Prohibited items for commercial containers.
Sec. 110-58. Refusal of service.
Sec. 110-59. Container pads for commercial containers.
Sec. 110-60. Charges.
Sec. 110-61. Containers not furnished by City, requirements for use.
Sec. 110-62. Recyclables to be collected.
Sec. 110-63. Conflicts of ordinances; liability.
Secs. 110-64--110-80. Reserved.
ARTICLE I. IN GENERAL
It is hereby declared the policy of the City of New Braunfels, within Comal and Guadalupe counties, State of Texas, to preserve and maintain the clean and wholesome character of its environment and to preserve and maintain the health and welfare of its residents and businesses within the incorporated area of the City, and in so doing it is necessary to establish regulations governing the accumulation, storage and disposal of garbage, refuse, rubbish, litter and other waste materials within the Incorporated City of New Braunfels.

Sec. 110-1. Short title.
This chapter shall be known and may be cited as the "Solid Waste Code" of the City.

Sec. 110-2. Definitions.
The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apartment means a self-contained housing unit that occupies only part of a building. Such a building may be called an apartment building, especially if it consists of many apartments for rent. Apartments may be owned by an owner/occupier or rented by tenants.

Approved Type Garbage Cart:

Residential means a 96-gallon or 48-gallon automated cart issued by the City.

Recycling means a 96-gallon or 48-gallon automated cart issued by the City.

Commercial means a 96-gallon automated cart(s) or container furnished by the City of New Braunfels or an approved contractor.

Bag means plastic sack or trash compactor sacks designed to store refuse and having sufficient wall strength, a thickness of no less than two (2) mils, to maintain physical integrity when lifted at the top, with opening closed.

Biodegradable means decomposable by natural process.

Brush means cuttings or trimmings from trees, shrubs, or lawns and similar materials.

Bulky Waste means large objects or stable matter with weights and/or dimensions and proportions greater than those allowed for in basic collection, including but not limited to stoves, water heaters, washing machines, furniture, loose brush, loose tree limbs and trimmings, and bundles in excess of forty pounds (40 lb.) in weight. This definition shall exclude household waste, construction debris, dead animals, or hazardous waste.

Bundle means loose objects of the same characteristics, such as tree, shrub or brush trimmings, securely tied together forming an easily handled package not exceeding four feet (4') in length or forty-pounds (40 lb.) in weight.
Chlorofluorocarbons (CFC's) means coolant found in air conditioners, freezers and refrigerators; also propellants (in aerosol applications) and solvents; they are also commonly known by the DuPont trade name Freon.

City means the corporate limits of the City of New Braunfels located in Comal and Guadalupe Counties.

City Recycle Center means a designated location, either temporary or permanent, within the City of New Braunfels or County of Comal established for the receipt of recyclable solid waste including, but not limited to, aluminum, cardboard, glass, metal, paper, and plastic.

Collection means the act of removing solid waste (or materials) which have been placed for the purpose of collection and transportation to a permitted solid waste disposal or processing facility.

Commercial Customer means any enterprise or establishment whose main purpose is to carry on a commercial activity whether for profit or not. Said definition shall include all uses not falling in the category of Residential.

Construction Waste means waste resulting from construction or demolition projects; includes all materials that are directly or indirectly the by-products of construction work or that result from demolition of buildings and other structures, including, but not limited to paper, cartons, gypsum board, wood, rubber, glass, metal, plastics, etc.

Customer means a person, firm, partnership, association, corporation, governmental entity, or other entity receiving service provided from the City.

Disposal means the discharge, deposit, dumping, spilling, leaking, or placing of any solid or liquid waste (whether containerized or noncontainerized) into or on any land.

Disposal Site means a managed area of land upon which solid waste is disposed of in accordance with standards, rules or orders established by the Texas Commission on Environmental Quality (TCEQ).

EPA means Environmental Protection Agency.

Excess Garbage means garbage volume that exceeds the 48-gallon or 96-gallon cart limit.

Excess Garbage Fee means fee associated with excess garbage.

Garbage means solid waste from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.

Green Waste means leaves, grass clippings, yard and garden debris, brush, including clean woody vegetative material measuring six inches or less in diameter that results from landscaping maintenance and land clearing operations. This term does not include stumps, roots, soil or rocks.

Hazardous waste means any liquid or solid waste identified or listed as a hazardous waste by the administrator of the U.S. Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976.

Hardship Resident means City residents who for health reasons established to the satisfaction of the Solid Waste Manager or designee, who are unable to physically place their cart curbside for collection, and who live alone or have no one residing with them physically able to place the cart curbside.
Household hazardous wastes means any hazardous waste determined to be from residential origin and shall include but not limited to bleaches, herbicides, pesticides, drain cleaners, paint thinners and solvents, oil based paints, and sharp objects such as syringes.

Litter means any man-made or man-used object, organic or inorganic material, or solid waste and specifically includes trash which is not properly placed in a cart, or an authorized sanitary waste disposal site; or another approved area, depository or in, a vehicle designated for transport or disposal of litter, trash, garbage or waste.

Missed Service (City caused) means resident whose cart was not collected because City inadvertently missed collection of a properly placed residential cart.

Missed Service (Resident caused) means resident whose cart was not collected because they were not placed at the required time or location.

Municipal Solid Waste means solid waste resulting from or incidental to municipal community, commercial, institutional, and recreational activities, and all other solid waste other than industrial solid waste.

Premises means businesses, houses, boardinghouses, theaters, offices, hotels, restaurants, cafes, eating houses, tourist camps, apartments, sanitariums, rooming houses, schools, private residences, tourist camps, vacant lots and all other places within the City where garbage, trash or rubbish accumulates in ordinary quantities.

Putrescible Waste means organic wastes, such as garbage, waste water treatment plant sludge, and grease trap waste, that is capable of being decomposed by microorganisms with sufficient rapidity as to cause odors or gases or is capable of providing food for or attracting birds, animals, and disease vectors.

Recycling means a process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, or processed and returned to use in the form of raw materials in the production of new products.

Recycling Drop-off Center (known as the City Recycle Center) means a designated location, either temporary or permanent, within the City of New Braunfels or County of Comal established for the receipt of recyclable solid waste including, but not limited to, aluminum, cardboard, glass, metal, paper, and plastic.

Recyclable Material means a material that has been recovered or diverted from the non-hazardous waste stream for purposes of reuse, recycling, or reclamation. Recyclable material is not solid waste.

Receptacle means anything which holds something.

Refuse means all putrescible and non-putrescible solid waste including garbage and rubbish.

Residential Unit means a dwelling within the corporate limits of the City within Comal and Guadalupe Counties occupied by a person or group of persons; single family, duplex, triplex, fourplex, trailer house, etc.

Rubbish means non-putrescible solid waste (excluding ashes) consisting of both combustible and noncombustible waste materials. Combustible waste materials include but are not limited to paper,
rags, cartons, wood, furniture, rubber, plastic, yard trimmings and leaves. Noncombustible waste materials include but not limited to glass, tin cans, and metals.

**Salvaging** means the controlled removal of waste materials for utilization, recycling, or sale.

**Scavenging** means the uncontrolled and unauthorized removal of materials from a disposal or recycling center, any container, bag, or receptacle within the corporate limits of the City or County.

**Scrap Tire** means any tire that can no longer be used for its original intended purpose.

**Screening** means process to detect and prevent unauthorized waste from entering the waste stream.

**Solid Waste Manager** means City official whose responsibility is the overall direction of the Solid Waste Division.

**Special Pickup** means service required to pick-up and dispose of discarded items not serviced under normal collection procedures outlined in these provisions.

**Special Waste** means any commercial or residential garbage, trash, rubbish, hazardous waste, infectious waste, or other solid waste that because of its quantity, concentration, physical or chemical characteristics or biological properties is not collected by the City's Solid Waste Division.

**Unprepared Solid Waste** means any solid waste garbage, brush, rubbish, recycling material or green waste which has not been placed in an approved cart or prepared for collection or is in contact with the ground, regardless of surface.

**Vacant Land or Lot Area** means land held and maintained in its natural state.

**Vector** means an agent such as an insect or animal which transmits diseases from one person or animal to another.

**White Goods** means major appliances such as refrigerators, freezers, washing machines, dryers, hot water heaters, stoves, and dishwashers.

**Sec. 110-3. City to provide Solid Waste Services.**

The City's Solid Waste Division shall be the exclusive provider of residential and commercial garbage, recycling, green waste and refuse collection for all premises within the City. Service can be provided by an approved hauler where the Solid Waste Manager or designee has determined certain service is not available or furnished by the City or it is not in the best interest of the City to provide said service. It shall be unlawful for any person or corporation to provide residential or commercial garbage, rubbish, recycling, green waste or refuse collection to any person or business for compensation within the City, or to make use of the public streets for that purpose, without first obtaining an approved service agreement with the City.

All residential and commercial premises must subscribe to City solid waste services or an approved City provider where the City is not providing said service as determined by the Solid Waste Manager or designee.

**Sec. 110-4. Placement of Residential garbage, recycling and green waste**
The City’s Solid Waste Division shall not collect garbage, rubbish, green waste, or recyclables where such material are not prepared for collection and placed as designated by the terms of this section and failure to comply will be an offense and each day’s failure to comply will constitute a separate offense.

(a) All items (example: carts, bags, recyclables, green waste) intended for City collection shall be placed at or near the driveway approximately five (5) feet from any obstacle. Place cart in the street gutter with the wheels against the curb, where curbs exist or wheels facing away from main street section, where curbs don’t exist.

(b) The Solid Waste Manager or designee shall have the authority to designate alternative location for collection with consideration for such factors as: convenience for residents; hazardous conditions such as cables, utility poles, equipment clearance, animals; and collection costs.

(c) Collection materials shall be placed no earlier than 8:00 p.m. the day prior to collection day, and no later than 6:30 a.m. on the day of scheduled collection. At all other times garbage, recyclables and green waste shall be kept at the side or rear of structure no closer to the street than the front of said structure.

(d) No items should be placed out for collection under any overhead lines of any type or low overhanging branches and be placed five (5) feet from any structure. Exceptions to this shall only be given by the Solid Waste Manager or designee.

(e) Green Waste such as tree leaves and grass shall be placed at the curb in biodegradable yard waste bags and shall not weigh more than forty pounds (40 lbs.) each. Bags will be provided at the discretion of the City and availability will be limited by budgetary and ordering constraints. When bags are not available for distribution by the City the customer will be responsible for securing bags to meet their needs at their cost. Brush, tree trimmings and limbs shall be totally separated from all other waste, including metals, lumber, paper, plastic, furniture, and appliances. Brush that cannot be placed in bags should be cut into four (4) foot lengths and bundled with rope or twine. Any waste regardless of quantity or sizes mixed with tree and shrubbery trimmings constitutes a violation of this section and shall not be collected.

(f) It shall be unlawful to park, place, allow, permit or cause to be parked, place any motor vehicle, trailers, boats, or similar obstruction within five feet (5’’) of, or obstruct in any manner the collection of solid waste contained in a commercial or residential solid waste cart.

Sec. 110-5. Services not furnished by City.

Disposal services for the following are not furnished by the City’s Solid Waste Division; the person who is in charge of the property where such accumulations or materials are found shall be responsible and required to remove and dispose of the accumulations in the manner and by the method directed by the Solid Waste Manager or designee:

(a) Wholesale food establishments. Places of wholesale accumulations, such as killing and dressing facilities for animals, fowl, wholesale fruit and vegetable houses, storage and other places where the daily accumulation of garbage and rubbish is more than the ordinary quantities.
(b) *Dead animals.* Whole or part of dead animals, such as cows, horses, and mules.

(c) *Manure.* Manure from cow lots, horse stables, poultry yards, and pigeon lofts.

(d) *Garages and filling stations.* Waste oils from garages or filling stations.

(e) *Used Tires.* Any used tires from service station, retail tire outlets, junk yards, etc.

(f) *Burned materials.* Any accumulations of ashes, clinkers and cinders.

(g) *Construction.* Any accumulations such as brick, broken concrete, lumber, dirt, plaster, sand or gravel, etc.

(h) *Bulky materials.* Automobile frames, dead trees, and other bulky, heavy material.

(i) *White goods.* White goods containing chlorofluorocarbons (CFC's, commonly known by the DuPont trade name Freon) i.e. refrigerators and freezers.


Sec. 110-6. Collection methods.

No one except the duly authorized agents and employees of the City shall empty garbage carts, recycling carts, or green waste or convey or transport garbage or recyclables on the streets, alleys and public thoroughfares of the City without first obtaining an approved service agreement with the City.

Anything left or placed within a three-foot radius of any refuse cart shall be deemed as placed or left there for collection, and the Solid Waste Division and its employees shall not be liable for the removal thereof.

Sec. 110-7. Solid Waste Collection Services

Standard residential solid waste collection service shall include once-a-week collection of garbage and once-a-week collection of recyclables and green waste.

(a) *Residential.* In the residential areas, garbage shall be prepared for collection to be made no more than one time per week. Garbage volume shall not exceed one 96-gallon cart or one 48-gallon cart at each collection. Any garbage in excess of this limit shall not be collected unless the bag with the excess garbage is tagged with a City issued sticker or placed in a City issued cart. In those areas where automated recycling is provided (single family residences, duplex apartments, triplex apartments, and fourplex apartment), collection of recyclables and green waste shall be made once per week.

(1) Any person making application for water and/or electric service inside the City limits shall be deemed to have applied for garbage, recycling, and green waste services and shall be considered a customer of the Solid Waste Division of the City until such time as water and/or electric service to such person has been discontinued. The cost of residential garbage service shall be as defined in Sec. 110-8 Service charges; billings.
(2) Excess garbage stickers or a City issued additional container shall be made available at the City Municipal Building as well as any other location designated by the Solid Waste Manager or designee. Excess garbage service will be evaluated for approval by the Solid Waste Manager or designee. Excess garbage service provided through a City issued additional container shall be locked in for a minimum four month time period before the service can be discontinued, reinstated, changed or modified. The cost of the excess garbage stickers or a City issued additional cart shall be as defined in Sec. 110-8 Service charges; billings.

(b) Commercial business. In the commercial and/or business districts comprising hotels, motels, boardinghouses, rest homes, funeral homes, sanitariums, hospitals, recreation areas, restaurants, and cafes, collection will be made as often as may be necessary to comply with sanitary standards.

(1) Commercial customers making application for water and/or electric service inside the City limits shall be deemed to have applied for garbage service and shall be considered a customer of the Solid Waste Division of the City until such time as water and/or electric service to such person has been discontinued. The cost of commercial garbage service shall be as defined in Sec. 110-8 Service charges; billings. Commercial customers may request a change in service with 30 days notice to the City. Any change in service shall be locked in for a minimum four month time period before the service can be changed or modified.

Sec. 110-8. Service charges; billings.
(a) Residential (effective date April 1, 2011). The fair and reasonable charges for providing garbage removal service for residential areas shall be as set out in this subsection and unless noted otherwise such charges shall be collected monthly:

(1) Fees are as follows:
   a. Residential Unit: Refuse . . . 13.40; Recycling . . . 4.26; Total . . . 17.66
   b. Apartment minimum . . . 13.40
   c. Brush/Bulky pick up . . . 25.00 minimum for first ½ hour and 25.00 for each ½ hour thereafter
   d. Excess garbage tags . . . 10.00 per 5 tags
   e. Excess garbage fee for additional residential cart . . . 6.50
   f. Administrative fee for additional recycling cart . . . 0.00 (no charge)
   g. Administrative fee for additional cart . . . 10.00 per request for service charge per each container
   h. Replacement cart (2nd request and after) . . . actual cost of cart
   i. Container Rental (each 3-8cy container) . . . 45.00
   j. Container Collection Service . . . 3cy-15.00; 4cy-20.00; 6cy-30.00; 8cy-40.00 per each collection
   k. Missed Service (Resident caused) (as determined by Solid Waste Manager or designee) . . . 15.00 (each occurrence)
   l. Missed Service (City caused), or undetermined cause . . . 0.00 (no charge)
(b) Commercial/business (Effective date October 1, 2010). The fair and reasonable charges for providing garbage removal service for each business shall be as set out in this subsection, and such charges shall be collected monthly:

(1) Commercial standard carts collected one time per week
   a. Minimum charge (two 96-gallon carts) ... 24.90
   b. Extra service fee for each additional commercial 96-gallon cart (limit 2) ... 0.00 (no charge)
   c. Administrative fee for additional cart ... 0.00 (no charge)

(2) 3 cubic yard
   a. Two times per week ... 95.29
   b. Three times per week ... 105.29
   c. Four times per week ... 157.94
   d. Five times per week ... 157.94
   e. Six times per week ... 157.94

(3) 4 cubic yard
   a. Two times per week ... 117.50
   b. Three times per week ... 130.00
   c. Four times per week ... 159.26
   d. Five times per week ... 197.50
   e. Six times per week ... 210.00

(4) 6 cubic yard
   a. Two times per week ... 162.50
   b. Three times per week ... 177.00
   c. Four times per week ... 225.62
   d. Five times per week ... 269.99
   e. Six times per week ... 272.50

(5) 8 cubic yard
   a. Two times per week ... 212.36
   b. Three times per week ... 224.00
   c. Four times per week ... 291.99
   d. Five times per week ... 318.50
   e. Six times per week ... 349.41

(6) 10 cubic yard
   a. Two times per week ... 265.47
   b. Three times per week ... 271.00
   c. Four times per week ... 358.31
   d. Five times per week ... 379.50
   e. Six times per week ... 397.00

(c) Discarded used tire pickup. The collection and removal of discarded tires from service stations, retail tire outlets, junkyards and similar establishments shall be the responsibility of the establishment at their own cost.
(d) *Unlawful accumulations.* It shall be unlawful for any person who shall own or occupy any lot or lots in the City to allow accumulation of more than 50 discarded used tires on such lot or lots. Without proper covering and adequate control of site runoff to the satisfaction of the Solid Waste Manager or designee and meeting all appropriate requirements of other regulatory authorities, such accumulation of discarded tires is hereby declared to be a public nuisance and public health hazard. Should any such person allow such accumulation thereon, or fail to request collection and removal of such accumulated discarded used tires within ten days after notice by the City, in writing, or by letter addressed to such person at his post office address, or within ten days after notice by publication as many as two times within ten consecutive days in any newspaper in the City, the City may conduct collection and removal of such accumulated discarded used tires and charge the expense incurred in doing such collection and removal to such person; and if such collection and removal is done at the expense of City, then such expense or expenses shall be assessed on the real estate, or lot or lots, upon which the expense was incurred.

(e) *Lien created.* The mayor or local health authority shall file a statement of expenses incurred under this section, giving the amount of such expenses, the date on which such work was done or improvements made, with the county clerk of Comal County, Texas; and the City shall have the privileged lien on such lot or lots or real estate upon which such work was done or improvements made to secure the expenditures so made, in accordance with the provisions of V.T.C.A., Health and Safety Code § 342.001 et seq., which such lien shall be second only to tax liens and liens for street improvements; and such amount shall bear ten percent interest per year from the date such statement was filed. It is further provided that for any such expenditures and interest, as aforesaid, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the City; and the statement of expenses so made, as aforesaid, or a certified copy thereof shall be prima facie proof of the amount expended for such work improvements.

(f) *Special provisions.*

(1) A fee in the amount shown on the schedule below shall be assessed to each commercial business account requiring a collection frequency greater than their normal weekly pick up. This fee shall be collected monthly and shall be known as a call-in collection of commercial containers:

<table>
<thead>
<tr>
<th>Call-in collection charges:</th>
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</thead>
<tbody>
<tr>
<td>3 cubic yard</td>
<td>123.88</td>
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<tr>
<td>4 cubic yard</td>
<td>152.75</td>
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<tr>
<td>6 cubic yard</td>
<td>211.25</td>
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<tr>
<td>8 cubic yard</td>
<td>276.07</td>
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<tr>
<td>10 cubic yard</td>
<td>345.11</td>
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</tbody>
</table>

(g) *Penalty.* Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined in any sum not exceeding $1,000.00, and each and every day's violation shall constitute a separate and distinct offense. If the owner or occupant of any lot, lots or premises under the provisions of this chapter shall be a corporation, and shall violate any provisions of this section, the president, vice-president, secretary, treasurer of such corporation, or any manager, agent, or employee of such corporation shall be also severally liable for the penalties provided in this section.
(h) **Billings.** A bill for garbage collection services will be rendered no less frequently than monthly. The "net amount due" stated on the bill is due when the bill is rendered. The bill shall be considered delinquent in 14 days from the date rendered (the "net amount due date" shown on the bill). A delinquency or late charge equal to ten percent of the net amount due shall be payable in addition to the net amount due if the bill is not paid by the net amount due date.

(i) **Fees.** All fees paid for garbage and recycling services shall be placed in a separate Enterprise Fund for the purpose of funding the provision of these services. All fees and rates shall be set by resolution or ordinance and adopted by City council.

**Sec. 110-9. Dumping prohibited.**

(a) It shall be unlawful and is hereby declared a public nuisance for any person to throw, dump, deposit or place any litter, trash, or waste material of any kind on public or private property within the City limits or its extraterritorial jurisdiction. It shall be an affirmative defense to prosecution that the litter, trash, or waste material was thrown, dumped, deposited or placed at a City designated disposal area.

(b) Any person who shall violate any of the provisions of this section or fail to comply therewith shall be deemed guilty of a class "C" misdemeanor and, upon conviction, shall be fined not less than $200.00 nor more than $2000.00 and be liable for cleanup costs associated with removal. This offense is hereby declared to be a strict liability offense and the culpable mental state required by chapter 6.02 of the Texas Penal Code is hereby specifically negated and clearly dispensed with.

**Sec. 110-10. Meddling and scavenging.**

The meddler with or theft from garbage cans and recycling receptacles or in any way pilfering, scavenging, or scattering contents from any such container is prohibited. It is further prohibited for any person to place or remove anything in any can, receptacle, dumpster, or container unless placed or removed by the person or entity owning or exercising control over the container or paying for its use.

**Sec. 110-11. Public disposal.**

(a) **Residence and business owners.** Residence and business owners shall not dispose of garbage, trash, rubbish, bottles, broken glass, cans, and dead animals by placing same in public trash barrels or garbage containers in public places, along City streets, or in driveways, rivers or creeks.

(b) **Picnics and parties.** Persons picnicking in or using the facilities of Landa Park or any other public place in the City shall place all their garbage, trash, rubbish, bottles, broken glass, cans, and dead animals in trash barrels or containers provided in such public places for that purpose.

(c) **River related activities.** Persons using river amenities shall place all their garbage, trash, rubbish, cans, etc. in appropriate bags or devices while in the water or upon exit from the water in trash barrels or containers provided in such public places for that purpose and shall not deposit litter in the river or on adjacent lands.

**Sec. 110-12. Licensing of private haulers.**
(a) No person shall engage in the business or occupation of hauling solid waste or recyclable materials within the City without first obtaining a license to do so and comply with all the requirements for the conduct of such business as hereinafter provided.

(b) Licensing procedure.
(1) Each application for a license required by this section shall be made to the Solid Waste Division, and shall include:

a. Name, business address, and telephone number of the applicant solid waste hauler;
b. The trade name under which the applicant hauls or intends to haul solid waste;
c. The number and type of vehicle(s) the applicant intends to operate, together with a general physical description of each vehicle (e.g. year made, model, manufacture's rate capacity) along with state registration number;
d. The period of time the applicant has been engaged in the activity of hauling solid waste refuse and the daily hours of operation intended for collection transportation and disposal activities.
e. Address of container, number of containers at each location, and size of containers
f. Statement whether the applicant or any person or entity with whom he has been associated or employed has a claim or judgment against him for damages resulting from the negligent operation of a vehicle;
g. Statement of the financial ability and responsibility of the applicant;
h. Certificates of Insurance - copy of proof that the applicant has a valid liability insurance policy for the full term of the license period in the amounts of not less than $100,000.00/$300,000.00/$50,000.00; and
i. Such other information as the licensing officer may reasonably require.

(2) Each application for a license under this section shall be accompanied by a license fee in an amount equal to $50.00 for each truck operated, multiplied by the number of months or fraction of a month remaining in a licensing period at the time the application is made.

(3) The licensing period under this section shall be for one year and shall begin on January 1 of each year. The license is required to be renewed each year by January 2 or the first City working day after January 1 and the license fee shall be paid each time the license is renewed for the upcoming calendar year ending on December 31st.

(4) The license issued under this section is nontransferable and may be revoked by the City at any time when in its judgment such action is in the best interest of the public, without refund or rebate to the licensee for any unused portion of the license fee.

(5) Before any license under this section is issued or renewed, the Solid Waste Manager or designee shall evaluate the application as necessary to determine whether or not the Solid Waste Division should provide a comparable service and whether or not the public convenience or necessity requires the granting of such license. The Solid Waste Division shall refuse to issue a license to an applicant when it has been determined that the best interest of the public will not be served. In such case, the application fee shall be wholly refunded to the applicant. Before issuance or renewal of a license, the Solid Waste Manager or designee shall verify that all trucks shall be marked in a manner that will make them readily identifiable and that a copy of the current license is kept in the truck licensed and being used for such purpose.
6) All containers and vehicles owned or operated by authorized commercial refuse collectors shall be subject to inspection by officials of the Solid Waste Division to insure safety compliance and to insure that proper lids or covers are provided to prevent litter problems.

7) Any container or vehicle body used to transport refuse in any of the streets or alleys of the City shall be constructed so as to prevent the escape of any of such materials from such vehicle. In addition to the preceding requirement, any container or vehicle body used to transport commercial waste shall be constructed so as to prevent access to such materials by insects or rodents.

8) The permit holder shall identify all vehicles and solid waste containers with its name in letters at least two inches tall.

The permitted solid waste hauler shall keep the vehicle permit issuance receipt, or a copy thereof, with the vehicle and/or equipment operator at all times.

Sec. 110-13. Hardship Residents; Carry out service.
City residents who for health reasons establish to the satisfaction of the Solid Waste Manager or designee, that they are unable to physically place their container curbside for collection, and who live alone or have no one residing with them physically able to place the container curbside, are eligible for carry out service. A statement from a medical physician verifying the need for carry out service shall be required before carry out service is established. The container for carry out service shall be placed near the front of the house, at a point visible from the street. Containers for carry out collection shall not be placed inside fenced areas or a garage.

Sec. 110-14. Duty of property owners to trim overhanging trees, etc., and remove debris
It shall be the duty of the occupant, owner or agent of every premises in the City to keep all trees and shrubs on his premises well trimmed so that they will not impede the collection of residential or commercial containers.

Whenever a corporation which cannot be arrested violates this chapter, the officer or servant authorizing or responsible for such violation shall be personally liable for such penalty, or the corporation may be sued in the justice court by the City for the maximum penalty.

Sec. 110-16. Penalty for violation of chapter.
Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined any sum not less than $25.00 and not exceeding $1,000.00 for the first offense; upon conviction for a second or subsequent offense, the fine shall be any sum not less than $200.00 and not exceeding $1,000.00; and each and every day's violation shall constitute a separate and distinct offense.

Secs. 110-17–110-38. Reserved.
ARTICLE II. CONTAINERS*

DIVISION 1. RESIDENTIAL USERS

(a) Customers shall be provided a ninety-six (96) or forty-eight (48) gallon cart by the City. Excess garbage service may be requested by customer if a customer's volume exceeds issued cart. Excess garbage service will be evaluated for approval by the Solid Waste Manager or designee and will be collected at an additional fee as defined in Section 110-8 Service charges; billings.

(b) Collection materials shall be placed no earlier than 8:00 p.m. the day prior to collection day, and no later than 6:30 a.m. on the day of scheduled collection. At all other times garbage, recyclables and green waste shall be kept at the side or rear of structure no closer to the street than the front of said structure.

(c) Customer's carts which were not collected because they were not placed at curb or collection point as required by subsection (b) above are considered a "missed service" (resident caused). As determined by the Solid Waste Manager or designee customers with "missed service"(resident caused) can receive collection service for an additional fee as defined in Section 110-8 Service charges; billings. Missed service (City caused), or undetermined cause, will be collected at no additional cost to customers.

(d) Customers shall ensure cart placed for service is not blocked by a motor vehicle or any other obstruction within five (5) feet of a customer's cart placed for collection. Any vehicle or any other fixed obstruction will be cause for a citation if the owner of the cart calls for service.

(e) The cart for automated pickup shall be the property of the City. Abuse and damage to cart by customer placing materials prohibited by subsection (f) below may result in an assessment equal to the cost of a cart and/or time involved to repair or replace such cart. At the discretion of the Solid Waste Manager or designee garbage service may be discontinued until fees for the replacement or repair to cart are reimbursed to the City.

(f) Only residential refuse is to be placed in carts. Yard waste, brush and limbs, construction debris, tires, dead animals, hazardous substances, hot ashes/coals and stable matter such as dirt, brick and rock will not be accepted.

(g) All solid waste shall be bagged prior to placement in cart to help eliminate wind blown litter.

(h) Pointed or sharp objects, including, but not limited to, broken glass, jagged metal, razors, needles and wire, shall be sufficiently wrapped in paper or boxed in other suitable carts and securely taped or tied before bagging or bundling so as to prevent injury when handled.

(i) Any garbage or waste not placed in the cart provided will not be collected by City Solid Waste Division and shall remain the responsibility of the customer/generator for disposal.
(j) The City may, at the discretion of the Solid Waste Manager or designee, utilize a manual or semi-automated solid waste collection system for residential collection in areas where automated collection vehicles cannot safely or efficiently operate.

(k) Any violation of the rules and regulations as set out herein shall be punishable as such for health, safety and public welfare violations, pursuant to Sec. 110-16 of this Code. Additionally, any customer not complying with the provisions of this chapter shall be subject to having their garbage collection service suspended until such time as they comply with the violated ordinance provisions.

Sec. 110-40. Automated Recycling Collection.
(a) Customers shall be provided a ninety-six (96) or forty-eight (48) gallon cart by the City. Excess service may be requested by customer if customer's volume exceeds issued cart. Excess service will be evaluated for approval by Solid Waste Manager or designee and will be collected for an additional fee as defined in Sec. 110-8 Service charges; billings.

(b) Collection materials shall be placed no earlier than 8:00 p.m. the day prior to collection day, and no later than 6:30 a.m. on the day of scheduled collection. At all other times garbage, recyclables and green waste shall be kept at the side or rear of structure no closer to the street than the front of said structure.

(c) Customer's carts which were not collected because they were not placed at curb or collection point as required by subsection (b) above are considered a "missed service" (resident caused). As determined by the Solid Waste Manager or designee customers with "missed service" (resident caused) can receive collection service for an additional fee as defined in Sec. 110-8 Service charges; billings. Missed service (City caused), or undetermined cause, will be collected at no additional cost to the customer.

(d) Customers shall ensure cart placed for service is not blocked by a motor vehicle or any other obstruction within five (5) feet of a customer's cart placed for collection. Any vehicle or any other fixed obstruction will be cause for a citation if the owner of the cart calls for service.

(e) The cart for automated pickup shall be the property of the City. Abuse and damage to cart by customer placing materials prohibited by subsection (f) below may result in an assessment equal to the cost of a cart and/or time involved to repair or replace such cart. At the discretion of the Solid Waste Manager or designee recycling service may be discontinued until fees for the replacement or repair to cart are reimbursed to the City.

(f) Only residential recycling is to be placed in carts. Garbage, refuse, yard waste, brush and limbs, construction debris, tires, dead animals, hazardous substances, hot ashes/coals and stable matter such as dirt, brick and rock will not be accepted.

(g) All recyclables shall not be bagged prior to placement in cart.

(h) Any recycling not placed in the cart provided will not be collected by City Solid Waste Division and shall remain the responsibility of the customer/generator for disposal.
(i) The City may, at the discretion of the Solid Waste Manager or designee, utilize a manual or semi-automated solid waste collection system for recycling collection in areas where automated collection vehicles cannot safely or efficiently operate.

(j) Any violation of the rules and regulations as set out herein shall be punishable as such for health, safety and public welfare violations, pursuant to Sec.110-16 of this Code. Additionally, any customer not complying with the provisions of this chapter shall be subject to having their recycling collection service suspended until such time as they comply with the violated ordinance provisions.

Sec. 110-41. Green Waste.
(a) Green Waste such as tree leaves and grass shall be placed at the curb in biodegradable yard waste bags and shall not weigh more than forty pounds (40 lbs.) each. Brush, tree trimmings and limbs shall be totally separated from all other waste, including metals, lumber, soil, rocks, paper, plastic, furniture, and appliances. Any waste regardless of quantity or sizes mixed with tree and shrubbery trimmings constitutes a violation of this section and shall not be collected.

(b) Green Waste to be placed for collection shall be cut in lengths not exceeding four feet and tied securely in bundles with rope or twine.

(c) Every nurseryman, tree surgeon, and every person who cuts or trims trees, shrubs or grass as an independent contractor, shall remove or cause to be removed all materials from premises serviced by him and it shall be unlawful for such a person to deposit any tree, tree or shrub cuttings or trimmings at any location for collection by the City.

Sec. 110-42. Residential bulk trash placement and collection services.
Bulky items, such as discarded furniture and appliances, not practical to containerize maybe collected upon requests for a fee. The City will collect normal household discarded furniture and appliances, including sofas, chairs, beds, washers, dryers, water heaters and similar items, but not including furnaces, air conditioning units, freezers, refrigerators, computers, televisions, electronics and tires. Items for collection shall be placed at curbside no earlier than noon the day preceding the scheduled collection.

Bulk trash placed out for curbside collection shall be placed on the resident's property, parallel to the street or curb. The solid waste manager or designee may designate alternative placement and collection points. Bulk trash shall not be placed on the sidewalk or in the street, behind a fence or any obstruction or barrier.

Bulk trash shall not be placed within five feet of any fixed object, solid waste or recycling cart or in any manner which would interfere with or be hazardous to pedestrians, bicyclists, equestrians or motorists.

The City uses mechanical collection equipment. If bulk trash cannot be placed for collection as set forth in this subsection, the Solid Waste Manager or designee, at his discretion, may collect the bulk trash and may require a waiver which holds the City harmless for any and all damage associated with the collection activity. A waiver must be signed prior to collection.

Bulk trash collection will be collected at an additional fee as defined in Sec. 110-8 Service charges; billings.
Sec. 110-43. Garbage collection on private streets.

If in the opinion of the Solid Waste Manager or designee, gated or private neighborhood streets are arranged so that garbage may be collected without creating a safety hazard, the City may choose to collect the garbage provided proper indemnification is received from the community association or individual property owner(s). The community association or individual property owner(s) shall furnish, key, combination, or gate code entry into said community for garbage collection. The community association or individual property owner(s) must maintain, at their expense, suitable access drives or roads to the satisfaction of the Solid Waste Manager or designee. Any damage to said access drives or roads attributed to City collection vehicles must also be repaired by the community association or individual property owner(s) at their expense.

Garbage collection locations shall be subject to the approval of the Solid Waste Manager or designee. In the event the City does not collect garbage within a private location, all units within the community may be exempted from payment of garbage fees upon furnishing of evidence ensuring acceptable removal of all garbage and refuse by private means. To receive such exemption, written application must be submitted to and approved by Solid Waste Manager or designee.

Single-family residences or premises not abutting public roadways, and to which access is possible only across private property, and premises abutting public roadways but on which the dwelling is so remote from such roadway as to make City collection of garbage impractical, may be exempted from such collection service and charges.

New single-family residences shall be exempted from City residential garbage collection service and charges while under construction and after completion until initial occupancy of the structure. Initial occupancy shall be interpreted as the sale or lease of the property to a second party for occupancy, or the first electric meter account name change, whichever occurs first.

Sec. 110-44. Household medical and infectious waste.

All household medical and infectious solid waste including lancets, syringes and hypodermic needles must be properly contained before disposing of in the solid waste cart. Household and infectious waste must be placed in plastic bags and securely tied before placing in the solid waste cart. Lancets, syringes and hypodermic needles must be placed in a rigid, leak-proof and puncture resistant container with a secured and taped lid and must be clearly labeled identifying the contents before placing in the solid waste cart. Depositing or disposing of household improperly contained medical and infectious waste or lancets, syringes and hypodermic needles in any solid waste cart or in any recycling cart whatsoever is prohibited.

Secs. 110-45--110-55. Reserved

DIVISION 2. BUSINESS, COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL USERS

Business establishments shall be serviced by the City's Solid Waste Division. If service is not available or furnished by the City or it is not in the best interest of the City to provide said service as determined by the Solid Waste Manager or designee, i.e. businesses require containers larger than the City can provide, or containers in which materials would be placed that the City will not accept (i.e. building materials), service may be provided by a commercial hauler. Every business establishment
must contract with either the City or an approved commercial hauler for weekly waste disposal service for their business.

All dumpsters, regardless of whether collection service will be provided by the City or by private hauler, shall be maintained in a safe and sanitary condition and shall be cleaned by the owner/occupant of the dumpster site as often as necessary to prevent the dumpster from becoming malodorous. Litter and debris shall not be allowed to accumulate around the dumpster, and all refuse shall be deposited in such manner as to prevent it from blowing out of the dumpster.

(a) No special handling waste, hazardous waste, medical waste, paints, solvents, flammable liquids or hot ashes shall be placed in any dumpster for which the City provides collection service. The director of public works, upon consultation with the Solid Waste Manager or designee, is hereby authorized to promulgate further regulations regarding dumpsters in order to provide standards for location and maintenance not in conflict with this section.

Sec. 110-56. Commercial Containers furnished by City, use of.
(a) Upon request for garbage collection service, the Solid Waste Manager or designee shall designate the service level requirements for that location. The Solid Waste Manager or designee, may upon notice, require replacement of containers and/or changes in container type or the service levels at any location when he deems the current service level to be inadequate causing a health, sanitation, or litter problem.

(b) Commercial service shall be based on a container size of a ninety-six (96) gallon minimum and a ten (10) yard maximum. The concept is to place the minimum number of containers to be serviced the minimum times per week. The container location will be determined by the Solid Waste Manager or designee and will be based on the approved site plan, routing accessibility, customer convenience and serviceability for both the customer and the City.

(c) Businesses which generate a small amount of waste shall be furnished two (2) automated containers in size. Containers will be collected by the City once a week. As requested by the customer and where warranted as determined by the Solid Waste Manager or designee up to two (2) additional containers may be obtained. Container fees are as defined in Sec. 110-8 Service charges; billings. Containers shall be placed on or near the curb line in front of such place of business, in such manner and at such time as shall be prescribed by the City. Immediately after the garbage has been removed by the collector the owner of the containers shall remove same from the curb line or alley to a place within the business establishment until the next regularly scheduled time for the collection.

(d) No person shall place or permit to be placed any manure, offal, soil, dead animals, including fish and entrails and heads thereof, rocks or construction waste materials in containers provided by the City under this section. All garbage that is subject to decomposition shall be well wrapped in paper, plastic bags or other biodegradable material before being deposited in the containers.

(e) All boxes and cartons to be placed for collection under this division must be broken down and bundled, and no bundle shall exceed 40 pounds of weight and have an “extra garbage tag”.

(f) It shall be unlawful to make a fire or burn any material in a solid waste container furnished by the City or to paint or mark upon such container or to place any poster, placard or sign upon such container.
(g) Public, business and commercial institutions using the City’s larger container(s) for the removal of garbage and trash shall provide a readily accessible site for placement of container(s) on the establishment’s property. Locating containers in streets, right-of-way, the traveled portion of alleys, and sight triangles is strictly prohibited. Maintenance of the site, together with the approach shall be the responsibility of the owner. The City shall not be responsible for damage caused by collection vehicles to driveways, parking lots, or other sites.

(h) Lids of all containers furnished under this article shall be kept closed at all times except when the container is being filled. Empty boxes shall be flattened before placing in such containers. Items that are larger than the container and that would extend out of the container opening shall not be placed in the container. All items placed out for collection shall be located in a designated container unless otherwise approved in this ordinance. Cleaning up materials spilled from the container when emptying shall be the responsibility of the property owner or occupant.

(i) It shall be unlawful for any person to deposit any garbage, trash, or other material in any container furnished by the City other than the owner or occupant of any premise that is paying for the container service.

(j) If a container is unserviceable, such as being blocked or containing prohibited items, the City truck shall only return to empty the container after the container is clear from other vehicles and/or prohibited items are removed from container.

Sec. 110-57. Prohibited items for commercial containers.
(a) Is shall be unlawful to place any item in any container furnished by the City that because of weight, size, or other physical property, could cause damage to the collection vehicle. These items include, but are not limited to, any one item over three (3') feet in any dimension, any one item weighing in excess of fifty (50 lbs.) pounds, any concrete, masonry products, or earthen material.

(b) Tires will not be accepted. If tires are detected, they will be returned to the owner of the container.

(c) Hazardous materials of any type or quantity either placed separately or commingled with any other garbage are prohibited.

(d) Persons, businesses, and other entities placing such items identified in (a), (b) and (c) above in any container furnished by the City will be required to remove these items before collection can take place.

Sec. 110-58. Refusal of service.
If any of the regulations and provisions contained herein is not adhered to, the City retains the right to refuse service to that container and/or customer.

Sec. 110-59. Container pads for commercial containers.
As of the effective date of this ordinance, all new container service requests must first comply with the following standards for container pads and screening prior to collection by the City:
No dumpster or screening shall be permanently placed or constructed upon any site without first obtaining a permit from the Building Department. In order to obtain such permit, an application accompanied by a plat of the property on which the dumpster and screening is to be located, drawn to scale and showing the location of all structures, public rights-of-way, and the location of the proposed dumpster and all required screening, shall be submitted to the building department and Solid Waste Division. The plat shall contain a statement that it is a true and accurate depiction of the site shown thereon and be signed by the owner or person who has charge, care of control of the premises.

(a) Minimum interior clear measurements of 12’x10’.

(b) Pad shall be level with roadway or slope to roadway for easy access by collection vehicles. All pads for container service shall provide and maintain screening on at least three (3) sides maintaining the interior clear measurements of the 12x10 pad. Screens may be constructed of masonry block; wood or chain link fencing with slats and shall be constructed so as to screen viewing by persons standing at ground level on the site, or an immediately adjoining property.

No dumpster shall be located in such a manner that the unscreened side shall be visible from any public right-of-way. Whenever, in the opinion of the Solid Waste Manager or designee, a dumpster and/or the screen cannot be located upon a particular site so as to conform with these requirements, or there are special circumstances which make the requirements wholly impracticable, the Solid Waste Manager or designee may designate a location for the dumpster which in his discretion is the most accessible and aesthetically appropriate or make exemptions from the requirements as necessary.

(c) Container enclosures with gates shall have pin rods attached to gate doors as to prevent gates from closing when container is being serviced.

Sec. 110-60. Charges.

All businesses, commercial, industrial and institutional users, hotels, motels, resorts, churches and schools afforded garbage and refuse service by container system provided for in section 110-56 shall pay a charge as defined in Section 110-B(b)

(a) Assessed monthly. The charges fixed herein for the collection, removal and disposal of all solid waste shall be entered on the customer's monthly utility bill. All customers must first establish a utility billing account number prior to the Solid Waste Division making service arrangements available.

(b) Failure to pay. Any customer who fails or refuses to pay the monthly charge when due shall no longer receive garbage collection service from the City until all related charges are paid in full.

(c) Charges set. The City council shall from time to time set by resolution or ordinance all charges and assessments to be collected from each customer. The City shall reimburse for up to six (6) months of any overcharges. Customers may be liable for up to six (6) months of undercharges.

(d) Unprepared solid waste. The Solid Waste Division shall cause the cleanup of improperly or unprepared waste, litter or debris that constitutes a hazard or nuisance to the community. The minimum (as set by council resolution) or the actual cost of cleanup, whichever is greater, shall be paid by the responsible party pursuant to this chapter.
Sec. 110-61. Containers not furnished by City, requirements for use.
(a) Unless otherwise approved by the Solid Waste Manager or designee the private collection of municipal solid waste within the limits of the City is prohibited. Businesses requiring containers larger than the City can provide or containers in which materials would be placed that the City will not accept (i.e., building materials) shall request permission in writing directed to the Solid Waste Manager or designee to arrange for optional services as needed.

(b) Businesses, commercial, industrial and institutional users, resorts, apartments and contractors desiring to utilize large or compacted containers not available from the City and who have placed them on their property may do so at their option at their own expense. Only containers of 18 cubic yards or more or containers which hold large amounts compacted to six cubic yards or more in size may be used after written approval has been obtained from the Solid Waste Manager or designee.

Irregardless of who provides the service, a monthly fee the same as the amount charged for a single-family residence shall be charged by the City to each individual utility customer, including apartment tenants, utilizing containers under this section. A monthly fee the same as the amount charged for the commercial minimum shall also be charged by the City to each utility customer using containers under this section. This fee will not be charged when application is made for temporary utility service by a building contractor.

(c) Only licensed private haulers meeting the requirements of section 110-12 will be authorized to haul containers as described in this section within the City.

(d) Locating containers in streets, right-of-way, the traveled portion of alleys, and sight triangles is strictly prohibited. Maintenance of the site, together with the approach shall be the responsibility of the owner. The City shall not be responsible for damage caused by collection vehicles to driveways, parking lots, or other sites.

Sec. 110-62. Recyclables to be collected.
The City Solid Waste Division shall continue to manage the commercial recycling program as established under the current pilot program for commercial recycling.

Sec. 110-63. Conflicts of ordinances; liability.
(a) In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the City, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

(b) In cases where two or more sections of this chapter disagree, the most stringent or restrictive shall prevail.

Sec. 110-64--110-80. Reserved
City Council Agenda Item Report
JUNE 28, 2010

Agenda Item No. \( \text{5-0} \)
Presenter / Contact – Shannon Mattingly, Planning Director
(830) 221-4055 – smattingly@nbtexas.org

**SUBJECT:** Discuss and consider approval of a conditional sign permit for 1015 S. Seguin Avenue.

**APPLICANT:**
Lydell Toye (U.S. Signs)
245 W. Josephine St.
San Antonio, TX 78212

**OWNER:**
Midtex Oil, L.P.
P.O. Box 310339
New Braunfels, TX 78132

**BACKGROUND/RATIONALE:**
The subject property is located at 1015 S. Seguin Avenue, between Faust Street and Business IH 35. The zoning of the property is “C-3 Commercial District”. The business occupying the property is a Pit Stop convenience store and fuel station.

There is an existing pylon sign on the property advertising Shell, Pit Stop and the gasoline and diesel fuel prices. According to the owner’s agent, the property owner would like to advertise the fuel price for the E85 fuel offered at the fuel pumps, however, Shell Oil will not allow Midtex to install the E85 fuel sign on the existing pylon. Therefore, the property owner is proposing a new monument sign that will digitally advertise the price of the E85 Fuel. The sign will be 9’ 2” in height and 6’ wide with 37 square feet of sign face per side. The digital fuel price portion of the sign will consist of numbers 24 inches in height. The prices on the existing Shell sign are significantly smaller.

The Sign Ordinance allows C-3 properties one monument sign per 300 linear feet of road frontage, at a maximum height of 10’ and a maximum area of 48 square feet. The subject property has approximately 280 linear feet of road frontage. Per the sign ordinance, this property is eligible for a maximum of one monument sign. The existing pylon sign is considered to be non-conforming and exceeds current sign height and square footage requirements.

The proposed monument sign does comply with the C-3 district dimensional sign requirements, but the property lacks the required road frontage to allow the additional sign.

This case was postponed from the June 14th Council meeting. At the June 14th meeting, the applicant provided a photograph of a similar sign constructed at a location.
in Boerne (see attachment 8). The Council asked the applicant to postpone the application and submit a revised elevation plan, similar to the Boerne sign for consideration at the June 28th Council meeting. The applicant has provided no revised elevation plans at this time and is requesting postponement to the July 12th Council meeting, at which time new elevation plans will be complete.

**GENERAL INFORMATION:**

Case No.: CS10-014  
Size: 0.40 acres  
Surrounding Zoning and Land Use:  
North – “C-3 Commercial District” / Commercial Retail and Office  
South – “C-3 Commercial District” / Single-Family Residential and Commercial Retail  
East - “C-3 Commercial District” / Single-Family Residential  
West - “C-3 Commercial District” / Commercial Office  

Comprehensive Plan/ Future Land Use Designation: Commercial  
Improvement(s): A convenience store with fuel pumps and a pylon sign.  

**NOTIFICATION:**  
N/A  

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**  
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<th>No</th>
<th>City Plan/Council Priority</th>
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**FISCAL IMPACT:**  
N/A  

**STAFF RECOMMENDATION:**  
Staff recommends denial of the conditional sign permit, as the existing non-conforming sign may be able to be altered to include the Midtex product signage within the constraints of the Sign code. If approved, the property would exceed the maximum number of free-standing signs allowed by the Sign Ordinance.  

**BOARD/COMMISSION RECOMMENDATION:**  
N/A
ATTACHMENTS:
1. Application
2. Proposed Sign Details
3. Photos of Property and Existing Sign
4. Aerial Map
5. Zoning / Location Map
6. Sec. 106-14.1, Chapter 106
7. Letter from Shell Oil Co.
8. Photographs of Boerne Sign
APPLICATION FOR CONDITIONAL SIGN PERMIT
Planning and Community Development
424 S. Castell Avenue, New Braunfels TX 78130
Phone: (830) 221-4050  Fax: (830) 608-2109

1. Applicant - If owner(s) of business or coordinator(s) of special event, so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) or coordinator(s) at the time the application is submitted.

   Name: Lydell Towe
   Mailing Address: 258 Trace Center Dr.
   Telephone: (629) 4411  Fax: (629) 8091  Mobile:  

2. Property Address(es)/Location(s): 101 S. Seguin

3 Number of requested signs: 1

4 Dimension of sign(s): 74" x 72"

6. Business or event to be advertised: Gas Price

   Reason for request (please explain in detail and attach additional pages if needed):
   Shell Oil Will Not Let Midtex Install an Exx On Existing Price Marquee

7. Date(s) signs will be posted: ASAP

8. ATTACHMENTS: (The following items must be submitted with the application)

   - A $300.00 application fee.
   - A scaled site plan showing the proposed location(s) of the sign(s) on the property or properties.
   - A map showing the distance (feet / mileage) from sign(s) to business or event if sign(s) is / are off-premise.
   - A sketch showing the contents, dimensions and construction materials of the sign(s).
   - Photographs of the property or properties where the sign(s) will be located.

   The undersigned hereby requests a conditional sign permit for the location(s) described above.

   Signature of Owner(s)/Agent ____________________________ Date 5/26/10

   For Office Use Only
   Fee Received By: ____________________________ Amount: $300.00  Receipt No.: ____________
   Date Received: 5/27/10  Cash/Check Number: 5991
   Council Meeting Date: June 14, 2010

   Case #: CS 10 - 14

ATTACHMENT 1
Aerial Map

Legend

SUBJECT

Parcels

CS10-014
1015 S. SEGUIN AVENUE
CITY COUNCIL JUNE 14, 2010
### Sec. 106-14. Permanent On-Premises Sign Regulations.

#### 106-14.1. Sign Dimensional Standards

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<th>CLASSIFICATIONS</th>
<th>MAX. AREA PER SIGN</th>
<th>MAX. HEIGHT (feet)</th>
<th>MIN. SETBACK (feet)</th>
<th>MAX. NUMBER PER LOT</th>
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<tr>
<td>C-3 C-4 C-4A C-4B MU-A MU-B M-1 M-2 M-2A (Non-Residential uses only)</td>
<td>Low Profile Pole Sign</td>
<td>facade not to exceed a maximum of 48 square feet per sign face</td>
<td>20</td>
<td>10</td>
<td>5 (10) in M districts (industrial)</td>
<td>1 per 300' of frontage</td>
</tr>
<tr>
<td></td>
<td>Flag/Flag Pole</td>
<td></td>
<td>40</td>
<td>25</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Electronic Message Sign</td>
<td>100 square feet with a maximum of 50 square foot sign face</td>
<td>100</td>
<td>15</td>
<td>1</td>
<td>106.14.3</td>
</tr>
<tr>
<td>LOOP 337 SH 46 BUS. 35 FM 306 FM 725</td>
<td>Freestanding Monument Sign</td>
<td></td>
<td>60</td>
<td>10</td>
<td>5</td>
<td>1 per 300' of frontage</td>
</tr>
<tr>
<td></td>
<td>High Profile Monument Sign</td>
<td></td>
<td>225</td>
<td>28</td>
<td>5</td>
<td>1 per 400' of frontage</td>
</tr>
<tr>
<td></td>
<td>Flag/Flag Pole</td>
<td></td>
<td>40</td>
<td>25</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Electronic Message Sign</td>
<td>200 square feet with a maximum of 100 square foot sign face</td>
<td>28</td>
<td>15</td>
<td>1</td>
<td>106.14.3</td>
</tr>
<tr>
<td>IH 35</td>
<td>Pole Signs on property with IH 35 frontage</td>
<td></td>
<td>400</td>
<td>40</td>
<td>5</td>
<td>1 per 400' of IH 35 frontage</td>
</tr>
<tr>
<td></td>
<td>Electronic Message Sign</td>
<td>200 square feet with a maximum of 100 square foot sign face</td>
<td>40</td>
<td>15</td>
<td>1</td>
<td>106.14.3</td>
</tr>
<tr>
<td>Downtown Business Corridor</td>
<td>Electronic Message Sign</td>
<td>50 square feet with a maximum 24 square foot face if the lot has less than 100 foot of frontage and 100 square feet with a maximum 50 square foot face if the lot</td>
<td>5</td>
<td>10</td>
<td>1</td>
<td>106.14.3</td>
</tr>
<tr>
<td>ZONING DISTRICT</td>
<td>CLASSIFICATIONS</td>
<td>MAX. AREA PER SIGN</td>
<td>MAX. HEIGHT (feet)</td>
<td>MIN. SETBACK (feet)</td>
<td>MAX. NUMBER PER LOT</td>
<td>CONDITIONS</td>
</tr>
<tr>
<td>----------------</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>has more than 100 foot of frontage</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SUBJECT: Update and discussion on the North Tributary Regional Flood Control Project.

BACKGROUND/RATIONALE:
This item was placed on the agenda by City Councilmember Steven Digges.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<table>
<thead>
<tr>
<th>✓</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>City Plan/Council Priority:</td>
</tr>
</tbody>
</table>

FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A
SUBJECT: Discuss and consider approval of a resolution determining the public necessity for improving the North Tributary within the City by constructing a detention pond and drainage improvements between Walnut Avenue and McQueeney Road; authorizing the acquisition of property rights for two (2) parcels of land including acquiring the same by the filing of proceedings in eminent domain, if necessary.

BACKGROUND/RATIONALE:

City staff has made an offer to acquire properties along the North Tributary in order to construct a detention pond and make drainage improvements. The proposed resolution authorizes the City Manager to acquire those properties consistent with the appraised values and also authorizes the City Attorney to file condemnation proceedings against the property owners in the event that an acquisition cannot be completed through negotiation. The resolution also authorizes the City Attorney to engage the services of an outside law firm to assist with the acquisition by condemnation of the properties.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<table>
<thead>
<tr>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
</tr>
<tr>
<td>City Plan/Council Priority:</td>
</tr>
</tbody>
</table>

FISCAL IMPACT:

A total of $510,170 has been appropriated in the 2004 and 2008 Certificates of Obligation Capital Improvement Funds for right-of-way acquisitions related to this project.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of the Resolution.
RESOLUTION NO. 2010—__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, DETERMINING THE PUBLIC NECESSITY FOR IMPROVING THE NORTH TRIBUTARY WITHIN THE CITY BY CONSTRUCTING A DETENTION POND AND DRAINAGE IMPROVEMENTS; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS FOR TWO (2) PARCELS OF LAND INCLUDING ACQUIRING THE SAME BY THE FILING OF PROCEEDINGS IN EMINENT DOMAIN, IF NECESSARY; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels, Texas, upon consideration of the matter, has determined that there is a public necessity for the welfare of the City of New Braunfels and the public-at-large, to improve the North Tributary between Walnut Avenue and McQueeney Road within the City by constructing a detention pond and drainage improvements; and

WHEREAS, in accordance with the above, the City Council of the City of New Braunfels, Texas, hereby finds that it is in the public interest to acquire fee simple title to real property for the above stated municipal purpose; and

WHEREAS, the property to be acquired for such purpose consists of two (2) parcels of real property, the owner of which are listed as Raymond A. Schumacher, as Trustee for the Raymond A. Schumacher Declaration of Trust dated 10/9/85 by reference (the “Properties”); NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1: The City Council hereby finds and determines that it is necessary for the welfare of the City and its citizens and is in the public interest to acquire fee simple title to the Properties for flood control and associated municipal purposes for the construction of the North Tributary Flood Control Project between Walnut Avenue and McQueeney Road.

SECTION 2: The City Manager, or his designee, is hereby authorized on behalf of the City to attempt to agree on damages and compensation to be paid to owners of the Properties. If the City Manager or his designee determines that an agreement as to damages and compensation cannot be reached with any particular property owner, then the City Attorney, or his designee, is hereby authorized to file or cause to be filed, against the owners and interested parties of the particular property, proceedings in eminent domain to acquire fee simple title to that property. The City Attorney is further authorized to engage the services of an outside law firm to assist in the acquisitions of the Properties.
SECTION 3: It is the intent of the City Council that this Resolution authorizes the condemnation of these Properties required to construct the North Tributary Flood Control Project between Walnut Avenue and McQueeney Road. If it is later determined that there are errors in the descriptions of the parcels or if later surveys contain more accurate revised descriptions, the City Attorney or his designee is authorized to have such errors corrected or revisions made without the necessity of obtaining a new City Council resolution authorizing the condemnation of the corrected or revised Property.

SECTION 4: The findings of fact, recitations and provisions set out in the preamble of this Resolution are adopted and made a part of the body of this Resolution, as fully as if the same were set forth herein.

PASSED AND APPROVED this the 28th day of June, 2010.

CITY OF NEW BRAUNFELS, TEXAS

__________________________

R. Bruce Boyer, Mayor

ATTEST:

__________________________

Michael A. Resendez, City Secretary
SUBJECT: Public hearing and first reading of an ordinance rezoning Lot 19C Latter Day Saints Subdivision, located at 1259 Loop 337, from “C-1” Local Business District to “C-4A” Resort Commercial District.

APPLICANT/OWNER: David Bush
3055 Goodwin Lane
New Braunfels, TX 78132

BACKGROUND/RATIONALE:
The property is located on the southeast corner of Loop 337 and River Terrace. This is the former site of the Boxcar, which was recently relocated to the Railroad Museum.

The applicant is planning a new three-story, 15,600 square foot mixed use building on the property. It is anticipated to contain retail and office space on two floors, and the applicant’s personal residence on the third floor.

All of these uses are permitted in the current C-1 zoning. However, the proposed structure will exceed the maximum height limit of 35 feet in the C-1 district. A variance to the height limit was denied by the Zoning Board of Adjustment on March 25, 2010.

Of the available zoning districts, only C-2A, C-4A and MU-B allow the proposed mix of uses and the proposed building height needed for the development. C-2A is intended for the central business district, and MU-B is a high intensity district with building heights up to 120 feet permitted. C-4A, the Resort Commercial District, is typically used for tourist and river-related activities. It allows a maximum building height of 75 feet. The permitted uses in C-4A do not differ dramatically from those in C-1, as indicated in the comparison table attached, and most are similar to or compatible with development along Loop 337. The property does not have river frontage, but is located adjacent to existing C-4 zoning, which also allows 75 feet building height. Loop 337 is a major route for tourists to access the river.

In making a determination on zoning, City Council considers the following factors:

• Whether the permitted uses will be appropriate in the immediate area, and their relationship to the area and to the City as a whole;
• Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area;
• How other areas designated for similar development will be affected;
• Any other factors that will substantially affect the public health, safety, morals, or general welfare; and
• Whether the request is consistent with the Comprehensive Plan.
**GENERAL INFORMATION:**

<table>
<thead>
<tr>
<th>Case No:</th>
<th>PZ10-16</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size:</td>
<td>0.74 acres</td>
</tr>
</tbody>
</table>
| Surrounding Zoning and Land Use: | North – C-1 / Vacant, Gruene Harley Davidson  
                     | South – C-1 / Vacant   
                     | East – C-1 / Commercial parking, no principal use  
                     | West – C-4 / Gruene Outpost River Lodge |
| Comprehensive Plan/ Future Land Use Designation: | Commercial |
| Improvement(s):   | Vacant; former site of The Boxcar retail store |

**NOTIFICATION:**
Public hearing notices were sent to three property owners located within 200 feet. No responses were received in favor and one opposition (#2).

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

| Yes | City Plan/Council Priority: 2006 Comprehensive Plan Pros and Cons Based on Policies Plan | Pros:  
|-----|----------------------------------------------------------------------------------------|-------------------------------------------------|
| Pros:  
Goal 1A Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live.  
The proposed zoning is compatible with the future land use designation and surrounding zoning. The proposed development includes a mix of land uses.  
Goal 1G Evaluate capacity and adequacy of existing and planned public facilities and services to determine feasibility of expansion.  
Streets adjacent to the property are a 60-ft collector (River Terrace) and the 220-ft Loop 337. Utilities are available for extension to the project.  
Goal 1J Major traffic generators should be planned and designed to avoid access through residential neighborhoods.  
No access through residential neighborhoods is needed.  
Goal 2D Approve rezoning that provides for a mix of land uses.  
The proposed zoning allows a mix of land uses.  
Cons:  
None. |
**FISCAL IMPACT:**
N/A

**BOARD/COMMISSION RECOMMENDATION:**
The Planning Commission held a public hearing on June 1, 2010 and recommended approval of the rezoning by a vote of 7-0-0.

**STAFF RECOMMENDATION:**
Staff recommends approval of the proposed zoning, which is compatible with area development and consistent with goals stated in the Comprehensive Plan.

**ATTACHMENTS:**
1. Application and Site Plan
2. Zoning Map
3. Existing Land Use Map
4. Future Land Use Map
5. Aerial Map
6. Notification Map
7. C-1 and C-4A Comparison Table
8. Sec. 3.4-15 "C-4A" Resort Commercial District
9. Excerpt from Planning Commission minutes of June 1, 2010
10. Excerpt from Zoning Board of Adjustment minutes of March 25, 2010
11. Ordinance
APPLICATION FOR
ZONE CHANGE
424 S. CASTELL AVENUE
NEW BRAUNFELS TX 78130
E-MAIL: planning@nbtexas.org
PHONE: (830) 221-4050  FAX: (830) 608-2109

1. Applicant - If owner(s), so state; If agent or other type of relationship, a letter of authorization must be furnished from owner(s) at the time submitted.
   Name: ____________________________
   Mailing Address: 3035 6000 WIN LANE
   Telephone: __________________ Fax: __________________ Mobile: __________________ Email: __________________

2. Property Address/Location: 1259 LOOP 337

3. Legal Description:
   Name of Subdivision: LAKOTA DAY SAINTS
   Lot(s): ___________ Block(s): ___________ Acreage: ___________

4. Existing Use of Property: VACANT

5. Proposed Use of Property (attach additional or supporting information if necessary):

Home/Retail/Office

6. Zoning Change Request: Current Zoning: C1 Proposed Zoning C-4A

If "PDD Planned Development District", check if: Concept Plan OR Detail Plan

7. Reason for request (please explain in detail and attach additional pages if needed):

RE DEVELOPMENT

8. ATTACHMENTS:
   Metes and bounds description or survey and map if property is not platted.
   Location in 100-year floodplain: Please provide a map of the floodplain overlaying the property proposed for zoning or, at a minimum, a copy of the proper FEMA flood map, with panel number. (Current floodplain maps are those most recently adopted by the City Council.)
   Map of property in relation to City limits/major roadways or surrounding area.
   If requesting a Planned Development (PD), applicant must provide development standards on the detail plan and/or provide the standards in a separate document as described in the Zoning Ordinance, Section 3.5. Provide 14 copies of the 1:200 for distribution with 4 copies of 1:200 and one legible 11x17 of the revisions.

The undersigned hereby requests rezoning of the above described property as indicated.

Signature of Owner(s)/Agent ____________________________ Date 4/26/10

For Office Use Only

Fee Received By:________________________ Amount $500.00 Receipt No.: 179645

Date Received: 4/26/10 Zoning signs issued: Date: __________ No. __________

Cash/Check Number: __________ Case Number: __________

ATTACHMENT 1
Existing Land Use Map

Legend
- Subject Property
- Residential Low Density
- Govt
- Commercial
- Open Space

City of New Braunfels

PZ10-16
1259 Loop 337
C-1 to C-4A

Map Created On 5/5/10
Future Land Use Map

Subject Property
Future Land Use
- commercial
- government
- mixed use
- res low den

City of New Braunfels

PZ10-16
1259 Loop 337
C-1 to C-4A

Map Created On 5/5/10
Applicant: David Bush
Address/Legal Description: 1259 Loop 337
Owner: David & Edith Bush

REQUEST FOR ZONING – CASE #PZ10-16

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked as “SUBJECT”.

1. Texas River Rat LLC
2. Iselin Acquisition
3. SALL Joint Venture

SEE MAP ON REVERSE
**C-1**

**Residential uses:**
- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Assisted living facility/retirement home
  - Boardinghouse/lodging house
- Community home (see definition)
- Duplex / two-family / duplex condominiums
- Family home adult care
- Family home child care
- Home occupation (see Sec. 5.4)
- HUD code–manufactured home (see Sec. 5.7)
- Multifamily (apartments/condominiums)
- One family dwelling, detached
  - Rental or occupancy for less than one month (see Sec. 5.16)
- Residential use in buildings with the following non-residential uses
- Single or two family industrialized home (see Sec. 5.7)

**Non-residential uses:**
- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Adult day care with overnight stay
- Ambulance service (private)
- Animal grooming shop
- Answering and message services
- Antique shop
- Appliance repair
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Automobile driving school (including defensive driving)
  - Bakery (retail)
  - Bank, savings and loan, or credit union
- Barber/beauty college (barber or cosmetology school or college)
  - Barber/beauty shop, hairstyling (non-college)
- Barns and farm equipment storage
- Battery station
- Bicycle sales and/or repair
- Book binding
  - Book store
  - Cafeteria / café / delicatessen
  - Campers' supplies
- Cemetery and/or mausoleum
- Check cashing service
- Child day care/children's nursery (business)
  - Church/place of religious assembly
- Cleaning, pressing and dyeing (non-explosive fluids used)
- Clinic (dental)
- Clinic (emergency care)
- Clinic (medical)
  - Club (private)
  - Coffee shop
- Communication equipment (installation and/or repair)
- Community building (associated with residential uses)
- Computer and electronic sales
  - Computer repair
  - Confectionery store (retail)
- Consignment shop
  - Contractor's temporary on-site construction office
  - Convenience store without gas sales
- Country club (private)
- Credit agency
- Curio shops

**C-4A**

**Residential uses:**
- Accessory building/structure
- Bed and breakfast inn
- Boardinghouse/lodging house
- Cabin or cottage for vacation rental
- Campground
- Community home (see definition)
- Dormitory
- Multifamily
  - Rental or occupancy for less than one month
  - Residential use in buildings with non-residential uses

**Non-residential uses:**
- Accounting, auditing, bookkeeping, tax prepar
- Adult day care (no overnight stay)
- Adult day care (with overnight stay)
- All terrain vehicle (ATV) dealer / sales
- Amphitheater
- Amusement devices/arcade (4 or more devices)
- Amusement services or venues (indoors)
- Amusement services or venues (outdoors)
- Animal grooming shop
- Answering and message services
- Antique shop
- Archery Range
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan's studio
- Assembly/exhibition hall or areas
- Athletic fields
  - Bakery (retail)
  - Bank, savings and loan, or credit
  - Barber/beauty shop, hairstyling (non-college)
  - Barns and farm equipment storage (related to ag uses)
  - Bicycle sales and/or repair
  - Billiard / pool facility
  - Bingo facility
  - Book store
  - Bowling alley/center (see Sec. 5.12)
  - Cafeteria / café / delicatessen
  - Campers' supplies
  - Car wash (self service; automated)
  - Car wash, full service (detail shop)
  - Caterer
    - Check cashing service
    - Church/place of religious Assembly
  - Civic/conference center and facilities
    - Club (private)
    - Coffee shop
  - Commercial amusement concessions and facilities
    - Computer repair
    - Confectionery store (retail)
    - Contractor's temporary on-site construction office
  - Convenience store with gas sales
  - Convenience store without gas sales
  - Country club (private)
  - Credit agency

**ATTACHMENT 7**
<table>
<thead>
<tr>
<th>Category</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Custom work shops</td>
<td>Day camp</td>
</tr>
<tr>
<td>* Department store</td>
<td>Drug sales/pharmacy</td>
</tr>
<tr>
<td>* Drapery shop / blind shop</td>
<td>Electrical repair shop</td>
</tr>
<tr>
<td>* Electrical repair shop</td>
<td>Exterminator service</td>
</tr>
<tr>
<td>* Extremior service</td>
<td>Farmers market (produce market - wholesale)</td>
</tr>
<tr>
<td>* Farmers market</td>
<td>Farms, general (crops)</td>
</tr>
<tr>
<td>* Filling station (gasoline tanks must be below the ground)</td>
<td>Florist</td>
</tr>
<tr>
<td>* Food or grocery store</td>
<td>Hospitals (general (acute care/chronic care)</td>
</tr>
<tr>
<td>* Food or grocery store with gasoline sales</td>
<td>Hospice</td>
</tr>
<tr>
<td>* Fraternal organization/civic club (private club)</td>
<td>Hospital</td>
</tr>
<tr>
<td>* Frozen food storage for individual or family use</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Funeral home/mortuary</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Furniture sales (indoor)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Garden shops and greenhouses</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Golf course (miniature)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Golf course, public or private</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Governmental building or use</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Greenhouse (commercial)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Handicraft shop</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Hardware store</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Health club (physical fitness; indoors only)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Hospice</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Hospital, general (acute care/chronic care)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Hospital, rehabilitation</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Hotel/motel</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Hotels/motels - extended stay (residence hotels)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Ice delivery stations (for storage and sale of ice at retail only)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Kiosk (providing a retail service)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Laundromat and laundry pickup stations</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Laundry/dry cleaning (drop off/pick up)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Lawnmower sales and/or repair</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Locksmith</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Martial arts school</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Medical supplies and equipment</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Mini-warehouse storage units (no boat/RV/outside storage)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Motion picture studio, commercial film</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Motion picture theater (indoors)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Motion picture theater (outdoors, drive-in)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Municipal use</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Museum</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Needlework shop</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Nursing/convalsscent home/sanitarium</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Officess, brokerage services</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Offices, business or professional</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Offices, computer programming and data processing</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Offices, consulting</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Offices, engineering, architecture, surveying or similar</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Offices, health services</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Offices, insurance agency</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Offices, legal services - including court reporting</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Offices, medical offices</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<td>* Offices, real estate</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<td>* Offices, brokers, dealers, financial services</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Park and/or playground (public or private)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Parking lot (passenger car only) (not incidental to main use)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Pawn shop</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Personal watercraft sales (primarily new / repair)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Photographic studio (no sale of cameras or supplies)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Photographic supply</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Plant nursery (retail sales / outdoor storage)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Public recreation/services building/ playground areas</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Quick lube/oil change/minor Inspection</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Radio/television shop, electronics, computer repair</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Rappelling facilities</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
<tr>
<td>* Recreation buildings (private)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Refreshment/beverage stand</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<td>* Restaurant</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Restaurant/prepared food sales</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Retail store &amp; shopping center (&gt; 50,000 sq ft)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
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<tr>
<td>* Retail store &amp; shopping center w/o drive thru (50,000 sq ft)</td>
<td>Ice delivery stations (for storage and sale of ice at retail only)</td>
</tr>
</tbody>
</table>
* Plant nursery (retail sales / outdoor storage)
* Plumbing shop
  Public recreation/services building for public park/playground areas
  Radio/television shop, electronics, computer repair
  Recreation buildings (public)
  Refreshment/beverage stand
  Restaurant/prepared food sales
* Restaurant
  Retail store & shopping center w/o drive thru (≤ 50,000 sq ft)
  Retail store and shopping center (more than 50,000 sq. ft. bldg.)
* Retirement home/home for the aged
  School, K-12 (public or private)
* School, vocational (business/commercial trade)
  Security monitoring company telemarketing agency
  Shoe repair shops
  Studios (art, dance, music, drama, reducing, decorating, etc)
* Studio for radio or television (without tower)
  Tailor shop (see home occupation)
  Telemarketing agency
  Telecommunications towers/antennas (see Sec. 5.6)
* Telephone exchange buildings (office only)
  Theater (non-motion picture; live drama)
  Tool rental
  Travel agency
  Truck garden (with retail sales)
* University or college (public or private)
  Upholstery shop (non-auto)
* Vacuum cleaner sales and repair
  Video rental / sales
  Water storage, wells, pumping station of a public system
* Woodworking shop (ornamental)
* Rodeo grounds
* RV park
* RV/travel trailer sales
  School, K-12 (public or private)
  Security monitoring company
  Shoe repair shops
* Specialty shops in support of guests & tourists
  Studio (art, dance, music, drama, reducing, decorating, etc)
  Tailor shop
* Tattoo or body piercing studio
  Telemarketing agency
* Tennis court (commercial)
  Theater (non-motion picture; live drama)
  Tool rental (indoor storage only)
* Tourist court
  Travel agency
  Truck garden (no retail sales)
* University or college (public or private)
* Video rental / sales
* Waterfront amusement - berthing facilities sales and rentals
* Waterfront amusement - boat fuel storage/ dispensing
* Waterfront amusement - boat landing/launching facilities
* Waterfront amusement - swimming pools/bathhouses
  Water storage, wells, pumping station of a public system
3.4-15. "C-4A" resort commercial district.

Purpose. This zoning classification is intended to be developed as resort commercial property with the purpose to serve tourists, vacationing public, conference center attendees, sports related programs and support service facilities including garden office, retail and specialty shops. The following regulations shall apply in all "C-4A" districts:

(a) Authorized uses. Uses permitted by right and by special use permit shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows

(1) Uses permitted by right:

Residential uses:
- Accessory building/structure
- Bed and breakfast inn (see Sec. 5.5)
- Boardinghouse/lodging house
- Cabin or cottage, either separate or connected, for rental to vacationers
- Community home (see definition)
- Dormitory (individual rooms are rented)
- Multifamily (apartments/condominiums)
- Rental or occupancy for less than one month (see Sec. 5.16)
- Residential use in buildings with the following non-residential uses

Non-residential uses:
- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Adult day care (with overnight stay)
- All terrain vehicle (ATV) dealer / sales
- Amphitheater
- Amusement devices/arcade
- Amusement services or venues (indoors) (Amusement services or venues (outdoors)
- Animal grooming shop
- Answering and message services
- Antique shop
- Archery range
- Armed services recruiting center
- Art dealer / gallery
- Artist or artisan’s studio
- Assembly/exhibition hall or areas
- Athletic fields
- Bakery (retail)
- Bank, savings and loan, or credit union
- Barber/beauty shop, haircutting (non-college)
- Barns and farm equipment storage (related to agricultural uses)
- Bicycle sales and/or repair
- Billiard/pool facility
- Bingo facility
- Book store
- Bowling alley/center (see Sec. 5.12)
- Cafeteria / café / delicatessen
- Campers’ supplies
- Campground
- Car wash (self service; automated)
- Car wash, full service (detail shop)
- Caterer
- Check cashing service
- Church/place of religious assembly
- Civic/conference center and facilities
- Club (private)
- Coffee shop
- Commercial amusement concessions and facilities
- Computer repair
- Confectionery store (retail)
- Contractor’s temporary on-site construction office (see Sec. 5.9)
- Convenience store with gas sales
- Convenience store without gas sales
- Country club (private)
- Credit agency
- Curio shops
- Dance hall/dancing facility
- Day camp
- Driving range
- Drug sales/pharmacy
- Electrical repair shop
- Fair ground
- Farms, general (crops)
- Farms, general (livestock/ranch)
- Filling station (tanks must be below ground)
- Florist
- Food or grocery store with gasoline sales
- Food or grocery store without gasoline sales
- Fraternal organization/civic club (private club)
- Garden shops and greenhouses
- Golf course
- Golf course (miniature)
- Governmental building or use (state/federally owned and operated)
- Greenhouse (commercial)
- Handicraft shop
- Health club (physical fitness; indoors only)
- Hotel/motel
- Hotels/motels - extended stay
- Kiosk (providing a retail service)
- Laundromat and laundry pickup stations
- Laundry/dry cleaning (drop off/pick up)
- Laundry/washateria (self serve)
Limousine / taxi service
Locksmith
Martial arts school
Micro brewery (onsite manufacturing / sales)
Motion picture studio, commercial film
Motion picture theater (indoors)
Motion picture theater (outdoors, drive-in)
Municipal use owned or operated by the City
Museum
Needlework shop
Offices, brokerage services
Offices, business or professional
Offices, computer programming and data processing
Offices, consulting
Offices, engineering, architecture, surveying
Offices, health services
Offices, insurance agency
Offices, legal - including court reporting
Offices, medical offices
Offices, real estate
Offices, security/commodity brokers, dealers, exchanges and financial services
Park and/or playground (private)
Park and/or playground (public)
Parking lots (for passenger car only)
Parking structure / public garage
Pawn shop
Personal watercraft sales (primarily new/repair)
Photographic studio
Photographic supply
Plant nursery (with retail sales on site)
Public recreation/services building for public park/playground areas
Quick lube/oil change/minor inspection
Radio/television shop, electronics, computer repair
Rappelling facilities
Recreation buildings (private)
Recreation buildings (public)
Refreshment/beverage stand
Restaurant
Restaurant/prepared food sales
Retail store and shopping center (≤50,000 sf)
Retail store and shopping center (>50,000 sf)
Rodeo grounds
RV park
RV/travel trailer sales
School, K-12 (public or private)
Security monitoring company
Shoe repair shops
Specialty shops in support of guests and tourists
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)
Tailor shop (see home occupation)
Tattoo or body piercing studio
Telemarketing agency
Tennis court (commercial)
Theater (non-motion picture; live drama)
Tool rental (indoor storage only)
Tourist court
Travel agency
Truck garden, with retail sales
University or college (public or private)
Video rental / sales
Waterfront amusement facilities - berthing facilities sales and rentals
Waterfront amusement facilities - boat fuel storage / dispensing facilities
Waterfront amusement facilities - boat landing piers / launching ramps
Waterfront amusement facilities – swimming / wading pools / bathhouses
Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system

Any comparable business or use not included in or excluded from any other district described herein.

(2) Conflict. In the event of conflict between the uses listed in the Land Use Matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) Maximum height, minimum area and setback requirements:

(1) Non-residential uses.
   (i) Height. 75 feet.
   (ii) Front building setback. 25 feet.
(iii) **Side building setback.** No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.

(iv) **Rear building setback.** 20 feet.

(v) **Residential setback.** Effective November 8, 2006, where a non-residential building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) **Width of lot.** The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 72 feet.

(vii) **Lot depth.** 100 feet.

(viii) **Parking.** See Sec. 5.1.

(2) Cabins and cottages (separate or connected).

(i) **Height.** 75 feet.

(ii) **Front building setback.** 25 feet.

(iii) **Side building setback.** There shall be a side building setback on each side of a building not less than six feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

**Garage setback.** Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See illustration 8 in Sec. 5.1-1)

(iv) **Rear building setback.** 20 feet.

(v) **Width of lot.** The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 72 feet.

(vi) **Sanitary facilities.** Each rental unit shall be provided with an individual enclosed space for sanitation, accessible from within the living unit, in which shall be located a water closet furnished with cold water, and a lavatory and bathtub or shower furnished with hot and cold water.

(vii) **Lot depth.** 100 feet.

(viii) **Parking.**

1. One-bedroom unit . . . 1 1/2 spaces
2. Two-bedroom unit . . . 2 spaces
3. Each additional bedroom . . . 1/2 space

(3) Multifamily dwellings.

(i) **Height.** 45 feet.

(ii) **Front building setback.** 25 feet.
(iii) **Rear building setback.** 25 feet.

(iv) **Side building setback.** A side building setback of 20 feet shall be provided. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

**Garage setback.** Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See illustration 8 in Sec. 5.1-1)

(v) **Residential setback.** Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) **Parking and accessory uses.** Parking may encroach into the interior side and rear building setback as long as a solid screening fence or wall of six to eight feet in height is erected along the interior side and rear property lines. Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(vii) **Width of lot.** The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 72 feet.

(viii) **Density.** 24 units per acre.

(ix) **Lot area.** 20,000 square feet.

(x) **Lot coverage.** The combined area of all yards shall not be less than 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(xi) **Distance between structures.** There shall be a minimum of 10 feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; a minimum of 20 feet between structures backing rear to rear, and a minimum of 20' between structures front to rear. (See illustration 1)

(xii) **Access to an arterial roadway or state highway required.** Developments in this district must have direct access to either an arterial roadway or state highway.

(xiii) **Lot depth.** 100 feet.

(xiv) **Parking.** For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit ... 1 1/2 spaces
2. Two-bedroom apartment or unit ... 2 spaces
3. Each additional bedroom ... 1/2 space
4. Dwelling unit provided exclusively for low income elderly occupancy ... 3/4 space

(“Low income elderly” is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

See Section 5.1 for other permitted uses' parking.
PUBLIC HEARING
Case PZ10-16: Hold a public hearing and make a recommendation to City Council regarding the proposed rezoning of Lot 19C, Latter Day Saints Subdivision, located at 1259 Loop 337, from "C-1 Local Business District" to "C-4A Resort Commercial District." (David Bush)
Ms. Mullins explained that the site was the former location of the Boxcar, which was recently relocated to the Railroad Museum. She said the applicant planned a new three-story, 15,600 sq. ft. building on the property, with retail and office space on the lower two floors, and his personal residence on the third. She explained that all the proposed uses were permitted in the current C-1 zoning; however, the proposed structure would exceed the maximum height limit of 35 feet in the C-1 district. She noted that the Zoning Board of Adjustment denied a variance to the height limit on March 25, 2010. Ms Mullins then explained why staff believed the "C-4A" district was appropriate. She added that three notices were sent to property owners within 200 ft. of the subject property; no responses were received in favor of the rezoning and one was received in opposition (#2). She said staff recommended approval of the proposed zoning because it was compatible with development in the area and consistent with goals stated in the Comprehensive Plan.

Chair Casteel asked if there was anyone present who wished to speak in favor of the rezoning.

David Bush, 3055 Goodwin Lane, explained that the additional height was requested so that the mechanical equipment could be located between floors. He added that if his rezoning request was granted, he would modify the building plans to include a pitched roof, which, in his opinion, would be more aesthetically pleasing than a flat one.

Chair Casteel asked if there was anyone present who wished to speak in opposition to the rezoning. No one spoke.

Motion by Commissioner Bearden, seconded by Commissioner Vann, to close the public hearing. The motion carried unanimously. (7-0-0)

Commissioner Vann asked if the new building would be in the same location as was the Boxcar. Mr. Bush said it would be located further back onto the property to allow for a front parking lot.

Motion by Commissioner Vann, seconded by Commissioner Elrod, that Case PZ10-16, the proposed rezoning of Lot 19C, Latter Day Saints Subdivision, located at 1259 Loop 337, from "C-1 Local Business District" to "C-4A Resort Commercial District", be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (7-0-0)
Excerpt from Zoning Board of Adjustment Minutes of March 25, 2010

Hold a public hearing and consider Case #Z10-03, David Bush, owner of Lot 19C, Latter Day Saints Subdivision (1259 Loop 337)

Ms. Mullins stated that the applicant was requesting that the Board grant a variance to Section 3.3-7(b)(1)(i), Chapter 144, New Braunfels Code of Ordinances, to allow a building height of 38 feet, rather than the maximum 35 feet, for a new mixed-use building in the “C-1” Local Business District. Ms. Mullins stated that the subject property is located on Loop 337 at River Terrace and is formerly the site of The Box Car retail store. She explained that the applicant was proposing a new 3-story, 15,600 square foot mixed-use building. The applicant’s architect indicates the proposed uses are business office, retail and residential. The applicant requested a variance to allow a maximum height of 38 feet and Ms. Mullins explained that the maximum building height in the C-1 zoning district is 35 feet. She pointed out that the new building would be required to meet other code requirements for setback, exterior material, façade articulation, and parking. She told the Board that the applicant’s architect stated that 12 feet between floors is needed to provide 9-foot ceiling heights, to accommodate “open office modular furniture” in the office space, large retail displays, and ceiling changes and visual effects for the third floor residence. In addition, the 2-foot parapet will allow for roof installation and slope for drainage. Ms. Mullins explained that the applicant felt without the variance, placement of ductwork, conduit and sprinkler piping will be very restricted. She said 3 notices were sent to property owners within 200 ft. of the subject property; 1 response in favor was received (#3); no responses in opposition were received.

Chairman Norvell then asked the applicant or his agent to address the Board.

Pete Campos, 14603 Huebner Road, San Antonio, TX, stated that he was representing the architect firm. He supplied the Board with a drawing of the proposed building in order to show a little more of the conditions they are trying to achieve with the new building. He explained that modern-day office areas provide nine foot ceilings but that an additional three feet was being requested to accommodate ducts, piping and conduits. Mr. Campos stated that they could not overlap those items as they ran throughout the entire building. He also stated that they felt that the building would be a good addition to the location and that the owners are conscious of the look of the building. He explained that the owners wanted the building to look similar to the downtown storefronts with dark brick.

Chairman Norvell asked if there was anyone who wished to speak in favor of the variance request. No one spoke.

Chairman Norvell asked if there was anyone who wished to speak in opposition of the variance.

Paul Cleveland, 1140 River Crest, stated that he was neither for nor against the request but that he represented the property owner of #1 on the Notification Map and wanted to comment on the visual characteristics of the building. Chairman Norvell then asked if the comments he wanted to give were in opposition and Mr. Cleveland responded that he had some constructive criticism to offer. He stated that he felt the architect needed to add some design enhancements such as arching the top windows with soldier course windowsills and to add another cast concrete strip at a higher level.

Motion by Board Member La Rochelle, seconded by Board Member Norris, to close the public hearing. The motion carried unanimously. (5-0-0)

Chairman Norvell stated his concern with setting a precedence to allow building height to be more than the maximum allowed in C-1. He then asked if any other Board member had questions.

Vice Chair Poss asked staff for a definition of height and Ms. Snell read the definition of building height directly from the zoning ordinance. Vice Chair Poss also asked Mr. Campos about the webbing. Mr. Campos described the design of the floors.

Vice Chair Poss asked staff if two-story commercial buildings are normally found in the C-1 zoning district to which Ms. Mattingly replied that they are. Vice Chair Poss commented on the intent of the C-1 zoning district.
Mr. Campos explained that they were trying to maximize the usage of the building while meeting the parking and drainage requirements.

Ms. Mattingly state that the C-1 district is an older zoning classification and she explained the difference in allowable height between the new classifications of C-1A and C-1B. She mentioned the opportunity to look at rezoning.

Chairman Norvell called for a motion to approve the application as written.

Motion by Board Member Norris, seconded by Board Member Leitch, to approve the variance to Section 3.3-7(b)(1)(i), Chapter 144, New Braunfels Code of Ordinances, to allow a building height of 38 feet, rather than the maximum 35 feet, for a new mixed-use building in the "C-1" Local Business District. The motion was denied; Chairman Norvell, Vice Chair Poss, and Board Member LaRochelle voted "no". (2-3-10)
ORDINANCE NO. 2010-

AN ORDINANCE REZONING LOT 19C LATTER DAY SAINTS SUBDIVISION, LOCATED AT 1259 LOOP 337, FROM “C-1” LOCAL BUSINESS DISTRICT TO “C-4A” RESORT COMMERCIAL DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of the “C-4A” Resort Commercial District, the City Council has given due consideration to all components of said district; and

WHEREAS, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

WHEREAS, the City Council desires to amend the Zoning Map by changing Lot 19C Latter Day Saints Subdivision, located at 1259 Loop 337, from “C-1” Local Business District to “C-4A” Resort Commercial District; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT Sections 1.2-1 and 1.2-2, Chapter 144, of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are amended by changing the following described tract of land from “C-1” Local Business District to “C-4A” Resort Commercial District:

“Lot 19C Latter Day Saints Subdivision, located at 1259 Loop 337, and as delineated on Exhibit ‘A’ attached.”

SECTION 2

THAT all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 3

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.
SECTION 5

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 28th day of June, 2010.
PASSED AND APPROVED: Second and Final Reading this the 12th day of July, 2010.

CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney
BEING LOT 19C, LATTER DAY SAINTS SUBDIVISION SITUATED WITHIN THE CORPORATE LIMITS OF THE CITY OF NEW BRAUNFELS, COMAL COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOL. 5, PG. 85, OF THE MAP AND PLAT RECORDS OF COMAL COUNTY, TEXAS.

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.

THE SURVEYOR HAS NOT CONDUCTED A TITLE SEARCH TO DEPICT OTHER MATTERS OF RECORD, SUCH AS EASEMENTS, SETBACKS, RESTRICTIONS OR OTHER ENCUMBRANCES THAT MAY AFFECT THIS PROPERTY.

REFERENCE AN AERIAL EASEMENT, EXTENDING UPWARD FROM A PLANE 20 FEET ABOVE THE GROUND, 5 FEET ON EACH SIDE OF ALL STREETS, ALLEYS AND EASEMENTS, PER PLAT VOL. 5, PG. 85, MAP AND PLAT RECORDS.

REFERENCE EASEMENT TO CITY OF NEW BRAUNFELS (UTILITIES) VOL. 298, PG. 482.

( ) = PLAT CALLS VOL. 5, PG. 85

SURVEYED ON THE GROUND THIS 2ND DAY OF JUNE, 2009

DREW A. MAYER
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5348

HOLLMIC MOELLER THORNHILL INC
410 N. SEGUIN
NEW BRAUNFELS, TEXAS
(830) 625-8555

1259 Loop 337
New Braunfels, Texas

EXHIBIT “A”
City Council Agenda Item Report  
JUNE 28, 2010

Agenda Item No. 5-H   
Presenter / Contact – Shannon Mattingly, Planning Director  
(830) 221-4055 – smattingly@nbtexas.org

SUBJECT:  
Public hearing and first reading of an ordinance rezoning 107.914 acres located on the east side of West Klein Road, approximately 2,000 feet from FM 1044, from “APD Agricultural/Pre-Development District” to “C-1B General Business District”.

APPLICANT/OWNER:  
New Braunfels Independent School District  
430 W. Mill St.  
New Braunfels, TX 78130

BACKGROUND/RATIONALE:  
This property is located within the current master plan of the Legend Pond Subdivision on W. Klein Road. The subdivision is in the process of amending the overall master plan and platting the NBISD property, which is the subject property. The 107.914 acres within the current Legend Pond Subdivision master plan consists of approximately 350 single-family residential lots. The New Braunfels Independent School District recently obtained the 107.914 acre tract from the Legend Pond Developer. A new middle school, along with a transportation facility and athletic facilities are planned to be constructed on the property that is proposed to transition into a high school in the future.

The property is situated on Klein Road, a 70' arterial, and is located between FM 1044 and the future extensions of Walnut Avenue and Pahmeyer Road and is bordered to the east by a master planned collector street in the Legend Pond Subdivision.

In 2008, the school district processed a similar request in the area and rezoned a large acreage tract from APD to C-1B to construct Klein Road Elementary School, a transportation facility and future schools and athletic facilities.

GENERAL INFORMATION:  
Case No.: PZ10-18  
Size: 107.914 acres  
Surrounding Zoning And Land Use  
North – Outside City Limits / Large Acreage Single-Family Residential Tracts and Agricultural  
South – Outside city Limits / Vacant and Agricultural  
East – APD / Vacant Single-Family Residential Lots  
West – Outside City Limits / Vacant and Agricultural
Comprehensive Plan/ Future Land Use Designation: Residential Low Density
Improvement(s): Vacant

NOTIFICATION:
Public hearing notices were sent to 14 property owners located within 200 feet. As of May 20, we have received one response in favor from # 12 and no responses in opposition.

ADDRESS A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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<thead>
<tr>
<th>Yes</th>
<th>City Plan/Council Priority: 2006 Comprehensive Plan</th>
<th>Pros:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pros and Cons Based on Policies Plan</td>
<td>Goal 1A Evaluate proposed zone changes to maintain land use compatibility, as well as the integration of mixed land uses as a component of achieving better places to live. The proposed zone change will allow for compatible uses that will service the immediate existing and future residents.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Goal 2B Enable residents to live within walking or a short commuting distance from their work, school, and shopping. The nearby residents and future residents will be able to walk and/or drive a short distance to the new school and potential commercial establishments.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Goal 2D Approve rezoning that provides for a mix of land uses. The proposed zoning district allows a mix of land uses.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Cons:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Goal 1I Industrial and commercial development should be planned and designed to avoid truck access through residential neighborhoods. Although the streets do not exist at this time and no final plans for the school have been submitted, potential commercial businesses and a new school will most likely create bus and truck traffic on the proposed residential streets in the Legend Pond Subdivision.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Goal 1J Major traffic generators should be planned and designed to avoid access through</td>
</tr>
</tbody>
</table>

|
The subject property is adjacent to an approved residential subdivision. It is staff's understanding that the school would have at least one access point through the residential subdivision.

**BOARD/COMMISSION RECOMMENDATION:**
The Planning Commission held a public hearing on June 1, 2010 and unanimously recommended approval of the zone change from "APD Agricultural/Pre-Development District", to "C-1B General Business District" by a vote of 6-0-0 with Commissioner Elrod recused from this item.

**STAFF RECOMMENDATION:**
Staff recommends approval of the proposed zoning, which is compatible with development in the area and consistent with goals stated in the Comprehensive Plan.

**ATTACHMENTS:**
1. Application
2. Zoning Map
3. Existing Land Use Map
4. Future Land Use Map
5. Aerial Map
6. Notification Map
7. Survey
8. Section 3.4-14, "C-1B General Business District"
10. Ordinance
APPLICATION FOR
ZONE CHANGE
424 S. CASTELL AVENUE
NEW BRAUNFELS, TX 78130
E-MAIL: planning@nbtejas.org
PHONE: (830) 221-4050 FAX: (830) 608-2109

1. Applicant - If owner(s), so state; if agent or other type of relationship, a letter of authorization must be
furnished from owner(s) at the time submitted.

Name ____________________________
Mailing Address 430 W MILL STREET, NEW BRAUNFELS, TX 78130
Telephone: 830-627-6733 Fax: 830-627-6741 Mobile: ____________ Email: ______________

2. Property Address/Location: KLEIN ROAD, +/- 2000 FROM KLEIN RD & FM 1044 INTERSECTION

3. Legal Description:
Name of Subdivision: NBISD LEGEND POND (PROPOSED)
Lot(s): ______ Block(s): ____________ Acreage: 107.914

4. Existing Use of Property: AGRICULTURAL

5. Proposed Use of Property (attach additional or supporting information if necessary):


If “PDD Planned Development District”, check if: Concept Plan OR Detail Plan

7. Reason for request (please explain in detail and attach additional pages if needed):

TO BUILD A SCHOOL TO MEET CURRENT DEMAND

8. ATTACHMENTS:
   X Metes and bounds description or survey and map if property is not platted.
   X Location in 100-year floodplain: Please provide a map of the floodplain overlaying the property proposed for
zoning or, at a minimum, a copy of the proper FEMA flood map, with panel number. (Current floodplain maps are
those most recently adopted by the City Council.)
   X Map of property in relation to City limits/major roadways or surrounding area.

If requesting a Planned Development (PD), applicant must provide development standards on the detail plan
and/or provide the standards in a separate document as described in the Zoning Ordinance, Section 3.5. Provide
14 copies of the 1:200 for distribution with 4 copies of 1:200 and one legible 11 x 17 of the revisions.

The undersigned hereby requests rezoning of the above described property as indicated.

[Signature] 4-29-10

Signature of Owner(s)/Agent Date

For Office Use Only

<table>
<thead>
<tr>
<th>Fee Received By:</th>
<th>______</th>
<th>Amount</th>
<th>N</th>
<th>C Receipt No.: ______</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Received:</td>
<td>4-29-10</td>
<td>Zoning signs issued: Date: ______ No. ______</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash/Check Number:</td>
<td>______</td>
<td>Case Number: PZ10-18</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Z:\Applications\Zone Change.DOC

ATTACHMENT 1
Legend
subject
City Limits
Zoning Districts
APD
C-1B
RD
R-1A6.6

City of New Braunfels

PZ10-018
108 Acres on Klein Rd.
APD to C-1B

Map Created On 5/20/10
Future Land Use Map

Legend
- Subject Property
- City Limits
- Parcels
- Residential Low Density
- mixed use
- school
- manufactured homes
- Commercial

ATTACHMENT 4

City of New Braunfels

PZ10-18
108 Acres on Klein Rd.
APD to C-1R

Map Created On 5/20/10
PLANNING COMMISSION – JUNE 1, 2010 – 6:00PM
New Braunfels Municipal Building, Council Chambers

Applicant: New Braunfels Independent School District
Address/Legal Description: 107.914 Acres on Klein Road
Owner: NBL 300 Group LTD

REQUEST FOR ZONING – CASE #PZ10-18

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked as "SUBJECT".

1. Grier, Farris
2. Bennett, Daven & Shelly
3. Maddox, Beverly
4. McDonald, Billy
5. Meyer, Gerald
6. Mueller, Michael & Diane
7. Brewer, Wilmer & Paula
8. Ambrose, David & Sondra
9. Kerlick, Brenda
10. Laubach, Herbert
11. NBL 300 Group, Ltd.
12. JMT Investments, Ltd
13. Grier, nancy
14. Zipp, Karl & Helen

SEE MAP ON REVERSE

ATTACHMENT 6
Legend

- Subject Property
- 200' Notification Buffer

Notification Map

Map Created On 5/14/10

PZ10-18
108 Acres on Klein Rd.
APD to C-1B
**SUBDIVISION PLAT ESTABLISHING**

**NBISD LEGEND POND**


**ATTACHMENT 7**

**SUBDIVISION TABLE**

<table>
<thead>
<tr>
<th>Curve</th>
<th>Length</th>
<th>Radius</th>
<th>Delta</th>
<th>Chord</th>
<th>Chord Remainder</th>
</tr>
</thead>
<tbody>
<tr>
<td>C1</td>
<td>31.34'</td>
<td>169.90'</td>
<td>85.05'</td>
<td>29.77'</td>
<td>522.879'.00'</td>
</tr>
<tr>
<td>C2</td>
<td>33.04'</td>
<td>300.00'</td>
<td>137.38'</td>
<td>107.86'</td>
<td>522.879'.00'</td>
</tr>
<tr>
<td>C3</td>
<td>31.28'</td>
<td>330.00'</td>
<td>137.38'</td>
<td>107.86'</td>
<td>522.879'.00'</td>
</tr>
<tr>
<td>C4</td>
<td>31.70'</td>
<td>150.00'</td>
<td>63.87'</td>
<td>25.80'</td>
<td>522.879'.00'</td>
</tr>
<tr>
<td>C5</td>
<td>37.20'</td>
<td>400.00'</td>
<td>111.30'</td>
<td>74.50'</td>
<td>522.879'.00'</td>
</tr>
</tbody>
</table>

**LEGEND**

- **P.O.B.** = POINT OF BEGINNING
- **B.C.** = BOUNDARY DESCRIPTION
- **L.R.S.** = LOTS/RECORDS/STREETS

**EXHIBIT CERTIFICATE**

The exhibit certificate on this plat and whose name is NBISD LEGEND POND is a true representation of the plat and is correct in all material respects. The plat is prepared by NBISD LEGEND POND, an authorized representative of NBISD. The plat is prepared according to the standards set forth by the Texas Department of Housing and Community Affairs (TDHCA) and complies with the requirements of the Texas Deed Law. The plat is true to scale and all measurements are taken to the nearest foot. The plat is intended for use in the subdivision of real property and is subject to the approval of the TDHCA. The plat is a true representation of the subdivision as described and is accurate in all material respects.
3.4-13. "C-1B" general business district.

Purpose. The general business district is established to provide areas for a broad range of office and retail uses. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate high traffic volumes generated by general retail uses. The following regulations shall apply in all "C-1B" districts:

(a) Authorized uses. Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

<table>
<thead>
<tr>
<th>Residential uses:</th>
<th>Non-residential uses:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory building/structure</td>
<td>Accounting, auditing, bookkeeping, and tax prepaations</td>
</tr>
<tr>
<td>Assisted living facility/retirement home</td>
<td>Adult day care (no overnight stay)</td>
</tr>
<tr>
<td>Bed and breakfast inn</td>
<td>Adult day care (with overnight stay)</td>
</tr>
<tr>
<td></td>
<td>All terrain vehicle (ATV) dealer / sales</td>
</tr>
<tr>
<td></td>
<td>Ambulance service (private)</td>
</tr>
<tr>
<td></td>
<td>Amphitheater</td>
</tr>
<tr>
<td></td>
<td>Amusement devices/arcade (four or more devices)</td>
</tr>
<tr>
<td></td>
<td>Amusement services or venues (indoors)</td>
</tr>
<tr>
<td></td>
<td>Amusement services or venues (outdoors)</td>
</tr>
<tr>
<td></td>
<td>Animal grooming shop</td>
</tr>
<tr>
<td></td>
<td>Answering and message services</td>
</tr>
<tr>
<td></td>
<td>Antique shop</td>
</tr>
<tr>
<td></td>
<td>Appliance repair</td>
</tr>
<tr>
<td></td>
<td>Armed services recruiting center</td>
</tr>
<tr>
<td></td>
<td>Art dealer / gallery</td>
</tr>
<tr>
<td></td>
<td>Artist or artisan's studio</td>
</tr>
<tr>
<td></td>
<td>Assembly/exhibition hall or areas</td>
</tr>
<tr>
<td></td>
<td>Athletic fields</td>
</tr>
<tr>
<td></td>
<td>Auction sales (non-vehicle)</td>
</tr>
<tr>
<td></td>
<td>Auto body repair, garages (see Sec. 5.10)</td>
</tr>
<tr>
<td></td>
<td>Auto glass repair/tinting (see Sec. 5.10)</td>
</tr>
<tr>
<td></td>
<td>Auto interior shop / upholstery (see Sec. 5.10)</td>
</tr>
<tr>
<td></td>
<td>Auto coalition</td>
</tr>
<tr>
<td></td>
<td>Auto leasing</td>
</tr>
<tr>
<td></td>
<td>Auto muffler shop (see Sec. 5.10)</td>
</tr>
<tr>
<td></td>
<td>Auto or trailer sales rooms or yards ((see Sec. 5.11))</td>
</tr>
<tr>
<td></td>
<td>Auto or truck sales rooms or yards - primarily new (see Sec. 5.11)</td>
</tr>
<tr>
<td></td>
<td>Auto paint shop (see Sec. 5.10)</td>
</tr>
<tr>
<td></td>
<td>Auto repair as an accessory use to retail sales (see Sec. 5.10)</td>
</tr>
<tr>
<td></td>
<td>Auto repair garage (general) (see Sec. 5.10)</td>
</tr>
<tr>
<td></td>
<td>Auto supply store for new and factory rebuilt parts</td>
</tr>
<tr>
<td></td>
<td>Auto tire repair /sales (indoor)</td>
</tr>
<tr>
<td></td>
<td>Community home (see definition)</td>
</tr>
<tr>
<td></td>
<td>Hospice</td>
</tr>
<tr>
<td></td>
<td>Automobile driving school (including defensive driving)</td>
</tr>
<tr>
<td></td>
<td>Bakery (retail)</td>
</tr>
<tr>
<td></td>
<td>Bank, savings and loan, or credit</td>
</tr>
<tr>
<td></td>
<td>Barber/beauty college (barber or cosmetology school or college)</td>
</tr>
<tr>
<td></td>
<td>Barber/beauty shop, haircutting (non-college)</td>
</tr>
<tr>
<td></td>
<td>Barns and farm equipment storage (related to agricultural uses)</td>
</tr>
<tr>
<td></td>
<td>Battery station</td>
</tr>
<tr>
<td></td>
<td>Bicycle sales and/or repair</td>
</tr>
<tr>
<td></td>
<td>Billiards / pool facility</td>
</tr>
<tr>
<td></td>
<td>Bingo facility</td>
</tr>
<tr>
<td></td>
<td>Bio-medical facilities</td>
</tr>
<tr>
<td></td>
<td>Book binding</td>
</tr>
<tr>
<td></td>
<td>Book store</td>
</tr>
<tr>
<td></td>
<td>Bowling alley/center (see Sec. 5.12)</td>
</tr>
<tr>
<td></td>
<td>Broadcast station (with tower) (see Sec. 5.6)</td>
</tr>
<tr>
<td></td>
<td>Bus barns or lots</td>
</tr>
<tr>
<td></td>
<td>Bus passenger stations</td>
</tr>
<tr>
<td></td>
<td>Cafeteria / café / delicatessen</td>
</tr>
<tr>
<td></td>
<td>Campers' supplies</td>
</tr>
<tr>
<td></td>
<td>Car wash (self service; automated)</td>
</tr>
<tr>
<td></td>
<td>Car wash, full service (detail shop)</td>
</tr>
<tr>
<td></td>
<td>Carpenter, cabinet, or pattern shops</td>
</tr>
<tr>
<td></td>
<td>Carpet cleaning establishments</td>
</tr>
<tr>
<td></td>
<td>Caterer</td>
</tr>
<tr>
<td></td>
<td>Cemetery and/or mausoleum</td>
</tr>
<tr>
<td></td>
<td>Check cashing service</td>
</tr>
<tr>
<td></td>
<td>Child day care/children's nursery (business)</td>
</tr>
<tr>
<td></td>
<td>Church/place of religious Assembly</td>
</tr>
<tr>
<td></td>
<td>Civic/conference center and facilities</td>
</tr>
<tr>
<td></td>
<td>Cleaning, pressing and dyeing (non-explosive fluids used)</td>
</tr>
<tr>
<td></td>
<td>Clinic (dental)</td>
</tr>
<tr>
<td></td>
<td>Clinic (emergency care)</td>
</tr>
<tr>
<td></td>
<td>Clinic (medical)</td>
</tr>
<tr>
<td></td>
<td>Club (private)</td>
</tr>
</tbody>
</table>

ATTACHMENT 8
Coffee shop
Commercial amusement concessions and facilities
Communication equipment - installation and/or repair
Computer and electronic sales
Computer repair
Confectionery store (retail)
Consignment shop
Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.9)
Convenience store with gas sales
Convenience store without gas sales
Country club (private)
Credit agency
Curio shops
Custom work shops
Dance hall/dancing facility (see Sec. 5.12)
Day camp
Department store
Drapery shop/blind shop
Driving range
Drug sales/pharmacy
Electrical repair shop
Electrical substation
Exterminator service
Farmers market (produce market - wholesale)
Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.8)
Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.8)
Feed and grain store
Filling station (gasoline tanks must be below the ground)
Florist
Food or grocery store with gasoline sales
Food or grocery store without gasoline sales
Fraternal organization/civic club (private club)
Frozen food storage for individual or family use
Funeral home/mortuary
Furniture sales (indoors)
Garden shops and greenhouses
Golf course (public or private)
Golf course (miniature)
Governmental building or use (state/federally owned and operated)
Greenhouse
Handicraft shop
Hardware store
Health club (physical fitness; indoors only)
Heavy load (farm) vehicle sales/repair (see Sec. 5.13)
Home repair and yard equipment retail and rental outlets
Hospital, general (acute care/chronic care)
Hospital, rehabilitation
Hotel/motel
Hotels/motels - extended stay (residence hotels)
Ice delivery stations (for storage and sale of ice at retail only)
Kiosk (providing a retail service)
Laundromat and laundry pickup stations
Laundry, commercial (w/o self serve)
Laundry/dry cleaning (drop off/pick up)
Laundry/washateria (self serve)
Lawnmower sales and/or repair
Limousine/taxi service
Locksmith
Maintenance/janitorial service
Major appliance sales (indoor)
Martial arts school
Medical supplies and equipment
Micro brewery (onsite manufacturing and sales)
Mini-warehouse/self storage units with outside boat and RV storage
Mini-warehouse/self storage units (no outside boat and RV storage permitted)
Motion picture studio, commercial film
Motion picture theater (indoors)
Motion picture theater (outdoors, drive-in)
Motorcycle dealer (primarily new/repair)
Moving storage company
Municipal use owned or operated by the City of New Braunfels, including libraries
Museum
Needlework shop
Nursing/convalescent home/sanitarium
Offices, brokerage services
Offices, business or professional
Offices, computer programming and data processing
Offices, consulting
Offices, engineering, architecture, surveying or similar
Offices, health services
Offices, insurance agency
Offices, legal services - including court reporting
Offices, medical offices
Offices, real estate
Offices, security/commodity brokers, dealers, exchanges and financial services
Park and/or playground (public or private)
Parking lots (for passenger car only) (not as incidental to the main use)
Parking structure/public garage
Pawn shop
Personal watercraft sales (primarily new/repair)
Pet shop/supplies (10,000 sq. ft. or less)
Pet store (more than 10,000 sq. ft.)
Photographic printing/duplicating/copy shop or printing shop
Any comparable business or use not included in or excluded from any other district described herein.

(2) Conflict. In the event of conflict between the uses listed in the Land Use Matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) Maximum height, minimum area and setback requirements:

(1) Height. 75 feet.

(2) Front building setback. 25 feet.

(3) Side building setback. No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.

(4) Corner lots. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the
adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

Garage setback. Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See illustration 8 in Sec. 5.1-1)

(5) Residential setback. Effective November 8, 2006, where any building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(6) Rear building setback. 20 feet.

(7) Width of lot. 60 feet.

(8) Lot depth. 100 feet.

(9) Parking. See Section 5.1 for permitted uses' parking.
EXEMPLARY EXCERPT FROM PLANNING COMMISSION MINUTES OF JUNE 1, 2010

PUBLIC HEARING
Case PZ10-18: Hold a public hearing and make a recommendation to City Council regarding the proposed rezoning of 107.914 acres located on West Klein Road, approximately 2,000 ft. from FM 1044, from "APD Agricultural/Pre-Development District to "C-1B General Business District." (New Braunfels Independent School District)
Commissioner Elrod recused himself from the discussion and left the room.

Mr. Greene said the property was located in the proposed Legend Pond Subdivision on W. Klein Road. He said that the school district recently obtained the 107.914 acre tract from the developer and proposed to construct a new middle school that could transition into a high school in the future. He explained that the property was located between FM 1044 and the future extensions of Walnut Avenue and Pahmeyer Road, and bordered to the east by a master planned collector street in the Legend Pond Subdivision. Mr. Greene stated that 14 notices were sent to property owners within 200 ft. of the subject property; one response was received in favor of the rezoning (#12) and none in opposition. He said staff recommended approval of the proposed zoning, which was compatible with development in the area and consistent with goals stated in the Comprehensive Plan.

Chair Casteel asked if there was anyone present who wished to speak in favor of the rezoning.

Thor Thornhill, 406 Williams Way, noted that school officials could not attend because of a school board meeting being held at the same time as the Planning Commission meeting.

Chair Casteel asked if there was anyone present who wished to speak in opposition to the rezoning.

Beverly Maddox, 1480 W. Klein Road, asked why she was in Comal ISD and not New Braunfels ISD. Commissioners referred her to school officials.

Commissioner Myrick asked if there was a gas pipeline in the easement shown on the property. Mr. Thornhill said the plat would show a 50 ft. pipeline easement but he did not know the size of the gas line.

Motion by Commissioner Vann, seconded by Commissioner Namken, to close the public hearing. The motion carried unanimously. (6-0-0)

Motion by Commissioner Vann, seconded by Commissioner Namken, that Case PZ10-18, the proposed rezoning of 107.914 acres located on West Klein Road, approximately 2,000 ft. from FM 1044, from "APD Agricultural/Pre-Development District to "C-1B General Business District", be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (6-0-0)
ORDINANCE NO. 2010-

AN ORDINANCE REZONING 107.194 ACRES LOCATED ON THE EAST SIDE OF WEST KLEIN ROAD, APPROXIMATELY 2,000 FEET FROM FM 1044, FROM "APD AGRICULTURAL/PRE-DEVELOPMENT DISTRICT" TO "C-1B GENERAL BUSINESS DISTRICT"; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, in keeping with the spirit and objectives of the "C-1B General Business District", the City Council has given due consideration to all components of said district; and

WHEREAS, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

WHEREAS, the City Council desires to amend the Zoning Map by changing the zoning of 107.194 acres located on the east side of West Klein Road, approximately 2,000 feet from FM 1044, from "APD Agricultural/Pre-Development District" to "C-1B General Business District"; now, therefore;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS:

SECTION 1

THAT Sections 1.2-1 and 1.2-2, Chapter 144, of the New Braunfels Code of Ordinances and particularly the Zoning Map of the City of New Braunfels, are amended by changing the following described tract of land from "APD Agricultural/Pre-Development District" to "C-1B General Business District":

"Being 107.194 acres located on the east side of West Klein Road, approximately 2,000 from FM 1044, as delineated on attached Exhibit "A".

SECTION 2

THAT the Zoning Maps of the City of New Braunfels be amended to indicate the zoning district as "C-1B".

SECTION 4

THAT all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 5
THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 6
THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 7
THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 28th day of June, 2010.

PASSED AND APPROVED: Second and Final Reading this the 12th day of July, 2010.

CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney
City Council Agenda Item Report
JUNE 28, 2010

Agenda Item No. 5-1
Presenter – Shannon Mattingly, Planning Director

SUBJECT: Public hearing and first reading of an ordinance designating 186 S. Castell Avenue, to be known as the New Braunfels Herald Building, as a historic landmark.

APPLICANT:
Ronald and Carol Snider
358 Lakeview Boulevard
New Braunfels TX 78130

BACKGROUND/RATIONALE:

Historic Context:
A city permit was issued in October 23, 1945 to owner C. Scruggs for a 106 foot by 54 foot printing room and office valued at $20,000. No contractor was listed. A copy of an architectural rendering has the design firm as Phelps & Dewees & Simmons, A.I.A. Architects, San Antonio, TX. According to the 1949 Sanborn Fire Insurance Map, the building labeled as “New Braunfels Herald” with a concrete frame, floor and roof, steel joists and tile curtain walls.

The second newspaper in the City of New Braunfels was called the New Braunfels Herald newspaper and was first published around 1892. (Reflections tape #51) A group of San Antonio men, including Charles Scruggs, were purchasing “county papers in this area” in the 1920s. By 1928 Charles gained sole ownership of the Herald. He and his family moved to New Braunfels. His son, Claude Scruggs started working at the paper in his teens. When his dad passed away in 1947, Claude took over as publisher and editor.

The paper merged with the New Braunfels Zeitung-Chronicle and was published weekly in both German and English until the 1950s. Claude retired in 1960. In 1979 the paper was sold and renamed the Herald-Zeitung and published thereafter by the New Braunfels Publishing Company.

Around 1949 the building was increased by a side addition. Around 1968 the exterior was remodeled with faux fachwerk on the front façade. The current property owner plans to restore the original façade to the 1945 period based on the architectural rendering.

GENERAL INFORMATION:

Case No.: PZ10-20

Size: 0.4190 acres or 9,057 square feet
**Surrounding Zoning and Land Use:**

- North – C-2, Commercial and Institutional (church recreational building and parking lots)
- South – C-2, Commercial, Government (Fire Station) and M-1 Industrial (Producers CoOp)
- West – C-2, Commercial (Restaurant)
- East – C-2, Commercial (Producers CoOp)

**Comprehensive Plan/ Future Land Use Designation:** Commercial

**Improvement(s):** Commercial

**Notification:**
Public hearing notices were sent to 12 property owners located within 200 feet of the property. No responses were received in favor or in opposition, and #10 was returned "undeliverable".

**Addresses a Need/Issue in a City Plan or Council Priority:**

| Yes | City Plan/Council Priority:  
2006 Comprehensive Plan  
Pros and Cons Based on Policies Plan | **Pros:**  
Goal 1. Promote manageable growth to achieve a proper balance of economic expansion and environmental quality while maintaining the community's unique qualities.  
Goal 7. Ensure zoning is compatible with historic properties.  
Goal 58. Maintain an attractive and lively downtown area that creates a deep sense of community.  
Goal 65. Increase historic preservation efforts in New Braunfels.  
Goal 69. Enhance the heritage image of the City by designating historic areas and structures that should be preserved, restored and used for adaptive reuse.  
**Cons:** None.

**Fiscal Impact:** N/A

**Historic Landmark Commission Recommendation:**
The Historic Landmark Commission unanimously approved the application for the historic designation of 186 S. Castell Avenue on May 11, 2010.
PLANNING COMMISSION RECOMMENDATION:
The Planning Commission held a public hearing on June 1, 2010, and recommended approval of the historic designation of 186 S. Castell Avenue by a vote of 7-0-0.

STAFF RECOMMENDATION:
Staff recommends approval as the building meets the criteria set forth in City Code, Article III, Section 66-56, Criteria for the designation of historic landmarks. Applicable criteria:
(3) Is associated with the lives of persons significant in our past. Charles and Claude Scruggs produced the city's newspaper for 40 years.
(4) Embodies the characteristics of type or period. This building is an example of the Modern Movement Style.
(5) Represents the work of a master designer. The building was designed by the architectural firm of Phelps & Dewees & Simmons.
(6) Represents a familiar visual feature of the city. The building has been part of the Castell Avenue streetscape since 1945.

ATTACHMENTS
1. Application
2. Zoning Map
3. Existing Land Use Map
4. Future Land Use Map
5. Aerial Map
6. Notification Map
7. Code of Ordinance – Article III Historic Landmark Preservation Section 56
8. Photograph and 1945 architectural rendering
9. Excerpt of minutes of Planning Commission minutes of April 6, 2010
10. Ordinance
APPLICATION FOR HISTORIC DESIGNATION
City of New Braunfels, Planning and Environmental Department
424 S. Castell Avenue, New Braunfels TX 78130 (830) 221-4057

1. Name of proposed Landmark: N.B. Herald Building

2. Address of Landmark: 1860 S. Castel

3. Legal Description: CR 1003 LOT 207 ACRES .419

4. Owner Name: Ronald R. Snider

5. Owner Address: 358 Lakeview Blvd

6. Contact phone numbers: 210 273-8118

7. Applicant Name and contact information: Ronald R. Snider

8. HISTORY: a brief history is required and should be attached to this application. The following information should be included, if known:
   - Original owner/builder/architect/bibliography and footnotes
   - Subsequent owners
   - Original and subsequent uses of significance
   - Dates of the above
   - Any anecdotes concerning the landmark and/or its owners
   - Photographs of facades
   - General description of the structure

9. Application fee of $25.00

10. I hereby request consideration of the above described structure/site as a historic landmark according to the provisions of the New Braunfels Historic Landmark Preservation Ordinance. I have read this Ordinance and fully understand its effect on my property. This application shall be considered as my written permission as owner of the above described property for historic designation by the New Braunfels City Council.

   [Signature]
   Owner Signature
   [Date]
   Date

FOR OFFICE USE ONLY

Application received by: [Signature] Date: 5-4-10

RECOMMENDATIONS FOR APPROVAL

HISTORIC LANDMARK COMMISSION: Date: 5-11-10

PLANNING COMMISSION: Date: 6-1-10

Revised 12-02-08

ATTACHMENT 1
Historic Designation of the New Braunfels Hearld Building

City of New Braunfels

186 S. Castell Ave.
Commercial

Existing Land Use Map

Commercial

Commercial

Commercial

Commercial

Commercial

S CASTELL-AVE

Legend

Existing Land Use

Commercial

Industrial

Government

Institutional

SUBJECT

PZ10-20
186 S. Castell Ave.
Historic Designation of the New Braunfels Hearld Building
Future Land Use Map

Legend
Future Land Use
- Commercial/Industrial
- Commercial
- Government
- Institutional
- Utilities
- SUBJECT

PZ10-20
186 S. Castell Ave.
Historic Designation of the New Braunfels Hearld Building
PZ10-20
186 S. Castell Ave.
Historic Designation of the New Braunfels Hearld Building
PLANNING COMMISSION – JUNE 1, 2010 – 6:00PM
New Braunfels Municipal Building, Council Chambers

Applicant: Ronald and Carol Snider
Address/Location: 186 S. Castell Ave.
Owner(s): Ronald and Carol Snider

REQUEST FOR HISTORIC DESIGNATION – CASE #PZ10-20

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked as “SUBJECT”.

1. Braunfels Foundation Trust
2. Breof Bank Texas, LP
3. Breof Bank Texas, LP
5. Eudy, Hampton and Cherilyn
6. First Protestant Church
7. N.B. Art League
8. City of New Braunfels
9. Producers Cooperative
10. Roberts, Richard E.
11. Snider, Ronald and Sollberger, Darrel
12. Snider, Ronald and Castell Prop. LLC

SEE MAP ON REVERSE
Notification Map

Legend

- SUBJECT
- 200' Notification Buffer

PZ10-20
166 S. Castell Ave.
Historic Designation of the New Braunfeles Hearld Building
ARTICLE III. HISTORIC LANDMARK PRESERVATION*


Cross references: Zoning, app. A.


Sec. 66-54. Designation of historic landmarks.
(a) These provisions pertaining to the designation of historic landmarks constitute a part of the comprehensive zoning plan of the city. Each historic landmark shall bear the words "Historic Landmark" (HL) in its zoning designation. Such designation shall indicate that such property is subject to the terms of this article; however, with regard to site plans, uses, setbacks, and other development land use regulations, such property shall be governed by its zoning district.
(b) A historic landmark shall be considered by the commission only with the written application of the property owner expressly requesting that the property be so designated. Property owners of proposed historic landmarks shall be notified prior to the commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmark.
(c) Upon recommendation of the commission, the proposed historic landmark shall be submitted to the planning and zoning commission within 30 days from the date of submittal of designation request. The planning and zoning commission shall give notice and conduct its hearing on the proposed designation within 45 days of receipt of such recommendation from the commission. Such hearing shall be in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the city. The planning and zoning commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.
(d) The city council shall schedule a hearing on the commission's recommendation to be held within 45 days of receipt of the recommendation of the planning and zoning commission. The city council shall give notice, follow the publication procedure, hold hearing, and make its determination in the same manner as provided in the general zoning ordinance of the city.
(e) Upon designation of a building, object, site, or structure as a historic landmark or district, the city council shall cause the designation to be recorded in the Official Public Records of Real Property of Comal County, the tax records of the city and the Comal Appraisal District as well as the official zoning maps of the city.
(Ord. No. 96-9, § 1, 2-26-96; Ord. No. 2005-53, § 2, 6-27-05)

Sec. 66-56. Criteria for the designation of historic landmarks and districts.
A historic landmark or district may be designated if it meets at least one of the following criteria:
(1) Possesses significance in history, architecture, archeology, or culture.
(2) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.
(3) Is associated with the lives of persons significant in our past.
(4) Embodies the distinctive characteristics of a type, period, or method of construction.
(5) Represents the work of a master designer, builder, or craftsman.
(6) Represents an established and familiar visual feature of the neighborhood or city.
(Ord. No. 96-9, § 1, 2-26-96)
EXCERPT FROM PLANNING COMMISSION MINUTES OF JUNE 1, 2010

PUBLIC HEARING
Case PZ10-20: Hold a public hearing and make a recommendation to City Council regarding the proposed historic designation of 186 S. Castell Ave., to be known as "The New Braunfels Herald Building." (Ronald and Carol Snider)
Ms. Bell reported that the City issued a building permit for a 106' x 54' printing room and office, valued at $20,000 on October 23, 1945, to the owner, C. Scruggs. She provided additional history of the property and its owner and noted that a later addition to the building would not be removed. She stated that 12 notices were sent to property owners within 200 ft. of the subject property; no responses for or against the designation were received. Ms. Bell said staff recommended approval, as the building met the criteria set forth in Section 66-54 and 66-56 (3), (4), (5) and (6).

Chair Casteel opened the public hearing. No one spoke.

Motion by Commissioner Elrod, seconded by Commissioner Namken, to close the public hearing. The motion carried unanimously. (7-0-0)

Motion by Commissioner Massouh, seconded by Commissioner Elrod, that Case PZ10-20, the proposed historic designation of 186 S. Castell Ave., to be known as "The New Braunfels Herald Building", be forwarded to City Council with a recommendation to approve. (7-0-0)
ORDINANCE NO. 2010:

AN ORDINANCE DESIGNATING THE STRUCTURE LOCATED AT 186 S. CASTELL AVENUE, TO BE KNOWN AS THE NEW BRAUNFELS HERALD BUILDING, AS A HISTORIC LANDMARK ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, this structure has been recommended for historic designation by the owner, the Historic Landmark Commission, and the Planning Commission; and

WHEREAS, the City Council wishes to protect this structure as a part of the heritage of New Braunfels for future generations; and

WHEREAS, the City Council desires to amend the Zoning Map by designating the suffix “HL” in addition to the conventional zoning designation established by the zoning ordinance; now, therefore;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS:

SECTION 1

THAT the following described structure is hereby designated as a Historic Landmark in accord with the provisions of Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels, Texas:

"The structure located at 186 S. Castell Avenue and known as the New Braunfels Herald Building." Legal description: City Block 1003, Lot 207.

SECTION 2

THAT the above structure is hereby restricted as to the amount or method of change, construction, or demolition that can take place in accord with Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels.

SECTION 3

THAT the above described structure is hereby entitled to all rights and privileges that are accorded to historically designated structures or sites, or which may be accorded those structures or sites in the future.
SECTION 4

THAT, the zoning map is amended by designating the tract the subject structure is located upon, to add “HL”.

SECTION 5

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 6

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 7

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 28th day of June, 2010.

PASSED AND APPROVED: Second Reading this the 12th day of July, 2010.

CITY OF NEW BRAUNFELS

R. BRUCE BOYER, Mayor

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney
City Council Agenda Item Report  
JUNE 28, 2010

Agenda Item No. 5-J
Presenter – Shannon Mattingly, Planning Director

SUBJECT: Public hearing and first reading of an ordinance designating 794 West Mill Street, to be known as the Combs-Schwab House, as a historic landmark.

APPLICANT:
Carmen Amaro-Rincon
PO Box 310600
New Braunfels TX 78130

BACKGROUND/RATIONALE:
Historic Context:
The house is located within the Henry Hoeke Plat dated December 20, 1900 (Book Z, Page 295) and located within the boundaries of the proposed Mill-Bridge Historic District. Hoeke subdivided farm lot #3 into 25 residential lots. Ullrich Pfeuffer purchased six lots from Hoeke for a total cost of $1,250, or about $200 per lot. J.W. Combs purchased the subject lot “with appurtenances” on August 22, 1901 for $350. The next year, Theodore Schwab purchased the lot “with appurtenances” on October 6, 1902 for $400. We do have record that Theodore and his wife, Margarete, owned and resided in the house in 1923 and 1931 (1923 Telephone Directory and 1931 City Directory). Based on the purchase “with appurtenances” by J.W. Combs, and the immediate purchase and length of occupation by the Schwabs, the house should be named the Combs-Schwab House.

The first time this area is covered by the Sanborn Fire Insurance Map is 1922. Based on the architectural elements and estimated year of construction this house represents the Folk Victorian Style. Currently the house has non-historic asbestos siding which the property owner plans to remove. The property owner will also update the electrical and plumbing systems, plus make general repairs. The applicant has applied for the Tax incentive rehabilitation credit.

GENERAL INFORMATION:
Case No.: PZ10-19
Size: 0.4959 acres or 21,600 square feet
Surrounding Zoning and Land Use:
North – R-2, Residential
South – R-2, Residential
West – R-2, Residential
East – C-2, Commercial, Single-family residence
Comprehensive Plan/ Future
Land Use Designation: Low Density Residential

Improvement(s): Residential – single family residence

NOTIFICATION:
Public hearing notices were sent to 26 property owners located within 200 feet of the property. No responses were received in favor or in opposition.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<table>
<thead>
<tr>
<th>Yes</th>
<th>City Plan/Council Priority: 2006 Comprehensive Plan Pros and Cons Based on Policies Plan</th>
<th>Pros:</th>
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<tr>
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<td>Goal 7. Ensure zoning is compatible with historic properties.</td>
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<td>Goal 20. Protect character and boundaries of existing neighborhoods.</td>
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<td></td>
<td>Goal 58. Maintain an attractive and lively downtown area that creates a deep sense of community.</td>
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<td>Goal 65. Increase historic preservation efforts in New Braunfels.</td>
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<td></td>
<td>Goal 69. Enhance the heritage image of the City by designating historic areas and structures that should be preserved, restored and used for adaptive reuse.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Cons: None.</td>
</tr>
</tbody>
</table>

FISCAL IMPACT:
N/A

HISTORIC LANDMARK COMMISSION RECOMMENDATION:
The Historic Landmark Commission unanimously approved the application for the historic designation of 794 W. Mill Street on May 11, 2010.

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission held a public hearing on June 1, 2010 and recommended approval of the historic designation of 794 W. Mill Street by a vote of 7-0-0.

STAFF RECOMMENDATION:
Staff recommends approval as the house meets the criteria set forth in City Code, Article III, Section 66-56, Criteria for the designation of historic landmarks. Applicable criteria:

(1) Possesses significance in history, architecture, archeology, or culture. Hoeke addition and this house represent the shift from agricultural use to residential
subdivisions plus the shift from the German Style housing construction to national trends after the arrival of the railroad.

(4) Embodies the distinctive characteristics of a type, period, or method of construction. Good example of the Folk Victorian Style.

(6) Represents an established and familiar visual feature of the neighborhood or city. The house has been in this location for over 100 years.

ATTACHMENTS

1. Application
2. Zoning Map
3. Existing Land Use Map
4. Future Land Use Map
5. Aerial Map
6. Notification Map
7. Code of Ordinance – Article III Historic Landmark Preservation section 54 & 56
8. Photograph
9. Excerpt of minutes of Planning Commission minutes of June 1, 2010
10. Ordinance
APPLICATION FOR HISTORIC DESIGNATION

City of New Braunfels, Planning and Environmental Department
424 S. Castell Avenue, New Braunfels TX 78130 (830) 221-4057

1. Name of proposed Landmark: Combs-Schub house

2. Address of Landmark: 794 West Mill Street

3. Legal Description: CB 3018 Lot 8

4. Owner Name: Carmen Amaro-Rincon

5. Owner Address: P.O. Box 310600 New Braunfels, Texas

6. Contact phone numbers: 830-221-5331 512-3980699

7. Applicant Name and contact information: Carmen Amaro-Rincon

8. HISTORY: a brief history is required and should be attached to this application. The following information should be included, if known:

- Original owner/builder/architect/bibliography and footnotes
- Subsequent owners
- Original and subsequent uses of significance
- Dates of the above
- Any anecdotes concerning the landmark and/or its owners
- Photographs of facades
- General description of the structure

9. Application fee of $25.00

10. I hereby request consideration of the above described structure/site as a historic landmark according to the provisions of the New Braunfels Historic Landmark Preservation Ordinance. I have read this Ordinance and fully understand its effect on my property. This application shall be considered as my written permission as owner of the above described property for historic designation by the New Braunfels City Council.

Carmen Amaro-Rincon 5-4-10
Owner Signature Date

FOR OFFICE USE ONLY

Application received by: CBE 5-5-10

RECOMMENDATIONS FOR APPROVAL

HISTORIC LANDMARK COMMISSION: Date: 5-11-10

PLANNING COMMISSION: Date: 

Revised 12-02-08

ATTACHMENT 1
Zoning Map

Legend

ZONING DISTRICT

- C-2 General Business District
- R-2 Single and Two Family District
- SUBJECT

City of New Braunfels

ATTACHMENT 2

PZ10-19
794 W. Mill St.
Historic Designation of the Combs-Schwab House

Map Created On 5/7/10
Future Land Use Map

Legend
Future Land Use
- Residential Low Density
- Commercial
- SUBJECT

PZ10-19
794 W. Mill St.
Historic Designation of the Combs-Schwab House
PZ10-19
794 W. Mill St.
Historic Designation of the Combs-Schwab House
PLANNING COMMISSION – JUNE 1, 2010 – 6:00PM
New Braunfels Municipal Building, Council Chambers

Applicant: Carmen Amaro-Rincon
Address/Location: 794 W. Mill Street
Owner(s): Carmen Amaro-Rincon

REQUEST FOR HISTORIC DESIGNATION – CASE #PZ10-19

The circled numbers on the map correspond to the property owners listed below. All information is from the Comal Appraisal District Records. The property under consideration is marked as “SUBJECT”.


SEE MAP ON REVERSE

ATTACHMENT 6
PZ10-19
794 W. Mill St.
Historic Designation of the Combs-Schwab House
ARTICLE III. HISTORIC LANDMARK PRESERVATION*


Cross references: Zoning, app. A.


Sec. 66-54. Designation of historic landmarks.
(a) These provisions pertaining to the designation of historic landmarks constitute a part of the comprehensive zoning plan of the city. Each historic landmark shall bear the words "Historic Landmark" (HL) in its zoning designation. Such designation shall indicate that such property is subject to the terms of this article; however, with regard to site plans, uses, setbacks, and other development land use regulations, such property shall be governed by its zoning district.
(b) A historic landmark shall be considered by the commission only with the written application of the property owner expressly requesting that the property be so designated. Property owners of proposed historic landmarks shall be notified prior to the commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmark.
(c) Upon recommendation of the commission, the proposed historic landmark shall be submitted to the planning and zoning commission within 30 days from the date of submittal of designation request. The planning and zoning commission shall give notice and conduct its hearing on the proposed designation within 45 days of receipt of such recommendation from the commission. Such hearing shall be in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the city. The planning and zoning commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.
(d) The city council shall schedule a hearing on the commission's recommendation to be held within 45 days of receipt of the recommendation of the planning and zoning commission. The city council shall give notice, follow the publication procedure, hold hearing, and make its determination in the same manner as provided in the general zoning ordinance of the city.
(e) Upon designation of a building, object, site, or structure as a historic landmark or district, the city council shall cause the designation to be recorded in the Official Public Records of Real Property of Comal County, the tax records of the city and the Comal Appraisal District as well as the official zoning maps of the city.

(Ord. No. 96-9, § 1, 2-26-96; Ord. No. 2005-53, § 2, 6-27-05)

Sec. 66-56. Criteria for the designation of historic landmarks and districts.
A historic landmark or district may be designated if it meets at least one of the following criteria:
1. Possesses significance in history, architecture, archeology, or culture.
2. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.
3. Is associated with the lives of persons significant in our past.
4. Embodies the distinctive characteristics of a type, period, or method of construction.
5. Represents the work of a master designer, builder, or craftsman.
6. Represents an established and familiar visual feature of the neighborhood or city.

(Ord. No. 96-9, § 1, 2-26-96)
794 W. Mill Street the Combs-Schwab house
PUBLIC HEARING
Case PZ10-19: Hold a public hearing and make a recommendation to City Council regarding the proposed historic designation of 794 W. Mill St., to be known as “The Combs-Schwab House.”
(Carmen Amaro-Rincon)
Ms. Bell provided the historic context of the property and said that based on the architectural elements and estimated year of construction, the house represented the Folk Victorian Style. She said the property owner planned to remove the non-historic asbestos siding, update the electric and plumbing, and make general repairs. She said staff recommended approval, as the house met the criteria set forth in Section 66-56 (1), (4) and (6). She noted that 26 notices were sent to property owners within 200 ft. of the subject property; no responses were received for or against the designation.

Chair Casteel opened the public hearing. No one spoke.

Motion by Commissioner Elrod, seconded by Commissioner Bearden, to close the public hearing. The motion carried unanimously. (7-0-0)

Motion by Commissioner Myrick, seconded by Commissioner Bearden, that Case PZ10-19, the proposed historic designation of 794 W. Mill St., to be known as “The Combs-Schwab House,” be forwarded to City Council with a recommendation to approve. The motion carried unanimously. (7-0-0)
ORDINANCE NO. 2010-

AN ORDINANCE DESIGNATING THE STRUCTURE LOCATED AT 794 W. MILL STREET, TO BE KNOWN AS THE COOMBS-SCHWAB HOUSE, AS A HISTORIC LANDMARK ACCORDING TO CHAPTER 66, ARTICLE III, AND AMENDING THE ZONING MAP; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

WHEREAS, this structure has been recommended for historic designation by the owner, the Historic Landmark Commission, and the Planning Commission; and

WHEREAS, the City Council wishes to protect this structure as a part of the heritage of New Braunfels for future generations; and

WHEREAS, the City Council desires to amend the Zoning Map by designating the suffix “HL” in addition to the conventional zoning designation established by the zoning ordinance; now, therefore;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS:

SECTION 1

THAT the following described structure is hereby designated as a Historic Landmark in accord with the provisions of Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels, Texas:

"The structure located at 794 W. Mill Street and known as the Coombs-Schwab House,"

Legal description: City Block 3018, Lot 8.

SECTION 2

THAT the above structure is hereby restricted as to the amount or method of change, construction, or demolition that can take place in accord with Chapter 66, Article III of the Code of Ordinances of the City of New Braunfels.

SECTION 3

THAT the above described structure is hereby entitled to all rights and privileges that are accorded to historically designated structures or sites, or which may be accorded those structures or sites in the future.
SECTION 4

THAT, the zoning map is amended by designating the tract the subject structure is located upon, to add "HL".

SECTION 5

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 6

THAT if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 7

THIS ordinance will take effect upon the second and final reading of same.

PASSED AND APPROVED: First Reading this the 28th day of June, 2010.
PASSED AND APPROVED: Second Reading this the 12th day of July, 2010.

CITY OF NEW BRAUNFELS

ATTEST:

MICHAEL A. RESENDEZ, City Secretary

APPROVED AS TO FORM:

ALAN C. WAYLAND, City Attorney

R. BRUCE BOYER, Mayor
SUBJECT: Discuss and consider ratification of prior actions and approval of contracts related to the June 9, 2010 flood event.

BACKGROUND/RATIONALE:
Information on these actions, if necessary, will be provided to Council at the meeting.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

<table>
<thead>
<tr>
<th>N/A</th>
<th>Yes</th>
<th>City Plan/Council Priority:</th>
</tr>
</thead>
</table>

FISCAL IMPACT:

BOARD/COMMISSION RECOMMENDATION:

STAFF RECOMMENDATION:
SUBJECT: Discussion and action on an amendment to the FY 2009/10 Convention and Visitors Budget due to an increased marketing effort in response to the June 9, 2010 flood event.

BACKGROUND/RATIONALE:
Further information on this item will be provided under separate cover.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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<tbody>
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<td>City Plan/Council Priority:</td>
</tr>
</tbody>
</table>

FISCAL IMPACT:
N/A

BOARD/COMMISSION RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A
Subject: EXECUTIVE SESSIONS

(A) Deliberate and consider the purchase, exchange, lease or value of real property, in accordance with Section 551.072, of the Texas Government Code.
   (A. Wayland, City Attorney)

(B) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code.
   (A. Wayland, City Attorney)

(C) Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code.
   (A. Wayland, City Attorney)

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session. After the Executive Session discussion on the above noted item, any final action or vote taken will be in public.

Background/Rationale:
N/A

Addresses a Need/Issue in a City Plan or Council Priority:

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<thead>
<tr>
<th>✓</th>
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<tr>
<td>City Plan/Council Priority:</td>
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Fiscal Impact:
N/A

Board/Commission Recommendation:
N/A

Staff Recommendation:
N/A