



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, OCTOBER 21, 2021 AT 01:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BREHMAN, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - Councilmember Leah Cook**
- 3. Special Recognitions**
 - ◆ **Citizen's Commendation - Jason Zapalac**
 - ◆ **Life Saving Award - Brenham Police Department**
 - ◆ **Citizen's Commendation - Maynor Mendoza**
 - ◆ **Police Department Promotion - Ashley Burns, Sergeant**
 - ◆ **Fire Department - Interim Fire Chief Rhea Cooper**
- 4. Proclamations**
 - ◆ **Paint the Town Pink**
- 5. Citizens Comments**

CONSENT AGENDA

6. Statutory Consent Agenda

The Statutory Consent Agenda includes non-controversial and routine items that Council may act on with one single vote. A councilmember may pull any item from the Consent Agenda in order that the Council discuss and act upon it individually as part of the Regular Agenda.

- 6-a. Approve Ordinance No. O-21-028 on Its Second Reading Amending Appendix A - 'Zoning' of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to Allow for an Enlargement of Floor Area Occupied by a Legally Existing Nonconforming Use (Automobile Repair Shop) in a B-1, Local Business/Residential Mixed Use Zoning District, on Property Addressed as 1006 N. Park Street and Further Described as Lot S, PT 19 and N PR 21 of the William Schomburg Subdivision in Brenham, Washington County, Texas (Case No. P-21-022)**
- 6-b. Approve Ordinance No. O-21-029 on Its Second Reading Amending Chapter 6, Buildings and Structures, Article II, Building Code, of the Code of Ordinances of the City of Brenham, Texas to Provide for the Adoption of the 2018 Editions of the International Building Code, International Fuel Code, International Mechanical Code, International Property Maintenance Code, International Plumbing Code, International Energy Conservation Code, International Residential Code, International Existing Building Code, International Swimming Pool and Spa Code, International Fire Code and the 2017 Edition of the National Electric Code, with Local Amendments, and to Add Article XII Providing for the Regulation of Substandard Buildings and Structures; and Amending Chapter 8, Fire Protection and Prevention, of the Code of Ordinances of the City of Brenham, Texas by Adopting Various Revisions and Repealing Article IV - Substandard Buildings and Structures**

WORK SESSION

- 7. Presentation and Discussion on Possible Park Street Improvements and Various Food Establishment Fees and Other Related Items**

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

- 8. Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the City of Brenham Code of Ordinances, Appendix A: Zoning, Part I, Section 5.02 – Definitions, to Add a Definition for Food Truck Park, Food Truck Site, and Mobile Kitchen, and Amending Appendix A, Part II, Division 1, Section 18 – Food Truck Park to Establish Standards Related to the Development of Such Uses and Amending Appendix A, Part 2, Division 2 – Zoning District Regulations, to Allow the Use of A Food Truck Park by Specific Use Permit in the B-1, B-2, B-3 and B-4 Zoning Districts**

REGULAR SESSION

9. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the City of Brenham Code of Ordinances, Chapter 9 – Food and Food Establishments, Providing For Standards For The Operation of Fixed, Mobile, and Temporary Food Establishments; and Amending Chapter 16 – Occupational Licenses and Business Regulations to Amend Standards Pertaining to the Application and Issuance of Licenses for Solicitors, Peddlers and Itinerant Vendors
10. Discuss and Possibly Act Upon the Purchase of a 2021 Taser 7 Certification Bundle from Axon Enterprise, Inc. Through the BuyBoard Local Government Purchasing Cooperative Contract No. 603-20 and Authorize the Mayor to Execute Any Necessary Documentation
11. Discuss and Possibly Act Upon a Professional Services Agreement Between the City of Brenham and Strand Associates, Inc. for FY2021-22 On-Call Engineering Services, In An Amount Not to Exceed \$120,000.00 and Authorize the Mayor to Execute Any Necessary Documentation

EXECUTIVE SESSION

12. Section 551.086 - Texas Government Code - Utility Competitive Matters - City of Brenham Gas Utility System - Gas Supply and Transportation Arrangements and Agreements, and Associated Matters
13. Section 551.071 - Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Claims Alleged Against the City of Brenham by Former Fire Chief, and Associated Legal Matters
14. Section 551.087 - Texas Government Code - Economic Development Negotiations - Deliberation Regarding Incentives for Economic Development Purposes and the Possible Offer of a Financial or Other Incentive to Project Black Spot, a Business Seeking to Locate, Stay or Expand in the City of Brenham, Texas

RE-OPEN REGULAR SESSION

15. Discuss and Possibly Act Upon Incentives for Economic Development Purposes and the Possible Offer of a Financial or Other Incentive to Project Black Spot, a Business Seeking to Locate, Stay or Expand in the City of Brenham, Texas and Authorize the Mayor to Execute Any Necessary Documentation

16. Administrative/Elected Officials Report

- Economic Development Update
- Police Department Update

Administrative/Elected Officials Reports: Reports from City Officials or City staff regarding items of community interest, including expression of thanks, congratulations or condolences; information regarding holiday schedules; honorary or salutory recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

Adjourn

Executive Sessions: The City Council for the City of Brenham reserves the right to convene into executive session at any time during the course of this meeting to discuss any of the matters listed, as authorized by Texas Government Code, Chapter 551, including but not limited to §551.071 - Consultation with Attorney, §551.072 - Real Property, §551.073 - Prospective Gifts, §551.074 - Personnel Matters, §551.076 - Security Devices, §551.086 - Utility Competitive Matters, and §551.087 - Economic Development Negotiation

CERTIFICATION

I certify that a copy of the October 21, 2021 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan St., Brenham, TX on Monday, October 18, 2021 at 9:45 a.m.

Jeana Bellinger, TRMC, CMC

City Secretary

Disability Access Statement: This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7567 for assistance.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2021 at _____ AM PM.

Signature

Title

PROCLAMATION

- WHEREAS,** One in eight women will be diagnosed with breast cancer in their lifetime; and
- WHEREAS,** 281,550 new cases of invasive breast cancer will be diagnosed in 2021 along with 49,290 cases of non-invasive breast cancer; and
- WHEREAS,** Breast cancer is the 2nd leading cause of cancer death in women, exceeded only by lung cancer; and
- WHEREAS,** 85% of all breast cancer diagnosed have no family history; and
- WHEREAS,** In 2021 there are over 3.8 million breast cancer survivors living in the U.S.; and
- WHEREAS,** 43,600 women will lose their life to breast cancer this year. The risk of breast cancer increases as women grow older; and
- WHEREAS,** On average, every 2 minutes a woman is diagnosed with breast cancer in the U.S.; and
- WHEREAS,** 30% of all new cancers diagnosed in women this year will be breast; and
- WHEREAS,** The best available method to detect breast cancer early to increase survival rates is a mammography screening. The color pink elevates the awareness that ***"the best protection is early detection"***; and
- WHEREAS,** Baylor Scott & White - The Brenham Clinic calls upon all citizens to observe this day by wearing the color pink along with participating in appropriate programs, activities and ceremonies;

NOW, THEREFORE, I, Milton Y. Tate Jr., Mayor of The City of Brenham, do hereby proclaim Thursday, October 28, 2021, as

PAINT THE TOWN PINK

Milton Y. Tate Jr., Mayor
City of Brenham

ORDINANCE NO. O-21-028

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BRENHAM GRANTING A SPECIFIC USE PERMIT TO ALLOW AN ENLARGEMENT OF FLOOR AREA OCCUPIED BY A LEGALLY EXISTING NONCONFORMING USE (AUTOMOBILE REPAIR SHOP) IN A B-1 LOCAL BUSINESS/RESIDENTIAL MIXED-USE ZONING DISTRICT ON APPROXIMATELY 0.263-ACRES OF LAND ADDRESSED AS 1006 NORTH PARK STREET, BEING FURTHER DESCRIBED AS LOT S, PT 19 AND N PT 21 OF THE WM. SCHOMBURG SUBDIVISION IN BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, KT Auto Plus the owner of the 0.263-acres of land generally located on the east side of North Park Street and 110 feet south of its intersection with Blue Bell Road, north of Emile Street and Jefferies Street and addressed as 1006 North Park Street, being further described as Lot S, PT 19 and N PT 21 of the Wm. Schomburg Subdivision, in Brenham, Washington County, Texas, (the “Property”), has requested that the Property be issued a Specific Use Permit to allow for an enlargement of floor area occupied by a legally existing nonconforming use (automobile repair shop); and

WHEREAS, records indicate that the existing legally nonconforming use of an automobile repair shop has been in place on the Property since at least 1980 in good standing;

WHEREAS, the City of Brenham has adopted Appendix A – “Zoning” of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts; and

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant specific use permits for specific uses within the various zoning districts; and

WHEREAS, at least ten (10) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested Specific Use Permit; and

WHEREAS, this amendment was recommended unanimously for approval by the Brenham Planning and Zoning Commission during its regular meeting on September 27, 2021; and

WHEREAS, the City Council desires to approve this Ordinance granting the specific use permit, as described herein below; and

WHEREAS, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested rezoning, the City Council held the public hearing for the requested Specific Use Permit and the City Council considered the final report of the Planning & Zoning Commission;

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

SECTION 1. The Official Zoning Map of the City of Brenham is hereby amended to show that a Specific Use Permit is granted to KT Auto Plus to allow for an enlargement in floor area occupied by a legally existing nonconforming use (automobile repair shop), more particularly described in Exhibit “B”, in a B-1 Local Business/Residential Mixed-Use zoning district on approximately 0.263-acres of land addressed as 1006 North Park Street, being further described as Lot S, PT 19 and N PT 21 of the Wm. Schomburg subdivision in Brenham, Washington County, Texas said 0.263 acres of land being shown on Exhibit “A” attached hereto and incorporated herein for all purposes.

SECTION 2. Upon holding a properly notified public hearing, the City Council may amend, change, or rescind the Specific Use Permit granted by this Ordinance if:

- a. There is a violation and conviction of any of the provisions of this Ordinance, or any ordinance of the City of Brenham, that occurs on the Property;
- b. The premises, or Property, used pursuant to the Specific Use Permit granted by this Ordinance are enlarged, modified, structurally altered, or otherwise significantly changed unless a separate Specific Use Permit is granted for such enlargement, modification, structural alteration, or change;
- c. As otherwise permitted by law and/or Brenham’s Zoning Ordinance, as it exists or may be amended.

SECTION 3. This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the 14th day of October 2021.

PASSED and APPROVED on its second reading this the 21st day of October 2021.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

Exhibit "A"



Special Use Permit Request 1006 N Park Street

Legend

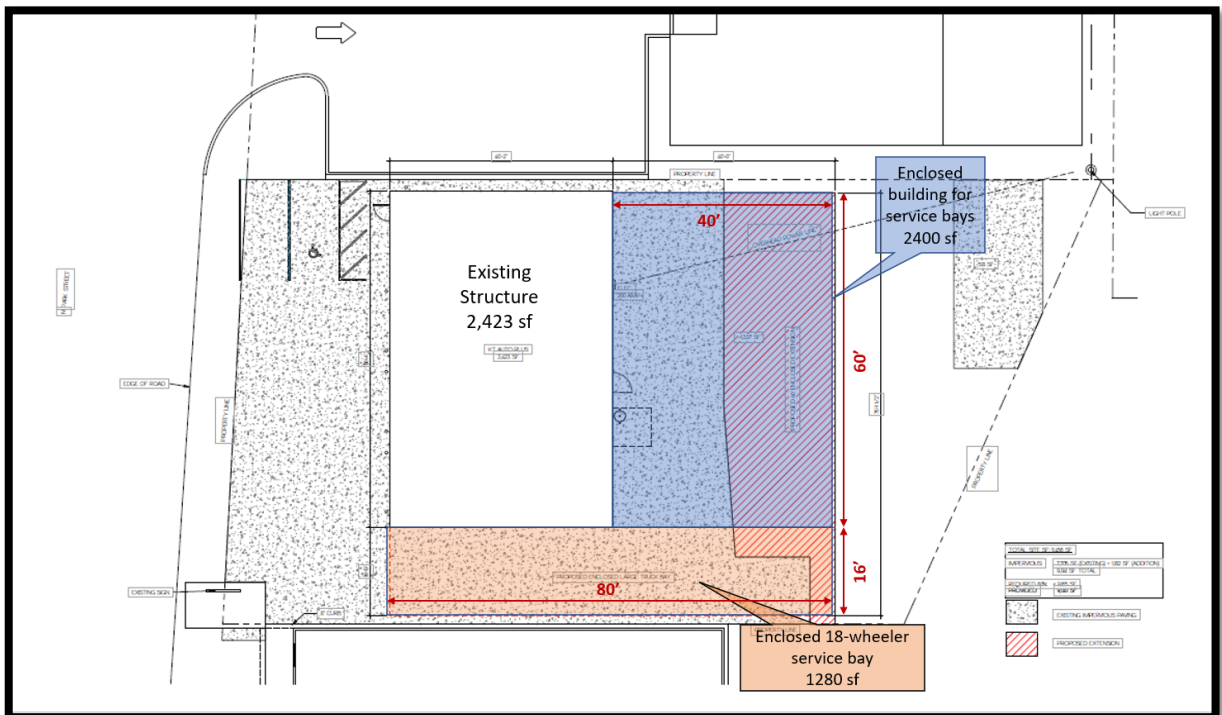
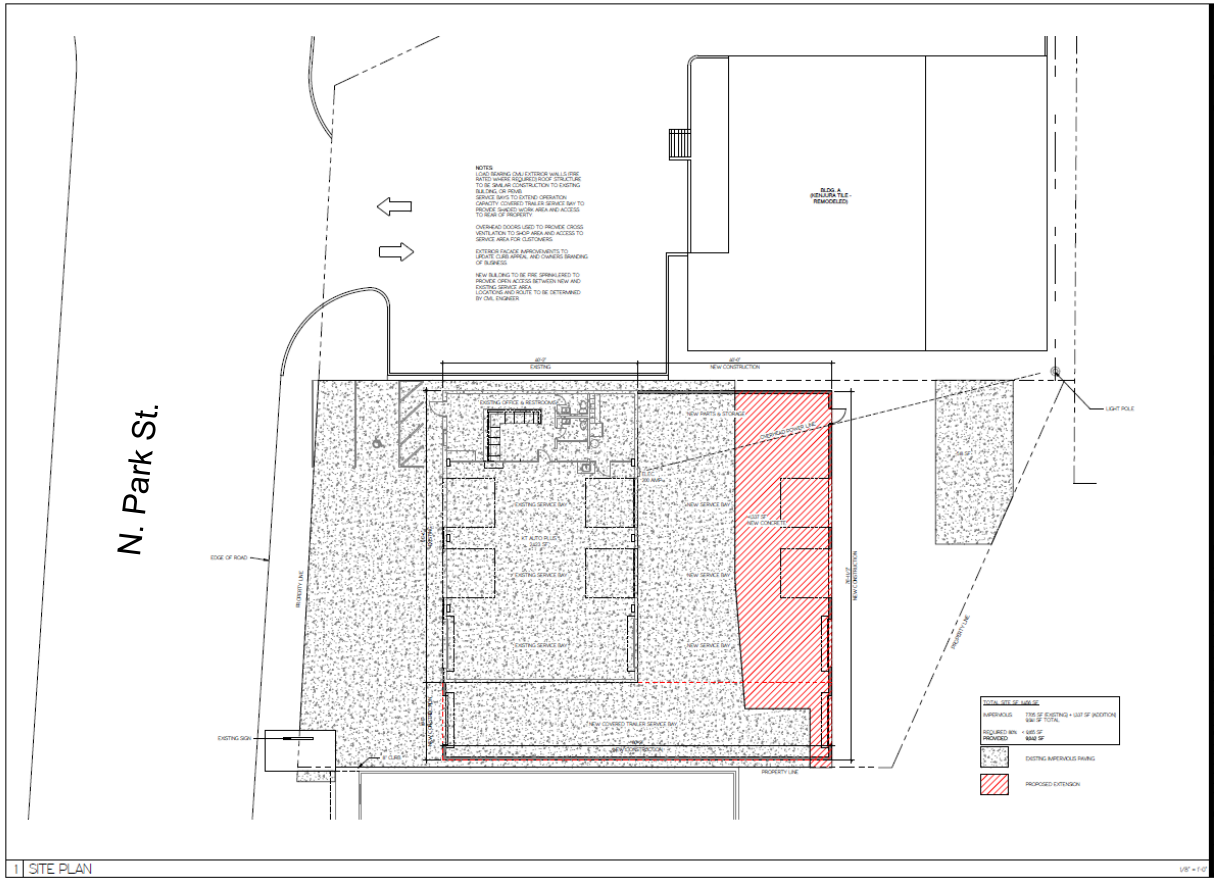
-  B1 Local Business Mixed
-  R2 Mixed Residential
-  Property Boundary



1 inch = 100 feet



Site / Floor Plan



ORDINANCE NO. O-21-029

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 6 – “BUILDINGS AND STRUCTURES” OF THE CODE OF ORDINANCES, CITY OF BRENHAM, TEXAS BY ADOPTING THE 2018 EDITIONS OF THE INTERNATIONAL BUILDING CODE, INTERNATIONAL FUEL GAS CODE, INTERNATIONAL PROPERTY MAINTENANCE CODE, INTERNATIONAL PLUMBING CODE, INTERNATIONAL ENERGY CONSERVATION CODE, INTERNATIONAL MECHANICAL CODE, INTERNATIONAL RESIDENTIAL CODE, INTERNATIONAL SWIMMING POOL AND SPA CODE, INTERNATIONAL FIRE CODE, AND INTERNATIONAL EXISTING BUILDING CODE AND ADOPTING THE 2017 EDITION OF THE NATIONAL ELECTRICAL CODE; AMENDING CHAPTER 6 – “BUILDINGS AND STRUCTURES” OF THE CODE OF ORDINANCES, CITY OF BRENHAM, TEXAS BY ADDING ARTICLE XII PROVIDING FOR THE REGULATION OF SUBSTANDARD BUILDINGS AND STRUCTURES; AMENDING CHAPTER 8 – “FIRE PROTECTION AND PREVENTION” OF THE CODE OF ORDINANCES, CITY OF BRENHAM BY ADOPTING VARIOUS REVISIONS AND REPEALING ARTICLE IV – SUBSTANDARD BUILDINGS AND STRUCTURES; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City of Brenham regulates buildings and structures within the city limits to promote safe and appropriate buildings and structures; and

WHEREAS, the City Council of the City of Brenham, Texas desires to amend Chapter 6, Buildings and Structures by adopting the 2018 editions of the following codes: International Building Code, International Residential Code, International Fuel Gas Code, International Mechanical Code, International Property Maintenance Code, International Plumbing Code, International Energy Conservation Code, International Swimming Pool and Spa Code, International Fire Code, and the International Existing Building Code and the 2017 edition of the National Electrical Code, and to amend the Code of Ordinances of the City of Brenham, Texas in order to adopt these codes with certain revisions thereto; and

WHEREAS, the City Council of the City of Brenham, Texas desires to amend Chapter 8, Fire Protection and Prevention by removing Article IV – Substandard Buildings and Structures and to realign the original Article IV – Substandard Buildings and Structures content in Chapter 6, Buildings and Structures, with same information and content, as new Article XII, of Chapter 6, Buildings and Structures, and to amend or add to the Code of Ordinances of the City of Brenham, Texas in order to adopt these codes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, THAT CHAPTER 6- “BUILDINGS AND STRUCTURES” OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1.

That Chapter 6 – “Buildings and Structures” of the Code of Ordinances of the City of Brenham, Texas is hereby repealed in its entirety.

SECTION 2.

That Chapter 6 – “Buildings and Structures” of the Code of Ordinances of the City of Brenham, Texas is hereby amended to read as follows:

Chapter 6. BUILDINGS AND STRUCTURES

ARTICLE I. - IN GENERAL

ARTICLE II – BUILDING CODE

ARTICLE III. - ELECTRICAL

ARTICLE IV. - GAS

ARTICLE V. - PROPERTY MAINTENANCE

ARTICLE VI. - PLUMBING

ARTICLE VII. - ENERGY CODE

ARTICLE VIII. - MECHANICAL CODE

ARTICLE IX. - RESIDENTIAL CODE

ARTICLE X. - EXISTING BUILDING CODE

ARTICLE XI. - SWIMMING POOLS

ARTICLE XII. – SUBSTANDARD BUILDINGS OR STRUCTURES

ARTICLE I. IN GENERAL

Sec. 6-1. Adoption of building codes.

The codes listed below and all revisions thereto are hereby adopted and incorporated as fully as if set forth at length herein, save and except such portions as may hereinafter be amended, and not less than two (2) copies of said codes have been and are now filed at the offices of the City of Brenham, and from the date on which this section shall take effect, the provisions therein shall be controlling in the construction, alteration, repair, equipment, use and occupancy, location, and maintenance of all buildings and structures within the area of jurisdiction of the city.

Regulations adopted in Article I shall be applicable to all articles within this chapter.

Codes adopted by the City of Brenham:

2018 International Building Code (IBC)

2017 National Electric Code (NEC)

2018 International Fuel Gas Code (IFGC)
2018 International Mechanical Code (IMC)
2018 International Property Maintenance Code (IPMC)
2018 International Plumbing Code (IPC)
2018 International Energy Conservation Code (IECC)
2018 International Residential Code (IRC)
2018 International Existing Building Code (IEBC)
2018 International Swimming Pool and Spa Code (ISPSC)
2018 International Fire Code (IFC)

Sec. 6-2. Permits.

- (a) Permits shall be issued for all work as required by the adopted codes.
- (b) The city council shall set, by resolution, fees for permits under this chapter at their sole discretion.
- (c) Permits issued for lawful construction shall be null and void if such construction has been abandoned for a period of one hundred eighty (180) or more days.

Sec. 6-3. Office of the building official – Appointment; qualifications; making required inspections and reports.

A qualified building official shall serve as chief combination inspector and chief code official. Any designated combination inspectors, hereby referred to as code officials, must be qualified professionals; must be of good moral character and business integrity; and must maintain applicable International Code Council inspector certifications and licenses as required by best practices or state law. The building official shall be responsible for interpretations and enforcement of the adopted building codes.

Sec. 6-3.1. Same – Conflicting interest prohibited.

The building official and any designated combination inspectors during their tenure of office shall not be engaged in the business of building, plumbing, electrical or any other type of construction contracting or any branch of the construction business either directly or indirectly or have such financial interest in such business within the city. It shall be prohibited for any employee engaged in inspection activities to inspect his/her own work or any work performed by an entity in which they have a financial interest.

Sec. 6-4. Board of appeals – Composition; appointment; qualifications.

The building standards commission is hereby appointed the board of appeals for any appeal of a decision by the building official or variance requested from the adopted building codes.

Sec. 6-4.1. Same – Calling meetings.

The board of appeals shall meet at the call of the building official.

Sec. 6-4.2. Same – Appeals to board of appeals; procedure; fee.

Any permit holder, whose work has been denied or rejected by the inspector, and a controversy has arisen as to whether the work conforms to the ordinances and regulations, or a person who has been ordered by the inspector to incur an expense in the alteration, repair or construction of any building, may, within fifteen (15) days thereafter appeal therefrom by giving to the inspector notice in writing of such an appeal; such notice or a certified copy thereof shall at once be transmitted by the inspector to the board of appeals. After notice to such persons as the board may direct, a hearing shall be had, and the board may by a majority vote affirm, annul or modify such action of the inspector. If the action of the inspector is affirmed, such action shall have full force and effect. If the action of the inspector is modified or annulled a permit shall be issued accordingly.

Sec. 6-5. Appeals to governing body.

If an applicant is dissatisfied with the decision of the board of appeals, he shall have the right of final appeal to the governing body, whose judgment as to all matters involved shall be final.

Sec. 6-6. Liability.

The provisions of this chapter shall not be construed to relieve from or to lessen the responsibility of any person performing work within the scope of these adopted codes for damage or injury to any person or property, nor shall it be construed to impose on the city any liability by reason of the inspection herein provided for or by reason of any certificate issued hereafter.

Sec. 6-7. Exemption of owners doing own work.

Any person, who has acquired the necessary permits from the building official, may perform work on a property or premises where the person has a homestead exemption, provided that the material and equipment used and the work that is done are in strict accord with the rules and regulations of this article and that the inspector's approval be obtained upon inspection in regular order. The property owner must actually perform the work and no person other than the actual owner shall do any part of the work unless the other person is fully licensed and in full compliance with all the provisions of this article.

Sec. 6-8. Keeping records.

The building official shall keep complete records of all permits issued and inspections made.

Sec. 6-9. Request for final inspection; issuance and revocation of certificate; temporary and preliminary certificates.

Upon the completion of all work which has been authorized by issuance of a permit, it shall be the duty of the permit holder to notify the inspector, who shall inspect the installation promptly after such notice is given; and, if it is found to be fully in compliance with the provisions of this chapter, they shall issue to such person a final certificate of approval authorizing occupancy of the

building or structure. When a certificate is issued authorizing the use of temporary work, such certificate shall be issued to expire at a stated time and shall be revocable by the inspector at his discretion. A preliminary certificate may be issued authorizing the use of certain specified portions of an uncompleted project, which preliminary certificate shall be revocable at the discretion of the inspector. No certificate of occupancy shall be issued unless all work has been inspected and is in strict conformity with the provisions of this chapter and the statutes of the state.

Sec. 6-9.1. Same – Inspections prior to concealment.

When any part of a building system is to be hidden from view by the permanent placement of parts of the building, the person installing any concealed building systems shall so notify the inspector and such parts of the installation shall not be concealed until they have been inspected or approved.

Sec. 6-9.2. Same – Notice of defects.

If upon inspection of any building system, the building system is found to not be fully in compliance with this article, the inspector shall at once forward to the permit holder, a notice stating the defects which have been found to exist.

Sec. 6-9.3. Same – Periodic reinspections; correction of defective conditions.

The inspector shall periodically make a thorough reinspection of the installation of all permitted work; and when any permitted work completed has been found to be in a dangerous or unsafe condition, the persons owning, using, or operating the same shall be so notified in writing by the inspector and shall make the necessary repairs or change required for such work to be in a safe condition and have such work completed within fifteen (15) days or any longer period specified by the inspector in said notice. The inspector is hereby empowered to disconnect or order the discontinuance of utility services to such structure, building, or systems so found to be defectively or improperly constructed or installed until such work have been made safe as directed by the inspector.

Sec. 6-9.4. Same – New residential construction; site final coverage requirement for sodding.

Prior to requesting a final inspection on new residential home construction, the entire permeable landscape is required to have landscape grass established. The entire permeable landscape area shall have sod installed and/or hydro mulching completed at all disturbed permeable areas where site grades were established on site, and/or where existing landscape grasses are not established or were damaged during construction.

Sec. 6-9.5. Same - Covenant for maintenance of storm water detention system.

The owner (“Declarant”) of real properties requiring storm water detention systems are required to complete the City of Brenham standard form agreement for maintenance of storm detention systems. The owner (“Declarant”) is required to complete the agreement prior to requesting the final inspection.

Sec. 6-10. Tradesman – License required.

It shall be unlawful for any plumber, electrician, or mechanical installer to perform any work that requires a permit within the city, without first obtaining a license from the State of Texas to engage in electrical, plumbing, or mechanical work and practice. Licensed tradesman must be the permit holders for any work required to be completed by a licensed tradesman.

Sec. 6-11. Conflict of codes with other regulations.

- (a) The provisions of the building codes, and local amendments thereto, shall supersede other ordinances, codes or regulations to the extent that such laws, ordinances, codes or regulations are inconsistent with the provisions of said codes; provided, that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance, or regulation which is more restrictive or establishes a higher standard than those provided in the building codes, and such more restrictive requirement or higher standard shall govern during the period in which it is in effect.
- (b) In a case where a provision of the building codes is found to be in conflict with a provision of a zoning, building, electrical, plumbing, fire, safety, health, water supply or sewage disposal law or ordinance, or regulation adopted pursuant thereto, or other ordinance, code or regulation, the provision or requirement which is more restrictive or establishes the higher standard shall prevail.

Sec. 6-12. Conformity with other regulations.

- (a) Installations, alterations and repairs to commercial or residential premises, manufactured homes, materials, assemblies, and equipment utilized in connection therewith, shall be reasonably safe to persons and property, and in conformity with applicable ordinances of the city and orders, rules and regulations issued by the authority thereof.
- (b) Except as otherwise provided in this article, conformity of installations, alterations and repairs of commercial or residential premises, manufactured homes, materials, assemblies, and equipment utilized in connection with such buildings and structures, with the applicable requirements of the building codes adopted in chapter 6, shall be prima facie evidence that such work, materials, assembly or equipment is reasonably safe to persons and property.

Sec. 6-13. Severability of provisions of code.

It is hereby declared that the several provisions of the building codes are separable, in accordance with the following:

- (1) If any court of competent jurisdiction shall judge any provisions thereof to be invalid, such judgment shall not affect any other provisions thereof not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall judge invalid the application of any provision thereof to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

Sec. 6-14. Penalties for violations of codes.

- (a) Any person who shall violate any of the provisions of the building codes adopted under this chapter, shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-5 of the City of Brenham Code of Ordinances.
- (b) Any person who allows or permits the use or occupancy of any building, structure or premises of which he is the owner, which is in violation of any provision of the building codes adopted under this chapter shall likewise be punished.

Secs. 6-15 – 6-25. Reserved.

ARTICLE II. BUILDING CODE

Sec. 6-26. Adoption of building code.

The International Building Code, being particularly the 2018 International Building Code, and all revisions thereto, save and except such portions as may hereinafter be amended, of which code not less than two (2) copies have been and are now filed at the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling in the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of all buildings and structures within the area of jurisdiction of the city.

Sec. 6-27. Building code local amendments.

The following local amendments are made to the International Building Code, 2018 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting the following: the City of Brenham

Section 105 is hereby amended by adding Section 105.8 to read as follows: If work done on a building/structure cumulatively within any 12-month period constitutes a "substantial improvement" (as defined in the City's flood damage prevention ordinances, e.g., Section 8 ½ -5 of this Code), the owner shall—to the extent reasonably practicable—make the building comply with current code provisions for new construction regarding: (i) structural components (except foundations) and (ii) life safety features (hand and guard rails, smoke alarms, carbon monoxide alarms, safety glazing, ground fault circuit interrupters, arc-fault combination breakers, emergency egress from sleeping rooms, locking devices on required egress components, etc.). To determine the "market value" of a pre-existing building, the most current tabulation of square foot construction costs published by the International Code Council (usually as part of "Building Valuation Data." see e.g., www.iccsafe.org/cs/techservices) shall be used.

Section 105 is hereby amended by adding Section 105.9 to read as follows: If a building is "substantially damaged" (as defined in the City's flood damage prevention ordinances, e.g., Section 8 ½ -5 of this Code), the owner shall cause it to be: (i) secured to prevent entry by unauthorized persons, within 24 hours after all embers are extinguished (or other damaging occurrence has ended) and (ii) either demolished (in accordance with Chapter 8 ½ of this Code) or rebuilt in conformity with applicable technical codes as though it were a new

building. Normal permits (including certificate of occupancy) are required. Work to demolish or rebuild must begin within 60 days following the date the occurrence ends and must be completed within a reasonable time, but not longer than the time allowed by the applicable permit(s). To determine the "market value" of a pre-existing building, the most current tabulation of square foot construction costs published by the International Code Council (usually as part of "Building Valuation Data," see, e.g., www.iccsafe.org/cs/techservices) shall be used.

Section 107 is hereby amended by adding Section 107.6 to read as follows:

Building Plans, Applications and Permits

A complete application for a building permit shall be accompanied by a complete set of construction permit plans for residential construction projects and commercial construction projects.

Residential permit applications shall be submitted with a minimum of two (2) sets of the construction plans for all one-and two-family dwellings. Each set shall include the following: site plan, floor plan, framing plan, and mechanical, electrical, and plumbing plans for all one-and two-family dwellings. Utility requirements should be noted on all plans.

Commercial building permit applications and multi-family apartment building permit applications shall be submitted with a minimum of three (3) sets of construction plans and an electronic copy of the complete set of plans. Each set shall include the following: site plan, floor plan, framing plan, and mechanical, electrical, and plumbing plans. Utility requirements should be noted on all plans.

State of Texas architectural and engineering seals are required to accompany an application for a building permit as required by the Texas Board of Architectural Examiners and the Texas Board of Professional Engineers and Land Surveyors. Additionally, all commercial and apartment buildings over five thousand (5,000) square feet, will require a full set of plans, including plumbing, electrical, mechanical, structural, final topography, MEP site plans, and all architectural and engineering seals on plans, to accompany the application for a building permit.

Site plan shall be on a minimum sheet size of 24" X 36" and shall be in conformity with the City of Brenham's adopted Design Guidelines and Standards Specifications and will show:

- (1) Vicinity map and north arrow.
- (2) Scale should be largest standard engineering scale possible on sheet (not smaller than one inch = 50').
- (3) Plan must show dimension of all property lines.
- (4) All existing and proposed structures must be shown with building dimensions and distances from property lines.
- (5) Setbacks as required by zoning.
- (6) On and off-site circulation and access with dimensions, shape, and location.
- (7) Location and width of curbs, drainage ditches, sidewalks and rights-of-way.
- (8) Parking areas with dimensions and adherence to minimum parking requirements.
- (9) For all Commercial and Multiple-Family uses provide landscaping and screening plan.

- (10) Proposed finished floor elevation and top of curb elevation shall be noted.
- (11) Location of existing and proposed underground and overhead utilities.
- (12) All recorded public easements shall be shown and properly dimensioned.
- (13) Location of existing and proposed fire hydrants and vehicle lay of hose.
- (14) Title block including: a. Property acreage, address, and legal description b. Name, address, and phone number of property owner c. Date of submittal or drawing.

The floor plan shall include the proposed utility requirements for the structure. Plan review shall be completed within ten (10) working days after submission of a complete application packet. Larger projects may take longer. After review, individual permits will be issued for building, electrical, mechanical, plumbing, fire system and irrigation phases. Each individual contractor shall be responsible for inspection of his work. All plumbing, mechanical, fire system and irrigation contractors must show appropriate state license and proof of insurance. All electrical contractors shall have a current state license and all employees must have proper journeyman or apprentice license on job. All extensions, taps, permit fees or deposits shall be paid at the time the permit is issued. Prior to construction, the contractor or owner shall verify with the city all utility locations and depths. The contractor shall be responsible for placing a string line on a minimum of two (2) property lines, the front and one side. The building inspector may request string lines on additional property lines. These string lines shall be in place at the time of the foundation inspection.

All alterations to civil infrastructure, building layout, electrical, mechanical, plumbing and structural must have amended drawings and city approval prior to construction.

The property owner is responsible for location of property lines and underground utilities. Fences shall not obstruct drainage or redirect drainage on adjacent property. Any fence along or across an easement may be removed by utility personnel. The city is not required to reconstruct any fences inside of utility easements.

All retainer wall construction requires written approval of the city prior to construction. All cut and/or fill on an improved property requires written city approval prior to work.

A certificate of occupancy will be issued at the completion of all new construction by the city building department. Permanent service will be connected upon issuance of the certificate of occupancy. No occupancy of the building will be allowed prior to the issuance of the certificate of occupancy. No exceptions will be made without written consent of the city building official.

Section 109.3 is deleted in its entirety.

Section 110.3.1 is hereby amended in its entirety to read as follows: Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job. Form Surveys performed by a Texas Registered Professional Licensed Surveyor are required to be submitted prior to approval of foundation inspection. Properties larger than 1 acre in size may request an exception to this requirement. The exception may be granted by the Building Official.

Section 110.3.2 is hereby amended in its entirety to read as follows: Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor. Form Surveys performed by a Texas Registered Professional Licensed Surveyor are required to be submitted prior to approval of foundation inspection. Properties larger than 1 acre in size may request an exception to this requirement. The exception may be granted by the Building Official.

Section 114.3 is deleted in its entirety.

Section 114.4 is deleted in its entirety.

Section 116 is deleted in its entirety.

Section 1208.1 is hereby amended by adding Section 1208.1.1 to read as follows: Crawlspace (pier and beam construction) shall be completely skirted with approved skirting materials. Approved skirting construction may be of the following materials: metal, masonry, exterior grade wood, or other construction material designed for exterior exposure and contact with the ground. Skirting shall be installed in accordance with the material manufacturer's installation instructions and shall be adequately secured to ensure stability and susceptibility to wind damage. Skirting shall enclose crawlspaces sufficiently in order to hide unsightly areas and to prevent the intrusion of rodents.

Section 1612.3 is hereby amended by inserting the following: City of Brenham

Section 1612.3 is hereby amended by inserting the following: "Flood Insurance Study for Washington County, Texas and Incorporated Areas," dated August 16, 2011," or current presiding Flood Insurance Map (FIRM) and Flood Boundary and Floodway Map (FBFM).

Section 2308.5. is hereby amended in its entirety to read as follows: Walls and partitions shall be constructed in accordance with the applicable provisions of Sections 2308.5.1 through 2308.5.4. In walls containing Plumbing Drain, Waste & Vent lines all framing members shall be 2 inch by six inch (2 x 6) or larger.

Section 2303.1.1 is hereby amended in its entirety to read as follows: Sawn lumber used for load-supporting purposes, including end-jointed or edge-glued lumber, machine stress-rated or machine-evaluated lumber, shall be identified by the grade mark of a lumber grading or inspection agency that has been approved by an accreditation body that complies with DOC PS 20 or equivalent. Grading practices and identification shall comply with rules published by an agency approved in accordance with the procedures of DOC PS 20 or equivalent procedures. Utility grade lumber shall not be used for joists, rafters or vertical framing.

Secs. 6-28 - 6-29. Reserved.

ARTICLE III. ELECTRIC CODE

Sec. 6-30. Adoption of National Electrical Code (NEC) 2017 Edition.

The National Electrical Code, being particularly the 2017 National Electrical Code, and all revisions thereto, save and except such portions as may hereinafter be amended, of which code not less than two (2) copies have been and are now filed at the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city.

Sec. 6-30.1. Electrical Code local amendments.

The following local amendments are made to the National Electrical Code, 2017 Edition, as adopted by the City of Brenham:

Article 110 is hereby amended by adding Section 110.80 to read as follows:

110.80 Distribution system limitation.

For the purpose of this article, the distribution system of any person furnishing electric power shall not extend to any property which such person does not own in fee simple or control by easement.

Article 110 is hereby amended by adding Section 110.81 to read as follows:

110.81 Tampering with fuses, circuit breakers.

It shall be unlawful for any person:

- (A) To bridge, tamper with or change from its original installation (except upon the approval of the building official, and then only after a proper permit for alteration has been issued) any fuse of the plug, cartridge type or link type installed in panel boards, main switches or switchboards;
- (B) To alter or change circuit breakers so that the original calibration will be affected; or
- (C) To tie down or secure any circuit breaker so that it will not function properly.

Article 110 is hereby amended by adding Section 110.82 to read as follows:

110.82 Grounding, GFCIs, etc.

- (A) Supplemental grounding. On any new service or change-out service there must be a supplemental grounding electrode as specified in article 250.52(A) of the NEC, with the grounding electrode conductor sized per table 250.66 of the NEC.
- (B) Certain GFCIs. The ground-fault circuit-interrupter required for a hydro-massage shall not be located under such a bathtub and must be readily accessible as specified in 680.71.

Section 210.52 is hereby amended by adding subsection (E)(4) to read as follows: Switches and equipment installed on the outside of the building in a recess in the outside wall and covered by a door as part of the building structure shall be considered as being on the exterior of the building and exposed to the weather.

Section 230.42 is hereby amended by adding subsection (D) to read as follows:

(D) Service entrance conductors.

In any residence, apartment, apartment house, commercial building or other building of whatsoever character now existing or to be constructed within the city, all service entrance conductors, including underground conductors, shall have a minimum current-carrying capacity of 150 amperes. On buildings with existing service, this requirement shall apply when:

- (1) Load is added or modified;
- (2) An existing service is found to be inadequate for demand; or
- (3) An unsafe condition exists.
- (4) When replacing main service panel, all-service disconnect, service riser, or service underground lateral.

Exception: Existing dwellings with a framed area of less than 1,500 square feet may have conductors with a minimum current-carrying capacity of 125 amperes.

Article 230 is hereby amended by adding Section 230.56.1 to read as follows:

230.53.1 All-service disconnect.

In every building now existing or to be constructed within the city, there must be an "all-service disconnect" accessible on the outside of the building and located as close as practicable to the meter. It shall consist of one switch or circuit breaker having a continuous current rating of no less than 150 amperes. On buildings with existing service, this requirement shall apply when load is added or modified or whenever an unsafe condition exists or when replacing main service panel, all-service disconnect, service riser or service underground lateral. Exception: Existing dwellings with a framed area of less than 1,500 square feet may have a main "all-service disconnect" with a minimum continuous current rating of 125 amperes.

Article 300 is hereby amended by adding Section 300.51 to read as follows:

300.51 Wires, cables, conductors and circuits.

(A) Wires, cables and conductors. Notwithstanding any other code provision or ordinance to the contrary, it shall be unlawful for any person to install or use any of the following in connection with electrical work for any structure in the city:

- 1) Any wire other than solid or stranded copper;
- 2) Any wire smaller than gauge 12 AWG requires electrical load calculations per the NEC.
- 3) Any wire without a separate ground, either in the same cable or in the same conduit;
- 4) Armored cable, type A/C;
- 5) MC Cable, unless the exterior armor is color-coded its entire length by the manufacturer to distinguish it from other flexible metallic conduit systems;
- 6) Nonmetallic sheathed cables, as listed in article 334 of the NEC, but this prohibition only applies to multifamily dwellings with more than one floor above grade; or
- 7) Nonmetallic sheathed cables, as listed in article 334 of the NEC, except in buildings used and occupied exclusively for residential purposes (without any nonresidential occupancies or mixed uses, even if only accessory or incidental).

- (B) Circuits. Notwithstanding any other code provision or ordinance to the contrary, it shall be unlawful for any person to install or use more than ten openings (outlets or fixtures) on any single electrical circuit for any structure in the city.

Section 422.40 is hereby amended in its entirety to read as follows:

422.40 Polarity in Cord-and Plug-Connected Appliances.

- (A) If the appliance is provided with a manually operated, line-connected, single-pole switch for appliance on-off operation, or a 15- or 20-ampere receptacle, on-off operation disconnect must be readily accessible.
- (B) Window air conditioners. All window air conditioning units, whether to be operated on 110vac or 220vac current, shall be installed with and bonded to a polarized plug, and Number 10 AWG wire minimum for 220vac shall be used in bonding said air conditioning unit to the said polarized plug.

Sec. 6-31. Right of entry and disconnection of service.

The Building Official or his duly authorized assistant shall have the right to enter any building, in accordance with applicable legal requirements, during reasonable hours in the discharge of his official duties and shall have the authority to cause the disconnection of any wiring or equipment, which such wiring or equipment in his judgment is dangerous to life or property or may interfere with the work of the fire department.

Sec. 6-32. Meter loop specifications.

The National Electrical Code, being particularly the 2017 National Electrical Code, save and except such portions as may hereinafter be amended and the meter loop specifications of the municipal light and power system of the City of Brenham, Texas, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling for all electrical work within the area of jurisdiction of the city. Not less than two (2) copies of said National Electrical Code, and meter loop specifications of the municipal light and power system of the city, shall be filed in the office of the building official of the city.

Sec. 6-33. Modifications of code or meter loop specifications.

Any requirement deemed by the inspector necessary for safeguarding the hazards from fire and to life in connection with any electrical installation not specially covered by this article shall be determined by the inspector, subject to appeal to the board of appeals in the manner prescribed in section 6-5.1.

Sec. 6-34. Approved materials, devices, appliances, apparatus.

It shall be unlawful to manufacture, sell or use any electrical materials, devices, appliances or apparatus which are not approved by the Underwriters' Laboratories, Inc., Chicago, Illinois, anywhere or anytime within the city.

Sec. 6-35. Allowing use of or furnishing electric current without inspection and certificate of approval prohibited.

In order to protect the lives of the citizens and the property of the citizens from the dangers incident to defective wiring of buildings and structures, it shall be unlawful for any person to allow any electrical current used for the purpose of producing light, heat or power in buildings or structures belonging to such person, to be turned on without first having had an inspection made of the wiring by the inspector and having received from the inspector a certificate of occupancy approving the wiring of such building, unless otherwise provided in this article.

It shall be unlawful for any person engaged in the business of selling electricity to furnish any electrical current for use for light, heat or power purposes in any building or structure of any person, unless the building or structure has first been inspected by the inspector and a certificate of occupancy given as hereinafter provided, unless otherwise authorized in this article.

Sec. 6-36. Reinspection and correction in certain knob and tube systems; protection of exterior switches and fuse cabinets.

Whenever the service wires of a so-called knob and tube system are disconnected or electrical services disconnected to and in any commercial building or any building in the first fire district which has been vacated for any period in excess of thirty (30) days, the service shall not again be connected until same has been wired so as to conform to this article, subject to any special conditions as approved by the electrical inspector.

All switches or fuse cabinets mounted on the exterior of any buildings must be of an approved weatherproof type.

Whenever old work is found in the following instances, the building official may refuse or disconnect permanent electric service until compliance with the 2017 National Electrical Code is completed. The instances shall be when:

- (1) Wiring smaller than gauge 12 AWG is found;
- (2) Wire lacking a separate ground is found; or
- (3) Any structure having more than ten (10) openings on a single circuit.

Sec. 6-37. Advertising on light and telephone poles and wires; wires under sheds, etc.

It shall be unlawful for any person to place or allow to be placed any advertising cards or posters or other light material on any electric, telephone or telegraph poles within the city.

Secs. 6-38 - 6-49. Reserved.

ARTICLE IV. GAS

Sec. 6-50. Adoption of code.

The International Fuel and Gas Code, being particularly the 2018 International Fuel Gas Code (IFGC), save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been made and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city.

Sec. 6-50.1. Same—Gas code local amendments.

The following local amendments are made to the International Fuel and Gas Code, 2018 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 106.6 is deleted in its entirety.

Section 108.3 is deleted in its entirety.

Section 108.4 is deleted in its entirety.

Section 108.5 is hereby by amended in its entirety to read as follows: Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

Section 108.7 is hereby by amended in its entirety to read as follows: When an emergency exists the code official shall have the authority to require disconnection of utility service to any building, structure or system regulated by the technical codes in order to eliminate an immediate hazard to life or property. The code official shall notify the serving utility, and wherever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practicable thereafter.

Section 108.7.1 is hereby by amended in its entirety to read as follows: A person shall not make energy source connections to installations regulated by this code which have been disconnected or ordered to be disconnected by the code official, or the use of which has been ordered to be discontinued by the code official until the code official authorizes the reconnection and use of such installations. When an installation is maintained in violation of this code, the code official shall institute appropriate action to prevent, restrain, correct or abate the violation.

Section 108.7.2 is deleted in its entirety.

Section 108.7.3 is deleted in its entirety.

Section 402 is hereby amended by adding Section 402.7 to read as follows: Each new or replaced gas meter shall be located on the same lot/property that it serves.

Section 403 is hereby amended by adding Section 403.14 to read as follows:

Even if otherwise permitted by this code:

1. All above-ground gas piping shall be SCH 40 black iron pipe.
Exception: The use of other gas piping materials approved by the 2018 International Fuel Gas Code will be approved by the City of Brenham after the manufacturer, or manufacturer's designated representative, physically inspects and approves the installation. Written approval of the gas piping inspection and installation must be provided to the City of Brenham on the manufacturer's letterhead and certified by the gas piping manufacturer or manufacturer's designated representative prior to wall or ceiling cover-up.
2. Thermo plastic pipe may be used for gas lines only if it: (i) meets ASTM D2513 (or equivalent, or better), (ii) is identified by proper markings and (iii) is installed with a locator wire (No. 12 gauge insulated solid copper wire).
3. Thermo plastic pipe shall terminate above ground outside of buildings and be installed in pre-manufactured anodeless risers or service head adapter risers, all in accordance with the manufacturer's installation instructions.
4. Underground piping systems require isolation valves.

Section 404.12 is hereby amended to read as follows: Underground piping systems shall be installed in City of Brenham approved materials and at a minimum depth of 18 inches below grade.

Section 404.12.1 is deleted in its entirety.

Section 404.17.3 is hereby amended to read as follows: A yellow insulated copper tracer wire or other approved conductor shall be installed adjacent to underground nonmetallic piping. Access shall be provided to the tracer wire or the tracer wire shall terminate above ground at each end of the nonmetallic piping. The tracer wire size shall not be less than 12 AWG and the insulation type shall be suitable for direct burial.

Section 406.4 is hereby amended in its entirety to read as follows: Low pressure (not to exceed 0.5 PSI) gas piping shall withstand a pressure of at least 10 inches of mercury on a manometer for a period of time not less than 10 minutes without showing any drop in pressure, except that the following shall apply in the case of new construction: The newly-constructed system must withstand a pressure of at least 25 PSI, spring gauge here is acceptable, for a period of not less than 10 minutes without showing any drop in pressure as an initial pressure test, i.e. rough-in, and the system must also withstand a pressure test of 10 inches of mercury on a manometer gauge as a final test. Higher pressure piping systems must withstand pressure of at least 10 PSI, but never less than twice the maximum pressure to which the piping will be subjected in operation, for a period of at least 10

minutes without showing a drop in pressure. The manometer under test conditions shall not be pressured more than 50% of the gauge maximum pressure, i.e. a 10 psi test would require a 20 psi manometer gauge.

Sec. 6-51. Cut-off valve.

- (a) All gas service lines on the customer's property will be required to be equipped, ahead of the gas meter assembly, with an approved type, flat ahead-lock pattern, cut-off valve to permit sealing of the valve by authorized city personnel in order to prevent any flow of gas or prevent opening of said valve by persons other than authorized city personnel.
- (b) All gas piping on customer's premises where installed for connection of a range; water heater; space heater; and the like; will be required to be provided with an approved type cut-off valve, installed in the line and directly ahead of the above referred to appliances.

Secs. 6-52. – 6-55. Reserved.

ARTICLE V. INTERNATIONAL PROPERTY MAINTENANCE CODE

Sec. 6-56. Adoption of code.

The International Property Maintenance Code, being particularly the 2018 International Property Maintenance Code (IPMC), save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been made and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city.

Sec. 6-56.1. Same—Property maintenance code local amendments.

The following local amendments are made to the International Property Maintenance Code, 2018 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 103.5 is deleted in its entirety.

Section 106 is deleted in its entirety.

Section 107 is deleted in its entirety.

Section 108 is deleted in its entirety.

Section 110 is deleted in its entirety.

Section 111 is deleted in its entirety.

Section 112.4 is deleted in its entirety.

Section 302.4 is hereby amended by inserting: twelve (12) inches

Section 302.8 is deleted in its entirety.

Section 304.14 is hereby amended in its entirety to read as follows: Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

Section 602.3 is hereby amended in its entirety to read as follows: Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Exceptions: 1) When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code; and 2) In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

Section 602.4 is hereby amended in its entirety to read as follows: Indoor workspaces to be occupied shall be supplied with heat to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied. Exceptions: 1) Processing, storage and operation areas that require cooling or special temperature conditions; and 2) Areas in which persons are primarily engaged in vigorous physical activities.

Secs.6-57 – 6-60. Reserved.

ARTICLE VI. INTERNATIONAL PLUMBING CODE

Sec. 6-61. Adoption of code.

The International Plumbing Code, being particularly the 2018 International Plumbing Code (IPC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling in the construction, installation, extension, or repair of all plumbing, plumbing fixtures and plumbing systems within the area of jurisdiction of the city.

Sec. 6-61.1. Same—Plumbing code local amendments.

The following local amendments are made to the International Plumbing Code, 2018 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 106.6.2 is deleted in its entirety.

Section 106.6.3 is deleted in its entirety.

Section 108.3 is deleted in its entirety.

Section 108.4 is deleted in its entirety.

Section 108.5 is hereby amended in its entirety to read as follows: Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

Section 305.4.1 is hereby amended by inserting twelve (12) inches.

Section 603.1 is hereby amended in its entirety to read as follows: The water service pipe shall be sized to supply water to the structure in the quantities and at the pressures required in this code. The water service pipe shall be not less than 1 inch (19.1 mm) in diameter.

Section 604.1 is hereby amended in its entirety to read as follows: The design of the water distribution system shall conform to accepted engineering practice. Methods utilized to determine pipe sizes shall be approved. Any manifold system shall not be located on a wall shared with a garage unless it does not penetrate the garage wall.

Section 605 is hereby amended by adding Section 605.26 to read as follows:

1. All water lines under a slab on grade must be copper Type L, K or PEX, no joints. Each water line under, in or through a slab on grade must be sleeved with a continuous piece of tubing at least 0.025 inches thick terminating at least six inches above the finished floor.
2. Note: The City is not responsible for irrigation system components located in street areas or easements (and special permits may be required to install such components in those locations).

Section 903.1 is hereby amended by inserting six (6) inches.

Section 918 is hereby amended by adding 918.9 to read as follows: Air admittance valves are only approved for use in an unenclosed structure, i.e. outdoor kitchen.

Section 1101.1 is hereby amended in its entirety to read as follows: The provisions of this chapter are applicable to interior leaders, building storm drains, building storm sewers, exterior conductors, downspouts, roof gutters and other storm drainage fixtures and facilities.

Sec. 6-62. Cross-connection control program.

- (a) *General.* No water service connection shall be made to any establishment where a potential or actual contamination hazard exists unless the water supply is protected in accordance with the Texas Commission on Environmental Quality (TCEQ) Rules and Regulations for Public Water Systems (290 Rules) and this section. The water purveyor shall discontinue water service if a required backflow prevention assembly is not installed, maintained and tested in accordance with the 290 Rules and this section.
- (b) *Backflow prevention assembly installation, testing and maintenance.*
 - (1) All backflow prevention assemblies shall be tested upon installation by a licensed backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester.
 - (2) All backflow prevention assemblies shall be installed and tested in accordance with the manufacturer's instructions, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14) or the University of Southern California Manual of Cross-Connection Control.
 - (3) Assemblies shall be repaired, overhauled, or replaced at the expense of the customer whenever said assemblies are found to be defective. Original forms of such test, repairs, and overhaul shall be kept and submitted to the city within five (5) working days of the test, repair or overhaul of each backflow prevention assembly.
 - (4) No backflow prevention assembly or device shall be removed from use, relocated, or other assembly or device substituted without the approval of the city. Whenever the existing assembly or device is moved from the present location or cannot be repaired, the backflow assembly or device shall be replaced with a backflow prevention assembly or device that complies with this section, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current addition, University of Southern California Manual of Cross-Connection Control, current addition, or the current plumbing code of the city, whichever is more stringent.
 - (5) Test gauges used for backflow prevention assembly testing shall be tested for accuracy at least annually in accordance with the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current addition, or the University of Southern California's Manual of Cross-Connection Control, current addition. The original calibration form must be submitted to the city within five (5) working days after calibration.
 - (6) A recognized backflow prevention assembly tester must hold a current endorsement from the Texas Commission on Environmental Quality (TCEQ).

(c) *Customer service inspections.*

- (1) A customer service inspection shall be completed prior to providing continuous water service to all new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.
- (2) Only individuals with the following credentials shall be recognized as capable of conducting a customer service inspection:
 - a. Plumbing inspectors and water supply protection specialists that have been licensed by the Texas State Board of Plumbing Examiners.
 - b. Customer service inspectors that have been licensed by the Texas Commission on Environmental Quality (TCEQ).
- (3) The customer service inspection must certify that:
 - a. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by a properly installed air gap or an appropriate backflow prevention assembly.
 - b. No cross-connection between the public water supply and a private water source exists. Where an actual properly installed air gap is not maintained between the public water supply and a private water supply, an approved reduced pressure-zone backflow prevention assembly is properly installed and a service agreement exists for annual inspection and testing by a recognized backflow prevention assembly tester.
 - c. No connection exists which allows water to be returned to the public drinking water supply is permitted.
 - d. No pipe or pipe fitting which contains more than 0.25% lead may be used for the installation or repair of plumbing at any connection that provides water for human use.
 - e. No solder or flux which contains more than 0.2% lead can be used for the installation or repair of plumbing at any connection that provides water for human use. A minimum of one (1) lead test shall be performed for each inspection.

Secs. 6-63 – 6-65. Reserved.

ARTICLE VII. ENERGY CODE

Sec. 6-66. Adoption of code.

The International Energy Conservation Code, being particularly the 2018 International Energy Conservation Code (IECC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city.

Sec. 6-66.1. Same—Energy code local amendments.

The following local amendments are made to the International Energy Conservation Code, referenced 2018 Edition, as adopted by the City of Brenham:

Sections C101.1 and R101.1 are hereby amended by inserting: the City of Brenham

Section C105.4 is hereby amended in its entirety to read: The code official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability. In lieu of inspection by City employees, the building official may require a written certification that a building meets or exceeds minimum requirements, if the certification is: (i) signed by a code-certified inspector (as defined in V.T.C.A., Health and Safety Code § 388.02) not employed by the city, and (ii) accompanied by an approved inspection checklist, properly completed, signed and dated by the inspector. If the fees of the code-certified inspector are paid by the City, the amount shall be added to the building permit fees otherwise payable. With approval from the building official, a permittee may pay such fees directly to an independent inspection firm. Only code-certified inspectors or inspectors as approved by the currently adopted edition of the IECC may perform inspections and enforce this code in the City. A copy of all approved inspections, rough-in and final shall be provided to the city prior to final inspections being requested.

Sections C108.4 and R108.4 are deleted in their entirety.

Secs. 6-67 – 6-70. Reserved.

ARTICLE VIII. MECHANICAL CODE

Sec. 6-71. Adoption of code.

The International Mechanical Code, being particularly the 2018 International Mechanical Code (IMC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city.

Sec. 6-71.1. Same—Mechanical code local amendments.

The following local amendments are made to the International Mechanical Code, 2018 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 106.5 is deleted in its entirety.

Section 108.3 is deleted in its entirety.

Section 108.4 is deleted in its entirety.

Section 108.5 is hereby amended in its entirety to read as follows: Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

Section 306.3 is hereby amended in its entirety to read as follows: Attics containing appliances shall be provided with an opening and unobstructed passageway large enough to allow removal of the largest appliance. The passageway shall not be less than 30 inches (762 mm) high and 22 inches (559 mm) wide and not more than 20 feet (6096 mm) in length measured along the centerline of the passageway from the opening to the appliance. The passageway shall have continuous solid flooring not less than 24 inches (610 mm) wide. A level service space not less than 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present at the front or service side of the appliance. The clear access opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), and large enough to allow removal of the largest appliance. As a minimum, for access to the attic space, provide one of the following:

- 1) A permanent stair;
- 2) A pull-down stair with a minimum 300 lb. (136kg) capacity;
- 3) An access door from an upper floor level; or
- 4) Access panel may be used in lieu of items 1, 2, and 3 with prior written approval of the code official.

Secs. 6-72 – 6-75. Reserved.

ARTICLE IX. RESIDENTIAL CODE

Sec. 6-76. Adoption of code.

The International Residential Code, being particularly the 2018 International Residential Code (IRC) (inclusive of Appendix Q “Tiny Houses”), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city.

Sec. 6-76.1. Same—Residential code local amendments.

The following local amendments are made to the International Residential Code, 2018 Edition, as adopted by the City of Brenham:

All amendments and deletions to the other "International Codes" adopted by this Schedule are also carried forward and adopted as amendments to or deletions from the International Residential Code, 2018 Edition.

This code does not apply to installation and maintenance of electrical wiring and related components. See National Electrical Code.

Section R101.1 is hereby amended by inserting: the City of Brenham.

Section R113.3 is deleted in its entirety.

Section R113.4 is deleted in its entirety.

Table R301.2 (1) is hereby amended in its entirety to read as follows:

Table R301.2(1). Climatic and Geographical Design Criteria Page 3-3			
Ground snow load:	5 [per figure R301.2(5)]	Air freezing index:	50 BF days
Wind speed (mph):	120 (3-second gust) [per figure R301.2(4)A]	Mean annual temperature:	68° F
Seismic design category:	A [per figure R301.2(2)]	Subject to damage from weathering:[per figure R301.2(3)]	Negligible
Winter design temperature:	32° F [appendix D of the IPC, Houston] [per figure R302.2(1)] Local Data if more accurate	Frost line: [per figure R301.2(8)]	5"
Ice shield underlayment:	Not required	Termite: [per figure R301.2(6)]	Very heavy
Flood hazards:	Map effective date: August 16, 2011 Community Number 480648 Panel numbers: 0295C 0300C 0315C 0450C	Decay:	Mod. to severe

Section R408.1 is hereby amended by adding section R408.1.1 to read as follows:

Crawlspaces (pier and beam construction) shall be completely skirted with approved skirting materials. Approved skirting construction may be of the following materials: metal, masonry, exterior grade wood, or other construction material designed for exterior exposure and contact with the ground. Skirting shall be installed in accordance with the material manufacturer's installation instructions and shall be adequately secured to ensure stability and susceptibility to wind damage. Skirting shall enclose crawlspaces sufficiently in order to hide unsightly areas and to prevent the intrusion of rodents.

Section M1305.1.2 is hereby amended in its entirety to read as follows: Attics containing appliances shall be provided with an opening and unobstructed passageway large enough to allow removal of the largest appliance. The passageway shall not be less than 30 inches (762 mm) high and 22 inches (559 mm) wide and not more than 20 feet (6096 mm) in length measured along the centerline of the passageway from the opening to the appliance. The passageway shall have continuous solid flooring not less than 24 inches (610 mm) wide. A level service space not less than 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present at the front or service side of the appliance. The clear access opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), and large

enough to allow removal of the largest appliance. As a minimum, for access to the attic space, provide one of the following:

- 1) A permanent stair;
- 2) A pull-down stair with a minimum 300 lb. (136kg) capacity;
- 3) An access door from an upper floor level; or
- 4) Access panel may be used in lieu of items 1, 2, and 3 with prior written approval of the code official.

Section G2415.12 is hereby amended to read as follows: Underground piping systems shall be installed in City of Brenham approved materials and at a minimum depth of 18 inches below grade

Section G2415.12.1 is deleted in its entirety.

Section G2415.17.3 is hereby amended to read as follows: A yellow insulated copper tracer wire or other approved conductor shall be installed adjacent to underground nonmetallic piping. Access shall be provided to the tracer wire or the tracer wire shall terminate above ground at each end of the nonmetallic piping. The tracer wire size shall not be less than 12 AWG and the insulation type shall be suitable for direct burial.

Section P2603.5.1 is hereby amended in its entirety to read as follows: Building sewers that connect to private sewage disposal systems shall be a not less than twelve (12) inches below finished grade at the point of septic tank connection. Building sewers shall be not less than twelve (12) inches below grade.

Section P2606 is hereby amended by adding section P2606.1 to read as follows: Vertical plumbing drain and vent piping penetrating a concrete foundation must be wrapped with foam or other approved material to seal the space around the pipe and to prevent contact with cement. Black tar/mastic is not an allowed material.

Secs. 6-77 – 6-80. Reserved.

ARTICLE X. EXISTING BUILDING CODE

Sec. 6-81. Adoption of code.

The International Existing Building Code, being particularly the 2018 International Existing Building Code (IEBC), and all revisions thereto, save and except such portions as may hereinafter be amended, of which not less than two (2) copies have been and are now filed in the offices of the City of Brenham, are hereby adopted and incorporated as fully as if set forth at length herein, and from the date on which this section shall take effect, the provisions therein shall be controlling within the area of jurisdiction of the city.

Sec. 6-81.1. Same—Existing building code local amendments.

The following local amendments are made to the International Existing Building Code, 2018 Edition, as adopted by the City of Brenham:

Section 101.1 is hereby amended by inserting: the City of Brenham

Section 108.3 is deleted in its entirety.

Section 115 is deleted in its entirety.

Section 117 is deleted in its entirety.

Section 113.3 is deleted in its entirety.

Section 113.4 is deleted in its entirety.

Secs. 6-82 – 6-85. Reserved.

ARTICLE XI. SWIMMING POOLS

Sec. 6-86. Definition.

A swimming pool within the meaning of this section shall be any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent, and either above or below the ground which contains water of more than twenty-four (24) inches in depth and which is used primarily for the purpose of bathing or swimming.

Sec. 6-87. Installation of new pools and compliance of existing pools.

- (a) It shall be unlawful for any person to construct, install or enlarge a swimming pool in the city limits not enclosed in a permanent building with self-closing, self-latching doors, except in accordance with the following regulations.
- (b) It shall be unlawful for any person who owns an indoor swimming pool within the city limits on the effective date hereof to maintain such swimming pool without self-closing, self-latching doors leading directly to the pool area after September 1, 1991.
- (c) It shall be unlawful for any person who owns an outdoor swimming pool within the city limits on the effective date hereof to maintain such swimming pool without fences as provided in section 6-146 after September 1, 1991.

Sec. 6-88. Permit.

It shall be unlawful for any person to construct, install, enlarge or alter any private swimming pool unless a building permit has first been obtained from the building inspector. The permit fee shall be paid per fee schedule. Application shall be on forms provided by the building inspector and shall be accompanied by plans drawn to scale showing the following:

- (1) Pool dimensions and volume of water in gallons;
- (2) Location and type of waste disposal system;

- (3) Location of pool on lot, distance from lot lines and distance from structure;
- (4) Fencing and landscape plan, or a combination thereof;
- (5) Specifications on gate latching;
- (6) Location of pool equipment;
- (7) BTU load of pool heating equipment (if applicable); and
- (8) Location of pool plumbing, gas, and electrical service lines.

Sec. 6-89. Construction requirements.

- (a) All pools located, erected, enlarged, or constructed within the City of Brenham shall conform to the following requirements:
 - (1) A minimum five (5) foot rear and side yard is required;
 - (2) A minimum twenty-five (25) foot front yard and a fifteen (15) foot side yard on corner lots is required, or pools must be located behind the established building lines of the principle structure located on the lot, whichever distance is greater;
 - (3) Pools must be a minimum of five (5) feet from any structure to allow access for emergency rescue operations; and
 - (4) All measurements are taken from the outermost edge of the pool coping.
- (b) Any connection to the city's sewer system shall include a suitable gap or backflow prevention device to prevent contamination of the pool by the sewer.
- (c) Gaseous chlorination systems shall not be used as a disinfection method for pool waters.
- (d) Any connection to the city's potable water system shall be protected by a suitable air gap or approved backflow prevention device.

Sec. 6-90. Fence.

- (a) Pools within the scope of this section or not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool and shall not be less than four (4) feet in height, so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension. Gates or doors shall be equipped with a self-closing and self-latching childproof device for keeping the gate or door securely closed at all times when not in actual use. Such latch shall be installed at a minimum height of four (4) feet or the top of the fence. Gates or doors may be disabled from use to the satisfaction of the city manager or his designee in lieu of a self-closing and self-latching device. The location of fencing required shall be subject to all other applicable ordinances. No fence shall be located, erected, constructed or maintained closer than three (3) feet to a pool. The wall of the house or building faced to a pool may be incorporated as a portion of such fence.
- (b) Aboveground pools with self-provided fencing to prevent unguarded entry will be allowed without separate additional fencing, providing the self-provided fence is of four (4) foot required height and design as heretofore specified.
- (c) Permanent access from grade to aboveground pools having stationary ladders, stairs or ramps shall have not less than equal safeguard fencing and gates.

Sec. 6-91. Pool covers.

Pools which have a maximum depth of four (4) feet or less may be covered in lieu of a fence to comply with these requirements.

Sec. 6-92. Other regulations.

No pool shall be so operated or maintained as to create a nuisance, a hazard, an eyesore or otherwise to result in a substantial adverse effect on neighboring properties, or to be in any other way detrimental to public health, safety and welfare.

Sec. 6-93. Maintenance.

A swimming pool or swimming pools shall be disinfected and maintained in a sanitary manner. The health inspector may inspect or cause to be inspected each private swimming pool maintained in the city.

Sec. 6-94. Pool safety equipment.

Each pool shall maintain at least one (1) floating throw-ring and rope and/or one (1) rescue pole per pool. Such equipment shall be maintained in good working order.

Sec. 6-95. Penalty.

Any person who shall violate any provision of this article, shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-5 of the City of Brenham Code of Ordinances.

Secs. 6-96 – 6-99. Reserved.

ARTICLE XII. SUBSTANDARD BUILDINGS OR STRUCTURES

DIVISION I. GENERAL PROVISIONS

Sec. 6-100. Purpose of article.

- (a) The purpose of this article is to protect the health, safety and welfare of the citizens of the City of Brenham by establishing standards for the identification, abatement and/or removal of substandard buildings or structures.
- (b) This article is hereby declared to be remedial and shall be constructed to secure the beneficial interests and purposes thereof—which are public safety, health and general welfare—through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises.

Sec. 6-101. Scope of article.

The provisions of this article shall apply to all unsafe buildings or structures, as herein defined, and shall apply equally to new and existing conditions.

Sec. 6-102. Building and standards commission.

- (a) There is hereby created a building and standards commission to hear and determine cases concerning alleged violations of this article. The commission shall consist of a panel composed of five (5) members, with terms of office of two (2) years. The panel shall include a plumber and electrician licensed by the State of Texas as well as a general contractor by trade. All members shall reside in the City of Brenham, unless a licensed tradesman required above cannot be recruited to serve, then such person may reside within Washington County. Each member shall hold office for a period of two (2) years, or until a successor is appointed, unless a vacancy is created in the member's office by resignation, removal, or death. As near as practical, they shall be qualified in one (1) or more of the fields of fire prevention, building construction, sanitation, health or public safety.
- (b) In addition to said five (5) members, the Fire Marshal, Building Official and Health Inspector of the City of Brenham shall be ex officio, nonvoting members of said building and standards commission. Any city employee in the respective department or division of the city, who shall be designated by the city manager, shall be authorized to act as substitute for the respective superior of their respective department or division as ex officio member of said commission. It shall be the duty of the ex officio members of such commission to assist the building official in inspecting all buildings or structures reported to be or believed to be substandard buildings and to present a report of such inspection to the building and standards commission.
- (c) Three (3) members of the building and standards commission shall constitute a quorum. In varying the application of any provision of this article or in modifying an order of the building official, affirmative votes of not less than three (3) members shall be required. A commission member shall not act in a case in which he has a conflict of interest as defined by applicable law.
- (d) A vacancy on the building and standards commission shall be filled for the unexpired term.
- (e) The city council may appoint two (2) alternate members of the commission who shall serve in the absence of one or more regular members when requested to do so by the mayor or city manager. Alternate members serve for the same period and are subject to removal in the same manner as regular members. A vacancy is filled in the same manner as a vacancy among the regular members.
- (f) The building and standards commission may establish rules and regulations for its own procedures not inconsistent with the provisions of this article. Each year, the building and standards commission shall appoint a chairperson from among its members to preside over meetings of the commission. The commission shall also appoint a vice chairperson to perform the functions and duties in the event the chairperson is unable or refuses to perform the functions and duties of the office. The commission shall meet as needed and upon request by a board member.

Sec. 6-103. Alterations, repairs or rehabilitation work.

- (a) Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of the building code of the City of Brenham, Texas; provided, that the alteration, repair or rehabilitation work conforms to the requirements of the building code for new construction. The building official shall determine, subject to appeal to the building and standards commission, the

extent, if any, to which the existing building shall be made to conform to the requirements of the building code of the city for new construction.

- (b) Alterations, repairs or rehabilitation work shall not cause an existing building to become a substandard building as defined in section 6-121 of this article.
- (c) If the occupancy classification of an existing building is changed, the building shall be made to conform to the requirements of the building code of the city for the new occupancy classification as established by the building official.
- (d) Repairs and alterations, not covered by the preceding paragraphs of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of this article or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed; but not more than twenty-five (25) percent of the roof covering a building shall be replaced in any period of twelve (12) months unless the entire roof covering is made to conform with the requirements of the building code of the city for new buildings.

Sec. 6-104. Special historic buildings or districts.

The provisions of this article relating to the construction, alteration, repair, enlargement, restoration, relocation, or moving buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings or structures when such provisions conflict with a provision of the City's Historic Preservation Ordinance and the subject buildings or structures are judged by the building official to be safe. Any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of such buildings or structures shall comply with the provisions of the City's Historic Preservation Ordinance.

Sec. 6-105. Maintenance.

All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the building code of the city in a building when erected, altered or repaired shall be maintained in good working order. The owner shall be responsible for the maintenance of buildings and structures.

Sec. 6-106. Enforcement officer.

The provisions of this article shall be enforced by the building official of the City of Brenham, Texas.

Sec. 6-107. Reserved.

Sec. 6-108. Records of enforcement officer.

The building official shall keep, or cause to be kept, a record of the business of the city related to the enforcement of this article. Such records shall be open to public inspection.

Sec. 6-109. Powers and duties of the enforcement officer.

- (a) The building official or his authorized representative may enter any building, structure or premises at all reasonable times to make an inspection or enforce any of the provisions of this article. When entering a building, structure or premises that is occupied, the building official shall first identify himself, present proper credentials and request entry. If the building, structure or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge of the building and demand entry. If entry is refused, the building official or his authorized representative shall have recourse to every remedy provided by law to secure entry.
- (b) The building official, the fire marshal and other authorized representatives are hereby authorized to make such inspections and to take such actions as may be required to enforce the provisions of this article.
- (c) Any requirement necessary for the strength or stability of an existing or proposed building or structure or for the safety or health of the occupants thereof, not specifically covered by this article shall be determined by the building official.
- (d) The building official shall be an ex officio member of the building and standards commission, act as secretary and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member participating therein, the absence of a member and any failure of a member to vote.

Sec. 6-110. Liability.

Any officer or employee of the City of Brenham, Texas, or member of the building and standards commission, charged with the enforcement of this article, acting for the applicable governing body in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties.

Sec. 6-111. Validity.

If any section, subsection, sentence, clause or phrase of this article is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this article.

Secs. 6-112 – 6-119. Reserved.

DIVISION 2. DEFINITIONS AND STANDARDS

Sec. 6-120. General definitions.

For the purposes of this article, the following words shall have the following meanings unless the context clearly indicates otherwise:

Building or structure means any structure for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for fifty (50) percent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." For the purpose of this article, each portion of a building separated from other portions by a fire wall shall be considered as a separate building or means that which is built or constructed, a

building of any kind, or any pieces of work artificially built up or composed of parts joined together in some definite manner. Structure and building may be used interchangeably or as separate definitions.

Occupant means any person as owner, tenant, licensee, trespasser or other person in the exclusive or partial possession or living upon the premises.

Owner means a person claiming, or in whom is vested, the ownership, dominion or title of real property, including, but not limited to: the holder of fee simple title; the holder of a life estate; the holder of a recorded leasehold estate for an initial term of five (5) years or more; the buyer in a recorded contract for deed; and/or a mortgagee, receiver, executor or trustee in control of real property; but not including, the holder of a leasehold estate or tenancy for an initial term of less than five (5) years.

Premises means a lot, plot or parcel of land, including but not limited to, any buildings and structures thereon.

Sec. 6-121. Substandard buildings designated.

Any building, structure, or portion thereof, including but not limited to, any dwelling unit, guest room or suite of rooms, or the premises on which the same is located in which there exists any of the following listed in conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, as determined by the building official, shall be deemed and is hereby declared to be a substandard building:

- (1) *Inadequate sanitation.* Inadequate sanitation shall include, but not be limited to, the following:
 - a. Lack of or improper water closet, lavatory, bathtub or shower in a dwelling unit.
 - b. Lack of or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
 - c. Lack of or improper kitchen sink.
 - d. Lack of hot and cold running water to plumbing fixtures in a hotel.
 - e. Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
 - f. Lack of adequate heating facilities.
 - g. Lack, or improper operation, of required ventilating equipment.
 - h. Lack of minimum amounts of natural light and ventilation required by this article.
 - i. Lack of required electrical lighting.
 - j. Dampness of habitable rooms.
 - k. Infestation of insects, vermin or rodents as determined by the building official.
 - l. General dilapidation or improper maintenance.
 - m. Lack of connection to required sewage disposal system.
 - n. Lack of adequate garbage and rubbish storage and removal facilities as determined by the building official.
 - o. Lack of sanitary, interior wall covering.
- (2) *Structural hazards.* Structural hazards shall include, but not be limited to, the following:
 - a. Deteriorated or inadequate foundations.
 - b. Defective or deteriorated flooring or floor supports.
 - c. Flooring or floor supports of insufficient size to carry imposed loads with safety.

- d. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
 - e. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
 - f. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material or deterioration.
 - g. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.
 - h. Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
 - i. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
 - j. Any condition wherein a building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the buildings or structures is less than it was prior to the damage and is less than the minimum requirement established by the building code of the city.
 - k. Any condition wherein any exterior appendages or portion of a building or structure are not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads.
 - l. Any condition wherein any building, structure or portion thereof as a result of decay, deterioration, or dilapidation is likely to fully or partially collapse.
- (3) *Hazardous wiring.* All wiring except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.
- (4) *Hazardous plumbing.* All plumbing except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross-connections and siphonage between fixtures.
- (5) *Hazardous mechanical equipment.* All mechanical equipment, including but not limited to vents, except that which conforms to all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.
- (6) *Faulty weather protection.* Weather protection which shall include, but not be limited to, the following:
- a. Deteriorated, crumbling or loose plaster.
 - b. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
 - c. Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
 - d. Broken, rotted, split or buckled exterior wall coverings or roof coverings.
 - e. Lack of adequate insulation in ceilings.
 - f. Lack of adequate insulation in exterior walls. Provided, however, double wall construction which was in compliance with this article at the time of original construction shall be deemed adequate for purposes of this article; otherwise, insulating material will be required.
- (7) *Fire hazard.* Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

- (8) *Faulty materials of construction.* All materials of construction except those which are specifically allowed or approved by this article and the building code, and which have been adequately maintained in good and safe condition.
- (9) *Hazardous or insanitary premises.* Those premises on which any accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials and similar materials or conditions constitute fire, health or safety hazards.
- (10) *Inadequate maintenance.* Any building or portion thereof which is determined to be an unsafe building in accordance with any city ordinance.
- (11) *Inadequate exits.* All buildings or portion thereof not provided with adequate exit facilities as required by City ordinance except those buildings or portion thereof whose exit facilities conform with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy. When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.
- (12) *Inadequate fire protection or firefighting equipment.* All buildings or portions thereof which are not provided with a fire-resistive construction or fire extinguishing systems or equipment required by this article or the building code, except those buildings or portions thereof which conform with all applicable laws at the time of their construction and whose fire-resistive integrity and fire extinguishing systems or equipment have been maintained and approved in relation to any increase in occupant load, alteration or addition or any change in occupancy.
- (13) *Improper occupancy.* All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancy.

Sec. 6-122. Tense, gender and number.

Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and the plural number includes the singular.

Secs. 6-123 - 6-129. Reserved.

DIVISION 3. INSPECTION; NOTICE OF SUBSTANDARDS BUILDING; HEARING

Sec. 6-130. Abatement of substandard buildings.

All buildings or portions thereof which are determined to be substandard buildings, as defined in this article, are hereby declared to be a hazard to the health, safety and welfare of the citizens, and shall be abated by repair, vacation, rehabilitation, demolition or removal in accordance with the procedures specified in this article, by the City's Historic Preservation Ordinance if applicable, by prosecution in municipal court, or as otherwise allowed by law or equity.

Sec. 6-131. Inspection.

The building official shall inspect or cause to be inspected any building, structure or portion thereof which is or may be a substandard building.

Sec. 6-132. Action required.

After the building official has inspected or caused to be inspected a building, structure or portion thereof and has determined that such building, structure or portion thereof is a substandard building, he shall initiate proceedings to cause the abatement of the unsafe condition by repair, vacation, demolition or combination thereof.

Sec. 6-133. Emergency procedure for abating substandard building.

- (a) When it shall appear that a building or structure in the City of Brenham is a substandard building under the terms of this article and that such building or structure or the manner of its use constitutes an immediate and serious danger to life or property, the condition shall be deemed a condition justifying the use of emergency measures, and the building and standards commission, or a majority of the building and standards commission, may, with the consent and approval of the city manager, order any of the following emergency measures to be taken:
 - (1) Immediate vacation of such building, structure and/or adjoining buildings or structures;
 - (2) Vacation of the danger area around such building or structure;
 - (3) Such emergency shoring-up and bracing of walls, roofs and supports as are required to render such building or structure safe;
 - (4) The destruction of such walls, roofs, and supports or the entire structure or so much thereof as cannot be braced or made secure with safety; or
 - (5) Posting of notices on or near such building or structure, or buildings or structures, notifying the public of such orders and ordering all persons to keep out of such building, buildings, structures or structure and the areas of danger surrounding it or them.
- (b) When any of the above-mentioned measures are ordered to be taken, notice of such order shall be given as follows:
 - (1) Such order shall be directed to the owner of such substandard building or structure, or the owner's authorized representative, if the same shall be known. Where notification can be accomplished without increasing the danger to life or property, notice shall be given by personal service on the owner of the building or structure, or the owner's representative or by certified mail, return receipt requested;
 - (2) In the event that such notification would create such a delay as would materially increase the danger of life or property, then such notice need not be given.

Sec. 6-134. Standard procedure for abating substandard building.

- (a) When it appears that a building or structure in the City of Brenham is a substandard building, but that no necessity exists for instituting emergency procedures under section 6-133 of this article, the building official shall prepare and issue a notice of substandard building directed to the owner, mortgagee, registered agent or any lienholder of the building or structure found using a search of real property records of Washington

County, Appraisal District Records of Washington County, Records of the Secretary of State, Assumed Name Records of Washington County, City of Brenham Tax Records, and City of Brenham Utility Records. The notice shall contain, but not be limited to, the following information:

- (1) The street address or legal description of the building, structure or premises.
- (2) A statement indicating the building or structure has been declared a substandard building by the building official, and a detailed report documenting the conditions determined to have rendered the building or structure a substandard building under the provisions of this article.
- (3) The action required to be taken as determined by the building official.
- (4) A notice of the date, place and time that the notice of substandard building is set for public hearing before the building and standards commission. The hearing notice shall include, but not be limited to, the following information:

"You are hereby notified that on the ____ day of _____ 20____, at _____ o'clock in the _____, at _____, a hearing will be held before the Building and Standards Commission to consider the Notice of Substandard Building of the Building Official regarding the property located at _____. You may choose to be represented by counsel. You may present evidence and will be given an opportunity to cross-examine all witnesses. You may request the issuance of subpoenas to compel witnesses to appear and for the production of other supporting data or documentation by filing a written request therefor with the Building and Standards Commission."

- (5) A notice providing as follows:

"According to the Real Property Records of Washington County, you own or claim an interest in the real property described in this notice. If you no longer own or claim an interest in the property, you must execute an affidavit stating that you no longer own or claim an interest in the property and stating the name and last known address of the person who acquired the property or an interest in the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Building Official of the City of Brenham not later than the 10th day after the date that you receive this notice. If you do not send the affidavit, it will be presumed, pursuant to Tex. Local Gov't Code Ann. § 54.005, as amended, that you own or claim an interest in the property described in this notice, even if you do not."

- (b) The notice of substandard building and all attachments thereto shall be personally delivered or mailed to any owner, mortgagee and lienholder of record, and posted on the premises in a conspicuous location on or before the tenth day before the date of the hearing before the commission panel. In addition, the notice must be published in a newspaper of general circulation in the City of Brenham on one (1) occasion on or before the tenth day before the date fixed for the hearing.
- (c) The notice of substandard building shall be either personally delivered or mailed by certified mail, postage prepaid, return receipt requested, to each person at the last known address of the person. If addresses are not available on any person required to be notified of the substandard building proceeding, the notice addressed to such person shall be mailed to the address of the building or structure involved in the proceedings. The failure of any person to receive notice shall not invalidate any proceedings under this article. Notification by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt. When

the city mails a notice in accordance with this article to a property owner, mortgagee, lienholder, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered on the third day (excluding Sundays) occurring after the date the notice was mailed.

- (d) The building official shall file notice of a substandard building proceeding before the building and standards commission in the Official Public Records of Real Property of Washington County. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, a legal description of the affected property, and a description of the proceeding. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice and constitutes notice of the proceeding on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

Sec. 6-135. Hearings before the building and standards commission.

- (a) Failure of any person to appear at the hearing set in accordance with the provisions of this article shall constitute a waiver of that person's right to a hearing on the notice of substandard building.
- (b) The hearing shall offer all interested persons reasonable opportunity to be heard.
- (c) A person may appear at the hearing in person or through an attorney or other designated representative.
- (d) The building and standards commission, after hearing evidence from each interested party present, may:
 - (1) Find that the building or structure is not a substandard building and refer the matter to the building official for further appropriate action;
 - (2) Grant a variance in order to avoid the imposition of an unreasonable hardship;
 - (3) In the case of a single-family dwelling occupied by the owner, where the health, safety and welfare of other persons will not be affected, grant an exception to any provision of this article to avoid the imposition of an unreasonable hardship;
 - (4) Find that the building or structure is a substandard building and order the repair or other suitable remedy within a specified period of time and/or demolition of the structure if the repair and other suitable remedies are not timely effected; or
 - (5) Order the demolition of the building or structure within a specified period of time.

Sec. 6-136. Order of building and standards commission.

- (a) The final decision of the building and standards commission shall be in writing and contain all findings of fact.
- (b) After receipt of all competent evidence presented at a hearing, if the building and standards commission shall find a building or structure to be a substandard building, the building and standards commission shall enter its written order containing, but not limited to, the following information:
 - (1) The street address or legal description of the building, structure or premises.
 - (2) A statement indicating the building or structure has been declared a substandard building by the building and standards commission, and an account giving the conditions determined to have rendered the building or structure a substandard building under the provisions of this article.

- (3) The action required to be taken as determined by the building and standards commission.
 - a. If the building or structure is to be repaired, the notice shall require that all necessary permits be secured and the work commenced within sixty (60) days and continued to completion within such time as the building and standards commission determines. The notice shall also indicate the degree to which the repairs must comply with the provisions of the building code of the city.
 - b. If the building or structure is to be demolished, the notice shall require that the premises be vacated within sixty (60) days, that all required permits for demolition be secured, and that the demolition be completed within such time as determined reasonable by the building and standards commission.
- (4) A statement of additional reasonable time for the ordered action to be taken by a mortgagee or lienholder in the event the owner fails to timely take the ordered action.
- (5) A statement advising that if the required action is not commenced within or completed by the time specified, the building will be ordered vacated and posted to prevent further occupancy until the work is completed, and the building official may cause the work to be done and all costs incurred charged against the premises and/or the owner.
- (6) A statement advising that any owner, lienholder, or mortgagee of record may appeal the order by the building and standards commission to district court; and that such petition shall be in writing in the form specified by this article and shall be filed with the district court within thirty (30) calendar days after the date a copy of the final decision of the commission panel is personally delivered or mailed by first class mail with certified return receipt requested, or delivered by the United States Postal Service using signature confirmation service. In the event no timely appeal is filed in district court, the order of the building and standards commission is, in all respects, final and binding, and the failure to appeal in the time specified will constitute a waiver of all rights to an appeal.
- (c) The final order of the building and standards commission shall be served on all persons entitled to receive the notice of substandard building in the proceeding and shall be served on such parties in the same manner specified for service of the notice of substandard building in section 6-134 of this article. In addition, an abbreviated copy of the order shall be published one (1) time in a newspaper of general circulation in the City of Brenham within ten (10) calendar days after the date of the delivery or mailing of the copy, including the street address or legal description of the property; the date of the hearing, a brief statement indicating the results of the order, and instructions stating where a complete copy of the order may be obtained. Further, a copy of the order shall be filed in the office of the city secretary.

Sec. 6-137. Recording.

- (a) A record shall be made of all hearings and proceedings. The method of recording shall be designated by the building and standards commission.
- (b) The record of any hearing may, upon payment of the prescribed fees, be made available to any person on request.

Sec. 6-138. Reasonable dispatch.

The building and standards commission shall proceed with reasonable dispatch to conclude any matter before it, with due regard to the convenience and necessity of the parties involved.

Sec. 6-139. Subpoenas.

- (a) The building and standards commission may obtain the issuance and service of subpoenas for the attendance of witnesses or the production of evidence at the hearings. Subpoenas may be issued upon the request of any member of the building and standards commission or of an interested party.
- (b) The issuance and service of subpoenas shall be in accordance with established law.
- (c) Any person who refuses without legal excuse to respond to any subpoena lawfully issued and served may be prosecuted to the extent established by law.

Sec. 6-140. Procedural rules.

- (a) Hearings shall not be required to be conducted in accordance with the Texas Rules of Civil Procedure or the Texas Rules of Evidence.
- (b) The building and standards commission may grant continuances for good cause.

Sec. 6-141. Evidence.

- (a) In any proceedings under this article any member of the building and standards commission shall have the power to administer oaths and affirmations and to certify official acts.
- (b) Oral evidence shall be taken only on oath or affirmation.
- (c) Relevant evidence shall be admitted if it is the type on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil courts.

Sec. 6-142. Inspections.

The building and standards commission may inspect any building, structure or premises involved in the proceeding during the course of the hearing, provided the following are complied with:

- (1) Notice of such inspection is given to the parties prior to making the inspection;
- (2) The parties are allowed to be present during the inspection; and
- (3) The commission shall state for the record, upon completion of the inspection, the facts observed and any conclusions drawn therefrom.

Sec. 6-143. Recording of notice.

If the notice is not complied with nor an appeal filed within the allotted time, the building official shall file in the Office of the County Clerk of Washington County a certificate describing the premises, certifying that the building or structure is a substandard building and that the owner of record and any mortgagee or lienholders have been served, and stating the restrictions on the disposal of premises set out in section 6-144 of this article. This certificate shall remain on file until such time as the conditions rendering the building or structure a substandard building have

been abated. At such time, the building official shall file a new certificate indicating that corrective action has been taken and the building or structure is no longer a substandard building.

Sec. 6-144. Restriction on the disposal of premises.

No owner of any building or structure upon whom a notice has been served that violations of this article exist in such building or structure or on its premises shall sell, transfer, grant, mortgage, lease or otherwise dispose of such premises until compliance with such notice or order has been secured, or until such owner shall have furnished to the purchaser, transferee, grantee, mortgagee or lessee who is affected by the violations a true copy of such notice or order and at the same time shall have given adequate notification to the building official of his intent to enter into such transaction, including supplying the name and address of the person to whom the sale, transfer, grant, mortgage or lease is proposed. A purchaser who has been informed of the existence of any notice or order pursuant to this article shall be bound thereby.

DIVISION 4. APPEALS

Sec. 6-145. Requirements for appeal.

- (a) Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision of the building and standards commission may present a petition to a district court, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within thirty (30) calendar days after the date a copy of the final decision of the commission panel is personally delivered, mailed by first class mail with certified return receipt requested, or delivered by the United States Postal Service using signature confirmation service to the owner, lienholder, or mortgagee.
- (b) On presentation of the petition, the court may allow a writ of certiorari directed to the building and standards commission to review its decision and shall prescribe in the writ the time, which may not be less than ten (10) days, within which a return on the writ must be made and served on the relator or the relator's attorney. The commission panel may not be required to return the original papers acted on by it. It is sufficient for the commission panel to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ. The return must concisely set forth other facts as may be pertinent and material to show the grounds for the decision appealed from and shall be verified.

Sec. 6-146. Staying of order under appeal.

The allowance of the writ by the district court does not stay proceedings on the decision appealed from.

Sec. 6-147. Procedural and evidentiary rules.

The district court's review shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.

Sec. 6-148. Costs of appeal.

If the decision of the building and standards commission is affirmed or not substantially reversed but only modified, the district court shall allow to the city all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners as well as all persons found to be in occupation of the property subject to the proceedings before the building and standards commission.

Secs. 6-149 - 6-150. Reserved.

DIVISION 5. ENFORCEMENT

Sec. 6-151. Failure to commence work.

- (a) Whenever the required repair, vacation or demolition is not commenced within thirty (30) days after the effective date of any order, the building, structure or premises shall be posted as follows:

UNSAFE BUILDING
DO NOT OCCUPY

It shall be punishable by law to occupy this building or remove or deface this Notice
(Specify the applicable ordinance and the penalty for violation thereof)

Building Official
City of Brenham

- (b) Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe, or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premises. The cost of repair or demolition shall constitute a lien on the premises as provided in this article.
- (c) Any monies received from the sale of a building or from the demolition thereof, over and above the cost incurred, shall be paid to the owner of record or other persons lawfully entitled thereto.

Sec. 6-152. Extension of time.

The building official may approve one (1) or more extensions of time as he may determine to be reasonable to complete the required repair or demolition. Such requests for extensions shall be made in writing stating the reasons therefor. If the extensions of time, in total, exceed one hundred twenty (120) days, they must also be approved by the building and standards commission which may act without further public hearing.

Sec. 6-153. Assessment of expenses.

In any case where the building and standards commission orders a substandard building or structure repaired or demolished and cleared or removed, and the owner of any such premises or building or structure which is a substandard building fails to correct, remedy or remove such condition, and the owner, or duly authorized representative of the owner, shall have exhausted his rights and remedies under this article, the commission may order such work or make such improvements as are necessary to correct, remedy or remove such conditions, or cause the same to be done, and pay therefor, and charge the expenses incurred thereby to the owner of such lot or

premises. Such expense shall be assessed against the lot or real property upon which work was done, the improvements made or the demolishing, cleaning or removal of substandard buildings or structures accomplished. The performance of such work by the city or the ordering of same by the building and standards commission shall not relieve such person from prosecution for failure to comply with the notice.

Sec. 6-154. Lien for expenses.

- (a) Whenever any work is done or improvements are made or any substandard building or structure is repaired, demolished, cleared or removed by the city under the provisions of this article, the building official, on behalf of the city, shall file a statement of the expenses incurred thereby with the county clerk. Such statement shall give the name and address of the owner, if it can be determined with a reasonable effort, the legal description of the affected property, the amount of such expenses, the date or dates on which the work was done, or the expenses incurred, and the costs of demolishing, cleaning, repairing or removing the conditions or substandard building and structure and the amount of expenses then due. When this statement is filed with the county clerk, the City of Brenham shall have a lien on the lot or real estate upon which the work was done, or improvements made, or repairs made, or substandard buildings repaired, removed or demolished and cleared to secure the expenses thereof unless the property is homestead protected by the Texas Constitution.

If notice is given and the opportunity to repair, remove or demolish the building is afforded to each mortgagee and lienholder, the lien of the city is a privileged lien, subordinate only to taxes and all previously recorded bona fide mortgage liens attached to the property. The city's lien is superior to any previously recorded judgment liens. The amount of the city's lien shall bear interest at the rate of ten (10) percent per annum from the date the statement was filed with the county clerk. For any such expenditure, expense and interest suit may be instituted against the owner or owners. The statement of expenses for repairs or demolition made herein and filed with the county clerk, or a certified copy thereof, shall be prima facie proof of the amount expended for such work, improvements, repairs, demolition, clearance or removal.

- (b) In any judicial proceeding regarding the enforcement of the city's rights under this section, the prevailing party is entitled to recover reasonable attorney's fees.
- (c) A lien acquired by the city under this article for repair expenses may not be foreclosed if the property upon which the repairs were made is occupied as a residential homestead by a person sixty-five (65) years of age or older.

Sec. 6-155. Penalties.

A person commits an offense punishable in accordance with section 1-5 of the Code of Ordinances if:

- (1) The person fails or refuses to respond to the direction of an order of the building official or building and standards commission after that order becomes final;
- (2) The person shall obstruct or interfere with the implementation of any action required by the final order of the building official or the building and standards commission after that order becomes final; or
- (3) The person willfully refuses to leave or fails to leave a building or structure which has been ordered vacated under the provisions of this article.

Secs. 6-156 - 6-159. Reserved.

SECTION 3.

That Chapter 8 – “Fire Protection and Prevention” of the Code of Ordinances of the City of Brenham, Texas is hereby amended to read as follows.

Chapter 8. FIRE PROTECTION AND PREVENTION

ARTICLE I. GENERAL

Sec. 8-1. Arson reward—Offer.

The city offers a reward of one thousand dollars (\$1,000.00) to anyone who furnishes information to the fire marshal necessary to and which results in the arrest and conviction of any person or persons who commit the crime of arson within the corporate limits of the city. This reward is a standing offer and shall be paid out of the general fund of the city. The city council shall be the sole and exclusive judge in determining eligibility for the reward offered herein.

Sec. 8-2. Same—Placards; furnishing copies of offer.

The fire marshal is authorized to publish the notice of Arson reward on the City’s website, social media, news print or other media as the situation or need arises.

Sec. 8-3. Fireworks—Possessing, selling, etc.

- (a) The transporting, storing, possession or presence of any fireworks (except for the purpose of offering fireworks for sale in the territorial jurisdiction of the city), including types covered by Texas Occupation Code Chapter 2154, within the city or the territorial jurisdiction of the city, being the area immediately adjacent and contiguous to the city limits and extending outside the city limits for a distance of five thousand (5,000) feet in all directions, unless such area is within the corporate limits of another municipality, is hereby declared to be a nuisance. The offering for sale of any fireworks within the city limits is hereby declared to be a nuisance; however, the offering for sale of any fireworks in the territorial jurisdiction of the city shall not be considered a nuisance.
- (b) The fire chief shall seize and cause to be destroyed all fireworks that are opened or unpackaged and found within the city or its territorial jurisdiction in violation of the provisions of this section.
- (c) Any member of the fire department, any police officer, or any other peaceofficer, is empowered to detain all fireworks that are opened or unpackaged and found being transported illegally or to close any building where any fireworks are found stored illegally, until the fire department can be notified in order that such fireworks that are opened or unpackaged may be seized and destroyed in accordance with the terms of this section.

- (d) Notwithstanding any penal provisions hereof, the city attorney is authorized to file suit on behalf of the city for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or using of fireworks within the city limits or the territorial jurisdiction of the city, and to prevent any person from interfering with the seizure and destruction of such fireworks; provided, however:
 - 1) That it shall not be necessary to obtain such injunctive relief as a prerequisite to such seizure and destruction.
 - 2) That any member of the fire department is hereby authorized to enter any building, in accordance with applicable laws governing the right to entry, search and seizure, where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks.
 - 3) That in any instance, where the fire chief or any of his duly authorized assistants have probable cause to believe that fireworks are being stored in a building, they shall, in accordance with applicable laws governing the right to entry, search and seizure, promptly enter the building for the purpose of inspection.
- (e) Any person, firm, corporation, company or association who shall violate any of the provisions of this section, or suffer or allow the same to be violated, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed two thousand dollars (\$2,000.00), and each day during which such violation shall continue to exist shall constitute a separate and distinct offense.
- (f) It is an affirmative defense to prosecution for possession of fireworks under this section that:
 - 1) The defendant was operating or was a passenger in a motor vehicle that was being operated in a public place; and
 - 2) The fireworks were not in the passenger area of the vehicle.
- (g) For purposes of subsection (f), the "passenger area" of a motor vehicle means the area of the vehicle designed for the seating of the operator and the passengers of the vehicle. The term does not include:
 - 1) A locked glove compartment or similar locked storage area;
 - 2) The trunk of a vehicle; or
 - 3) The area behind the last upright seat of a vehicle that does not have a trunk.

Sec. 8-4. Same—Discharge.

The use, firing, igniting, shooting, exploding or discharge of fireworks as provided in section 8-3 is hereby found and declared to be a general and public nuisance and the same is hereby prohibited; provided, this section shall not prohibit lawfully authorized pyrotechnic displays.

Sec. 8-5. Recovering cost for fire protection and emergency services.

- (a) *Collection of fees:*
 - 1) The City Council of the City of Brenham authorizes the city manager to adopt charges to be billed against parties involved in motor vehicle accidents, hazardous waste or chemical spills, or other fire suppression and non-fire suppression activities to which the city responds with fire department equipment and/or personnel. These charges may be billed as a debt to the party causing the event; the landowner; the party controlling the premises in the event of a spill or dumping and/or the party transporting said hazardous, dangerous and/or injurious product; or the party controlling the premises in the event of a fire. Fire

suppression activities resulting from third party negligence may be billed against that third party. Fire suppression resulting from arson may be billed against the arsonist.

- 2) The city manager, or his designee, shall bill and collect all fees and costs for fire suppression services, fire prevention services and for other public safety and emergency services rendered by the department when providing these services for motor vehicle accidents or other incidents. Such fees include but are not limited to the use of equipment, materials, labor and overtime costs, maintenance and overhead expenses and costs of whatever nature which constitute full reimbursement to the fire department for services actually rendered and as hereafter authorized.
 - 3) Within one hundred eighty (180) days of the date of providing fire suppression, fire prevention and protection services or other public safety and emergency services for the motor vehicle accidents or other incidents, the city manager, or his designee, shall submit an invoice for all costs, fees, charges and expenses related to providing such services, to include but not limited to all actual expenses including costs of equipment operations, cost of material utilized, costs of specialists, experts or other contract labor not in the full time employment of the city; labor and overtime costs, and other incidental costs incurred by the city as a result of the incident, to the landowner, party controlling the premises, party causing the incident, customer, client, owner, designated agent, representative and/or insurance company who received, covered and/or otherwise benefited from these services.
 - 4) Any bills, fees or penalties, including but not limited to clean up costs, fees or expenses that are imposed the City of Brenham or the fire department by any local, state or federal agency, related to the rendering of fire suppression, fire protection or prevention services or of other public safety and emergency services may be included in the billing or billed separately within one hundred eighty (180) days of receipt.
- (b) *Enforcement.* The city may enforce the provisions of this section by any action allowed by law for the collection of any amounts due hereafter, including reasonable and necessary attorney fees, costs, and expenses, in a court of competent jurisdiction.

Secs. 8-6 – 8-19. Reserved.

ARTICLE II. FIRE PREVENTION CODE

Sec. 8-20. Adoption.

There is hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the 2018 International Fire Code, including Appendices B, C, D, E, F, G, H, I, J, K, L, M and N, and all revisions thereto, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, said code as revised herein also being sometimes referred to as the fire prevention code. A copy of the 2018 International Fire Code shall be filed in the office of the planning and development services department, and in the office of the fire marshal. The same is

hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this section shall take effect, the provisions thereof shall be controlling within the limits of the city.

Sec. 8-21. Definitions.

- (a) Wherever the word "municipality" is used in the fire prevention code, it shall be held to mean this city.
- (b) Where the term "corporation counsel" is used in the fire prevention code, it shall be held to mean the attorney for this city.
- (c) Wherever the word "fire code official" is used in the fire prevention code, it shall be held to mean fire marshal for this city.

Sec. 8-22. Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.

The limits referred to in the fire prevention code in which storage of explosives and blasting agents is prohibited are hereby established as the city limits.

Sec. 8-23. Regulation of use and placement of fuel storage tanks.

- (a) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this article:

Aboveground shall mean any storage tank, as defined herein, which any portion thereof is aboveground, excluding valves and pipes into and out of the tank.

Combustible liquid shall mean a liquid having a flash point of one hundred (100) degrees Fahrenheit or higher per NFPA-30, the Flammable and Combustible Liquid Code, 2012 Edition, and as amended thereafter.

Flammable liquid shall mean a liquid having a flash point of less than one hundred (100) degrees Fahrenheit per NFPA-30, the Flammable and Combustible Liquid Code, 2012 Edition, and as amended thereafter.

Storage location shall mean any area which contains no less than one hundred (100) square feet within which one (1) or more fuel storage tanks are to be located. Each storage location shall be located no less than one hundred (100) linear feet from any other storage location.

Storage tanks shall mean any container in excess of one hundred (100) gallons, which is used to store any hydrocarbon material including, but not limited to, gasoline, diesel and kerosene.

- (b) *Permit required.* Every owner shall obtain a permit from the Fire Marshal for any of the following prior to the commencement of construction of such facilities:
 - 1) A belowground (or underground), liquefied natural gas, liquefied petroleum gas, or flammable or combustible liquid storage tank.
 - 2) An aboveground storage tank for liquefied natural gas, or liquefied petroleum gas. No new storage locations shall be permitted which will contain a fuel storage tank with a liquid capacity of more than two thousand (2,000) gallons or which will

contain two (2) or more fuel storage tanks with an aggregate liquid capacity of more than four thousand (4,000) gallons.

- 3) An aboveground storage tank for a flammable or combustible liquid. No new storage locations shall be permitted which will contain a fuel storage tank with a liquid capacity of more than one thousand (1,000) gallons or which will contain two (2) or more fuel storage tanks with an aggregate liquid capacity of more than two thousand (2,000) gallons.
- (c) *Proper tank for aboveground storage of flammable or combustible liquids.* Any new tank or tank system used in the city for aboveground storage of flammable or combustible liquids shall be designed, constructed, installed, operated and maintained in accordance with NFPA-30, titled "Flammable and Combustible Liquid Code, 2012 Edition," and as amended thereafter.
- (d) *Proper tank for aboveground storage of liquefied natural gas.* Any new tank or tank system used in the city for aboveground storage of liquid natural gas shall be designed, constructed, installed, operated and maintained in accordance with NFPA-59A, titled "Liquefied Natural Gas, 2013 Edition," and as amended thereafter.
- (e) *Proper tank for aboveground storage of liquefied petroleum gas.* Any new tank or tank system used in the city for aboveground storage of liquefied petroleum gas shall be designed, constructed, installed, operated and maintained in accordance with NFPA-58, titled "Liquefied Petroleum Gas, 2014 Edition," and as amended thereafter.
- (f) *Tank location.* In addition to location restrictions listed in NFPA-30, "Flammable and Combustible Liquid Code, 2012 Edition," no new tank used for the aboveground storage of flammable or combustible liquids may be placed or used within one hundred (100) feet of property zoned or used for residential use. New tanks added to existing bulk plants are excluded from this provision.
- (g) *Noncompliance; denial or revocation of certificate; order to cease operations.* Upon finding of non-compliance with this article, the fire marshal may revoke or deny the renewal of a permit and order the person or firm owning or operating the tank to cease all or part of its operation in this city until in compliance. No one shall operate or own a storage tank without a valid permit.
- (h) *Establishment of limits of districts in which storage of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas in aboveground tanks is prohibited.* The storage of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas in aboveground tanks is prohibited within the areas of the city zoned as "B-3, Historical and Central Business" district(s). New bulk loading and unloading facilities for tank cars, tank vehicles and similar equipment involved in the storage or transportation of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas, in aboveground tanks, are prohibited within the city limits.
- (i) *Special permit required for tank exceeding volumes limits established in subsections 8-23(b)(2) and 8-23(b)(3).* Any person or firm desiring to own, install or operate one (1) or more aboveground tanks for the storage of combustible liquids in excess of the volume

limits stated in subsections 8-23(b)(2) and 8-23(b)(3) hereinabove, shall submit an application to the fire marshal for a special permit allowing for an increase in the volume capacity of the tank(s). To be considered for such special permit, the owner or operator of the tank facility shall demonstrate to the satisfaction of the fire marshal or his deputy that the aboveground tank(s):

- (1) Shall be located only on property zoned as industrial;
- (2) Shall be registered and licensed in compliance with all rules and regulations of the Texas Commission on Environmental Quality;
- (3) Shall be designed, built and operated in compliance with all applicable provisions of the International Fire Code, 2018 Edition and the National Fire Protection Association Standard 30 entitled "Flammable and Combustible Liquids Code" as referenced by the International Fire Code; and
- (4) Shall contain only combustible liquids having a flash point of greater than one hundred (100) degrees Fahrenheit, including but not limited to, diesel fuel, biodiesel, motor oil, hydraulic oil and like substances.

Special permits may not be issued for aboveground storage tanks containing gasoline or other flammable liquids having a flash point of less than one hundred (100) degrees Fahrenheit and with a capacity greater than the volume limits detailed in subsections 8-23(b)(2) and 8-23(b)(3) herein above.

Within forty-five (45) days after determining that a special permit application meets the requirements of this section, the fire marshal, or his deputy, shall present the matter to the city council for its consideration. No special permit for a tank or tanks exceeding the quantities shown in subsections 8-23(b)(2) and 8-23(b)(3) may be issued without approval by the city council. The fire marshal, or his deputy, shall inspect all tank(s) installed pursuant to a special permit to determine compliance with the requirements of this section.

Special permits approved and issued pursuant to this section shall be revocable. The city council, upon request of the fire marshal and after written notice and opportunity to be heard being issued to the permit holder, is authorized to revoke a special permit for non-compliance with the provisions of this section or other applicable law. Where an immediate hazard to life or property exists, however, the fire marshal in such an emergency may order a permit holder to take immediate action, without prior written notice, to correct the issues of non-compliance with the fire prevention code and the provisions of this article or to immediately abate all conditions creating the immediate hazard to life or property. The fire marshal, in such an emergency and without prior written notice to the permit holder, may also order the permit holder to cease any and all operations, occupancy or activity at the affected site. A permit holder that violates an order of the fire marshal shall be subject to the penalties provided for in section 8-26 of this article and as otherwise allowed by law. In the event a permit holder does not immediately comply with an emergency order of the fire marshal, the fire marshal, without prior written notice to the permit holder, may take any and all actions necessary to immediately abate all conditions creating the immediate hazard to life or property.

Sec. 8-24. Modifications.

The fire marshal, as the fire code official of the city, shall have power to approve exceptions any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such exceptions when granted or allowed and the decision of the fire marshal thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

Sec. 8-25. Appeals.

Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the city manager or his designee within thirty (30) days from the date of the decision appealed. Section 109 of the International Fire Code, 2018 Edition and all amendments thereto, creating a board of appeals, shall not be applicable to any appeals filed pursuant to any provision of this chapter 8 of the Code of Ordinances.

Sec. 8-26. Penalties.

- (a) Any person, firm, partnership, corporation, association, or other entity violating any provision of this article or of any Code provision adopted herein shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in the sum of not more than \$2,000.00, and each day such violation continues shall constitute a separate and distinct violation.
- (b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Secs. 8-27 – 8-39. Reserved.

SECTION 4.

All provisions of any ordinance, resolution or other action of the City in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances, resolutions or other actions shall remain in full force and effect.

SECTION 5.

Should any section, subsection, sentence or clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentences, clauses and phrases remaining should any provision be declared unconstitutional or invalid.

SECTION 6.

This Ordinance shall become effective upon adoption and publication as required by law.

PASSED and **APPROVED** on its first reading this the 14th day of October 2021.

PASSED and **APPROVED** on its second reading this the 21st day of October 2021.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 7.

Agenda Item: **Presentation and Discussion on Possible Park Street Improvements and Various Food Establishment Fees and Other Related Items**

Meeting Type: Regular Meeting-October 21, 2021

Department: Development Services

Staff Contact: Stephanie Doland

SUMMARY STATEMENT:

Early in the year City Staff was directed by Council to review and draft new standards pertaining to mobile food establishments (mobile kitchens). The request originated due to concerns from existing mobile kitchens about permitting procedures and costs as well as permitted locations to operate. Following a Workshop Discussion on February 24, 2021 a Food Truck Task Force was formed and included, Mayor Pro Tem Clint Kolby, Planning and Zoning Commission Chair Keith Behrens, Main Street Board member Lowell Ogle, Owner of Country Sunshine (mobile kitchen) Cullen Holle and Downtown property owner Melinda Faubion.

The work of the Task Force includes the review and update to multiple City of Brenham Ordinances including:

- Chapter 9 – Food and Food Establishments
- Chapter 16 – Occupational Licenses and Business Regulations
- Appendix A – Zoning

Additionally, the Task Force reviewed items pertaining to mobile kitchens parked in the right-of-way, fees for both fixed and mobile food establishments, itinerant vendor permit criteria and fees, the use of a Food Truck Park as a primary use on non-residential property, among other related topics.

During the workshop session staff will provide Council an update and/or seek direction on the following:

- Provide a brief overview of the work of the Task Force
- Discuss the status of the License to Encroach for the existing Mobile Kitchens, Country Sunshine and Home Sweet Farm
- Review an Opinion of Probable Cost for public infrastructure improvements along S. Park Street
- Discuss a potential food truck park partnership in Downtown Brenham
- Review an update to fees associated with Food Establishments and Vendors/Solicitors

Amendments to Chapter 9, Chapter 16 and Appendix A of the Brenham Code of Ordinances are proposed as subsequent, separate agenda items on the October 21, 2021 meeting agenda. For consideration during the November 4, 2021 Council Meeting will be a proposed fee resolution for Food Establishments and Itinerant Vendors/Solicitors.

ATTACHMENTS:

(1) Slide Deck Outlining Items Considered by Food Truck Task Force
--

RECOMMENDED ACTION:

Workshop discussion only, no action will be taken.
--

Work Session Agenda Item No. 7

October 21, 2021

Food Truck Task Force Follow-Up

- Ordinance Amendments
 - Chapter 9 – Food and Food Establishments (Agenda Item No. 9)
 - Chapter 16 – Occupational Licenses and Business Regulations (Agenda Item No. 9)
 - Appendix A – Zoning (Agenda Item No. 8)
- License to Encroach – Grandfathering existing
- South Park Street Improvements
- St Charles Station
- Fees for Food Establishments & Vendor/Solicitors

License To Encroach - Grandfathering

- Agreement Particulars
 - Mobile Kitchens permitted Wednesday – Sunday
 - Length of Agreement: 3 Years
 - Agreement non-transferrable upon sale of property or business

- Two Agreements
 1. Country Sunshine
 2. Home Sweet Farm

Current MFE vs Fixed Est. Permit Cost

- Fixed Food Establishment Permits (annual)

- Heavy Food Preparation: \$150
- Light Food Preparation: \$125
- No Food Preparation: \$50

**Note permit fees include annual certification and a minimum of two annual inspections by City Health Official.

- Mobile Food Establishment Permits

- Food Permit: \$50 for each 45 days = \$400 annually
- Vendor Permit: \$25 for each 30 days = \$300 annually

Total = 700 annually

Proposed MFE vs Fixed Est. Permit Cost

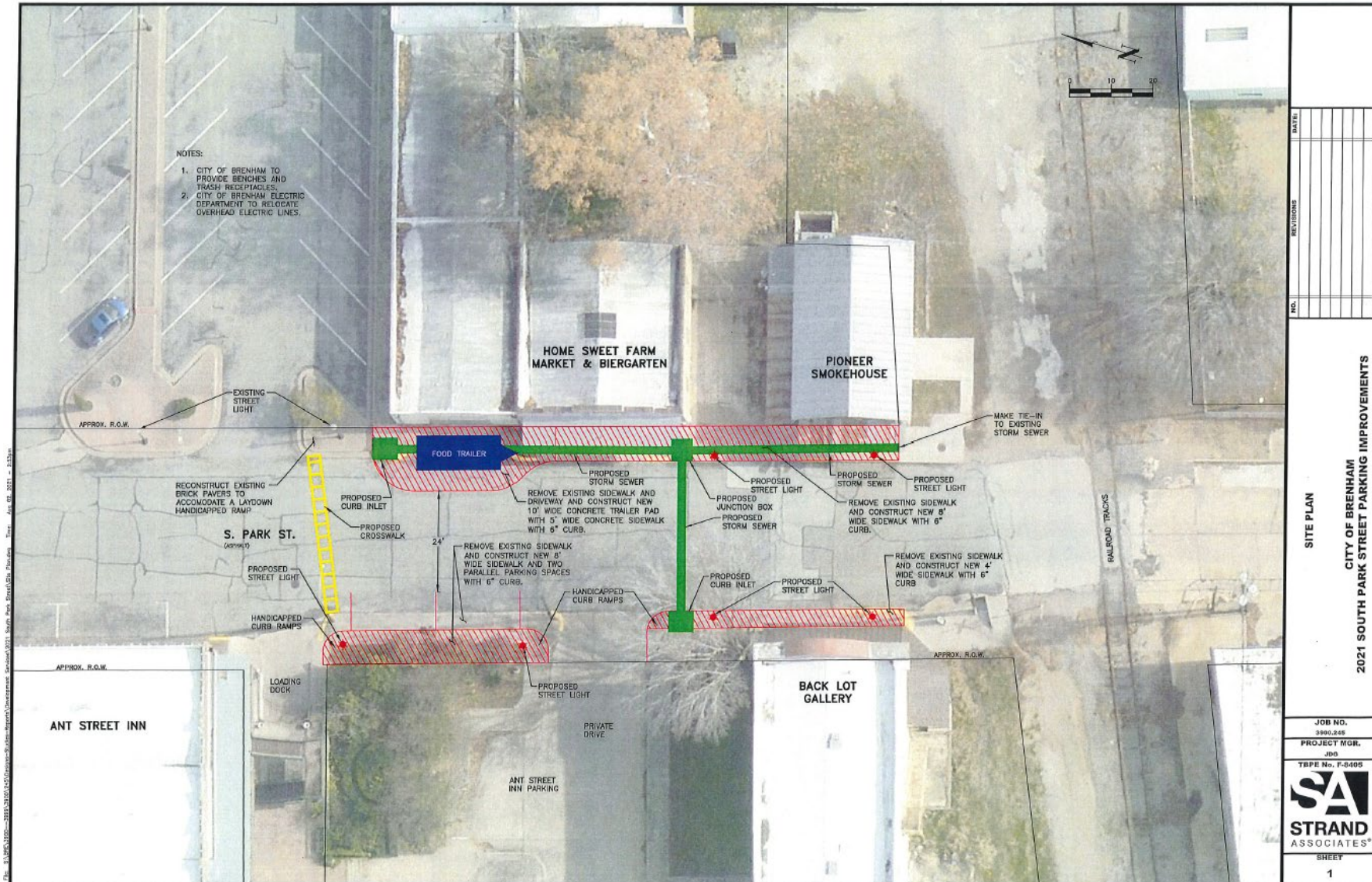
- Direction of Council was to bring permit fees in-line for both Fixed Establishments and MFE. Following a review of comparison cities, it was noted that Brenham fees are noticeably lower. (See attached excel workbook)
- Task Force discussion on 9.2.2021
 - Bringing fees in line for MFE and Fixed Establishments will result in an increase for Fixed Establishments.
 - Rather than fees being equal, work to bring fees more in line. In other words, lower permit fees for MFE.

Proposed MFE vs Fixed Est. Permit Cost

- Fixed Food Establishment Permits (annual)
 - Heavy Food Preparation: \$150 (no change from current)
 - Light Food Preparation: \$125 (no change from current)
 - No Food Preparation: \$50 (no change from current)
- Mobile Food Establishment Permits
 - Food Permit:
 - 45 calendar days; \$50
 - 6 months; \$50
 - 1 year; \$50
 - Vendor Permit:
 - 45 calendar days; \$30 plus \$10 per new employee
 - 6 months; \$150 plus \$10 per new employee
 - 1 year; \$275 plus \$10 per new employee
 - Combined Annual total = \$325* (does not include employee background check fees)

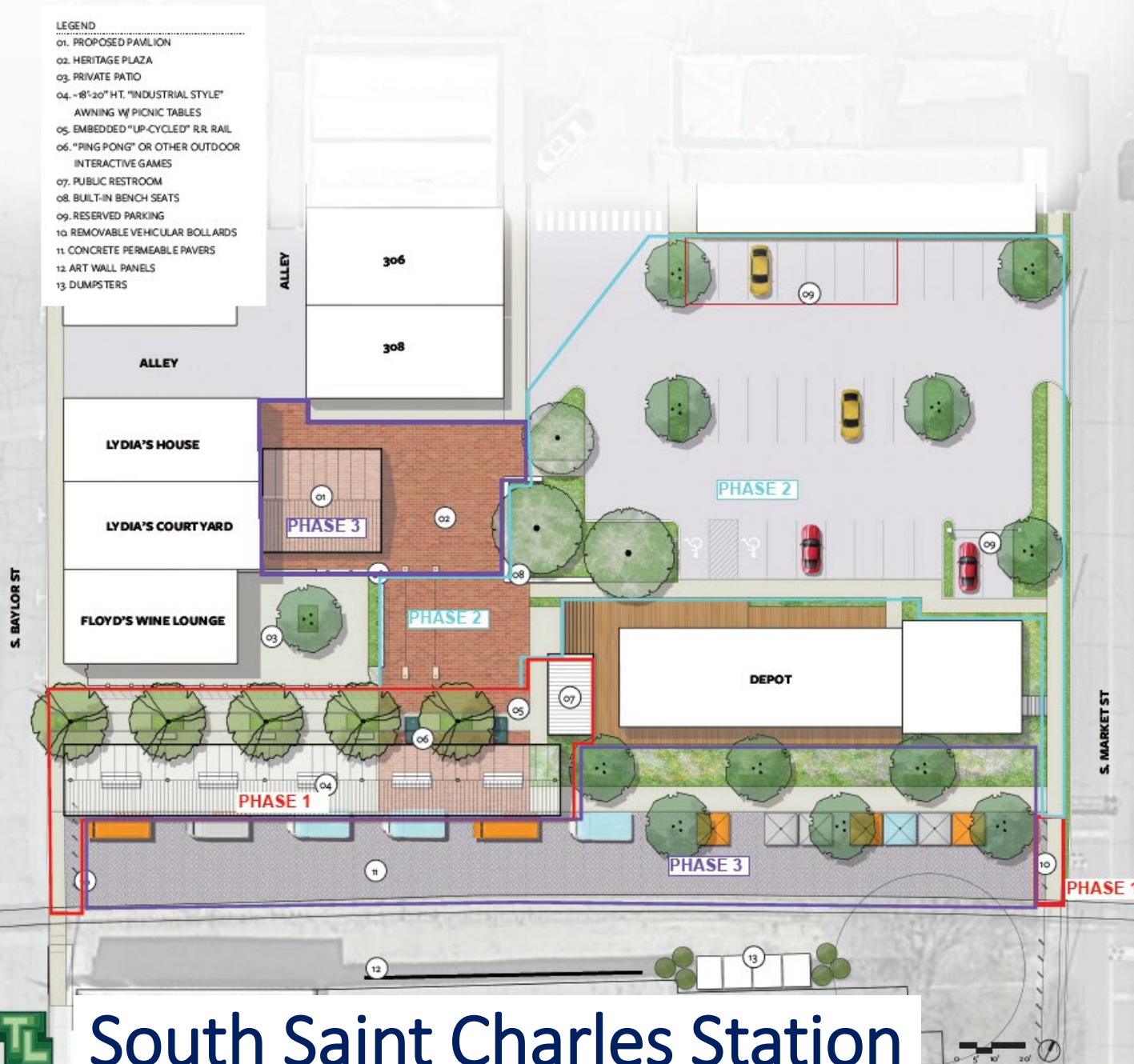
***New Proposed Fees.
Changes MFE permit fees
to one fee regardless of
duration.***

South Park Street Improvements



OPC:
\$241,900

- LEGEND**
- 01. PROPOSED PAVILION
 - 02. HERITAGE PLAZA
 - 03. PRIVATE PATIO
 - 04. ~18'-20" H.T. "INDUSTRIAL STYLE" AWNING W/ PICNIC TABLES
 - 05. EMBEDDED "UP-CYCLED" R.R. RAIL
 - 06. "PING PONG" OR OTHER OUTDOOR INTERACTIVE GAMES
 - 07. PUBLIC RESTROOM
 - 08. BUILT-IN BENCH SEATS
 - 09. RESERVED PARKING
 - 10. REMOVABLE VEHICULAR BOLLARDS
 - 11. CONCRETE PERMEABLE PAVERS
 - 12. ART WALL PANELS
 - 13. DUMPSTERS



South Saint Charles Station



Project Wrap-Up

- Ordinance Amendments (Ch. 9, 16 & Appendix A)
 - ✓ October 21 & November 4
- Fee Resolution for Food Establishments and Vendors/Solicitors
 - ✓ November 4



Regular City Council
AGENDA ITEM 8.

Agenda Item: Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the City of Brenham Code of Ordinances, Appendix A: Zoning, Part I, Section 5.02 – Definitions, to Add a Definition for Food Truck Park, Food Truck Site, and Mobile Kitchen, and Amending Appendix A, Part II, Division 1, Section 18 – Food Truck Park to Establish Standards Related to the Development of Such Uses and Amending Appendix A, Part 2, Division 2 – Zoning District Regulations, to Allow the Use of A Food Truck Park by Specific Use Permit in the B-1, B-2, B-3 and B-4 Zoning Districts

Meeting Type: Regular Meeting-October 21, 2021

Department: Development Services

Staff Contact: Stephanie Doland

SUMMARY STATEMENT:

Early in the year City Staff was directed by Council to review and draft new standards pertaining to mobile food establishments (mobile kitchens). The request originated due to concerns from existing mobile kitchens about permitting procedures and costs as well as permitted locations to operate. Following a Workshop Discussion on February 24, 2021 a Food Truck Task Force was formed and included, Mayor Pro Tem Clint Kolby, Planning and Zoning Commission Chair Keith Behrens, Main Street Board member Lowell Ogle, Owner of Country Sunshine (mobile kitchen) Cullen Holle and Downtown property owner Melinda Faubion.

The work of the Task Force includes the review and update to multiple City of Brenham Ordinances including:

- Chapter 9 – Food and Food Establishments
- Chapter 16 – Occupational Licenses and Business Regulations
- Appendix A – Zoning

Additionally, the Task Force reviewed items pertaining to mobile kitchens parked in the right-of-way, fees for both fixed and mobile food establishments, itinerant vendor permit criteria and fees, the use of a Food Truck Park as a primary use on non-residential property, among other related topics.

Following the review, consideration and positive recommendation of the Food Truck Task Force and Planning and Zoning Commission is a Zoning Ordinance Amendment to allow the use of a Food Truck Park as a Specific Use on all property zoned B-1, B-2, B-3, and B-4. Additionally, staff proposes to allow mobile kitchens to locate on non-residential property with the property owners permission, and in City Parks in conjunction with a facility rental. Allowing additional mobile kitchens to operate in the right-of-way was also considered and it was determined that other than the two mobile trailers located Downtown, no additional mobile kitchens would be permitted to operate (park and serve) in the right-of-way unless in conjunction with a special event. Please find the attached Staff Report to the Planning and Zoning Commission for additional details concerning this text amendment.

Amendments to Chapter 9 and 16 of the Brenham Code of Ordinances are proposed as a subsequent, separate agenda item on the October 21, 2021 meeting agenda. For consideration during the November 4, 2021 Council Meeting will be a proposed fee resolution for Food Establishments and Itinerant Vendors/Solicitors.

ATTACHMENTS:

- | |
|---|
| (1) Ordinance for First Reading
(2) Staff Report to the Planning and Zoning Commission |
|---|

RECOMMENDED ACTION:

Approve an an Ordinance on Its First Reading Amending the City of Brenham Code of Ordinances, Appendix A: Zoning, Part I, Section 5.02 – Definitions, to Add a Definition for Food Truck Park, Food Truck Site, and Mobile Kitchen, and Amending Appendix A, Part II, Division 1, Section 18 – Food Truck Park to Establish Standards Related to the Development of Such Uses and Amending Appendix A, Part 2, Division 2 – Zoning District Regulations, to Allow the Use of A Food Truck Park by Specific Use Permit in the B-1, B-2, B-3 and B-4 Zoning Districts

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES BY PROVIDING FOR THE AMENDMENT OF PART I, SECTION 5.02, DEFINITIONS TO ADD A DEFINITION FOR "FOOD TRUCK PARK", "FOOD TRUCK SITE" AND "MOBILE KITCHEN"; PROVIDING FOR THE ADDITION OF PART 2, DIVISION 1, SECTION 18 – FOOD TRUCK PARKS TO ESTABLISH REGULATIONS AND STANDARDS RELATED TO THE DEVELOPMENT OF SUCH USES; AND PROVIDING FOR THE AMENDMENT OF PART 2 DIVISION 2 - ZONING DISTRICT REGULATIONS, TO ALLOW A FOOD TRUCK PARK BY SPECIFIC USE PERMIT IN THE B-1 (LOCAL BUSINESS/RESIDENTIAL MIXED USE), B-2 (COMMERCIAL, RESEARCH AND TECHNOLOGY), B-3 (HISTORICAL CENTRAL BUSINESS), AND B-4 (NEIGHBORHOOD BUSINESS) ZONING DISTRICTS; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Brenham has requested that Appendix A - "Zoning" of the Code of Ordinances be amended; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Brenham, Texas, have published notice and conducted public hearings regarding the request to amend Appendix A - "Zoning" of the Code of Ordinances; and

WHEREAS, all persons desiring to comment on the proposal were given a full and complete opportunity to be heard; and

WHEREAS, these amendments were recommended for approval by the City of Brenham Planning and Zoning Commission in its final report during its regular meeting September 27, 2021; and

WHEREAS, the City Council deems it appropriate to approve the requested amendments to Appendix A- "Zoning" of the Code of Ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1.

That Appendix A- "Zoning" of the Code of Ordinances of the City of Brenham, Texas Part I, Section 5.02, Definitions, is hereby amended by adding the following definitions to read as follows:

Food Truck Park: A parcel of land where two or more mobile kitchens congregate to offer food or beverages for sale to the public as the principal use of the land.

Food Truck Site: Shall mean a developed property where a mobile kitchen operates as an accessory use to the primary active business located on the same site. Food Truck Sites shall not be permitted as an accessory use on property developed with a residential use.

Mobile Kitchen: A motorized vehicle or tow-behind trailer equipped with kitchen facilities such as plumbing, hot water supply, mechanical refrigeration, cooking equipment, and dry goods storage used for the preparation and sale or service of food and beverages. Customer service is provided at a counter or window in the vehicle. Mobile kitchens may include, but are not limited to, mobile food trucks and mobile food trailers. Mobile kitchens shall not include individual non-motorized vending carts or mobile ice cream/frozen dessert vehicles.

SECTION 2.

That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas Part II, Division 1, is hereby amended to add Section 18, Food Truck Parks, to read as follows:

Section 18: Food Truck Parks.

(Section 18.01) Authorization. Food Truck Parks shall be permitted as a Specific Use within the appropriate Business Districts as outlined in Division 2 of this Ordinance and in accordance with the following:

- (1) All Mobile Kitchens located in a Food Truck Park shall be in accordance with Chapter 9 – Food and Food Establishments of the Brenham Code of Ordinances.
- (2) All Mobile Kitchens located in a Food Truck Park shall meet the requirements outlined for solicitors, peddlers, and itinerant vendors and shall be in accordance with Chapter 16 – Occupational Licenses and Business Regulations.

(Section 18.02) Food Truck Park Site Development Standards. A site plan shall be approved in accordance with Appendix A – Zoning, Part II, Division 1, Section 6 – Specific Uses, and the requirements outlined herein.

- 1) A designated seating area shall be provided for patrons.
- 2) Accessible restroom facilities shall be provided within a permanent structure. Temporary or portable toilet facilities are not permitted.

- 3) A minimum of two (2) parking spaces shall be provided for each Food Truck Site provided within the Food Truck Park.
- 4) Mobile Kitchens shall not park in required parking stalls, rather they shall be located on a designated paved surface.
- 5) There shall be at least fifteen (15) feet of unobstructed clearance between all individual Mobile Kitchens parked side-by-side and all permanent or accessory structures and five (5) feet of unobstructed clearance between all individual Mobile Kitchens parked end-to-end.
- 6) A dumpster with a minimum capacity of two (2) cubic yards, a concrete pad at least six (6) inches thick and solid screening fence shall be provided.
- 7) Communal grease disposal station shall be provided on-site within a completely screened enclosure.
- 8) Landscaping and bufferyard requirements shall be met in accordance with Appendix A – Zoning, Part II, Division 1, Section 12 – Landscaping and Buffering.
- 9) No Mobile Kitchen nor any associated seating areas or restroom facilities shall be located in the required landscape buffer yard.
- 10) Mobile Kitchens conducting business at a Food Truck Park shall have current vehicular registration and shall be in a suitable operating condition for transit.
- 11) All activity must occur on private property, outside of the public right-of-way.
- 12) Vehicular drive-thru service of food and/or beverages shall be prohibited.
- 13) Electrical service shall be provided to the Mobile Kitchen by a permitted electrical connection. The use of on-board generators shall be prohibited.
- 14) The municipality may without warning, notice, or hearing, revoke any permit to operate a Mobile Kitchen if the holder of the permit, person in charge, or the operation of the food establishment does not comply with the requirements of the Brenham Code of Ordinances or if the operation of the food establishment otherwise constitutes an immediate hazard to public health.

SECTION 3.

That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas Part II, Division 2, Section 3 - B-1, Local Business/Residential Mixed Use District, (Sec. 3.03) Specific uses, is hereby amended to read as follows:

(Sec. 3.03) Specific uses:

- 1) Automobile service stations, including quick-lubes and windshield repair shops.
- 2) Automobile (car) wash.
- 3) Automobile detail shop.

- 4) Any extension or enlargement of floor area occupied by a legally existing nonconforming use, provided that said enlargement does not include an increase in the land area that is occupied at the time of the effective date of this ordinance.
- 5) Educational institutions (private):
 - a. Licensed kindergartens/nursery schools.
 - b. Accredited elementary and secondary schools.
 - c. Colleges and universities.
 - d. Business and trade schools.
- 6) Food Truck Park.
- 7) Hospitals, acute or chronic care or nursing and convalescent homes or medical clinics and assisted living facilities.
- 8) Open (outdoor) display or storage of retail merchandise as an accessory use to uses permitted in the B-1 District.
- 9) Private clubs on a site of three (3) acres or more.
- 10) Radio broadcasting towers and stations.
- 11) Retirement villages with site areas of two (2) acres or more.
- 12) Shopping centers, retail stores, general sales and services on a site of three (3) acres or more.

SECTION 4.

That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas Part II, Division 2, Section 4 - B-2, Commercial, Research and Technology District, (Sec. 4.03) Specific uses, is hereby amended to read as follows:

(Sec. 4.03) Specific uses:

- 1) Food Truck Park.
- 2) Licensed kindergartens/nursery schools.

SECTION 5.

That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas Part II, Division 2, Section 5- B-3, Historical Central Business District, (Sec. 5.03) Specific uses, are hereby amended to read as follows:

(Section 5.03) Specific Uses:

- 1) Automobile service stations.
- 2) Educational institutions, private.
 - a. Licensed kindergartens/nursery schools.
 - b. Accredited elementary and secondary schools.

- c. Colleges and universities.
 - d. Business and trade schools.
- 3) Food Truck Park.
 - 4) Hospitals, acute and/or chronic care or nursing homes and assisted living facilities.
 - 5) Shopping centers or commercial retail, office, mixed use developments occupying three (3) acres or more.
 - 6) Multifamily developments of one acre or more.

SECTION 6.

That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas Part II, Division 2, Section 6- B-4, Neighborhood Business District, (Sec. 6.03) Specific uses, is hereby amended to read as follows:

(Section 6.03) Specific uses:

- 1) Food Truck Park.
- 2) Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of construction work.

SECTION 7. **REPEALER CLAUSE**

Any other ordinance or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 8. **SAVINGS CLAUSE**

All provisions of any ordinance, resolution or other action of the City in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances, resolutions or other actions shall remain in full force and effect.

SECTION 9. **SEVERABILITY**

Should any section, subsection, sentence or clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentences, clauses and phrases remaining should any provision be declared unconstitutional or invalid.

SECTION 10.
EFFECTIVE DATE

This Ordinance shall become effective upon adoption and publication as required by law.

PASSED and APPROVED on its first reading this the ____ day of October 2021.

PASSED and APPROVED on its second reading this the ____ day of November 2021.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



CASE NUMBER P-21-023
TEXT AMENDMENT – Mobile Kitchens and Food Truck Park Standards

REQUEST:

A City initiated request to amend the City of Brenham’s Code of Ordinances, Appendix A: Zoning, Part II, Division 1, Section 18 – Food Truck Park: to establish standards related to the development of such uses and to amend Part 2, Division 2 – Zoning District Regulations, to allow Food Truck Parks by Specific Use Permit in the B-1, B-2, B-3 and B-4 Zoning Districts.

BACKGROUND:

During the February 24th, 2021 Council Meeting staff presented a workshop item concerning Mobile Kitchens and the locations permitted within the City for Mobile Kitchens to operate. During the Council meeting staff received direction to re-evaluate the application procedures and cost to operate a Mobile Kitchen in relation to Fixed Food Establishments; draft and propose for adoption a formal Ordinance concerning the operation of Mobile Kitchens; and to review policies concerning Mobile Kitchens desiring to locate in the public right-of-way. Following the workshop meeting a Food Truck Task force was formed consisting of Councilmember Clint Kolby, Planning and Zoning Commission Chair Keith Behrens, Main Street Board member Lowell Ogle, Owner of Country Sunshine (mobile kitchen) Cullen Holle and Downtown property owner Melinda Faubion.

The Task Force met on April 9, 2021 and considered revisions to Chapter 9 – Food and Food Establishments, Chapter 16 – Occupational Licenses and Business Regulations, and Appendix A – Zoning. Additionally, the work group reviewed surrounding Cities policies for Mobile Kitchens locating in the public right-of-way. After much deliberation the group was unable to reach a consensus on policies for Mobile Kitchens to locate in the right-of-way. Staff presented a variety of concerns with long-term parking in the right-of-way and was in support of Mobile Kitchens locating in the street for special events and for a limited period of time.

On June 3, 2021 an additional workshop presentation was given to Council to discuss staff findings and review the progress of the Task Force. Following the workshop meeting staff received direction to move forward with the following amendments:

- Chapter 9 – Food and Food Establishments to adopt the latest version of the Texas Food Establishment Rules, to further clarify local policies and procedures for commercial kitchens, and to establish the criteria for approval of a food establishment permit and inspection.
- Chapter 16 – Occupational Licenses and Business Regulations to add clarification definitions and amend the background check requirements for vendors operating in the City limits
- Appendix A – Zoning to allow Mobile Kitchens as an accessory use in the B-1, B-2, B-3 and B-4 Zoning Districts and to allow Food Truck Parks as a permitted use with prior approval of a Specific Use Permit in the B-1, B-2, B-3 and B-4 Zoning Districts.

Lastly, Council directed Staff to move forward with a license agreement with the two businesses currently operating Mobile Kitchens in the right-of-way namely, Country Sunshine and Home Sweet Farm. Following the February 4th Council meeting the two Mobile Kitchens were permitted to locate in the street from Wednesday – Sunday on a trial basis. With a formal license agreement, the Mobile Kitchens would be permitted to locate in their existing capacity for an additional three years with a renewal period at that time.

On September 2, 2021 the final Task Force meeting was held to review the draft ordinance amendments and discuss any further revisions to the policies and standards pertaining to Mobile Kitchens, Fixed Food Establishments, permit and inspection procedures and fees, background check requirements and definitions for itinerant vendors, and to review standards pertaining to food truck parks as an allowed primary use on a non-residential property. The Task Force provided staff with revisions, suggestions, and edits to the Ordinance. During the meeting City staff also presented the preliminary concept plans for a food truck park located in Historic Downtown Brenham between South Baylor Street and South Market Street. The proposed "South Saint Charles Station" includes a linear park concept for approximately six mobile kitchens to be located along the railroad. In addition to designated Mobile Kitchen parking, the plans include a public green space and patio, an improved public parking lot adjacent to South Saint Charles Street and public restrooms.

City Staff has worked diligently to draft and propose appropriate updates to the various ordinances and policies pertaining to all food establishments and specifically to clarify the requirements for Mobile Kitchens. The project began with a request to evaluate fees and procedural requirements for Mobile Food Trucks and evolved into ordinance amendments to multiple chapters of the Brenham Code of Ordinances.

The Planning and Zoning Commission is charged with providing City Council a recommendation to amendments to Appendix A – Zoning. Included below are the proposed amendments which if approved would continue the allowance of Mobile Kitchens on non-residential property as an accessory use, as well as allow with prior approval of a Specific Use Permit the use of a Food Truck Park on non-residential property.

PROPOSED AMENDMENTS:

Section 1 – Definitions:

- Food truck park means a parcel of land where two or more mobile kitchens congregate to offer food or beverages for sale to the public as the principal use of the land.
- Food truck site means a developed property where a mobile kitchen operates as an accessory use to the primary active business located on the same site.
- Mobile food establishment means a vehicle-mounted food establishment designed to be readily moveable that is equipped with food preparation equipment and includes vehicles in which food is prepared on site. Mobile food establishments include mobile kitchens, mobile ice-cream/frozen dessert vehicle and non-motorized food vending carts. Mobile food establishments do not include restaurant delivery and catering vehicles.
- Mobile food trailer means a mobile kitchen that serves food or beverages from an enclosed, self-contained, non-motorized vehicle that is normally pulled behind a motorized vehicle.
- Mobile food truck means a mobile kitchen that serves food or beverages from an enclosed, self-contained, motorized vehicle.
- Mobile ice cream/frozen dessert vehicle means a motorized vehicle that normally contains a commercial freezer in which all products for sale are prepackaged and frozen.
- Mobile kitchen means a motorized vehicle or tow-behind trailer equipped with kitchen facilities such as plumbing, hot water supply, mechanical refrigeration, cooking equipment, and dry goods storage used for the preparation and sale or service of food and beverages. Customer service is provided at a counter or window in the vehicle. Mobile kitchens may include, but are not limited to, mobile food trucks and mobile food trailers. Mobile kitchens shall not include individual non-motorized vending carts or mobile ice cream/frozen dessert vehicles.

Section 2 – Appendix A, Part 2, Division 1, Section 18 – Food Truck Park

Food truck park shall mean a parcel of land where two or more mobile kitchens congregate to offer food or beverages for sale to the public as the principal use of the land. Food truck parks shall be permitted as a specific use within the appropriate Business Districts as outlined in Division 2 of this Ordinance and in accordance with the following:

1. All mobile food establishments located in a Food Truck Park shall be in accordance with Chapter 9 – Food and Food Establishments of the Brenham Code of Ordinances.
2. All mobile food establishments located in a Food Truck Park shall meet the requirements outlined for solicitors, peddlers, and itinerant vendors and shall be in accordance with Chapter 16 – Occupational Licenses and Business Regulations.
3. Food Truck Park Site Development Standards
 - a. A site plan shall be approved in accordance with Appendix A – Zoning, Part II, Division 1, Section 6 – Specific Uses, and the requirements outlined herein.
 - b. A designated seating area shall be provided for patrons.
 - c. Accessible restroom facilities shall be provided within a permanent structure. Temporary or portable toilet facilities are not permitted.
 - d. A minimum of two (2) parking spaces shall be provided for each Food Truck Site provided within the Food Truck Park.
 - e. Mobile food establishments shall not park in required parking stalls, rather they shall be located on a designated paved surface.
 - f. There shall be at least fifteen (15) feet of unobstructed clearance between all individual mobile food establishments parked side-by-side and all permanent or accessory structures and five (5) feet of unobstructed clearance between all individual mobile food establishments parked end-to-end.
 - g. A dumpster with a minimum capacity of two (2) cubic yards, a concrete pad at least six (6) inches thick and solid screening fence shall be provided.
 - h. Communal grease disposal station shall be provided on-site within a completely screened enclosure.
 - i. Landscaping and bufferyard requirements shall be met in accordance with Appendix A – Zoning, Part II, Division 1, Section 12 – Landscaping and Buffering.
 - j. No mobile food vendor nor any associated seating areas or restroom facilities shall be located in the required landscape buffer yard.
 - k. Mobile food establishments conducting business at a food truck park shall have current vehicular registration and shall be in a suitable operating condition for transit.
 - l. All activity must occur on private property, outside of the public right-of-way.
 - m. Vehicular drive-thru service of food and/or beverages shall be prohibited.
 - n. Electrical service shall be provided to the mobile kitchen by a permitted electrical connection. The use of on-board generators shall be prohibited.
 - o. The municipality may without warning, notice, or hearing, revoke any permit to operate a mobile kitchen if the holder of the permit, person in charge, or the operation of the food establishment does not comply with the requirements of the Brenham Code of Ordinances or if the operation of the food establishment otherwise constitutes an immediate hazard to public health.

Section 3 – Appendix A, Part 2, Division 2 – Zoning District Regulations

To amend the Zoning Ordinance to allow the use of a Mobile Kitchen as an accessory use by-right and to allow a Food Truck Park with prior approval of a Specific Use Permit in the following Zoning districts:

- B-1 – Local Business Mixed District
- B-2 – Commercial, Research and Technology District
- B-3 – Historical Central Business District
- B-4 Neighborhood Business District

ANALYSIS:

As cited in the city's adopted Zoning Ordinance, site development standards are established for the purpose of promoting and protecting the health, safety, morals and general welfare of the residents, citizens and inhabitants of the City of Brenham and for the protection and preservation of the small-town character of Brenham, including historical places, places of cultural importance and places that reflect the predominant community values as reflected in the city's Comprehensive Plan. However, staff finds that from time-to-time it is necessary to update the Zoning Ordinance and existing site development standards to accommodate development and modernize development requirements.

Plan 2040, the City's Comprehensive Plan includes the goal of "strengthening Brenham's tourism industry" and includes multiple Strategic Action Priorities to invest in infrastructure that promotes entertainment and tourism activities (Pg. 8). Additionally, the plan encourages public-private partnerships and coordination to promote small businesses and provide additional funding opportunities for small business development (Pg. 61). Brenham's strong emphasis on tourism, thriving businesses community, and year-over-year community growth fosters an environment for small-business ventures to succeed. Mobile Kitchens offer a unique start-up opportunity to allow small businesses owners to test the market for diverse food options and establish a following prior to investing in the traditional brick and mortar business venture.

Currently the City has six (6) active vendors who frequent the City of Brenham for sale of various foods at various locations. Each of the active vendors have procured the necessary vendor permits to operate within the City of Brenham and follow applicable codes and regulations. There have been additional food vendors inquiring about the permit process and specific requirements of the application. The following requirements are currently reviewed by the City's Health Inspector in consideration of each Mobile Food Establishment Application:

- Permit is valid in increments of 45-days; and
- Application fee of \$50.00 for each renewal period; and
- Approval of the permit application is based on compliance with the Texas Food Establishment Rules of the Texas Board of Health.

The Mobile Food Establishment procedure allows a food vendor to locate on private property with the property owner's permission so long as there is no obstruction to traffic (vehicle or pedestrian) flow, parking is available for patrons, patrons have access (within 500') to a restroom, and vendor is readily movable (no tables and chairs placed around the unit). So long as the food vendor has adhered to the requirements, renewal of an additional 45-day permit at the previously occupied location has been approved by the City.

With the additional interest in Mobile Kitchens throughout Brenham, the use of a Food Truck Park has been requested by multiple entities and stated as desirable by existing Mobile Kitchens operating in Brenham. As such, Staff finds the need to amend the Zoning Ordinance to allow the development of a Food Truck Park in appropriate zoning districts. All Mobile Kitchens locating in a Food Truck Park shall be required to follow the same permitting and inspection procedures outlined above and as required by Mobile Kitchens locating on commercial property as an accessory use. If this text amendment were approved, parties interested in developing a Food Truck Park could do so by following the Specific Use Permit approval process. Because Food Trucks are generally an automobile related use and with this amendment could be located in zoning districts where residential uses are permitted (such as the B-1, Local Business Mixed District and the B-4, Neighborhood Business District) a Specific Use Permit procedure will avoid adverse impacts to neighboring properties if an incompatible use is proposed.

The City's adopted Zoning Ordinance includes landscaping and bufferyard requirements as a method to separate different land uses, to minimize potential nuisances, and to mitigate against unsightly buildings or parking areas. The proposed amendment to allow Food Truck parks in the City of Brenham includes the requirement for said uses to adhere to adopted landscaping and bufferyard requirements to help to provide for the orderly, attractive, and healthful development of property and promote general welfare of the community.

In addition to requiring Food Truck Parks to adhere to standard bufferyard and landscaping requirements additional standards are proposed and will be review upon submittal of a Specific Use Permit application for development. Staff evaluated prevailing standards for Food Truck Parks in surrounding communities and presented standards to the Task Force that would result in orderly and healthful development. As outlined above, Food Truck Parks are required to submit a site plan for consideration by the Planning and Zoning Commission and City Council. The site plan shall show adherence to the minimum standards, including providing designated seating area for patrons, public handicap accessible restrooms, two parking spaces per Mobile Kitchen, standard separation requirements, on-site solid waste, and gray-water disposal, etc.

Staff finds that continuing to allow the use of Mobile Kitchens as an accessory use on non-residential property and the proposed text amendment to allow Food Truck Parks to develop as a primary use in the Business Districts meet the goals established in the City's adopted Zoning Ordinance and Comprehensive Plan and will allow for orderly, attractive, and healthful development of the growing community.

PUBLIC COMMENTS:

The Notice of Public Hearing for the proposed Text Amendment was published in the Brenham Banner on September 16, 2021. Any public comments submitted to staff will be provided prior to the Planning and Zoning Commission and City Council prior to their decision on the matter.

STAFF RECOMMENDATION:

Staff recommends **approval** of an ordinance to amend Appendix A – Zoning of the Brenham Code of Ordinances to allow the use of a Food Truck Park as the primary use on property zoned B-1, B-2, B-3 or B-4 with prior approval of a Specific Use Permit and subject to the standards outlined herein.



Regular City Council
AGENDA ITEM 9.

Agenda Item: Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the City of Brenham Code of Ordinances, Chapter 9 – Food and Food Establishments, Providing For Standards For The Operation of Fixed, Mobile, and Temporary Food Establishments; and Amending Chapter 16 – Occupational Licenses and Business Regulations to Amend Standards Pertaining to the Application and Issuance of Licenses for Solicitors, Peddlers and Itinerant Vendors

Meeting Type: Regular Meeting-October 21, 2021

Department: Development Services

Staff Contact: Stephanie Doland

SUMMARY STATEMENT:

Early in the year City Staff was directed by Council to review and draft new standards pertaining to mobile food establishments (mobile kitchens). The request originated due to concerns from existing mobile kitchens about permitting procedures and costs as well as permitted locations to operate. Following a Workshop Discussion on February 24, 2021 a Food Truck Task Force was formed and included Mayor Pro Tem Clint Kolby, Planning and Zoning Commission Chair Keith Behrens, Main Street Board member Lowell Ogle, Owner of Country Sunshine (mobile kitchen) Cullen Holle and Downtown property owner Melinda Faubion.

The work of the Task Force includes the review and update to multiple City of Brenham Ordinances including:

- Chapter 9 – Food and Food Establishments
- Chapter 16 – Occupational Licenses and Business Regulations
- Appendix A – Zoning

Highlights included in the proposed Ordinance amending Chapters 9 and 16 of the Brenham Code of Ordinances include:

- Adopting the Texas Food Establishment Rules which establishes requirements for all retail food establishments including fixed, temporary and mobile.
- Adding definitions which clarify the types of food establishments and the standards pertaining to each.
- Clarifying the requirements of where a mobile kitchen can operate, the permit procedure, and additional requirements such as the requirement that all mobile kitchens shall be readily movable at any given time.
- Food establishments shall adhere to local adopted codes and requirements such as the International Building and Fire Code, standards pertaining to utility connections, and signage.
- Requires a certified food manager present at all times when the establishment is in operation.
- Adding the definition of moral turpitude to clarify the requirements of the background check for vendor/solicitor checks.
- Extending the requirement that no felony conviction or plea of no contest from 7 years to 10 years for all vendor/solicitor applicants.
- Proposes changes to the length of time a given permit can be issued (from every 45 days to an additional 6-month and 1-year permit option).

The Food Truck Task Force met on September 2, 2021 to review the changes to the ordinances as prepared by Staff. **Staff finds that the proposed ordinance amendments will clarify and simplify the permitting and procedural requirements to obtain a permit and to operate as a food establishment or vendor/solicitor in the City of Brenham and recommend approval of the ordinance as presented.**

Amendments to Appendix A of the Brenham Code of Ordinances is proposed as a separate agenda item on the October 21, 2021 meeting agenda. For consideration during the November 4, 2021 Council Meeting will be a proposed fee resolution for Food Establishments and Itinerant Vendors/Solicitors.

ATTACHMENTS:

-
- (1) Draft Ordinance Amending Chapter 9 and 16
 - (2) Fire Marshal Mobile Food Vending Checklist

RECOMMENDED ACTION:

Motion to Approve an Ordinance on Its First Reading Amending the City of Brenham Code of Ordinances, Chapter 9 – Food and Food Establishments, Providing For Standards For The Operation of Fixed, Mobile, and Temporary Food Establishments; and Amending Chapter 16 – Occupational Licenses and Business Regulations to Amend Standards Pertaining to the Application and Issuance of Licenses for Solicitors, Peddlers and Itinerant Vendors

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING CHAPTER 9, FOOD AND FOOD ESTABLISHMENTS, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS PROVIDING FOR STANDARDS FOR THE OPERATION OF FIXED, MOBILE, AND TEMPORARY FOOD ESTABLISHMENTS WITHIN THE CITY LIMITS; AND AMENDING CHAPTER 16 – OCCUPATIONAL LICENSES AND BUSINESS REGULATIONS TO AMEND STANDARDS PERTAINING TO THE APPLICATION AND ISSUANCE OF LICENSES FOR SOLICITORS, PEDDLERS AND ITINERANT VENDORS; PROVIDING FOR A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND OPEN MEETINGS.

WHEREAS, the City of Brenham (“City”) is a Texas home-rule municipality with the full power of local self-government; and

WHEREAS, the City Council of the City of Brenham is authorized to adopt standards and regulations pertaining to Food and Food Establishments within the City of Brenham that are for a public purpose and consistent with the Constitution and laws of the State of Texas; and

WHEREAS, the City of Brenham desires to support local economies through the support of small businesses and to encourage Food Establishments through simplified regulations; and

WHEREAS, the City of Brenham seeks to protect public health and safety by ensuring Food Establishments, Itinerant Vendors, and Solicitors follow clear, narrowly tailored regulations that address demonstrable health and safety risks; and

WHEREAS, in order to enhance, promote and protect the health, safety and general welfare of the citizens of Brenham, Texas the City Council must from time to time amend and/or adopt new regulations; and

WHEREAS, the City Council finds the following regulations to be reasonable and beneficial to the general health, safety and welfare of the citizens of Brenham; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS THAT CHAPTER 9 – “FOOD AND FOOD ESTABLISHMENTS” AND CHAPTER 16 – “OCCUPATIONAL LICENSES AND BUSINESS REGULATIONS” OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1.

Chapter 9 – Food and Food Establishments, of the Code of Ordinances of the City of Brenham, Texas, is hereby amended to read as follows:

CHAPTER 9. FOOD AND FOOD ESTABLISHMENTS

Sec. 9-1. State rules adopted.

The City of Brenham adopts by reference and incorporates into this article Volume 25 Texas Administrative Code Chapter 228, also known as the “Texas Food Establishment Rules” as adopted by the Texas Department of State Health Services as the regulations now exist and as hereafter amended.

Sec. 9-2. Definitions

The following words and phrases shall have the following meanings unless the context clearly indicates a different meaning:

- (a) Authorized agent or employee shall be understood to refer to an employee or authorized representative of the City of Brenham.
- (b) Food establishment shall mean a food service establishment, a retail food store, a temporary food establishment, or a mobile food establishment.
- (c) Food truck park shall mean a parcel of land where two or more mobile kitchens congregate to offer food or beverages for sale to the public as the principal use of the land.
- (d) Food Truck Site shall mean a developed property where a mobile kitchen operates as an accessory use to the primary active business located on the same site. Food Truck Sites shall not be permitted as an accessory use on property developed with a residential use.
- (e) Non-motorized vending cart shall mean a non-motorized vehicle that is normally propelled by the operator, contains products for sale that are prepackaged and/or frozen, and operates independent of any fixed food establishment.
- (f) Mobile food establishment shall mean a vehicle-mounted food establishment designed to be readily moveable that is equipped with food preparation equipment and includes vehicles in which food is prepared on site. Mobile food establishments include mobile kitchens, mobile ice-cream/frozen dessert vehicle and non-motorized food vending carts. Mobile food establishments do not include restaurant delivery and catering vehicles.
- (g) Mobile food trailer shall mean a mobile kitchen that serves food or beverages from an enclosed, self-contained, non-motorized vehicle that is normally pulled behind a motorized vehicle.

- (h) Mobile food truck shall mean a mobile kitchen that serves food or beverages from an enclosed, self-contained, motorized vehicle.
- (i) Mobile ice cream/frozen dessert vehicle shall mean a motorized vehicle that normally contains a commercial freezer in which all products for sale are prepackaged and frozen.
- (j) Mobile kitchen shall mean a motorized vehicle or tow-behind trailer equipped with kitchen facilities such as plumbing, hot water supply, mechanical refrigeration, cooking equipment, and dry goods storage used for the preparation and sale or service of food and beverages. Customer service is provided at a counter or window in the vehicle. Mobile kitchens may include, but are not limited to, mobile food trucks and mobile food trailers. Mobile kitchens shall not include individual non-motorized vending carts or mobile ice cream/frozen dessert Vehicles.
- (k) Municipality shall mean the City of Brenham.
- (l) Temporary Food Establishment shall mean a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

Sec. 9-3. Permit - Generally.

- (a) *Required; compliance.* No person or entity shall operate a food establishment without a valid permit issued by the Municipality. Only a person or entity who complies with the requirements of these rules shall be entitled to receive or retain such a permit. A valid permit must be posted in public view in every food establishment.
- (b) *Application; fees.* A permit shall only be issued after the appropriate application has been filed with the Municipality and the required fees have been paid. Permit fees shall be set by Resolution of the City Council and kept on file in the Office of the City Secretary of Brenham.
- (c) *Issuance; Renewal.* Permits shall be issued for a period not to exceed one year expiring on December 31 of each year. The application to renew a permit and the accompanying fee must be received by the Municipality on or before January 7 of the calendar year for which the permit is sought. If such application and fee are not received by January 7, the municipality may charge the food establishment an application late fee as set forth in the adopted Development Services fee schedule for failure to comply with the requirements of subsection (a) above. Any application or permit fee not received by January 15 may result in immediate closure of the food establishment. The charging of such late fee or the immediate closure of the food establishment will have no effect on the City's right to seek criminal penalties by the enforcement provision of this ordinance.
- (d) *Transferability.* A permit may not be transferred from one person to another, from one food establishment to another, or from one type of operation to another if the food operation

changes from the type of operation specified in the application and the change of operation is not approved by the Municipality.

Sec. 9-4. Issuance.

- (a) Any person or entity desiring to operate a food establishment shall make written application for a permit on a form provided by the municipality. Such application shall include the name and address of each applicant, the location and type of the proposed food establishment, and the signature of each applicant. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit.
- (b) Prior to approval of an application for a permit, the Municipality shall inspect the proposed food establishment to determine compliance with the requirements of this ordinance.
- (c) The Municipality shall issue a permit to the applicant if its inspection reveals that the proposed food establishment complies with the requirements of this ordinance. A food establishment that does not comply with the requirements of this ordinance will be denied a permit.

Sec. 9-5. Suspension

- (a) The Municipality may without warning, notice, or hearing, suspend any permit to operate a food establishment if the holder of the permit, person in charge, or the operation of the food establishment does not comply with the requirements of this ordinance, or if the operation of the food establishment otherwise constitutes an immediate hazard to public health.
- (b) Suspension is effective upon service of the notice required by subsection (c) of this section. When a permit is suspended, food service operations shall immediately cease.
- (c) Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended, and notified of the right to appeal such suspension as provided in Section 9-8.
- (d) Whenever a food establishment, mobile food establishment, or temporary food establishment is required under the provisions of this section to cease operations, it shall not resume operations until such time as a follow-up inspection determines that conditions responsible for the requirement to cease operations no longer exist. Opportunity for a follow-up inspection shall be offered within a reasonable time.
- (e) The Municipality may end the suspension at any time if the reasons for suspension no longer exist.

Sec. 9-6. Revocation

- (a) The Municipality may, after providing opportunity for a hearing as provided in Section 9-8, revoke a permit for serious or repeated violations of any of the requirements of this article or for interference with the Municipality in the performance its duty.
- (b) Prior to revocation, the Municipality shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation, and that the permit shall be revoked at the end of the ten (10) days following service of such notice unless a written request for a hearing is filed with the municipal court of the Municipality by the holder of the permit within such ten (10) day period. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final.
- (c) Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit according to this article.
- (d) Whenever a food establishment is required under the provisions of this section to cease operations, it shall not resume operations until such time as an inspection is performed by the Municipality. Opportunity for an inspection shall be offered within a reasonable time.

Sec. 9-7. Service of notice.

A notice provided for in this ordinance is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the Municipality.

Sec. 9-8. Hearings.

The hearings provided for in this article shall be held in the Municipal Court and presided over by a Municipal Court judge. Based upon the recorded evidence of such hearing, the Municipal Court judge shall make a final finding and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder, and a copy shall be filed with the City Secretary.

Sec. 9-9. Review of plans and specifications for newly constructed, remodeled or converted establishment.

- (a) *Submission of plans.* Whenever a food establishment is constructed or extensively remodeled, and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Municipality for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Municipality shall approve the plans and specifications if they meet the requirements of this ordinance. No food establishment shall be constructed, extensively remodeled, or

converted, except in accordance with plans and specifications approved by the Municipality.

- (b) *Preoperational inspection.* Whenever plans and specifications are required by subsection (a) of this section to be submitted to the Municipality, the Municipality shall inspect the food establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this ordinance.

Sec. 9-10. Inspections--Frequency; right of access.

- (a) Inspections of food establishments shall be conducted a minimum of two times each year. However, inspections of food establishments shall be performed as often as are necessary for the enforcement of this article based on public health risks posed by the establishment and the establishment's past compliance history. Inspections may also be made where consumer complaints and/or reports of foodborne illness outbreaks warrant a need to perform inspections.
- (b) Agents of the Municipality, after proper identification, shall be permitted to enter any food establishment at any reasonable time, for the purpose of making inspections to determine compliance with this ordinance, or if there is reasonable cause to believe that there exists in any building or upon any premises any condition in violation of this article.
- (c) The agents shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed.
- (d) If a person denies access to the Municipality, the Municipality shall:
 - 1. Inform the person that:
 - a. The permit holder is required to allow access to the Municipality as specified under this section,
 - b. Access is a condition of the acceptance and retention of a food establishment permit to operate under Section 9-3; and
 - c. If access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to law; and
 - 2. Make a final request for access.

Sec. 9-11. Report.

- (a) *Contents; rating score.* Whenever an inspection of a food establishment is made, the findings shall be recorded on the inspection report form referenced in subsection (b) of this

section. The inspection report form shall summarize the requirements of these rules and shall set forth a weighted point value for each requirement. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from one hundred (100). A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

- (b) *Inspection report form.* An inspection report form is based on the requirements of this ordinance and shall be on file in the office of the appointed representative of the Municipality.
- (e) *Posting inspection reports.* The most current scored inspection report form must be displayed within ten feet of the establishment's main public entrance or other location approved by the inspector and representative of the establishment and must be visible at eye level (48-66 inches) to patrons of the establishment. Patrons should be advised to direct questions about the report to the Municipality. Failure to post the most current scored inspection report in the manner described or facilitating its removal may result in a re-inspection fee.

Sec. 9-12. Correction of violations.

- (a) *Time period for corrections.* The inspection report form shall specify a reasonable period for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:
 - (1) If the Municipality determines an imminent health hazard exists, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the Municipality. An imminent health hazard exists under conditions, including, but not limited to:
 - a. Lack of potable water;
 - b. Inadequate refrigeration;
 - c. Sewage backup;
 - d. Lack of sanitation, defined as a score of 69 or below;
 - e. Lack of hot water;
 - f. Extended interruption of electricity or water;
 - g. Misuse of poisonous/toxic chemicals;
 - h. Onset of an apparent food-borne disease outbreak;
 - i. Fire/flood;
 - j. Failure to exclude an infectious employee;
 - k. Other conditions that affect public health.
 - (2) All violations of four- or five-point weighted items shall be corrected immediately, or a plan of action shall be developed and implemented as agreed upon by the person in charge and the inspector.

- (3) All violations of three-point weighted items shall be corrected immediately; provided, however, in those circumstances where immediate action is not possible, the violation shall be remedied prior to the expiration of ten (10) days.
 - (4) All other violations shall be corrected within ninety (90) days of the inspection or before the next inspection, whichever comes first.
 - (5) In the case of temporary food establishments, all violations shall be corrected immediately. If violations are not corrected immediately, the establishment shall immediately cease food service operations, until authorized to resume by the municipality.
- (b) *Repeat violations/follow-up inspection.* Any violation documented on three (3) consecutive inspections will require a follow-up inspection within five (5) business days and a re-inspection fee as set forth in the adopted Development Services fee schedule. If the re-inspection fee has not been paid after thirty (30) days, the permit may be suspended. The charging of such re-inspection fee will have no effect on the Municipality's right to seek criminal penalties permitted by the penalty provision of this ordinance.

Sec. 9-13. Examination and condemnation of food.

- (a) *Examination of food.* Food may be examined, or samples may be taken for laboratory analysis by the Municipality as often as necessary for enforcement of this ordinance. The Municipality may, upon written notice to the owner or person in charge, place a hold order on any food which it believes is in violation of this ordinance.
- (b) *Identification of food subject to hold order.* The Municipality shall tag, label, or otherwise identify any food subject to the hold order, stating the specific reasons for placing the food under the hold order with reference to the applicable provisions of the Texas Food Establishment Rules (TFER) and the hazard or adverse effect created by the observed condition. The Municipality shall completely identify the food subject to the hold order by the common name, the label information, a container description, the quantity, Municipality's tag or identification, and location.
- (c) *Handling of food subject to hold order.* No food subject to a hold order shall be used, served, or moved from the establishment. The Municipality shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. If the Municipality has reasonable cause to believe that the hold order will be violated, or finds that the hold order is violated, the Municipality may remove the food that is subject to the order to a place of safe keeping.
- (d) *Request for hearing.* The hold order shall state that a request for a hearing may be filed within ten (10) days and, that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested; and on the basis of evidence produced at the hearing, the hold order may be vacated or the owner or person in charge of the food may be directed

by written order to denature or destroy such food or to bring it into compliance with the provisions of this ordinance. The Municipality may seek an administrative or judicial remedy to achieve compliance with the provisions of this ordinance if a person operating a food establishment or employee fails to comply with a hold order as specified in this section.

Sec. 9-14. Employees--Procedure when infection is suspected.

When the Municipality has reasonable cause to suspect the possibility of disease transmission from any food establishment employee, it may secure morbidity history of the suspected employee, or make any other investigation as may be indicated, and shall take appropriate action. The Municipality may require any or all the following measures:

- (1) The immediate exclusion of the employee from all food establishments;
- (2) The immediate closing of the food establishment concerned until, in the opinion of the Municipality, no further danger of disease outbreak exists;
- (3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;
- (4) Adequate medical and laboratory examination of the employee, of other employees, and of their body discharges.

Sec. 9-15. Food manager certification.

- (a) A certified food protection manager shall be present at the food establishment during all hours of operation. Food establishments that serve, sell, or distribute only pre-packaged foods, non-Time/Temperature Control for Safety (TCS) foods, or temporary food establishments are exempt from the provisions of this section. The original food manager certificate shall be posted in the food establishment in a location that is conspicuous to consumers.
- (b) If a food establishment cannot meet the requirements of subsection (a) of this section because of the termination, expiration, or permanent transfer of a certified food manger, the food establishment shall:
 - (1) Hire another employee with a current food manager certification; or
 - (2) Register a current employee for a food manger class within ten (10) days of the termination, expiration, or permanent transfer. The approved course must be completed within thirty (30) calendar days.
- (c) Non-compliance with this section will result in a follow-up fee to be determined by the Municipality.
- (d) If it is determined that lack of knowledge is a factor in a permit suspension, the current food manager can be required by the municipality to retake an approved food manger class.

Sec. 9-16. Food handler's card.

- (a) All food employees, except for the certified food protection manager, shall successfully complete an accredited food handler training course, within 30 days of employment. This food handler's card is to be issued by a food handler program licensed or recognized by the Texas Department of State Health Services. This card shall be valid for such a time as the issuer may designate, but not to exceed four (4) years.
- (b) The original or a copy of the food handler's card shall be posted or kept on-site by management and made available to the Municipality.

Sec. 9-17. Temporary food establishments.

In addition to the requirements set forth in the Texas Food Establishment Rules and in this ordinance, temporary food establishments shall comply with the following:

(a) *Permit.*

- (1) Permits for temporary food establishments may be issued for a period not to exceed fourteen (14) days and may be issued only for a single event or celebration. Permits are not transferable from one person to another or from one location to another.
- (2) Any person desiring to obtain a temporary food establishment permit must make written application for the permit on a form provided by the Municipality. The application must be submitted to the Municipality at least seven (7) calendar days prior to the event or celebration. Applications received after this time shall be subject to a late fee as set forth in the adopted Development Services fee schedule.
- (3) A valid permit issued in accordance with this ordinance must be posted in or on the temporary food establishment in an area which is in public view.

(b) *Toilet facilities and waste disposal.*

- (1) Conveniently located toilet facilities shall be provided. The Municipality may require written proof, by notarized letter or other means, that adequate restroom facilities will be provided for the use of employees of a temporary food establishment.
- (2) Adequate, covered containers for refuse and garbage shall be provided.

- (c) *Concession stands.* The term temporary food establishment shall not include concession stands, which operate at a fixed location in conjunction with scheduled, community-based sporting or recreational events associated with an Independent School District, university, community college, non-profit organization, privately owned school, or the Municipality provided that the preparation and serving of potentially hazardous foods shall be restricted to only those pre-cooked, pre-packaged potentially hazardous food products and are properly stored, handled, and served in the unopened, original package from said concession stands. In such instances where open potentially hazardous foods are prepared

on site from a concession stand, these will require a temporary food establishment permit as outlined in subsection (a) of this section.

Sec. 9-18. Mobile food establishments.

(a) *General.* This section establishes regulations for operating various mobile food establishments within the City of Brenham. Mobile food establishments shall only operate in accordance with the Texas Food Establishment Rules and the requirements outlined herein.

(b) *Permit.*

(1) Any person desiring to obtain a mobile food establishment permit must make written application for the permit on a form provided by the Municipality. Operation of a mobile food service establishment without a valid permit is prohibited.

i. The following items shall be included with the completed application:

1. Required permit fee as set forth in the adopted Development Services fee schedule;
2. Complete menu of the food and beverage items to be prepared and/or served;
3. Copy of the required Certified Food Manager certificate; and
4. Complete list of equipment and fixtures located on the mobile food establishment.

(2) A valid permit issued in accordance with this ordinance must be posted in or on the mobile food establishment in an area which is in public view. Permits are not transferable from one person to another or from one location to another. The owner or operator of the mobile food establishment must inform the Municipality of any change in location of the establishment.

(3) All mobile food establishments shall meet the requirements outlined for solicitors, peddlers, and itinerant vendors and shall be in accordance with Chapter 16 – Occupational Licenses and Business Regulations.

(c) *Readily moveable.* All mobile food establishments located on a food truck site shall be readily moveable. Tables, chairs, booths, counters, canopies, or awnings that are not attached to and solely supported by the mobile unit shall not be placed around the mobile food establishment, except that any of these items provided by others and primarily used for other purposes and only incidentally or coincidentally used by the mobile unit shall not be a violation of this subsection. A mobile food establishment must demonstrate mobility at any reasonable time if requested by the Municipality.

(d) *Compliance with local building and fire codes.* All mobile food establishments must be in compliance with the building and fire codes as adopted by the City of Brenham. In addition to the requirements of the adopted building and fire codes, all mobile food establishments

shall comply with the requirements set forth in the Mobile Food Vending Unit Checklist provided by the office of the Brenham Fire Marshal.

(e) *Authorized Locations.* All mobile food establishments must be in compliance with Appendix A – Zoning of the City of Brenham Code of Ordinances.

(1) No person may serve food to the public from a mobile kitchen except at the following locations:

i. At a food truck site on property developed with a non-residential use and located in the following Zoning Districts:

1. B-1: Local Business Mixed District
2. B-2: Commercial Research and Technology District
3. B-3: Historical and Central Business District
4. B-4: Neighborhood Business District

ii. At a food truck park in accordance with Section Appendix A, Part 2, Division 1, Section 18 – Mobile Food Court.

iii. At a City Park or facility upon approval of the Director of Public Works or designee and in conjunction with a facility rental for no more than two (2) hours. Mobile kitchens located in City parks or facilities shall be self-contained and shall not be in operation when concessions are in service.

(2) Mobile food establishments and their customers shall not sell or consume food within any public street, public alley, driveway.

(f) *Letters of permission.*

(1) A food truck site must be located on private property on which is located a permanent structure in which a business is operating in accordance with a certificate of occupancy. The operator of the food truck site must obtain and maintain written consent from the property owner or property manager and provide written proof thereof upon demand of the city.

(2) Access to restrooms available for use by operators, employees, and customers of a food truck site shall be provided no farther than 500 feet from the location of the mobile food establishment. The operator of the mobile food establishment must have a letter of permission from the owner of the property upon which sales are to take place for use of restroom facilities currently existing on the property. The use of a portable toilet facility is prohibited.

(g) *Utility connections prohibited.* Utility connections, if any, shall be limited to quick-connect electrical services and shall be in full compliance with the Electrical Code as adopted by the municipality. Utility connections for water, sewage, and gas must be approved in writing by the municipality and shall be in accordance with the Plumbing Code as adopted by the Municipality.

(h) *Garbage Receptacles.* Unless provided by the operator of a food truck park, a mobile food establishment operator shall provide solid waste containers for customers to dispose of trash and food waste when the mobile food establishment is parked and food is being sold

and served. All such solid waste containers and the solid waste collected therein shall be removed from the site by the mobile food establishment operator when leaving the site; provided, however:

- (1) If the operator of a food truck park is responsible for the disposal of waste generated from operation of the site and place in solid waste receptacle provided by said operator, the mobile food establishment operator shall be responsible for ensuring that all solid waste generated from the vendor's operations is placed in the provided receptacles before departing; or
 - (2) If there is a solid waste dumpster located on the food truck site or food truck park that is available for disposal of solid waste generated by the operation of a mobile food establishment, the mobile food establishment operator may dispose of the solid waste in said dumpster before departing the site.
- (i) *Signage.* Signs advertising a mobile food establishment and/or the menu of food and beverages sold from the food truck shall be limited to:
 - (1) Signs permanently attached to the mobile food establishment; and
 - (2) One menu board sign with a sign face area of not greater than eight square feet, placed adjacent to the mobile food establishment on private property.
 - (j) *Food source documentation.* Satisfactory proof or documentation detailing the origin or source of all foods being held, stored, sold, or prepared must be stored on the premises at all times.
 - (k) *Compliance with food establishment requirements.* All mobile food establishments, including snow-cone stands, that prepare food on the vehicle shall comply with all requirements of a food establishment including interior design, handwashing, ware washing, and service sinks, cleaning operations, hot water, and pest control.
 - (l) *Certified food manager.* A certified food manager shall be on-site at all times during operation if potentially hazardous food is prepared in the mobile food establishment.
 - (m) *Suitable vehicle.* Mobile food establishments shall have current vehicular registration and shall be in a suitable operating condition for transit at all times.
 - (n) *Food Service and Sale.* Mobile food establishment operators shall only engage in the sale and service of food and beverages. The sale of other products or services from a mobile food establishment is prohibited, including but not limited to, tobacco products, alcoholic beverages, sexually explicit and/or drug related paraphernalia, obscene material, real estate and vacation packages, marketing and advertising activities, sales of tickets for events, any non-food vending, and other services or products not approved by the Municipality prior to issuance of the permit.

Sec. 9-19. Penalties; fees; injunctions.

- (a) *Penalties.* Any person or entity who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished pursuant to the general penalty provisions in Section 1-5 of the City of Brenham Code of Ordinances. In addition, thereto, such persons may be enjoined from continuing such violations.
- (b) *Fees.* All fees including, but not limited to permit fees and follow-up inspection fees, shall be set by resolution of the City Council, and kept on file by the authorized representative of the Municipality.

SECTION 2.

Chapter 16 – Occupational Licenses and Business Regulations, of the Code of Ordinances of the City of Brenham, Texas, Section 16-1, Definitions, is hereby amended to by adding the following definitions to read as follows:

Moral Turpitude. Crimes of dishonesty, fraud, deceit, misrepresentation, or deliberate violence. This includes anything done knowingly that is contrary to justice, honesty, principle, or good morals. Examples of property crimes involving moral turpitude include arson, blackmail, forgery, robbery, burglary, theft, and illegal use of a credit card. Crimes against people considered to be crimes of moral turpitude include but are not limited to: assault, sexual assault, child abuse or neglect, kidnapping, murder, or manslaughter.

SECTION 3.

Chapter 16 – Occupational Licenses and Business Regulations, of the Code of Ordinances of the City of Brenham, Texas, Section 16-3 Through Section 16-8, is hereby amended to read as follows:

Sec. 16-3. Application.

Any person or organization may apply for a license required by this chapter by completing the appropriate application form and submitting the form and any applicable fees to the Development Services Department during regular office hours. Incomplete applications and/or applications not accompanied with the appropriate fee shall be deemed incomplete and will not be processed.

Sec. 16-4. Contents of Application.

The applicant shall submit in writing to the Development Services Department and provide the following information on the City's standard application form:

- a. Legal name of applicant.
- b. A driver's license, state identification card, passport, or other government-issued identification card (issued within the United States) containing the name, physical description, and photograph of the applicant. The applicant shall also provide two

(2) photographs of the applicant which have been taken within sixty (60) days immediately prior to the date of filing the application. The photographs shall show the head and shoulders of the applicant in a clear and distinguishable manner.

- c. The permanent and local (if any) addresses of the applicant.
- d. Telephone number of applicant.
- e. Form of business entity, state of formation/incorporation, Texas state sales tax number, and federal tax identification number.
- f. A brief description of the proposed activity related to the license sought, including but not limited to the hours and location(s) for which the license is requested. (Copies of literature to be distributed may be included in this description at the option of the applicant.)
- g. The applicant's date of birth and place of birth.
- h. A list of all the applicant's infractions, offenses, and criminal convictions for the ten (10) years immediately prior to the application.
- i. The make, model, year, color, and state license plate number of any vehicle that will be used by the applicant in any activity regulated by this chapter.
- j. If applicable, with regard to a peddler:
 - i. The name and permanent address of the business offering the event, activity, goods or service (i.e., the peddler's principal).
- k. If applicable, with regard to a solicitor:
 - i. The name, permanent address, and telephone number of the organization, person, or group for whom donations or proceeds are accepted.
 - ii. The web address for the applying organization, person or group where residents having subsequent questions can go for more information.
- l. Any other information the applicant wishes to provide, including copies of literature to be distributed, and references to other municipalities where similar activities have occurred.

All applicants must seek a license for themselves covering all of the applicant's employees and/or agents that will be operating within the city limits. The application shall include a statement that the applicant recognizes the other individuals listed under the applicant's license are employees/agents and not as independent contractors, and that the applicant accepts the responsibilities imposed by State law, this chapter and other applicable laws and regulations for the acts of its employees/agents. If a person requests a license for employees/agents, the following information must be supplied for each individual employee/agent:

- 1. Employee/agent's full legal name.
- 2. Residence address of employee/agent.

3. Date of birth and place of birth of employee/agent.
4. Driver's license number, state identification card, passport, or other government-issued identification card (issued within the United States) containing the name, physical description, and photograph of the applicant of employee/agent.
5. Statement of any criminal offense involving crimes against property, moral turpitude and/or felony convictions.

Sec. 16-5. Investigation.

After the submission of an application to the Development Services Department, the City Manager, or his/her designee, shall investigate the truth and accuracy of the information contained in the application.

The license shall be issued or denied within five (5) business days after the date the application is received by the Development Services Department. If the City has not completed the investigation within five (5) business days, the license shall be issued, subject to, however, administrative revocation upon completion of the investigation.

Sec. 16-6. Denial or Revocation of License.

Any application for a license may be denied or revoked if it is determined that:

1. The applicant/licensee has been convicted of any felony or a misdemeanor involving moral turpitude within the past ten (10) years;
2. The individual for whom a license is requested or issued has been convicted of any felony or misdemeanor involving moral turpitude within the past ten (10) years;
3. Any statement upon the application is false; or
4. The applicant/licensee and/or an employee/agent of the applicant/licensee fails to comply with any other provision of this chapter. Additionally, if a licensee is convicted of any felony or a misdemeanor involving moral turpitude during the term of the license, the licensee shall notify the Development Services Department of such conviction, shall forfeit the existing license, and shall be required to submit a new license application for review and consideration by the City Manager.

If the City Manager denies or revokes a license, the applicant or licensee shall be notified within two (2) business days after the denial or revocation. The reason for the denial or revocation shall be in writing and made immediately available to the applicant or licensee.

The applicant or licensee may appeal the denial or revocation of a license to the City Council. The applicant or licensee shall have ten (10) days from the date of the denial or revocation in which to file written notice, with the Development Services Department, of the applicant's/licensee's appeal of the denial or revocation to the City Council. The applicant/licensee's written notice of appeal shall state the basis of the appeal and the reasons

supporting the issuance or reinstatement of the license, including any relevant documentation supporting the appeal. The City Council shall hold the appeal hearing within twenty (20) days after the written request is received by the Development Services Department. After holding the hearing on the revocation or denial, the City Council shall by majority vote either (1) sustain the denial or revocation of the license; or (2) issue an order approving the issuance or reinstatement of the license, as applicable.

In the event of the filing of an appeal from a revocation of a license issued under the provisions of this chapter, then until such appeal has been heard and determined by the City Council, such revocation order shall be stayed.

Sec. 16-7. Fees.

The fee for a license shall be set by separate fee schedule as approved by the Brenham City Council and on file in the Development Services Department.

Sec. 16-8. Duration of licenses.

The duration of licenses shall be for the time period(s) indicated below:

1. An itinerant vendor's license shall be valid for forty-five (45) days and at the expiration date and if in good standing with the city, the license holder may request to renew the permit in one of the following increments:
 - i. For an additional forty-five (45) days;
 - ii. For an additional six (6) months;
 - iii. For the remainder of a one (1) year term.
2. A peddler's license shall be valid for forty-five (45) days and can be renewed.
3. A solicitor's license shall be valid for forty-five (45) days and can be renewed.

SECTION 4. **SAVINGS CLAUSE**

All provisions of any ordinance, resolution or other action of the City in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances, resolutions or other actions shall remain in full force and effect.

SECTION 5. **SEVERABILITY CLAUSE**

Should any section, subsection, sentence or clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council

hereby declares that it would have passed this Ordinance, and each section, subsection, sentences, clauses and phrases remaining should any provision be declared unconstitutional or invalid.

SECTION 6.
REPEALER CLAUSE

Any other ordinance or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 7.
EFFECTIVE DATE

This Ordinance shall become effective upon adoption and publication as required by law.

SECTION 8
PROPER NOTICE AND MEETINGS

It is hereby officially found and determined that the meetings at which this Ordinance was passed were open to the public as required and that public notice of the time, place, and purpose of said meetings were given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED and **APPROVED** on its first reading this the __ day of October 2021.

PASSED and **APPROVED** on its second reading this the __ day of November 2021.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



MOBILE FOOD VENDING UNIT CHECKLIST

Location of Mobile Units:

- Units shall not be closer than 10 feet to any structure
- All Mobile Units must remain at least 15 feet away from any fire hydrant.
- Mobile Units shall not block access to a Fire Department Connection (FDC).
- Mobile Units shall not obstruct any access to or exit from a structure.

Electrical:

- No excessive use of extension cords.
- Electric panels need proper cover and breakers need to be labeled.

Propane Cylinders:

- A maximum of 2- 100 lb. propane cylinders is allowed. One is allowed for use and one as a spare.
- Propane cylinders need to be re-qualified every 12 yrs. A current date of manufacture if new or re-qualification stamp is required on all cylinders. Cylinders need to be free of scrapes, gouges, and dents.

Propane Cylinder Location:

- Propane cylinders shall not be located:
 - On rear bumpers or roofs
 - Below the lowest part of the vehicle frame
 - Inside improperly vented or unvented trucks or beds of vehicles
 - Inside passenger compartments of vehicles
 - On soil
- Compartments used for the storage of propane shall be properly vented in compliance with NFPA 58.
- The relief valve discharge from the propane cylinder shall not be less than 3 feet measured horizontally along the surface of the vehicle to:
 - Openings in the vehicle
 - Propane burning appliance intake exhaust vents
 - All internal combustion engine exhaust terminations

Propane Equipment:

- All cooking appliances shall be listed for the use with propane.
- All appliances must be properly modified for use with propane.
- Appliances required to be vented (by the manufacturer's recommendations, usually greater than 40,000 BTUs) must be converted for the use with propane by a Master Plumber licensed by the Texas Railroad Commission. Documentation of proper conversion by a plumber must be provided at the time of inspection.

- Piping systems, including fittings and valves shall comply with NFPA 58.
- Flexible metallic connectors are limited to 5 feet in overall length.
- Piping shall be tested annually at not less than 3 PSIG for 10 minutes before appliances are connected and at system pressure after connection by a licensed LPG technician. Documentation of test must be provided at the time of inspection.
- Manual shutoff valves on gas lines are required at the point of use (the appliance) and at the supply.

Propane at Fixed Sites:

- Cylinders must be 10 feet away from combustibles
- Cylinders cannot be within 6 feet of electric power lines over 600 Volts
- The relief valve discharge on the cylinder must be 5 feet from exterior sources of ignition, openings into direct vent appliances, and mechanical ventilation air intakes.

Fire Suppression:

- Each Mobile Unit will be required to have a proper fire extinguisher inside of their vehicle (2A10BC fire Extinguisher)
- Each fire extinguisher will need to be mounted in a conspicuous location where it can be located quickly.
- Each fire extinguisher will need to be serviced annually and maintain a current tag confirming its status.
- A hood suppression system that is UL 300 or UL 300A rated shall be installed if deep fat frying. The hood system must be inspected every 6 months and maintain a current tag confirming its status.
- If a hood suppression system is present, then a 1.5-gallon Class K fire extinguisher is also required.
- All gas, solid, or liquid fuel burning inside a trailer or vehicle must be vented to the outside with an approved venting system and spark arrestor.

Brenham Fire Department Inspection Requirements

Units utilizing propane or similar fuels must provide the following items for the Brenham Fire Department Inspector at the time of inspection. Questions regarding these requirements are directed to call (979) 337-7300.

- Valid invoice of annual pressure test performed on unit.
- Fire Extinguisher type 2A10BC with an annual fire inspection with tag from a licensed company.
- If a Class K Extinguisher is required, then it must also have an annual fire inspection with tag from a licensed company.
- If a hood suppression system is present on the unit, then a valid, biannual system testing invoice must be provided.
- Documentation of approved appliance testing- such as UL or CSA listing.



Regular City Council
AGENDA ITEM 10.

Agenda Item: Discuss and Possibly Act Upon the Purchase of a 2021 Taser 7 Certification Bundle from Axon Enterprise, Inc. Through the BuyBoard Local Government Purchasing Cooperative Contract No. 603-20 and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-October 21, 2021

Department: Police

Staff Contact: Captain Dant Lange

SUMMARY STATEMENT:

In the adopted budget for FY2021-22, Council authorized \$28,290 for the purchase of new tasers for Brenham police officers. The tasers currently in use run on outdated firmware that is no longer supported by the manufacturer.

Axon Enterprise, Inc. has provided a quote coming in under budget at \$26,737.49 for the first year, with a total 5-year contract price of \$133,687.54. Axon will provide 41 tasers, accessories, associated hardware, and firmware licenses. Staff feels this is a good product and a fair price, and want to use this opportunity to purchase this vital equipment which has lately been in short supply.

City Attorney Cary Bovey has reviewed and approved the terms of this contract.

ATTACHMENTS:

(1) Axon Quote

RECOMMENDED ACTION:

Authorize the purchase of a 2021 Taser 7 Certification Bundle from Axon Enterprise, Inc. using BuyBoard Contract No. 603-20 in the amount of \$133,687.54 and authorize the Mayor to execute any necessary documentation.



Axon Enterprise, Inc.
 17800 N 85th St.
 Scottsdale, Arizona 85255
 United States
 VAT: 86-0741227
 Domestic: (800) 978-2737
 International: +1.800.978.2737

Q-342467-44482.936AS

Issued: 10/13/2021



Quote Expiration: 10/30/2021

EST Contract Start Date: 11/01/2021

Account Number: 108656

Payment Terms: N30

Delivery Method: Fedex - Ground

SHIP TO	BILL TO
Brenham Police Dept. - TX 1800 Longwood Dr Brenham, TX 77833-5243 USA	Brenham Police Dept. - TX PO Box 1059 Brenham, TX 77834-1059 USA Email: cschoen@ci.brenham.tx.us

SALES REPRESENTATIVE	PRIMARY CONTACT
Adam Smith Phone: Email: asmith@taser.com Fax: (480) 463-2201	Phone: (979) 337-7338 Email: cschoen@cityofbrenham.org Fax:

Program Length	60 Months
TOTAL COST	\$133,687.54
ESTIMATED TOTAL W/ TAX	\$133,687.54

Bundle Savings	\$28,396.12
Additional Savings	\$10,255.03
TOTAL SAVINGS	\$38,651.15

PAYMENT PLAN: Nov 2021		
PLAN NAME	INVOICE DATE	AMOUNT DUE
Year 1	Nov, 2021	\$26,737.49
Payment Total		\$26,737.49

PAYMENT PLAN: Nov 2022		
PLAN NAME	INVOICE DATE	AMOUNT DUE
Year 2	Nov, 2022	\$26,737.51
Payment Total		\$26,737.51

PAYMENT PLAN: Nov 2023

PLAN NAME	INVOICE DATE	AMOUNT DUE
Year 3	Nov, 2023	\$26,737.51
Payment Total		\$26,737.51

PAYMENT PLAN: Nov 2024

PLAN NAME	INVOICE DATE	AMOUNT DUE
Year 4	Nov, 2024	\$26,737.51
Payment Total		\$26,737.51

PAYMENT PLAN: Nov 2025

PLAN NAME	INVOICE DATE	AMOUNT DUE
Year 5	Nov, 2025	\$26,737.51
Payment Total		\$26,737.51

Quote Details

Bundle: 2021 Taser 7 Certification Bundle Quantity: 41 Start: 10/4/2021 End: 10/31/2026 Total: 133687.54 USD

Category	Item	Description	QTY
Holsters	20160	TASER 7 HOLSTER - SAFARILAND, RH+CART CARRIER	1
Holsters	20161	TASER 7 HOLSTER - SAFARILAND, LH+CART CARRIER	3
HALT Suit	20050	HOOK-AND-LOOP TRAINING (HALT) SUIT	1
Handle License	20248	TASER 7 EVIDENCE.COM LICENSE	41
Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	123
Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	123
Handles	20008	TASER 7 HANDLE, YLW, HIGH VISIBILITY (GREEN LASER), CLASS 3R	41
Inert Cartridges	22179	TASER 7 INERT CARTRIDGE, STANDOFF (3.5-DEGREE) NS	41
Inert Cartridges	22181	TASER 7 INERT CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	41
Admin License	20248	TASER 7 EVIDENCE.COM LICENSE	1
Taser 7 Target	80087	TASER 7 TARGET, CONDUCTIVE, PROFESSIONAL (RUGGEDIZED)	1
Spare Handles	20008	TASER 7 HANDLE, YLW, HIGH VISIBILITY (GREEN LASER), CLASS 3R	1
Taser 7 Target Frame	80090	TARGET FRAME, PROFESSIONAL, 27.5 IN. X 75 IN., TASER 7	1

Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	82
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	82
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	82
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	82
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	82
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	82
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	82
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	82
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	82
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	82
Batteries	20018	TASER 7 BATTERY PACK, TACTICAL	49
Training Halt Cartridges	22177	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, STANDOFF NS	82
Training Halt Cartridges	22177	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, STANDOFF NS	82
Training Halt Cartridges	22178	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, CLOSE QUART NS	82
Training Halt Cartridges	22178	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, CLOSE QUART NS	82
Duty Cartridge Replenishment Program	20246	TASER 7 DUTY CARTRIDGE REPLACEMENT LICENSE	41
Docks	74200	TASER 7 6-BAY DOCK AND CORE	1
Dock Mount	70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	1
Dock Power Cord	71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK	1
Other	80395	EXT WARRANTY, TASER 7 HANDLE	41
Other	80395	EXT WARRANTY, TASER 7 HANDLE	1
Other	80374	EXT WARRANTY, TASER 7 BATTERY PACK	49
Other	80396	EXT WARRANTY, TASER 7 SIX BAY DOCK	1
Holsters	20062	TASER 7 HOLSTER - BLACKHAWK, RIGHT HAND	5
Holsters	20067	TASER 7 HOLSTER - BLACKHAWK, LEFT HAND	32

Bundle: Dynamic Bundle Quantity: 1 Start: 10/4/2021 End: 10/31/2026 Total: 0 USD

Category	Item	Description	QTY
Other	20186	SAFARILAND HOLSTER MOLLE ADAPTER W MLS16 FORK	6

Hardware

Requested Ship Date	Item	Description	QTY
11/01/2021	20160	TASER 7 HOLSTER - SAFARILAND, RH+CARD CARRIER	1
11/01/2021	20186	SAFARILAND HOLSTER MOLLE ADAPTER W MLS16 FORK	6
11/01/2021	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	82
11/01/2021	80090	TARGET FRAME, PROFESSIONAL, 27.5 IN. X 75 IN., TASER 7	1
11/01/2021	20008	TASER 7 HANDLE, YLW, HIGH VISIBILITY (GREEN LASER), CLASS 3R	1
11/01/2021	80087	TASER 7 TARGET, CONDUCTIVE, PROFESSIONAL (RUGGEDIZED)	1

11/01/2021	22181	TASER 7 INERT CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	41
11/01/2021	22179	TASER 7 INERT CARTRIDGE, STANDOFF (3.5-DEGREE) NS	41
11/01/2021	20008	TASER 7 HANDLE, YLW, HIGH VISIBILITY (GREEN LASER), CLASS 3R	41
11/01/2021	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	123
11/01/2021	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	123
11/01/2021	20067	TASER 7 HOLSTER - BLACKHAWK, LEFT HAND	32
11/01/2021	20062	TASER 7 HOLSTER - BLACKHAWK, RIGHT HAND	5
11/01/2021	80396	EXT WARRANTY, TASER 7 SIX BAY DOCK	1
11/01/2021	80374	EXT WARRANTY, TASER 7 BATTERY PACK	49
11/01/2021	80395	EXT WARRANTY, TASER 7 HANDLE	1
11/01/2021	80395	EXT WARRANTY, TASER 7 HANDLE	41
11/01/2021	71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK	1
11/01/2021	70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	1
11/01/2021	74200	TASER 7 6-BAY DOCK AND CORE	1
11/01/2021	22178	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, CLOSE QUART NS	82
11/01/2021	22177	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, STANDOFF NS	82
11/01/2021	20018	TASER 7 BATTERY PACK, TACTICAL	49
11/01/2021	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	82
11/01/2021	20161	TASER 7 HOLSTER - SAFARILAND, LH+CART CARRIER	3
11/01/2021	20050	HOOK-AND-LOOP TRAINING (HALT) SUIT	1
11/01/2022	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	82
11/01/2022	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	82
11/01/2023	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	82
11/01/2023	22178	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, CLOSE QUART NS	82
11/01/2023	22177	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, STANDOFF NS	82
11/01/2023	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	82
11/01/2024	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	82
11/01/2024	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	82
11/01/2025	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	82
11/01/2025	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	82

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Contract BuyBoard 603-20 (CEW only) is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

Signature

Date Signed

10/13/2021



Regular City Council
AGENDA ITEM 11.

Agenda Item: Discuss and Possibly Act Upon a Professional Services Agreement Between the City of Brenham and Strand Associates, Inc. for FY2021-22 On-Call Engineering Services, In An Amount Not to Exceed \$120,000.00 and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-October 21, 2021

Department: Public Utilities

Staff Contact: Donald Reese

SUMMARY STATEMENT:

The City of Brenham wishes to obtain engineering services from Strand Associates, Inc. to provide 'On-Call' engineering support services to the City. These services would include, but are not limited to, General Engineering Services, Development Review Services, Floodplain Administration Services, and Part-Time Resident Project Representative Services for Developments.

In general, the services will be to attend meetings to discuss engineering-related matters, prepare opinions of probable construction costs for budgetary purposes, review preliminary and final plats submitted by developers, review water, sanitary sewer, paving, and drainage construction plans in accordance with the Code of Ordinances and Design Standards, communicate with City regarding its floodplain administration, and part-time observation of development construction. All services to be provided by Strand Associates, Inc. are further detailed in Exhibit A of the Agreement. The City will pay Engineer only for actual services performed. The cost to provide those services is not to exceed \$120,000.00.

Please see the attached PDF that details the FY 2021 expenditures that were related to the FY 2021 "On-Call" Engineering contract with Strand Associates, Inc. Total amount invoiced in FY 2021 was \$119,815.00.

ATTACHMENTS:

- (1) Summary of FY21 Engineering Services
- (2) PSA with Strand Associates

RECOMMENDED ACTION:

Approve a Professional Services Agreement between the City of Brenham and Strand Associates, Inc. for FY2021-22 On-Call Engineering Services, in an amount not to exceed \$120,000.00 and authorize the Mayor to execute any necessary documentation.

City of Brenham - FY 2021 On-Call Engineering Services

Strand Associates - Annual Summary Breakdown

Development Services

1. General Tasks - \$8,213.75

- a. Infrastructure Design Manual - Drainage, Street, and Utility Updates
- b. SH 105 "Y" Intersection - Attend Workshop and Prepare Alternatives and Cost Opinions
- c. South Park Street Improvements - Prepare Exhibit and Cost Opinion
- d. Stormwater Maintenance Agreement - Discussion with Allen Jacobs
- e. Truck and Pedestrian Route Maps - Address City-Provided Updates
- f. Vintage Farms Subdivision, Phase 5 - TCEQ Discussion Regarding Existing Lake

2. Plan Reviews and Meetings - \$41,340.00

- a. Weekly Plan Review Meetings - Preparation and Attendance
- b. Alois Lane Subdivision, Section 2
- c. Aviator's Plus New Hangar, 7460 Determination Letter
- d. Baker Katz Development
- e. Blinn College Leroy Dreyer Field Improvements
- f. Blinn College STEI Building
- g. Blinn College Student Housing Revisions
- h. Brenham Family Park
- i. Brenham Housing Authority, New Multi-Family
- j. Brion Web Spotless Carwash
- k. Crosswalk Striping Options Assistance
- l. Diana Stanger Airport Hangar
- m. Fairview Terrace Subdivision, Preliminary and Final Plats
- n. Farm Houses of Pleasant Hill Subdivision, Section 2
- o. Harrington Creek Subdivision, Preliminary and Final Plats
- p. HEB Expansion
- q. HH Drumm's Dixie Addition
- r. James Hodde Replat
- s. Jim Fields Addition/Chapel Subdivision
- t. Liberty Village Subdivision, Phase 2
- u. Liberty Village Subdivision, Phase 3
- v. Market Square Development
- w. Mecom Plaza Development
- x. Mike Hopkins Distributing, Resubmittal
- y. Overlook Estates, Phase 4, Retention Pond
- z. Prairie Lea Cemetery
- aa. Sandalwood Manufactured Home Park Expansion
- bb. Select Furnishings
- cc. Stovall Subdivision, Preliminary and Final Plats
- dd. Velocity Church
- ee. Vintage Farms Subdivision, Phase 3
- ff. Vintage Farms Subdivision, Phase 5 with Lake Analysis
- gg. Washington County Health Living Center
- hh. 1403 S. Baylor Street, Replat Lot 1B, Block K

3. **Pre-Development Meetings - \$1,393.75**
 - a. Brion Web Spotless Carwash
 - b. Emanuel Glockzin, Brazos Valley Construction
 - c. Larry Tegeler Development, Phase 3
 - d. Market Square Development
 - e. North Park and Scenic Drive Development
 - f. Parkview Addition Development
 - g. Premier Metal
 - h. Velocity Church
4. **Pre-Submittal Questions - \$140.00**
 - a. Handley Street Property
5. **Construction Meetings and Observation - \$37,045.00**
 - a. Baker Katz Development
 - b. Blinn College Student Housing
 - c. Circle K Brenham, Storm Sewer
 - d. Liberty Village Subdivision, Phase 2
 - e. Liberty Village Subdivision, Phase 3
 - f. Mike Hopkins Distributing
 - g. Vintage Farms Subdivision, Phase 3
 - h. Vintage Farms Subdivision, Phase 5

Public Utilities

1. **General Tasks - \$0.00**
2. **Water Utility - \$7,562.50**
 - a. FY 2024 to FY 2027 Water Main Replacements - Meeting, Alignments, and Cost Opinions
 - b. Raw Water Intake Generator Fuel Containment - Site Visit, Two Alternatives, and Cost Opinions
 - c. TWDB PIF for Emergency Groundwater Supply - Prepare and Submit PIF for TWDB Funding
 - d. USACE Easement for Intake PS and Raw Water Main - Provide Requested Amendment to City
3. **Wastewater Utility - \$11,015.00**
 - a. FEMA WWTP Storm Damage Repairs - Provide Documentation and Address FEMA's Questions
 - b. FY 2022 to FY 2027 Sanitary Sewer Replacements - Meeting, Alignments, and Cost Opinions
 - c. Industrial Boulevard Lift Station Replacement - Drawdown Tests, Sizing, and Cost Opinions
 - d. Park Irrigation with Reclaimed Water - Identify Alternatives and Prepare Cost Opinions
 - e. Stone Hollow Lift Station and FM Replacement - Drawdown Tests, Sizing, and Cost Opinions
 - f. WWTP Rehabilitation of Treatment Unit 1 - Site Visit, Supplier Coordination, and Cost Opinions
4. **Natural Gas Utility - \$0.00**
5. **Electric Utility - \$0.00**
6. **Drainage Utility - \$105.00**
 - a. Gun & Rod and East Stone Street Drainage Issues - Site Visit with City to Discuss Drainage Issues

Public Works

1. General Tasks - \$970.00

- a. BCDC Drainage and Detention Ponds - Provide Requested Information to City
- b. BCDC Detention Pond - Perform 1-Year Warranty Inspection with City
- c. Potential Streets, Parks, and Drainage Projects - Planning Assistance and Cost Opinions
- d. Stylecraft Homes Water Mains - Verify Developer-Provided Costs

2. Streets Tasks - \$10,096.25

- a. Blue Bell Road Extension - Attend Meeting, Prepare Alternatives and Cost Opinions
- b. Chappell Hill Street - Attend Meeting, Prepare Alternatives and Cost Opinions
- c. Lounge Road Intersection Improvements - Attend Meeting, Prepare Exhibit and Cost Opinion
- d. Potential Street Improvements - Attend Meeting and Prepare Cost Opinions (9 Total)
- e. Street Rehabilitation and Reconstruction - Prepare Unit Price List for City's Use
- f. Washington County Courthouse - Prepare ADA Parking Layouts and Cost Opinions

3. Parks Tasks - \$1,933.75

- a. Jackson Street Park Basketball Cover - Perform Topographic Survey and Prepare Base Mapping

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
CITY OF BRENHAM
PROJECT NO. _____
2022 ON-CALL ENGINEERING SERVICES**

**THE STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §**

THIS AGREEMENT made on the _____ day of _____, 20____, entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and Strand Associates, Inc.[®] ("Engineer").

WITNESSETH:

WHEREAS, the City desires to provide on-call engineering services, as further described in Part A of Attachment "A" (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to provide on-call engineering services, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional engineering services to the City;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I
SCOPE OF AGREEMENT**

Engineer agrees to perform certain professional engineering services as defined in Attachment "A" attached hereto and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Services," and for having rendered such services, the City agrees to pay Engineer compensation as stated in Section VII.

**SECTION II
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Services with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and agreed

that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior written approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same. The City's use of any work product prepared by the Engineer for purposes other than for the intended project shall be at the City's sole risk and without liability to the Engineer.

SECTION IV TIME FOR PERFORMANCE

The time for performance shall begin on the execution date of this Agreement. Services are scheduled for completion on September 30, 2022.

SECTION V COMPLIANCE AND STANDARDS

Engineer agrees to perform the services hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the services to be performed hereunder and Engineer's performance.

SECTION VI INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

SECTION VII ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual services performed under the Scope of Services, on the basis set forth in Attachment "A," up to an amount not to exceed \$120,000, as identified in Attachment "A."

SECTION VIII TERMINATION

The City may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer for such services performed under this Agreement as those services bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION IX ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Engineer at the following address:

Strand Associates, Inc.®
1906 Niebuhr Street
Brenham, TX 77833
Attn: Ryan D. Tinsley, P.E., ENV SP

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Brenham
P.O. Box 1059
Brenham, TX 77834
Attn: City Manager

SECTION X LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Engineer may become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

SECTION XI SUCCESSORS AND ASSIGNS

The City and Engineer bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Engineer shall not assign, sublet, or transfer its interest in this Agreement without the written consent of the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City or any public body which may be a party hereto.

SECTION XII MODIFICATIONS

This instrument, including Attachment "A," contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. To the extent there is a conflict between the provisions of this Agreement and the provisions of Attachment "A," this Agreement shall control. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

SECTION XIII ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City Manager, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the City on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Engineer shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

SECTION XV PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City. Non-payment within 45 days of receipt of invoice by the City, may at Engineers option, result in suspension of services upon 5 days written notice to the City. Upon receipt of payment in full Engineer will resume services without liability to City for such suspension.

SECTION XVI INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or disease or death, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and claims of errors and omissions.

SECTION XVII MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the services covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Washington County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Engineer further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

IN WITNESS WHEREOF, the City of Brenham has lawfully caused this Agreement to be executed by the Mayor of said City and attested by the City Secretary and Strand Associates, Inc.[®], acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 20____.

ENGINEER:

STRAND ASSOCIATES, INC.[®]

 9/20/2021
Joseph M. Bunker Date
Corporate Secretary

ATTEST:

CITY OF BRENHAM, TEXAS

Jeana Bellinger Date
City Secretary

Milton Y. Tate Jr. Date
Mayor

ATTACHMENT "A"

PART A–SCOPE OF SERVICES

CITY OF BRENHAM
PROJECT NO. _____
2022 ON-CALL ENGINEERING SERVICES

Description of Project

Engineer will provide on-call engineering support services to the City as directed and authorized by the City Manager in writing. City may request that Engineer establish a scope and fee for specific services for review and approval prior to starting services or may direct Engineer in writing to proceed with defined services without preset limits.

General Engineering Services

1. Attend meetings with City to discuss engineering-related matters.
2. Respond to City's engineering-related questions.
3. Prepare opinions of probable construction costs for budgetary purposes.
4. Provide engineering, scientific, hydraulic modeling, and computer-aided design services.

Development Review Services

1. Communicate with City, the developer, and developer's engineer.
2. Review preliminary and final plats submitted by developer in accordance with the City's Code of Ordinances and Design Standards and Specifications.
3. Review water, sanitary sewer, paving, and drainage construction drawings in accordance with the City's Code of Ordinances and Design Standards and Specifications.
4. Provide written comments on plats, construction drawings, and drainage reports to the City's Development Services Director.

Floodplain Administration Services

1. Communicate with City regarding its floodplain administration.

2. Provide floodplain administration services, including review of floodplain permits for new construction and substantial improvements in accordance with the City's Code of Ordinances and Design Standards and Specifications.

Part-Time Resident Project Representative (RPR) Services for Developments

Upon written request of the City, provide RPR for part-time observation of development construction. In furnishing observation services, Engineer's efforts will be directed toward determining for City that the completed project will, in general, conform to the Contract Documents; but Engineer will not supervise, direct, or have control over the contractor's work and will not be responsible for the contractor's construction means, methods, techniques, sequences, procedures, or health and safety precautions or programs, or for the contractor's failure to perform the construction work in accordance with the Contract Documents. Engineer will communicate with the City on the progress of the work, will document visits to the project site, and will furnish copies of such documentation to the City.

PART B—BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES

CITY OF BRENHAM PROJECT NO. _____ 2022 ON-CALL ENGINEERING SERVICES

The following represents the estimated maximum compensation for the scope of services documented in Attachment A, Part A of this Agreement. If services beyond those specifically identified are determined necessary during the Project, Engineer shall not proceed with those services until such time written approval of the scope and any additional fees are approved by the City Manager.

City shall compensate Engineer for on-call engineering services on an hourly rate basis at the rates shown in the Schedule of Charges, not to exceed \$120,000.

SCHEDULE OF CHARGES

Compensation for engineering services shall be on an hourly basis at the rates set forth below which are subject to change annually on July 1.

Engineering Services Classification	Hourly Billing Rates*
Principal Engineer	\$310
Senior Associate	\$270
Senior Project Manager	\$230
Project Manager	\$185
Senior Project Engineer	\$165
Project Engineer	\$140
Graduate Engineer 2	\$135
Graduate Engineer 1	\$125
Senior Engineering Technician 2	\$140
Senior Engineering Technician 1	\$130
Engineering Technician	\$115
Junior Engineering Technician	\$ 70
Project Representative	\$110
Senior Computer-Aided Design and Drafting (CADD)	\$105
Operator	
CADD Operator	\$ 70
Administrative	\$ 90
* Updated annually on July 1	

Compensation for surveying services shall be on an hourly basis at the rates set forth below which are subject to change annually on July 1.

Surveying Services Classification	Hourly Billing Rates*
Registered Professional Land Surveyor	\$ 235
Surveying Technician	\$ 105
Three-Man Field Party	\$ 235
Two-Man Field Party	\$ 175
One-Man Field Party	\$ 105
Laser Scanner (Half Day)	\$1,000
Laser Scanner (Full Day)	\$1,800
Global Positioning System (GPS) Equipment (Half Day)	\$ 185
GPS Equipment (Full Day)	\$ 300
Robotic Total Station (Half Day)	\$ 135
Robotic Total Station (Full Day)	\$ 220
* Updated annually on July 1	

Subcontract costs shall be billed at invoice cost plus 10 percent for handling.

ATTACHMENT "B"

INSURANCE

**CITY OF BRENHAM
PROJECT NO. _____
2022 ON-CALL ENGINEERING SERVICES**



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/16/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Ansay & Associates, LLC. MSN 2901 W. Beltline Hwy. Suite 202 Madison WI 53713	CONTACT NAME: Joe Keal	FAX (A/C, No): 608-831-4777	
	PHONE (A/C, No, Ext): 800-643-6133	E-MAIL ADDRESS: joe.keal@ansay.com	
INSURED Strand Associates, Inc. 910 W. Wingra Drive Madison WI 53715	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: CNA Insurance Companies		35289
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES

CERTIFICATE NUMBER: 1735540695

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ 1,000 ☒ XCU cov. incl. GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC			5099170076	1/1/2021	1/1/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 900,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS			5099170062	1/1/2021	1/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$ 10,000			5099170059	1/1/2021	1/1/2022	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC595126844	1/1/2021	1/1/2022	☒ WC STATU-TORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability Full Prior Acts			AEH113974097	7/11/2021	7/11/2022	Each Claim 2,000,000 Aggregate 2,000,000 Full Prior Acts

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
PROJECT: 2022 On-Call Engineering Services

CERTIFICATE HOLDER

CANCELLATION

City of Brenham Attn: City Manager PO Box 1059 Brenham TX 77834	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

© 1988-2010 ACORD CORPORATION. All rights reserved.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Strand Associates, Inc.
Brenham, TX United States

Certificate Number:
2021-802690

Date Filed:
09/16/2021

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Brenham

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

Strand Project No. 3900.245
Engineering Services for 2022 On-Call Engineering Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Strand Associates, Inc.	Brenham, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is Joseph M. Bunker, and my date of birth is August 2, 1973.

My address is 910 W. Wingra Drive, Madison, WI, 53715, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dane County, State of Wisconsin, on the 20 day of September, 2021.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)



Regular City Council
AGENDA ITEM 12.

Agenda Item: **Section 551.086 - Texas Government Code - Utility Competitive Matters - City of Brenham Gas Utility System - Gas Supply and Transportation Arrangements and Agreements, and Associated Matters**

Meeting Type: Regular Meeting-October 21, 2021

Department: Public Utilities

Staff Contact: Donald Reese

SUMMARY STATEMENT:

Executive Session item.

ATTACHMENTS:

None

RECOMMENDED ACTION:

No action - discussion only.



Regular City Council
AGENDA ITEM 13.

Agenda Item: **Section 551.071 - Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Claims Alleged Against the City of Brenham by Former Fire Chief, and Associated Legal Matters**

Meeting Type: Regular Meeting-October 21, 2021

Department: Administration

Staff Contact: Cary Bovey, City Attorney

SUMMARY STATEMENT:

Executive Session discussion.

ATTACHMENTS:

None

RECOMMENDED ACTION:

As discussed in Executive Session.



Regular City Council
AGENDA ITEM 14.

Agenda Item: Section 551.087 - Texas Government Code - Economic Development Negotiations - Deliberation Regarding Incentives for Economic Development Purposes and the Possible Offer of a Financial or Other Incentive to Project Black Spot, a Business Seeking to Locate, Stay or Expand in the City of Brenham, Texas

Meeting Type: Regular Meeting-October 21, 2021

Department: Economic Development

Staff Contact: Susan Cates

SUMMARY STATEMENT:

Executive Session item.

ATTACHMENTS:

None

RECOMMENDED ACTION:

As discussed in Executive Session.



Regular City Council
AGENDA ITEM 15.

Agenda Item: Discuss and Possibly Act Upon Incentives for Economic Development Purposes and the Possible Offer of a Financial or Other Incentive to Project Black Spot, a Business Seeking to Locate, Stay or Expand in the City of Brenham, Texas and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-October 21, 2021

Department: Economic Development

Staff Contact: Susan Cates

SUMMARY STATEMENT:

To be discuss in Executive Session.

ATTACHMENTS:

None

RECOMMENDED ACTION:

As discussed in Executive Session.