



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, JUNE 16, 2011 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Mayor Milton Y. Tate, Jr.**
- 3. Citizens Comments**

CONSENT AGENDA

4. 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.

4-a. Minutes from the June 2, 2011 Council Meeting

4-b. Second Reading of Ordinance No. O-11-007 Amending the FY2010-11 Adopted Budget

EXECUTIVE SESSION

- 5. Texas Government Code Section 551.071 – Consultation with Attorney – Executive Session for the Purpose of Consultation with Legal Counsel Regarding Redistricting Standards and City Councilmember District Redistricting Plan(s)**

REGULAR AGENDA

- 6. Presentation and Discussion by Redistricting Counsel of Draft Redistricting Plans**
- 7. Redistricting Plan Map-Drawing Session with Redistricting Legal Counsel (*Note: In the event a map-drawing session is conducted, the City Council will convene in Room 2A, 2nd Floor of City Hall, for this agenda item*)**
- 8. Discuss and Possibly Act Upon the Designation of One or More Draft Redistricting Plans as Illustrative Plan(s) to be Proposed for Public Consideration and Comment**
- 9. Discuss and Possibly Act Upon an Ordinance on its First Reading Amending Chapter 16, Occupational Licenses and Business Regulations, of the City of Brenham's Code of Ordinances to Provide for the Regulation of Sexually Oriented Businesses within the City Limits**
- 10. Discuss and Possibly Act Upon a Request from the Main Street Board Approving the Renewal of a Reserved Parking Space for Hospice Boutique**
- 11. Discuss and Possibly Act Upon a Request for a Noise Variance from the Citizens for Community Progress to Hold a Praise Dance and Step Contest at Henderson Park from 4:00 p.m. to 7:00 p.m. on June 26, 2011**

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.

12. Administrative/Elected Officials Report

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 Negotiations.

CERTIFICATION

I certify that a copy of the June 16, 2011 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, Brenham, Texas on June 13, 2011 at _____ Am Pm.

Jeana Bellinger, TRMC, 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 _____, 2011 at _____ Am Pm.

Signature

Title

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on June 2, 2011 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

Mayor Milton Y. Tate, Jr.
Mayor Pro Tem Gloria Nix
Councilmember Keith Herring
Councilmember Andrew Ebel
Councilmember Danny Goss
Councilmember Weldon Williams, Jr.

Members absent:

Councilmember Charlie Pyle

Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Administrative Assistant Tammy Cook, Chief Financial Officer Carolyn Miller, Debbie Gaffey, Florence Bentke, Gerry Hartstack, Fire Chief Ricky Boeker, Doug Maurer, Police Chief Rex Phelps, David Doelitsch, Public Works Director Doug Baker, Kim Hodde, Leslie Kelm, Public Utilities Director Lowell Ogle, Casey Redman, Community Services Director Wesley Brinkmeyer, Lin Hartstack, Charlie Bentke, Janie Mehrens, Angela Hahn, and Danny Romo

Citizens present:

Seneca McAdams, Lu Hollander, Bob Schmidt

Media Present:

Arthur Hahn, Brenham Banner Press; Frank Wagner, KWHI

- 1. Mayor Tate called the meeting to order**
- 2. Invocation and Pledges to the US and Texas Flags – City Manager Terry Roberts**

3. Service Recognitions

Service Recognitions were presented to the following employees:

Weldon Williams	Administration	5 Years
Charlie Bentke	Parks	25 Years

Parks Superintendent, Lin Hartstack, thanked Charlie Bentke for his service.

4. Citizens Comments

There were no citizen comments.

CONSENT AGENDA

5. Statutory Consent Agenda

5-a. Minutes from the May 5, 2011 and May 19, 2011 Council Meetings and the May 12, 2011 Council Workshop Meeting

5-b. Second Reading of Ordinance No. O-11-006 Adopting a Revised City of Brenham Drought Contingency Plan and Water Conservation Plan for 2010-2015

A motion was made by Councilmember Herring and seconded by Councilmember Goss to approve the Statutory Consent Agenda Item 5-a. minutes from the May 5, 2011 and May 19, 2011 council meetings and the May 12, 2011 council workshop meeting and 5-b. Ordinance No. O-11-006 adopting a revised City of Brenham Drought Contingency Plan and Water Conservation Plan for 2010-2015

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Charlie Pyle	Absent
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

WORK SESSION

6. **Presentation of the Quarterly Report by the Washington County Convention and Visitors Bureau**

Seneca McAdams, with the Washington County Convention and Visitors Bureau, presented their 201011 second quarter report. A handout was given to council pointing out the highlights for each month.

REGULAR AGENDA

7. **Discuss and Possibly Act Upon an Ordinance on its First Reading Amending the FY2010-11 Adopted Budget**

This item was presented by Chief Financial Officer Carolyn Miller. She explained that the budget amendment will amend the General Fund expenditures to include: the Downtown Master Plan; revenue and offsetting expenditures for the Country Flavors Festival which was transitioned to the Brenham Maifest organization. She also advised Council that several items related to the Southwest Industrial Park expansion were amended in the BCDC budget, as well as funding for the amphitheater restroom project. Ms. Miller advised Council that the Street & Drainage Fund is being amended to reallocate the street overlay budget for the Ralston Creek drainage study and the Hillside Subdivision reconstruction project. She also noted that the Hotel Occupancy Tax Fund was being amended due to the additional revenues collected by the County in the fourth quarter of 2010.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve an Ordinance on its first reading amending the FY2010-11 adopted budget.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Charlie Pyle	Absent
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

8. Discuss and Possibly Act Upon the Renewal of the Contract with Alexander Oil Company for Gasoline and Diesel Fuel Services for the City of Brenham's Vehicle and Equipment Fleet and Authorize the Mayor to Execute any Necessary Documentation

Assistant City Manager, Kyle Dannhaus presented this item to Council. Mr. Dannhaus explained the terms and conditions of the bid with Alexander Oil allowed the City to extend the contract for two (2) additional one (1) year terms. Mr. Dannhaus informed council of Alexander Oil Company's agreement to hold their margin rate the same as in the original contract.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve the renewal of the contract with Alexander Oil Company for gasoline and diesel fuel services for the City of Brenham's vehicle and equipment fleet and authorize the Mayor to execute any necessary documentation.

Mr. Dannhaus noted the city's contract is set up to bid a margin and the price will fluctuate based on the current Houston-Hearne rack rate. Councilmember Goss questioned whether this is an open or capped margin. Mr. Dannhaus explained this is a fixed margin and the city pays an average of the rack price on a monthly basis plus the margin.

Mayor Tate asked how this compares to paying directly at the pump. Mr. Dannhaus stated the rack rate plus a margin is significantly less than you would pay due to the high mark ups on normal retail sales.

Councilmember Herring questioned if the contract has always been structured with a marginal rate. Mr. Dannhaus stated this is what has been done the past several years and it works well.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Charlie Pyle	Absent
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

9. Discuss and Possibly Act Upon Resolution No. R-11-006 Authorizing Execution of an Agreement with TxDOT for the Temporary Closure of State Right of Way in Connection with the 2011 Downtown Summer Concert Series (Hot Nights, Cool Tunes) to be held on July 2, 9, 16, 23, and 30, 2011

This item was presented by Kim Hodde. Ms. Hodde pointed out a date error on the resolution. The resolution presented to council states year 2010, however, Ms. Hodde informed council that the original resolution has been updated with the corrected year of 2011.

Ms. Hodde informed council that one lane of Alamo Street will be closed between Park Street and Market Street from 3:00 p.m. to 11:30 p.m. and all of Alamo Street will be closed between Austin Street and Market Street from 4:30 p.m. to 11:30 p.m.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve Resolution No. R-11-006 authorizing the execution of an agreement with TxDOT for the temporary closure of state right of way in connection with the 2011 Downtown Summer Concert Series (Hot Nights, Cool Tunes) to be held on July 2, 9, 16, 23, and 30, 2011 with the correction to the Resolution as presented by Ms. Hodde.

Councilmember Goss asked Chief of Police, Rex Phelps, if the closures of these streets have caused any problems in the past. Chief Phelps stated this event went very well last year and there were no problems. He credits this to the help from the COPs and the regularity of the event.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Charlie Pyle	Absent
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

10. Discuss and Possibly Act Upon a Request for a Noise Variance in Connection with Hot Nights, Cool Tunes Summer Concert Series to be Held from 4:00 p.m. to 11:00 p.m. on July 2, 9, 16, 23, and 30, 2011

Kim Hodde presented this item. A variance from the noise ordinance is being requested since there will be sound amplification equipment used at this event.

A motion was made by Councilmember Williams and seconded by Councilmember Herring to approve a noise variance in connection with Hot Nights, Cool Tunes Summer Concert Series to be held from 4:00 p.m. to 11:00 p.m. on July 2, 9, 16, 23, and 30, 2011.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Charlie Pyle	Absent
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

11. Discuss and Possibly Act Upon Approval of an Agreement with O'Malley Engineers, LLP for Final Design, Bidding, and Construction Phase Services Related to Westwood Drive Improvements and Authorize the Mayor to Execute any Necessary Documentation

Public Works Director, Doug Baker, presented this item. Mr. Baker explained the need for Westwood Drive to be widened from its existing width in order for TxDOT to install a traffic signal. Mr. Baker further explained the engineering services needed for this project along with the fees for basic and additional services.

Mayor Tate asked why there is a TxDOT traffic control plan included. Mr. Baker explained this project is on state right of way so this is a requirement of TxDOT.

City Attorney, Cary Bovey requested a change under the termination provision of the agreement to allow for either party to terminate, within thirty (30) days, without cause. Bob Schmidt with O'Malley Engineers stated he would make the suggested changes and incorporate them into all future agreements with the city.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Ebel to approve the agreement with O'Malley Engineers, LLP for final design, bidding, and construction services related to Westwood Drive improvements with a change to the termination provision of the agreement to allow for either party to terminate, within thirty (30) days, without cause and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Charlie Pyle	Absent
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

12. Administrative/Elected Officials Report

- Police Chief Rex Phelps advised Council of a Code Compliance Program that will begin on June 15, 2011. He advised that selected officers will be assisting the Code Enforcement Officer on various code violations throughout the city.
- City Manager, Terry Roberts had a number of items to report:
 - o iPads have been delivered. These will be distributed after individual meetings with IT Manager, Gary Jeter.
 - o Hohlt Park Construction: All Sports Building and Amphitheatre Project are in progress
 - o Reminder: Budget Workshop will be held July 19-21, 2011
 - o Report on Sexually Oriented Businesses Ordinance has been handed out; this will be presented at the June 16, 2011 council meeting.
 - o Council photos immediately prior to the June 16, 2011 council meeting.

Council convened into Executive Session at 2:00 p.m.

EXECUTIVE SESSION

- 13. Texas Government Code 551.072 – Real Property – Executive Session to Consider the Acquisition of Right of Way from Germania Insurance for the Realignment of Stringer Street Associated with the Improvements Related to the Highway 290 Project**

Executive session adjourned at 2:15 p.m.

RE-OPEN REGULAR SESSION

- 14. Discuss and Possibly Take Action as a Result of Executive Session Regarding the Acquisition of Right of Way from Germania Insurance for the Realignment of Stringer Street Associated with the Improvements Related to the Highway 290 Project and Authorize the Mayor to Execute any Necessary Documentation**

A motion was made by Councilmember Goss and seconded by Mayor Pro Tem Nix authorizing Mayor Tate to negotiate and enter into an agreement on behalf of the City of Brenham for the acquisition of right of way from Germania Insurance necessary for the realignment of Stringer Street, and further authorize the Mayor to execute any necessary documentation thereto.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Charlie Pyle	Absent
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

ORDINANCE NO. O-11-007

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING THE FY2010-11 ADOPTED BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Brenham, Texas has previously approved a budget for the fiscal year ending September 30, 2011, after having filed the same with the City Secretary and after holding public hearings on same, all after due notice as required by statute; and

WHEREAS, due to unforeseen circumstances and/or conditions, the City Council finds it is necessary to amend the FY2010-11 Budget for municipal purposes;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Brenham, Texas:

SECTION 1.

That the City Council of the City of Brenham, Texas, does hereby amend the budget for the City of Brenham, Texas for the fiscal year ending September 30, 2011, as shown on Exhibit A.

SECTION II.

This Ordinance shall take effect as provided by State Law and the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the 2nd day of June, 2011.

PASSED and APPROVED on its second reading this the 16th day of June, 2011.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

CITY OF BRENHAM
EXHIBIT A
AMENDMENT NUMBER 1
FISCAL YEAR 09-30-11

	General Fund	BCDC Fund	Parks Special Rev Fund	Equipment Fund	Streets & Drainage Fund	Donations Fund	Electric Fund	Washington County HOT Fund	TOTAL
REVENUES (INC) DEC									
BCDC - Sale of Land to Bluebonnet Electric Cooperative		\$ (284,400)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (284,400)
Reduce Main Street Festival Revenue	26,000								26,000
Grant Revenue for A/C Unit at City Hall				(57,576)					(57,576)
Washington County Hotel Occupancy Tax Revenue								(10,234)	(10,234)
TOTAL BUDGETED REVENUES	26,000	(284,400)	-	(57,576)	-	-	-	(10,234)	(326,210)
EXPENDITURES INC (DEC)									
Main Street Downtown Master Plan - General Fund Allocation	25,000								25,000
Reduce Country Flavors Festival Expenditures	(24,400)								(24,400)
BCDC - Increase Audits & Consultants for SWIP, Section 3		43,850							43,850
BCDC Allocation - Main Street Downtown Master Plan	25,000								25,000
BCDC Allocation - EDF Website Design and Development		20,000							20,000
Allocate BCDC Contingency for Amphitheater Restroom Project		(90,000)							(90,000)
Amphitheater Restroom Design and Construction			90,000						90,000
Record Grant Portion of Expenditure for A/C Unit at City Hall				57,576					57,576
EQUIPMENT FUND ALLOCATION OF FUND BALANCE									
Equipment Fund Transfer for FY10 & FY11 Identified Items									
1) Establish a Railroad Quiet Zone				50,000					50,000
2) Replace A/C Unit at City Hall				66,230					66,230
3) Replacement Police Vehicle				20,832					20,832
4) Reduce Expenditures for Tractor Purchased in FY10				(12,000)					(12,000)
5) Price Increase on Police Vehicles (\$2,875 *4)				11,500					11,500
6) Price Increase in Parks Utility Vehicle				1,340					1,340
Equipment Fund Transfer to Establish a Contingency				74,886					74,886
<i>Subtotal of Equipment Fund Allocation of Fund Balance</i>				212,788					212,788
Ralston Creek Drainage Study - reallocate Overlay Project Budget					19,500				19,500
Hillside Subdivision Reconstruction - reallocate Overlay Project Budget					104,079				104,079
Decrease Overlay Project Budget due to reallocations noted above					(123,579)				(123,579)
Concrete Work for Belle's Alley to Complete Project						5,911			5,911
HOT Fund Washington County Allocation - CVB Administration								4,240	4,240
HOT Fund Washington County Allocation - CVB Advertising and Promotion								4,700	4,700
HOT Fund Washington County Establish a Contingency								1,294	1,294
TOTAL BUDGETED EXPENDITURES	25,600	(26,150)	90,000	270,364	-	5,911	-	10,234	375,959
TRANSFERS INC (DEC)									
Transfer from BCDC for Main Street Downtown Master Plan	(25,000)	25,000							-
Transfer to Parks Special Revenue for Amphitheater Restroom Project		90,000	(90,000)						-
Police Department 1/2 Cost of Speed Awareness Trailer	3,024					(3,024)			-
Transfer from Electric Fund for Belle's Alley						(5,911)	5,911		-
TOTAL BUDGETED TRANSFERS	(21,976)	115,000	(90,000)	-	-	(8,935)	5,911	-	0
CHANGE IN BUDGETED FUND BALANCE (INC) DEC	\$ 29,624	\$ (195,550)	\$ -	\$ 212,788	\$ -	\$ (3,024)	\$ 5,911	-	\$ 49,749



AGENDA FORM

DATE OF MEETING: June 16, 2011		DATE SUBMITTED: June 10, 2011
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Jeana Bellinger
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
☐ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING
☒ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION
	☐ WORK SESSION	
AGENDA ITEM DESCRIPTION: Consultation with Legal Counsel Regarding the City's Redistricting Standards and City Councilmember District Redistricting Plan(s)		
SUMMARY STATEMENT: Sydney Falk with Bickerstaff Heath Delgado Acosta, LLP will discuss redistricting standards and plan(s) with the City Council.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS:		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Discussion only.		
APPROVALS: Terry K. Roberts		



AGENDA FORM

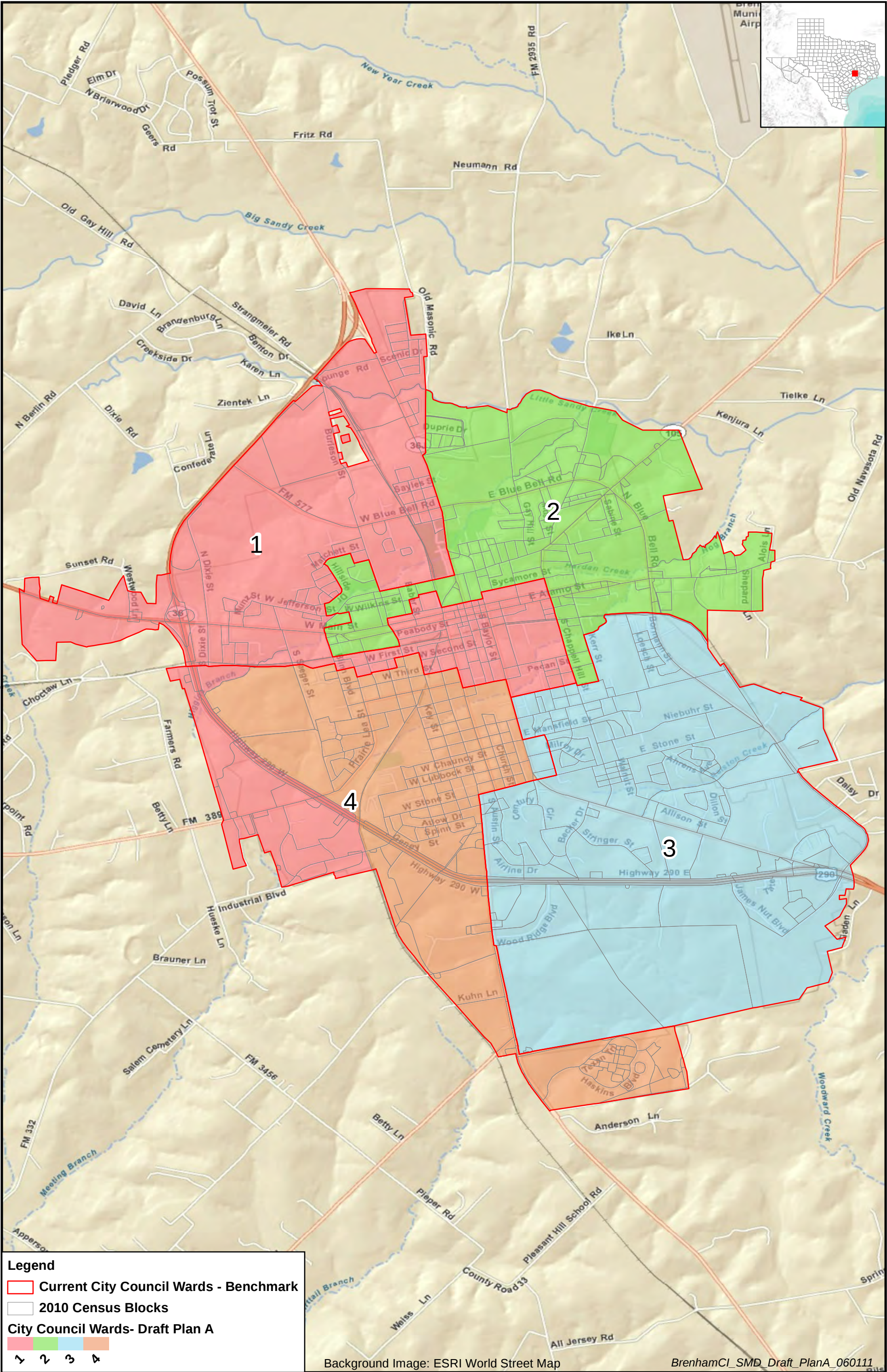
DATE OF MEETING: June 16, 2011		DATE SUBMITTED: June 13, 2011	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry Roberts	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION		CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	
ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION			
AGENDA ITEM DESCRIPTION: Presentation and Discussion by Redistricting Counsel of Draft Redistricting Plans			
SUMMARY STATEMENT: Syd Falk, the attorney with the Bickerstaff Heath Delgado Acosta, will present two (2) draft redistricting plans (Plan A and Plan B). Mr. Falk developed both plans and each one satisfies the City's requirement to redistrict. You may recall that Ward One (Herring) was under populated and Ward Four (Goss) was over populated by more than 10%. The two options being presented shift boundaries between Wards One and Four. Plan A adds territory to Ward One from Ward Four in a general area SW of US 290 near FM 389. Plan B leaves the aforementioned area in Ward Four but adds some area to Ward One generally west of the downtown area and east of Blinn College. City Secretary Jeana Bellinger and I met with the two Council members impacted by those boundary shifts (Goss and Herring). Both preferred option B and are comfortable recommending that option to their colleagues on the City Council. The only other changes recommended by Mr. Falk involve two small boundary line adjustments that provide a more logical dividing line between the wards. One involves a 42 person adjustment between Ward One (Herring) and Ward Two (Williams) in the area of Martin Luther King Parkway near Business US 290 (Main Street). The second boundary line adjustment would make the dividing line of Ward Three (Ebel) and Ward Four (Goss) Market Street instead of Lee Street in the vicinity of Mansfield and Stone Streets. The second boundary line adjustment would create a shift of 84 persons.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			

ATTACHMENTS: (1) Map and Population Report of draft redistricting Plan A; and (2) Map and Population Report of draft redistricting Plan B

FUNDING SOURCE (Where Applicable): N/A

RECOMMENDED ACTION: No action needed; discussion only.

APPROVALS: Terry K. Roberts



Legend

Current City Council Wards - Benchmark

2010 Census Blocks

City Council Wards- Draft Plan A

1

2

3

4

0 0.35 0.7 1.4 Miles

Coordinate System: GCS North American 1983;
Datum: North American 1983; Created:6/01/2011

Background Image: ESRI World Street Map

BrenhamCI_SMD_Draft_PlanA_060111

City of Brenham

City Council Wards

Draft Plan A

© 2011 Bickerstaff Heath Delgado Acosta LLP
Data Source: Roads, Water and other features obtained from the 2010 Tiger/line files, U.S. Census Bureau



City of Brenham

Draft Plan A

2010 Census Total and Voting Age Population

District	Persons	Deviation	Hispanic % of Total Population	Non-Hispanic Anglo % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	3,926	-0.08%	20.61%	56.11%	18.19%	3.67%	1.43%
2	3,893	-0.92%	19.50%	31.54%	47.34%	0.54%	1.08%
3	4,028	2.52%	8.44%	78.13%	10.55%	1.66%	1.22%
4	3,869	-1.53%	12.64%	67.41%	17.42%	1.16%	1.37%
Totals	15,716		15.25%	58.45%	23.26%	1.76%	1.27%

Ideal Size = 15,716 / 4 = 3,929 per district.

Total Maximum Deviation = 2.52% - (-1.53%) = 4.05%

Some percentages may be subject to rounding error.

District	Total VAP*		Hispanic % of Total VAP	Non-Hispanic Anglo % of Total VAP	Non-Hispanic Black % of Total VAP	Non-Hispanic Asian % of Total VAP	Non-Hispanic Other % of Total VAP
1	2,870		16.59%	62.33%	16.31%	3.76%	1.01%
2	2,896		16.92%	35.43%	46.48%	0.55%	0.62%
3	3,193		6.30%	83.06%	8.08%	1.63%	0.94%
4	3,277		10.83%	68.75%	17.94%	1.16%	1.31%
Totals	12,236		12.44%	63.09%	21.74%	1.75%	0.98%

*Voting Age Population

Some percentages may be subject to rounding error.

City of Brenham

Draft Plan A

2010 Census Total and Voting Age Population

District	Persons	Ideal Size	Deviation	Hispanic	% of Total Hispanic Population	Anglo	% of Total Anglo Population	Black	% of Total Black Population	American Indian	% of Total American Indian Population	Asian	% of Total Asian Population	Hawaiian-Pacific Islander	% of Total Hawaiian-Pacific Islander Population	Other	% of Total Other Population	Two or More	% of Total Two or More Population
1	3,926	3,929	-0.08%	809	20.61%	2,203	56.11%	714	18.19%	6	0.15%	144	3.67%	0	0.00%	8	0.20%	42	1.07%
2	3,893	3,929	-0.92%	759	19.50%	1,228	31.54%	1,843	47.34%	5	0.13%	21	0.54%	0	0.00%	3	0.08%	34	0.87%
3	4,028	3,929	2.52%	340	8.44%	3,147	78.13%	425	10.55%	7	0.17%	67	1.66%	5	0.12%	7	0.17%	30	0.74%
4	3,869	3,929	-1.53%	489	12.64%	2,608	67.41%	674	17.42%	9	0.23%	45	1.16%	1	0.03%	3	0.08%	40	1.03%
Totals	15,716			2,397	15.25%	9,186	58.45%	3,656	23.26%	27	0.17%	277	1.76%	6	0.04%	21	0.13%	146	0.93%

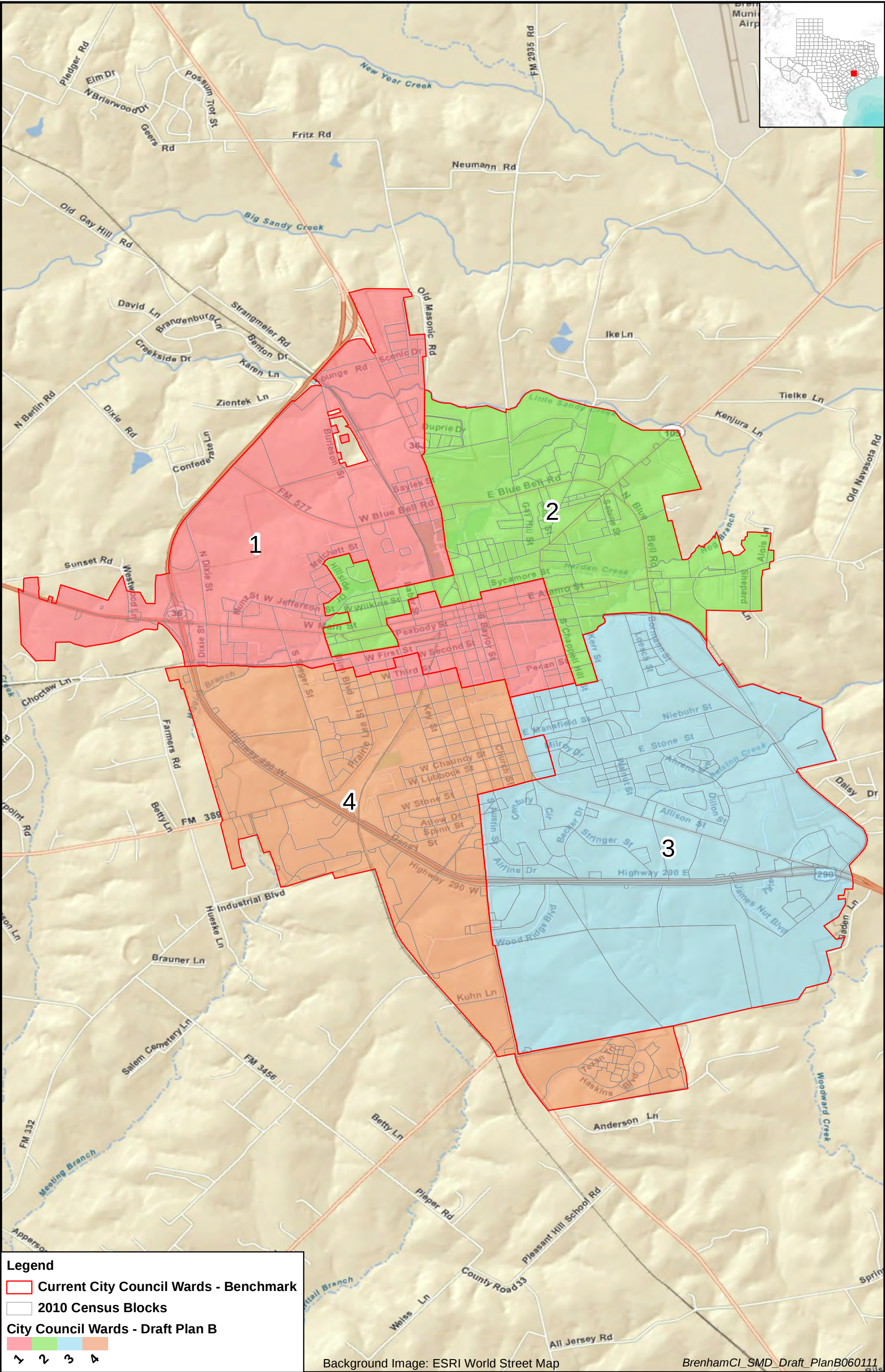
Ideal Size = 15,716 / 4 = 3,929 per district.

Some percentages may be subject to rounding error.

District	Total VAP*			Hispanic VAP	% of Total Hispanic VAP	Anglo VAP	% of Total Anglo VAP	Black VAP	% of Total Black VAP	American Indian VAP	% of Total American Indian VAP	Asian VAP	% of Total Asian VAP	Hawaiian-Pacific Islander VAP	% of Total Hawaiian-Pacific Islander VAP	Other VAP	% of Total Other VAP	Two or More VAP	% of Total Two or More VAP
1	2,870			476	16.59%	1,789	62.33%	468	16.31%	6	0.21%	108	3.76%	0	0.00%	4	0.14%	19	0.66%
2	2,896			490	16.92%	1,026	35.43%	1,346	46.48%	2	0.07%	16	0.55%	0	0.00%	1	0.03%	15	0.52%
3	3,193			201	6.30%	2,652	83.06%	258	8.08%	5	0.16%	52	1.63%	4	0.13%	3	0.09%	18	0.56%
4	3,277			355	10.83%	2,253	68.75%	588	17.94%	8	0.24%	38	1.16%	1	0.03%	1	0.03%	33	1.01%
Totals	12,236			1,522	12.44%	7,720	63.09%	2,660	21.74%	21	0.17%	214	1.75%	5	0.04%	9	0.07%	85	0.69%

*Voting Age Population

Some percentages may be subject to rounding error.



Legend

Current City Council Wards - Benchmark

2010 Census Blocks

City Council Wards - Draft Plan B

1

2

3

4

N

0

0.35

0.7

1.4

Miles

Coordinate System: GCS North American 1983;
Datum: North American 1983; Created:6/01/2011

Background Image: ESRI World Street Map

BrenhamCI_SMD_Draft_PlanB060111

City of Brenham

City Council Wards

Draft Plan B

© 2011 Bickerstaff Heath Delgado Acosta LLP

Data Source: Roads, Water and other features obtained from the 2010 Tiger/line files, U.S. Census Bureau



City of Brenham

Draft Plan B

2010 Census Total and Voting Age Population

District	Persons	Deviation	Hispanic % of Total Population	Non-Hispanic Anglo % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	3,906	-0.59%	17.00%	59.88%	17.82%	3.71%	1.59%
2	3,893	-0.92%	19.50%	31.54%	47.34%	0.54%	1.08%
3	4,028	2.52%	8.44%	78.13%	10.55%	1.66%	1.22%
4	3,889	-1.02%	16.30%	63.56%	17.79%	1.13%	1.21%
Totals	15,716		15.25%	58.45%	23.26%	1.76%	1.27%

Ideal Size = 15,716 / 4 = 3,929 per district.

Total Maximum Deviation = 2.52% - (-1.02%) = 3.54%

Some percentages may be subject to rounding error.

District	Total VAP*		Hispanic % of Total VAP	Non-Hispanic Anglo % of Total VAP	Non-Hispanic Black % of Total VAP	Non-Hispanic Asian % of Total VAP	Non-Hispanic Other % of Total VAP
1	2,897		13.81%	65.48%	15.84%	3.69%	1.17%
2	2,896		16.92%	35.43%	46.48%	0.55%	0.62%
3	3,193		6.30%	83.06%	8.08%	1.63%	0.94%
4	3,250		13.26%	66.00%	18.37%	1.20%	1.17%
Totals	12,236		12.44%	63.09%	21.74%	1.75%	0.98%

*Voting Age Population

Some percentages may be subject to rounding error.

City of Brenham

Draft Plan B

2010 Census Total and Voting Age Population

District	Persons	Ideal Size	Deviation	Hispanic	% of Total Hispanic Population	Anglo	% of Total Anglo Population	Black	% of Total Black Population	American Indian	% of Total American Indian Population	Asian	% of Total Asian Population	Hawaiian-Pacific Islander	% of Total Hawaiian-Pacific Islander Population	Other	% of Total Other Population	Two or More	% of Total Two or More Population
1	3,906	3,929	-0.59%	664	17.00%	2,339	59.88%	696	17.82%	9	0.23%	145	3.71%	0	0.00%	8	0.20%	45	1.15%
2	3,893	3,929	-0.92%	759	19.50%	1,228	31.54%	1,843	47.34%	5	0.13%	21	0.54%	0	0.00%	3	0.08%	34	0.87%
3	4,028	3,929	2.52%	340	8.44%	3,147	78.13%	425	10.55%	7	0.17%	67	1.66%	5	0.12%	7	0.17%	30	0.74%
4	3,889	3,929	-1.02%	634	16.30%	2,472	63.56%	692	17.79%	6	0.15%	44	1.13%	1	0.03%	3	0.08%	37	0.95%
Totals	15,716			2,397	15.25%	9,186	58.45%	3,656	23.26%	27	0.17%	277	1.76%	6	0.04%	21	0.13%	146	0.93%

Ideal Size = 15,716 / 4 = 3,929 per district.

Some percentages may be subject to rounding error.

District	Total VAP*			Hispanic VAP	% of Total Hispanic VAP	Anglo VAP	% of Total Anglo VAP	Black VAP	% of Total Black VAP	American Indian VAP	% of Total American Indian VAP	Asian VAP	% of Total Asian VAP	Hawaiian-Pacific Islander VAP	% of Total Hawaiian-Pacific Islander VAP	Other VAP	% of Total Other VAP	Two or More VAP	% of Total Two or More VAP
1	2,897			400	13.81%	1,897	65.48%	459	15.84%	8	0.28%	107	3.69%	0	0.00%	4	0.14%	22	0.76%
2	2,896			490	16.92%	1,026	35.43%	1,346	46.48%	2	0.07%	16	0.55%	0	0.00%	1	0.03%	15	0.52%
3	3,193			201	6.30%	2,652	83.06%	258	8.08%	5	0.16%	52	1.63%	4	0.13%	3	0.09%	18	0.56%
4	3,250			431	13.26%	2,145	66.00%	597	18.37%	6	0.18%	39	1.20%	1	0.03%	1	0.03%	30	0.92%
Totals	12,236			1,522	12.44%	7,720	63.09%	2,660	21.74%	21	0.17%	214	1.75%	5	0.04%	9	0.07%	85	0.69%

*Voting Age Population

Some percentages may be subject to rounding error.



AGENDA FORM

DATE OF MEETING: June 16, 2011	DATE SUBMITTED: June 13, 2011															
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Terry Roberts															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:														
☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING														
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING														
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Redistricting Plan Map-Drawing Session with Redistricting Legal Counsel <i>(Note: In the event a map-drawing session is conducted, the City Council will convene in Room 2A, 2nd Floor of City Hall, for this agenda item)</i>																
SUMMARY STATEMENT: If during the presentation of the two (2) draft redistricting plans, the Council would like to look at other possible options, a GIS mapping specialist with Bickerstaff Heath Delgado Acosta, will be available via conference call to assist the Council in drawing additional redistricting plan(s). Please note that if Council desires to draw their own draft redistricting plan, the meeting will be recessed and reconvened in Conference Room 2A.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: None																
FUNDING SOURCE (Where Applicable): N/A																
RECOMMENDED ACTION: No action needed.																
APPROVALS: Terry K. Roberts																



AGENDA FORM

DATE OF MEETING: June 16, 2011	DATE SUBMITTED: June 13, 2011															
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Terry Roberts															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:														
☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING														
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING														
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Designation of One or More Draft Redistricting Plans as Illustrative Plan(s) to be Proposed for Public Consideration and Comment																
SUMMARY STATEMENT: After presentation of the two draft plans, the Council will need to determine which plan(s) they would like to designate as the illustrative plan(s). The illustrative plan(s) will be presented to the citizens for their consideration and comments. A public hearing has been scheduled for July 7 th at 6:00 p.m. for the presentation of the illustrative redistricting plan(s).																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: None																
FUNDING SOURCE (Where Applicable): N/A																
RECOMMENDED ACTION: Designate one or more draft redistricting plans as illustrative plan(s) to be proposed for public consideration and comment at a Public Hearing on July 7 th at 6:00 p.m.																
APPROVALS: Terry K. Roberts																

City of Brenham

Illustrative Plan 1

2010 Census Total and Voting Age Population

District	Persons	Deviation	Hispanic % of Total Population	Non-Hispanic Anglo % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	3,906	-0.59%	17.00%	59.88%	17.82%	3.71%	1.59%
2	3,893	-0.92%	19.50%	31.54%	47.34%	0.54%	1.08%
3	4,028	2.52%	8.44%	78.13%	10.55%	1.66%	1.22%
4	3,889	-1.02%	16.30%	63.56%	17.79%	1.13%	1.21%
Totals	15,716		15.25%	58.45%	23.26%	1.76%	1.27%

Ideal Size = 15,716 / 4 = 3,929 per district.

Total Maximum Deviation = 2.52% - (-1.02%) = 3.54%

Some percentages may be subject to rounding error.

District	Total VAP*		Hispanic % of Total VAP	Non-Hispanic Anglo % of Total VAP	Non-Hispanic Black % of Total VAP	Non-Hispanic Asian % of Total VAP	Non-Hispanic Other % of Total VAP
1	2,897		13.81%	65.48%	15.84%	3.69%	1.17%
2	2,896		16.92%	35.43%	46.48%	0.55%	0.62%
3	3,193		6.30%	83.06%	8.08%	1.63%	0.94%
4	3,250		13.26%	66.00%	18.37%	1.20%	1.17%
Totals	12,236		12.44%	63.09%	21.74%	1.75%	0.98%

*Voting Age Population

Some percentages may be subject to rounding error.

City of Brenham

Illustrative Plan 1

2010 Census Total and Voting Age Population

District	Persons	Ideal Size	Deviation	Hispanic	% of Total Hispanic Population	Anglo	% of Total Anglo Population	Black	% of Total Black Population	American Indian	% of Total American Indian Population	Asian	% of Total Asian Population	Hawaiian-Pacific Islander	% of Total Hawaiian-Pacific Islander Population	Other	% of Total Other Population	Two or More	% of Total Two or More Population
1	3,906	3,929	-0.59%	664	17.00%	2,339	59.88%	696	17.82%	9	0.23%	145	3.71%	0	0.00%	8	0.20%	45	1.15%
2	3,893	3,929	-0.92%	759	19.50%	1,228	31.54%	1,843	47.34%	5	0.13%	21	0.54%	0	0.00%	3	0.08%	34	0.87%
3	4,028	3,929	2.52%	340	8.44%	3,147	78.13%	425	10.55%	7	0.17%	67	1.66%	5	0.12%	7	0.17%	30	0.74%
4	3,889	3,929	-1.02%	634	16.30%	2,472	63.56%	692	17.79%	6	0.15%	44	1.13%	1	0.03%	3	0.08%	37	0.95%
Totals	15,716			2,397	15.25%	9,186	58.45%	3,656	23.26%	27	0.17%	277	1.76%	6	0.04%	21	0.13%	146	0.93%

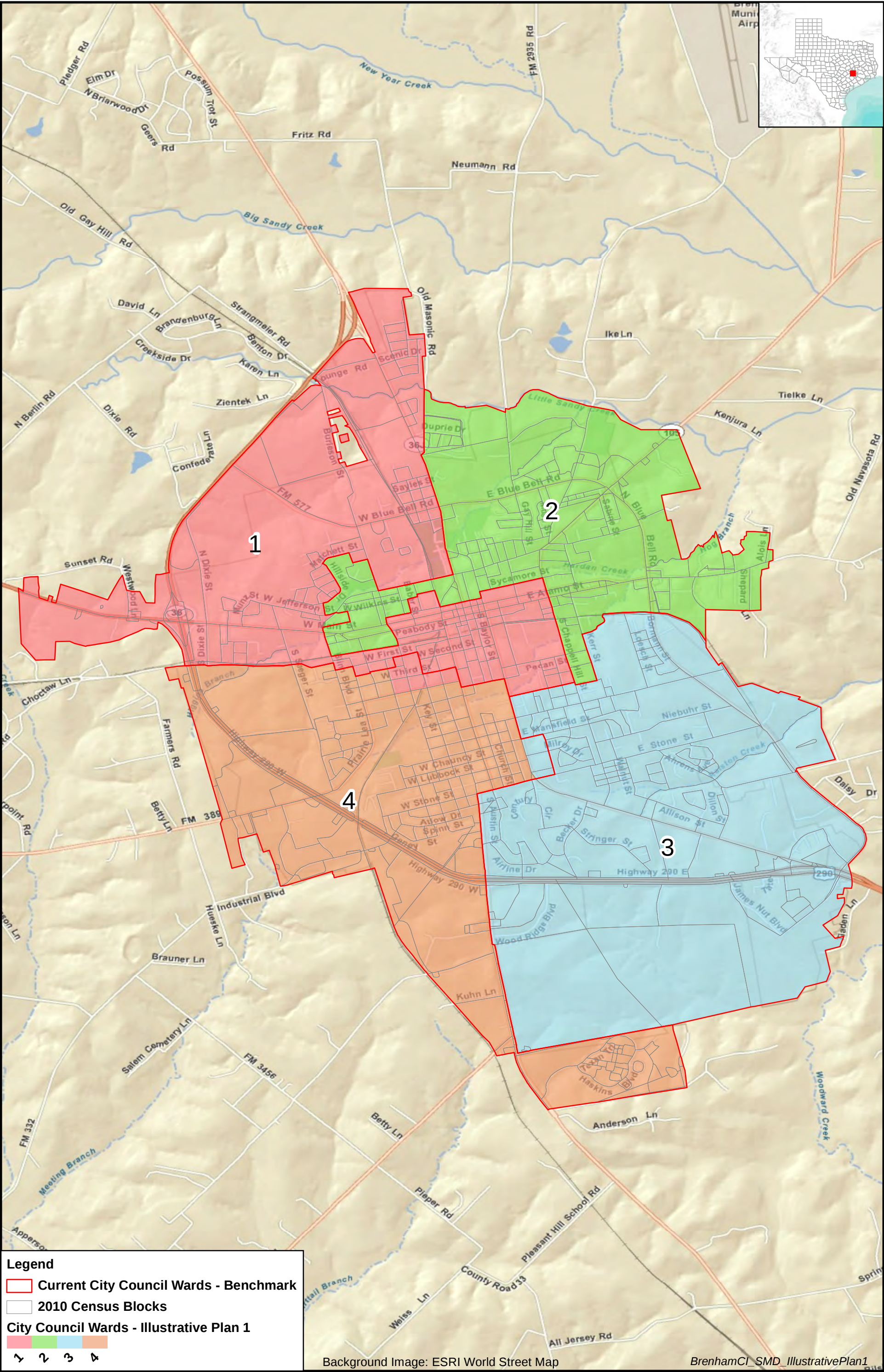
Ideal Size = 15,716 / 4 = 3,929 per district.

Some percentages may be subject to rounding error.

District	Total VAP*			Hispanic VAP	% of Total Hispanic VAP	Anglo VAP	% of Total Anglo VAP	Black VAP	% of Total Black VAP	American Indian VAP	% of Total American Indian VAP	Asian VAP	% of Total Asian VAP	Hawaiian-Pacific Islander VAP	% of Total Hawaiian-Pacific Islander VAP	Other VAP	% of Total Other VAP	Two or More VAP	% of Total Two or More VAP
1	2,897			400	13.81%	1,897	65.48%	459	15.84%	8	0.28%	107	3.69%	0	0.00%	4	0.14%	22	0.76%
2	2,896			490	16.92%	1,026	35.43%	1,346	46.48%	2	0.07%	16	0.55%	0	0.00%	1	0.03%	15	0.52%
3	3,193			201	6.30%	2,652	83.06%	258	8.08%	5	0.16%	52	1.63%	4	0.13%	3	0.09%	18	0.56%
4	3,250			431	13.26%	2,145	66.00%	597	18.37%	6	0.18%	39	1.20%	1	0.03%	1	0.03%	30	0.92%
Totals	12,236			1,522	12.44%	7,720	63.09%	2,660	21.74%	21	0.17%	214	1.75%	5	0.04%	9	0.07%	85	0.69%

*Voting Age Population

Some percentages may be subject to rounding error.



Legend

Current City Council Wards - Benchmark

2010 Census Blocks

City Council Wards - Illustrative Plan 1

1

2

3

4

00.350.71.4

Miles

Coordinate System: GCS North American 1983;
Datum: North American 1983; Created:6/17/2011

Background Image: ESRI World Street Map

BrenhamCI_SMD_IllustrativePlan1

City of Brenham

City Council Wards

Illustrative Plan 1

© 2011 Bickerstaff Heath Delgado Acosta LLP

Data Source: Roads, Water and other features obtained from the 2010 Tiger/line files, U.S. Census Bureau



AGENDA FORM

DATE OF MEETING: June 16, 2011	DATE SUBMITTED: June 13, 2011															
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☒ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☒ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:														
☒ REGULAR	☐ PUBLIC HEARING	☒ 1 ST READING														
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING														
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on its First Reading Amending Chapter 16, Occupational Licenses and Business Regulations, of the City of Brenham's Code of Ordinances to Provide for the Regulation of Sexually Oriented Businesses with the City Limits																
SUMMARY STATEMENT: On June 2, 2011, I provided Council with a detailed report (and corresponding research) on the secondary effects of sexually oriented businesses on the surrounding community. The report suggested writing an ordinance that would be constitutionally sufficient, if the City was challenged due to possible First Amendment Rights violations. In order to accomplish that goal, I offered the following conclusions and/or recommendations for the new ordinance: 1. Sexually oriented businesses have the legal right to operate in any city in the United States. 2. The City has the authority to legally regulate such businesses through an ordinance. The ordinance must be content neutral, not infringing on free speech, and must be based on case decisions and studies which prove that such businesses have a negative impact on residential and business neighborhoods. 3. The City's jurisdiction does not extend beyond the city limits into the ETJ. The County does not have zoning powers; however, as outlined in Chapter 243 of the Texas Local Government Code, the County does have the authority to regulate if they so choose. 4. It is my recommendation that our new ordinance contain a spacing requirement of at least 1,000 feet between sexually oriented businesses and residential neighborhoods, churches, playgrounds, City parks and other like places. 5. While our existing ordinance requires that sexually oriented businesses not be located within a 1,000 foot radius of churches, schools, residential neighborhoods, or licensed day care centers, it does not include any other regulations. Therefore, it is my recommendation that our new ordinance contain licensing requirements of both the business and the employees, inspection of facilities and records, revocation provisions, location/zoning requirements, hours of operation and civil remedies, when needed. The draft ordinance that was provided to you in my report is still being reviewed and edited by staff and the City Attorney. Some specific areas that research is still being done is the distance requirement of 1,000 feet and the City's zoning ordinance. The City Attorney and I will discuss these specific issues at the council meeting.																

Other areas that direction from Council is needed are the fees to be charged for sexually oriented business license and the manager/employee license associated with each business license. In the June 2nd report, I provided you a comparison of what other Texas cities are charging for these licenses; however, no specific amount was included in the draft ordinance.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS:

B. CONS:

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) A copy of the *Report to the City of Brenham City Council on Sexually Oriented Businesses*, dated June 2, 2011; (2) the Comparison of Charges/Fees worksheet; and (3) A copy of a draft ordinance

FUNDING SOURCE (Where Applicable): N/A

RECOMMENDED ACTION: Approve an Ordinance on its first reading amending Chapter 16, Occupational Licenses and Business Regulations, of the City of Brenham's Code of Ordinances to provide for the regulation of sexually oriented businesses with the city limits.

APPROVALS: Terry K. Roberts



Report to the
City of Brenham City Council
On
Sexually Oriented Businesses

June 2, 2011

*Copies of this report and of the case decisions and other reports and studies cited herein
are on file with the office of the City Secretary*

INTRODUCTION

In 2009, I began a systematic review of the City's ordinances with the intent to update, simplify, consolidate and repeal such ordinances as appropriate.

During this process, the City Attorney and I reviewed the Occupational Licenses and Business Regulations Chapter of the City's Code of Ordinances (Chapter 16) and, in so doing, determined that the City's ordinance on Sexually Oriented Businesses ("SOB's") enacted in 1993, needed a thorough review.

THE ISSUE

Regulation of sexually oriented businesses has become a challenging task facing Texas communities today. At the heart of the issue is the balancing of legitimate community concerns about sex businesses with the United States Constitution First Amendment protection afforded certain explicit materials and various forms of expression found in the media, presentations and performances. Therefore, any and all regulation must be content neutral or the regulation will be held unconstitutional.

The importance of creating a content neutral ordinance can be seen in the decision of *Young v. American Mini Theaters*. The court's opinion in this case establishes three First Amendment criteria that must be satisfied in order for a city's ordinance to be deemed constitutional:

1. *Regulation must be motivated not because of distaste for the speech itself, but by a desire to eliminate its adverse effects.*
2. *Properly motivated legislation may be deemed unconstitutional if it severely restricts First Amendment rights.*
3. *A properly motivated ordinance with only a limited impact on free expression may be unconstitutional if the municipality cannot demonstrate an adequate factual basis for its conclusion that the ordinance will accomplish its object of eliminating the adverse effect of adult businesses.*

A city may adopt an ordinance for the purpose of establishing the types of regulation authorized by the State. **However, in order for an ordinance of this type to be constitutionally sufficient, it must be content neutral.** An ordinance that is found to be based on distaste for sexually explicit materials or establishments is very likely to be struck down. It is therefore necessary for the elected officials who will create and adopt a regulation ordinance "*to set aside personal preferences and opinions in favor of proposing an ordinance with a maximum likelihood of being upheld in court.*"

To meet the test of item 3 above, the City must show that the businesses subject to the regulation or proposed regulation would have negative secondary effects on the community (*Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 49, 89 L. Ed. 2d 29, 106 S. Ct. 925 (1986)). Local officials and their advisors may cite a variety of such secondary effects.

In summary, in enacting sexually oriented business regulations, a city's governing body must show that the regulations are based on a reasonable belief (backed by evidence) that the regulations are linked to the governmental interest in combating secondary detrimental effects associated with sexually oriented businesses. Stated simply, a city has the burden of proving that:

- It has evidence linking sexually oriented businesses to detrimental effects suffered by surrounding properties;
- That its regulations are intended to mitigate the effects that sexually oriented businesses have been shown to cause on those properties;
- That the city has a reasonable basis for believing that the regulations will accomplish this purpose;
- That the regulations are not based on the types of speech and/or expression provided by the regulated businesses; and
- That the regulations will not have the effect of prohibiting protected forms of speech or expression.

RESEARCH AND REVIEW

During my research of the secondary effects of sexually oriented businesses, the following reports and studies were reviewed. These reports and studies along with a brief summary of their findings are attached hereto [see Appendix A].

- City of Burleson, *Report to City Council Regarding the Regulation of Sexually Oriented Businesses* (May 18, 2004)
- City of Austin, *Report on Adult Oriented Businesses in Austin* (May 19, 1986)
- City of Houston, *Sexually Oriented Business Ordinance Revision Committee Legislative Report* (January 7, 1997)
- City of Kennedale, Memorandum to the Kennedale Council from April M. Virnig, Assistant City Attorney (July 3, 2003)
- *Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Value* by Connie B. Cooper, FAICP with Cooper Consulting and Eric Damian Kelly, Ph.D., FAICP, from Duncan Associates and *Crime-Related Secondary Effects – Secondary Effects of “Off-Site” Sexually-Oriented Businesses* by Richard McCleary, Ph.D. (June 2008)
- *Appraising Sex in Texas – Market Value Secondary Effects: A Survey of Texas Appraisers* by Connie B. Cooper, FAICP with Cooper Consulting and Eric Damian Kelly, Ph.D., FAICP, from Duncan Associates (2009)

I also reviewed the following lawsuit case decisions, which are also attached hereto [see Appendix B].

- *Young v. American Mini Theatres*, 427 U.S. 50 (1976)
- *City of Renton v. Playtime Theatres, Inc.* 475 U.S. 41 (1986)
- *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990)
- *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S. Ct. 1382 (2000)
- *Schultz v. City of Cumberland*, 228 F.3d 831 (7th Cir. 2000)
- *LLEH, Inc. v. Wichita County, Texas*, 289 F.3d 358 (5th Cir. 2002)
- *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002)

The reports, studies and lawsuit case decisions are incorporated herein by reference as if they had been fully set forth herein.

Neither this report nor the ordinance it supports attempts to pass judgment on any form of sexually explicit material or expression. Rather, the report and ordinance, recognizing that sexually oriented businesses negatively impact the value, use and enjoyment of surrounding properties, approach sexually oriented business regulation strictly as a land use issue.

REGULATORY AUTHORITY

Under the First Amendment to the United States Constitution, together with the United States Supreme Court case decisions interpreting this Amendment, the content of sexually explicit film, books, magazines, photographs, performances, etc. are considered to be forms of constitutionally protected free speech. Activities such as topless and even fully nude dancing are afforded similar protections.

While sexually explicit speech is protected, there is also a great deal of documented evidence linking establishments, that as their primary business, provide sexually explicit materials and performances, to detrimental effects on the surrounding community. Municipalities have a legitimate and substantial interest in minimizing these detrimental effects.

Recognition of this interest is reflected in numerous court decisions that have been reached over the years. For example, the decisions rendered in *Young [City of Detroit] v. American Mini Theaters, Inc.* and *City of Renton v. Playtime Theatres, Inc.* has yielded standards that are now reflected in sexually oriented business regulations being adopted throughout the nation.

The Texas legislature made findings that the unrestricted operation of sexually oriented businesses may have detrimental effect to communities, such as declining residential and business communities and increased criminal activity, and specifically empowered local governments to remedy these problems.

Chapter 243 of the Texas Local Government Code [see *Appendix C*] reads as follows:

Sec. 243.001 PURPOSE; EFFECT ON OTHER REGULATORY AUTHORITY.

- (a) The legislature finds that the unrestricted operation of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity. The purpose of this chapter is to provide local governments a means of remedying this problem.*
- (b) This chapter does not diminish the authority of a local government to regulate sexually oriented businesses with regard to any matters.*

The Texas Legislature, also recognizing that there is a legitimate governmental interest in regulating sexually oriented business, has adopted enabling legislation that grants cities and counties the authority to regulate the establishment and operation of sexually oriented businesses. This legislation is also contained in Chapter 243 of the Texas Local Government Code.

EFFECTIVE REGULATORY STANDARDS

Courts have repeatedly held that in order for a sexually oriented business ordinance to be constitutional, it must be based on factual evidence regarding the effects caused by the regulated businesses. In order to satisfy this requirement, cities throughout the United State have commissioned or prepared studies regarding the impacts that sexually oriented businesses have on surrounding properties. Typically, the evidence provided by a sexually oriented business study will be based on crime reports, property values and incidences of sexually transmitted diseases ranging from syphilis to HIV. What has been found time and again is that the problems and concerns associated with sexually oriented businesses are nearly universal.

The negative secondary effects generated by sexually oriented businesses located in suburban communities such as Arlington and Kennedale, Texas are much the same as the effects generated by sexually oriented businesses located in major cities such as Dallas and Houston. For this reason, findings and conclusions reached by studies commissioned by Dallas, Houston, and other large cities and small ones such as Austin, can be reasonably applied to suburban communities such as Arlington, Kennedale and Brenham.

The findings contained in a number of already completed studies are applicable to Brenham. For this reason, I have not prepared or commissioned a study that is specific to Brenham. The regulations created by the proposed ordinance (*see Appendix D*) are adequately supported by the findings contained in the studies that are referenced in this report. The legality and validity of this approach was established by the *City of Renton v. Playtime Theatres, Inc.*

One of the reports being used to support Brenham's new sexually oriented business ordinance is a 1986 report that was prepared by the City of Austin. The Austin report tracked crime rates and property values in the vicinity of sexually oriented businesses.

The Austin report created circular study areas with 1,000-foot radii. Study areas were centered on existing sexually oriented business locations. Control areas were also created. The control areas contained no sexually oriented businesses, but were otherwise similar to the other study areas. By collecting and analyzing data gathered within the study areas, the report was able to establish several findings. Some of the more notable findings from the Austin study follow.

- Within the study areas containing sexually oriented businesses, “sex-related crime rates were found to be from two to nearly five times the city-wide average.”
- The crime rate in study areas containing two sexually oriented businesses were 66% higher than study areas containing only one adult establishment.
- (Based on a questionnaire survey of real estate appraisal and lending firms) “The existence of adult businesses leads mortgage underwriters to believe that the neighborhood is in decline, thus making financing difficult.”
- The negative impact of a sexually oriented business is greater for residential neighborhoods than for commercial areas.

Among the conclusions reached by the City of Austin report were:

- Adult businesses should be limited to highway or regionally – oriented zone districts.
- Adult businesses should be dispersed to avoid the over concentration of such business.

Before 2003 local governments regulated sexually oriented businesses, both on-site entertainment and retail only that offered no on-site entertainment, based on studies that only dealt with the negative impacts from on-site entertainment businesses. In 2003 the Federal Appeals Court for the Fifth Circuit held that studies based on on-site entertainment businesses were not necessarily relevant to retail businesses that offered no on-site entertainment. To fill this void, the Texas City Attorneys Association commissioned a study in June, 2008 to address this problem.

A summary taken out of the Texas City Attorneys Association Report is as follows:

Summary of Appraiser Survey Findings – Sexually Oriented Businesses

The following findings and conclusions can clearly be drawn from this survey:

- More than 91 percent of Texas appraisers surveyed believed that gentleman’s clubs/strip clubs, adult media/video stores (retail only), video peep booth businesses and lingerie & adult novelties stores have a negative effect on the market value of a single-family home located within 500 feet of such a use;
- More than 71 percent believe that the negative effect on the market value of a single-family home due to the proximity of a sexually oriented business do not disappear until at least a half mile or more (2,640+ feet);

- More than 80 percent believe that the concentration of two or more sexually oriented businesses increases the negative effect on market value of a single family home;
- A majority (64 percent) of Texas appraisers surveyed believe that a video peep booth business, a gentleman's club/strip club, adult media/video store (retail only) or a lingerie & adult novelties store will have a negative effect on the market value of a community shopping center located within 500 feet;
- More than 63 percent believe that the negative effect on the market value of a community shopping center due to the proximity of a video peep booth business, gentleman's club/strip club, adult media & video store (retail only) or a lingerie & adult novelties store do not disappear until at least a quarter of a mile or more (1,320+ feet);
- More than 63 percent believe that the negative effect on the market value of a community shopping center due to the proximity of a video peep booth business do not disappear until at least half mile or more (2,640+ feet);
- Nearly 73 percent believe that the concentration of two or more gentleman's club/strip clubs, adult media & video stores (retail only) or video peep booth businesses increases the negative effect on the market value of a community shopping center;
- About 61 percent believe that the concentration of two or more, lingerie & adult novelty stores increases the negative effect on the market value of a community shopping center;
- More than 89 percent of Texas appraisers surveyed believe that having a retail business that is open after 11 p.m. may have a negative effect on the market value of a single-family home located within 500 feet (10 percent responded "always" and 79 percent responded "sometimes");
- About 94 percent of Texas appraisers believe that "bright, animated, or garish lighting or graphics" may increase the negative impact on the market value of a single-family home (45 percent responded "always" and another 49 percent responded "sometimes");

CONCLUSION AND RECOMMENDATIONS

1. Sexually oriented businesses have the legal right to operate in any city in the United States.
2. The City has the authority to legally regulate such businesses through an ordinance. The ordinance must be content neutral, not infringing on free speech, and must be based on case decisions and studies which prove that such businesses have a negative impact on residential and business neighborhoods.
3. The City's jurisdiction does not extend beyond the city limits into the ETJ. The County does not have zoning powers; however, as outlined in Chapter 243 of the Texas Local Government Code, the County does have the authority to regulate if they so choose.
4. It is my recommendation that our new ordinance contain a spacing requirement of at least 1,000 feet between sexually oriented businesses and residential neighborhoods, churches, playgrounds, City parks and other like places.

5. While our existing ordinance requires that sexually oriented businesses not be located within a 1,000 foot radius of churches, schools, residential neighborhoods, or licensed day care centers, it does not include any other regulations. Therefore, it is my recommendation that our new ordinance contain licensing requirements of both the business and the employees, inspection of facilities and records, revocation provisions, location/zoning requirements, hours of operation and civil remedies, when needed.

SEXUALLY ORIENTED BUSINESSES
Comparison of Charges/Fees

	Cedar Hill		Dallas		Denison		Friendswood		Houston		Round Rock		San Marcos		Tomball		Weatherford	
Application Fee	\$	1,500.00	\$	3,175.00	\$	1,500.00	\$	1,500.00	\$	2,000.00	\$	250.00	\$	-	\$	-	\$	350.00
License Fee	\$	-	\$	1,400.00	\$	-	\$	-	\$	-	\$	-	\$	1,000.00	\$	750.00	\$	-
Renewal Fee	\$	750.00	\$	1,400.00	\$	750.00	\$	1,500.00	\$	1,000.00	\$	250.00	\$	1,000.00	\$	-	\$	100.00
Employee Fee	\$	150.00	\$	-	\$	150.00	\$	150.00	\$	-	\$	-	\$	-	\$	50.00	\$	-
Employee Renewal	\$	75.00	\$	-	\$	75.00	\$	150.00	\$	-	\$	-	\$	-	\$	-	\$	-

APPENDIX D

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR THE REGULATION OF SEXUALLY ORIENTED BUSINESSES WITHIN THE CITY LIMITS OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A SEVERABILITY, REPEALER AND SAVINGS CLAUSE; AND PROVIDING FOR PROPER NOTICE AND OPEN MEETING.

WHEREAS, the City of Brenham is a home rule municipality located in Washington County, Texas, acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the Texas State Legislature, in Section 243.001 of the Local Government Code finds “that the unrestricted operation of certain Sexually Oriented Businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity; and

WHEREAS, Section 243.003 of the Local Government Code authorizes municipalities to adopt regulations restricting the location of Sexually Oriented Businesses, which are defined in Section 243.002 to include massage parlor, nude studio, modeling studio, topless dancing bars, love parlor, or other similar commercial enterprise, the major business of which is the offering of a service, or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer or another; and

WHEREAS, the City, for the purpose of protecting the public health, safety and welfare, has regulated Sexually Oriented Businesses since 1993 and required licensing by the City of such businesses to this present date; and

WHEREAS, the City did not have a Sexually Oriented Business within its city limits in 1993 and no licenses or permits for such businesses have been reported from 1993 to the date of this Ordinance; and

WHEREAS, the City Council, in performance of its police power to protect the public health, safety and welfare of the City and its citizens, has determined that it is necessary and advisable to establish, implement and enforce new regulations, licensing procedures and location criteria applicable to Sexually Oriented Businesses; and

WHEREAS, the City Council intends that these regulations should have neither the purpose nor effect of imposing a limitation or restriction on the content of any speech, expression or communicative materials, including sexually oriented speech, expression and communicative materials, nor the effect of redistricting or denying access by adults to sexually oriented speech, expression or communicative materials protected by the First Amendment, or denying access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and

WHEREAS, studies, reports and finding considered by the Council are as follows: *Survey of Texas Appraisers – Secondary Effects of Sexually Oriented Businesses on Market Values*, Texas City Attorneys Association (2008); *Report on Adult Oriented Businesses in Austin*, City of Austin, Texas (1986); *Report to City Council Regarding the Regulation of Sexually Oriented Businesses*, City of Burleson, Texas (2004); *Sexually Oriented Business Ordinance Revision Committee Legislative Report*, City of Houston, Texas (1997); and *Survey [of real estate appraisers regarding the secondary effects an adult bookstore would have on the surrounding community]*, City of Kennedale, Texas (2003); and

WHEREAS, said studies, reports and findings, which document the adverse secondary effects of Sexually Oriented Businesses, have been presented to the Mayor and each City Councilmember; and

WHEREAS, lawsuit case decisions considered by the Council are as follows: *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theaters*, 427 U.S. 50 (1976); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S. Ct. 1382 (2002); *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002); *LLEH, Inc. v. Wichita County, Texas*, 289 F. 3d 358 (5th Cir. 2002); *Schultz v. City of Cumberland*, 228, F. 3d 831 (7th Cir. 2000); and

WHEREAS, said legal opinions, which provide further documentation regarding the detrimental secondary effects associated with Sexually Oriented Businesses, have been presented to the Mayor and each City Councilmember; and

WHEREAS, based on their review, the City Council finds that the presence of a Sexually Oriented Business would have detrimental secondary effects on surrounding properties; and

WHEREAS, the above referenced studies, legal opinions, reports and findings show that Sexually Oriented Businesses have a deleterious effect on surrounding businesses and residential areas, causing increased crime, a downgrading of property values, and increased incidence of sexually transmitted diseases; and

WHEREAS, the City Council finds, based on the above referenced studies, legal opinions, reports and findings, that these ancillary, unlawful and unhealthy activities will not be controlled by the operators of Sexually Oriented Businesses, and absent municipal regulation aimed at reducing adverse secondary effects, there is no mechanism to make the owners of these Establishments responsible for the activities that occur on or about their premises and as a consequence of their operations; and

WHEREAS, the City Council finds that based on the above cited studies, legal opinions, reports and finding, that it is reasonably likely that establishment of one or more Sexually Oriented Business within the City will give rise to adverse secondary effects; and

WHEREAS, the City Council finds that based on the above cited studies, legal opinions, reports and findings that adverse secondary effects associated with Sexually Oriented Businesses are magnified when such businesses are located within close proximity to each other; and

WHEREAS, the City has a legitimate and substantial governmental interest in limiting the adverse secondary effects associated with Sexually Oriented Businesses as a means of promoting the public health, safety and welfare of the citizens of Brenham; and

WHEREAS, the City Council finds that the institution of reasonable regulations, licensing procedures, and location criteria provides an appropriate mechanism for achieving said legitimate and substantial governmental interest; and

WHEREAS, the City Council finds, based on the above-referenced studies, legal opinions, reports and findings, that limiting the locations of Sexually Oriented Businesses as provided herein is necessary in order to minimize the adverse secondary effects of Sexually Oriented Businesses on surrounding properties; and

WHEREAS, the City Council finds that the regulations, licensing procedures and location criteria contained herein do not attempt and not intended to prohibit constitutionally protected speech, but rather, serve to mitigate the adverse secondary effects associated with Sexually Oriented Businesses; and

WHEREAS, the City Council finds that the regulations, licensing procedures and location criteria contained herein have neither the purpose, intent, nor effect of imposing a limitation or restriction on the content of any speech, expression or communicative materials, including sexually oriented speech, expression or communicative materials, nor is it the purpose or intent of this ordinance to have the effect of restriction or denying access by adults to sexually oriented speech, expression or communicative materials protected by the First Amendment, or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and

WHEREAS, the City Council find that the adoption of the regulations, licensing procedures and location criteria contained herein will still leave available reasonable locations for the establishment of Sexually Oriented Businesses within the city limits; and

WHEREAS, the City Council find that the adoption of the regulations, licensing procedures, and location criteria contained herein will promote the public health, safety, morals and general welfare of the citizens of the City; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Brenham, Texas:

SECTION 1:

Chapter 16, Section 16-16, sexually oriented commercial activities, in the City of Brenham's Code of Ordinances is hereby repealed in its entirety.

SECTION 2:

The recitals and preamble to this ordinance together with the June 1, 2011 *Report to the City of Brenham City Council on Sexually Oriented Businesses* prepare by the City Secretary, including all appendices, are incorporated in this ordinance by reference for all purposes as if fully set forth herein.

SECTION 3:

That Chapter 16 of the Code of Ordinances of the City of Brenham, Texas is hereby amended to add the following:

SEXUALLY ORIENTED BUSINESSES

Sec. _____. Purpose and intent.

It is the purpose of this Section is to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the city. The regulations contained herein have been established for the purpose of limiting the well documented, adverse secondary effects suffered by properties located within one thousand (1,000) feet of a sexually oriented business.

The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative speech, expression or communicative materials, including sexually oriented speech, expression or communicative materials. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to sexually oriented speech, expression or communicative materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

Sec. _____. Findings and basis for regulation.

The regulations contained herein, including those pertaining to the licensing, operation, and location of sexually oriented businesses, are based on studies, reports, findings, court case decisions, and evidence made available to the City Council. The regulations have also been established under the authority granted to municipalities by Section 243.003 of the Texas Local Government Code.

A copy of the City Secretary's report on sexually oriented businesses (dated June 1, 2011), together with the studies, reports, and court case decisions (as referenced above) are on file in the Office of the City Secretary.

Sec. _____. Definitions.

Adult arcade. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by regularly depicting or describing specified sexual activities or specified anatomical areas.

Adult bookstore, adult novelty store or adult video store. A commercial establishment for which the regular offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer constitutes twenty-five percent (25%) or more of the items in inventory and/or floor space of the sexually oriented business, including:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, DVD's, videocassettes or video reproductions, slides, or other visual representations, that depict or describe specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities, but not including items used for birth control or for the prevention of sexually transmitted diseases.

Adult cabaret. A commercial establishment that regularly features the offering to customers of live entertainment that:

- (1) Is intended to provide sexual stimulation or sexual gratification to such customer; and
- (2) Is distinguished by or characterized by an emphasis on matter depicting, simulating, describing, or relating to specified anatomical areas or specified sexual activities.

Adult motel. A hotel, motel, or similar commercial establishment that:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the regular depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way that advertises the availability of this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

Adult motion picture theater. A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater. A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear nude or semi-nude, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Applicant.

- (1) A person or entity in whose name a license to operate a sexually oriented business will be issued;
- (2) Each individual who signs an application for a sexually oriented business license as required by **[ISSUANCE OF LICENSE]**;
- (3) Each individual who is an officer of a sexually oriented business for which a license application is made under **[ISSUANCE OF LICENSE]**, regardless of whether the individual's name or signature appears on the application;
- (4) Each individual who has a 20 percent (20%) or greater ownership interest in a sexually oriented business for which a license application is made under **[ISSUANCE OF LICENSE]**, regardless of whether the individual's name or signature appears on the application; and

- (5) Each individual who exercises substantial de facto control over a sexually oriented business for which a license application is made under [ISSUANCE OF LICENSE], regardless of whether the individual's name or signature appears on the application.

Chief of police. The chief of police of the city or the chief's designated agent.

Child-care facility. A facility licensed by the state, whether situated within the city or not, that provides care, training, education, custody, treatment or supervision for more than six (6) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

Conviction. A conviction in a federal court or a court of any state or foreign nation or political subdivision of a state or foreign nation that has not been reversed, vacated, or pardoned. Conviction includes disposition or charges against a person by probation or deferred adjudication.

Distinguished or characterized by an emphasis upon. The dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or display of specified anatomical areas or specified sexual activities.

Employee. Any individual who:

- (1) Is listed as a part-time, full-time, temporary, or permanent employee on the payroll of an applicant, licensee, or sexually oriented business; or
- (2) Performs or provides entertainment on the sexually oriented business premises for any form of compensation or consideration.

Entertainer. A person who, for consideration, entertains for others.

Escort. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency. A person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

Establishment. Any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;

- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business;
- (4) The relocation of any sexually oriented business; or
- (5) Any building operated as a sexually oriented business.

Hearing officer. The city manager, or his or her designee. The hearing officer shall exercise those powers authorized under the Texas Local Government Code, the charter of the city, and the Code of Ordinances of the city, as appropriate in the furtherance of his or her duties.

Hospital. A facility or area for providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

Licensee.

- (1) A person in whose name a license to operate a sexually oriented business has been issued;
- (2) Each individual listed as an applicant on the application for a license;
- (3) Each individual who is an officer of a sexually oriented business for which a license has been issued under this article, regardless of whether the individual's name or signature appears on the license application;
- (4) Each individual who has a twenty percent (20%) or greater ownership interest in a sexually oriented business for which a license has been issued under this article, regardless of whether the individual's name or signature appears on the license application;
- (5) Each individual who exercises substantial de facto control over a sexually oriented business for which a license has been issued under this article, regardless of whether the individual's name or signature appears on the license application.

Manager. A person responsible for planning and directing the work of others and monitoring them when necessary.

Nude model studio. Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration; however, nude modeling at or on behalf of any properly accredited institution of higher learning shall not fall within this definition.

Nudity or a state of nudity. A state of dress which fails to fully and opaquely cover the anus, genitals, pubic region, or perineum anal region, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the anus, genitals, pubic region, or perineum anal region, regardless of whether the nipple and areola of the human female breast are exposed, or shows the covered male genitals in a discernibly turgid state.

Operates or causes to be operated. To cause to function or to put or keep in a state of doing business. Operator means any person on the premises of a sexually oriented business who is authorized to exercise operation control of the business. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

Person. An individual, proprietorship, partnership, corporation, association, or other legal entity.

Public park. Any city park defined by Chapter 19 of the Code of Ordinances, or any park or recreational area operated by a city/county government.

Regularly features or regularly shown. A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

Religious institution. A building or group of buildings in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief. For the purposes of this definition, the term religious institution shall include, but not be limited to, a church, synagogue, mosque or temple.

Residential district. A single-family, duplex, townhouse, multiple family, or mobile home zoning district as defined in the city's zoning ordinance.

Residential use. A single-family, duplex, multiple family, or mobile home park, mobile home subdivision, and campground use as defined in the city's zoning ordinance.

Semi-nude or semi-nudity or state of semi-nudity. The exposure of the post-puberty female nipple or areola, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the post-puberty female nipple or areola, so long as the following anatomical areas of an individual are fully and opaquely covered: the anus, genitals, pubic region and the perineum anal region of the human body. The term semi-nude shall not apply to an individual exposing a post-puberty female nipple or areola in the process of breastfeeding a child under that person's care.

Sexual encounter center. A business or commercial establishment that as one of its principal business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of specified sexual activities. The definition of sexual encounter center or any sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

Sexually oriented business. An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, escort agency, nude model studio, or other commercial enterprise for which the regular offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer constitutes twenty-five percent (25%) or more of the items in inventory and/or floor space of the sexually oriented business. The terms shall also mean any commercial enterprise that self-identifies as an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, escort agency or nude model studio, regardless of whether the percentage of items in inventory and/or floor space constitute twenty-five percent (25%) or more of the total items in inventory and/or floor space.

Sign. Any display, design, pictorial, or other representation that is:

- (1) Constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever so that it is visible from the outside of a sexually oriented business; and
- (2) Used to seek the attraction of the public to any goods, services, or merchandise available at the sexually oriented business.

The term sign also includes any representation painted on or otherwise affixed to any exterior portion of a sexually oriented business establishment or to any part of the tract upon which the establishment is situated.

Specified anatomical areas.

- (1) Any of the following, or any combination of the following, when less than completely and opaquely covered:
 - (a) Any human genitals, pubic region, or pubic hair;
 - (b) Any buttock; or
 - (c) Any portion of the female breast or breasts that is situated below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly erect state, even if completely and opaquely covered.

Specified sexual activities. Any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;

- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) above.

Transfer of ownership or control of a sexually oriented business. Any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Sec. _____. Classification.

Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores, adult novelty stores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult theaters;
- (6) Adult motion picture theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers.

Sec. _____. Nonconforming uses.

- (1) Any sexually oriented business that is in violation of [LOCATION], or any other location requirement of any other city ordinance, that was legally operating at the time it was licensed, or the effective date of any amendment of such ordinance or regulation, shall be deemed a nonconforming use.
- (2) Any legally established, sexually oriented business that is in violation of this article because of annexation into the city shall be deemed to be a nonconforming use.
- (3) A sexually oriented business that is lawfully operating within the city on or after the effective date of this article shall not be rendered a nonconforming use by the subsequent location of a protected use listed in [LOCATION] within one thousand (1,000) feet of the sexually oriented business.
- (4) Notwithstanding anything contained in this article or in the city's zoning ordinance as amended to the contrary, a legal nonconforming sexually oriented business shall be required to meet all applicable requirements of this article except locational requirements established by [LOCATION] within sixty (60) days of the date it becomes nonconforming. The Board of Adjustments & Appeals may grant a nonconforming sexually oriented business an extension if the business shows, upon

written application, that meeting these requirements within sixty (60) days imposes an unnecessary hardship on the business.

- (5) Legal nonconforming sexually oriented businesses shall not be increased, enlarged, extended or altered except that the use may be changed to a use other than a sexually oriented business to the extent allowed by the city's zoning ordinance. A person commits an offense if he increases, enlarges, extends or alters, or causes to be increased, enlarged, extended or altered, a nonconforming sexually oriented business.

Sec. _____. Sexually oriented business license required.

A person commits an offense if the person operates or causes to be operated a sexually oriented business without a valid license, issued by the city for the particular classification of sexually oriented business. The person, association, firm, partnership or corporation desiring to obtain a sexually oriented business license shall make an application on a form provided by the City Secretary.

The fact that a person, association, firm, partnership or corporation possesses other types of state or city permits or licenses does not exempt the person from the requirement of obtaining a license for a sexually oriented business.

An application for a sexually oriented business license shall only be considered to be complete if it contains all information specified in subsections (1) through (14) below:

- (1) The applicant's full and true name along with any other names used in the preceding five (5) years. Any individual with a twenty (20) percent or greater interest in the business shall:
 - (a) Be considered to be an applicant and shall sign the license application form;
 - (b) Provide all information and documentation required of the applicant;
 - (c) Be qualified under **[NON CONFORMING USES]**;
 - (d) Be considered a licensee if a license is granted.
- (2) The applicant's current address;
- (3) A set of fingerprints suitable for conducting necessary background checks pursuant to this article, and the applicant's Social Security number, to be used for the same purpose;
- (4) The business name as it is to be displayed on the premises, the company name, if different than the preceding, the property address and legal description, the business mailing address, business telephone number, and any e-mail or website addresses that are to be used in conjunction with the business;
- (5) Written proof of age, in the form of a birth certificate accompanied by a current photograph, a current driver's license, or other picture identification issued by a domestic governmental agency;
- (6) The issuing jurisdiction and the effective dates of any license or permit held by the applicant relating to a sexually oriented business, and whether any such license or permit has been denied, revoked, or suspended, and if so, the reason or reasons therefor;

- (7) The name and address of the statutory agent or other agent authorized to receive service of process;
- (8) A diagram showing a plan of the premises. A diagram prepared in support of a sexually oriented business license application need not be professionally drawn. The diagram shall:
 - (a) Be oriented to the north, or to a designated street;
 - (b) Be drawn to a designated scale with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches;
 - (c) Designate any portion of the premises in which customers will not be permitted;
 - (d) Specify the location of all manager's stations, if applicable; and
 - (e) Designate the place at which the license, if granted, will be conspicuously displayed.
- (9) An approved city sign permit accompanied by a photograph verifying posting of notification signage required by Sec. 243.075 of the Texas Local Government Code;
- (10) A list of all employees, or prospective employees, along with copies of complete updated employment application, valid driver's license, state identification card, or passport containing a photograph of the employee;
- (11) A notarized affidavit signed by each applicant and certifying all information and documentation provided with the application to be true and correct;
- (12) A nonrefundable application fee in the amount of _____;
- (13) A Certificate of Occupancy, if required, issued by the city's building inspector; and
- (14) All information, supported by any necessary documentation, required by this section.

An application submitted without all of the required information, or without the application fee, shall be deemed incomplete. Incomplete applications shall be denied and within forty-five (45) business days of its receipt by the City Secretary, be returned to the applicant, accompanied by a notice specifying the reasons for application denial.

Sec. _____. Issuance of sexually oriented business license.

The annual fee for a sexually oriented business license shall be \$_____. A sexually oriented business license shall be valid from the date of issuance through January 31 of the following year.

The Chief of Police, or his designee, shall approve the issuance of a license by the City Secretary to an applicant within thirty (30) days after receipt of an application, unless the Chief, or his designee, finds one (1) or more of the following to be true:

- (1) The location of the sexually oriented business is or would be in violation of [LOCATION] of this article.
- (2) The applicant failed to supply all of the information requested on the application.
- (3) The applicant gave false, fraudulent or untruthful information on the application.
- (4) An applicant is under eighteen (18) years of age.
- (5) An applicant or an applicant's spouse is overdue in payment to the Secretary of State or the city of taxes, fees, fines or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.
- (6) An applicant or an applicant's spouse has been convicted or placed on deferred dispositions, probation or community supervision for a violation of a provision of this article, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
- (7) The license fee required by this article has not been paid.
- (8) The applicant has not demonstrated that the owner of the sexually oriented business owns or holds a lease for the property or the applicable portion thereof upon which the sexually oriented business will be situated or has a legally enforceable right to acquire the same.
- (9) An applicant or an applicant's spouse has been convicted or placed on deferred disposition, probation, or community supervision for:
 - (a) Any offense under the laws of the United States of America, another state or the Uniform Code of Military Justice for an offense described in this subsection; or
 - (b) Any of the below offenses of the state or criminal attempt, conspiracy, or solicitation to commit same;
 - (c) Any of the following offenses as described in Chapter 43 of the Texas Penal Code:
 - (i) Prostitution;
 - (ii) Promotion of prostitution;
 - (iii) Aggravated promotion of prostitution;
 - (iv) Compelling prostitution;
 - (v) Obscenity;
 - (vi) Sale, distribution or display of harmful material to a minor;
 - (vii) Sexual performance by a child;
 - (viii) Possession of child pornography;
 - (d) Any of the following offenses as described in Chapter 21 of the Texas Penal Code:
 - (i) Public lewdness;
 - (ii) Indecent exposure;

- (iii) Indecency with a child;
- (iv) Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;
- (v) Incest, solicitation of a child or harboring a runaway child as described in Chapter 25 of the Texas Penal Code; or
- (vi) Those crimes defined as “drug-defined offenses” or “drug-related offenses” by the Bureau of Justice Statistics Drug and Crime Data Fact Sheet, 1994, for which punishment would be classified as a felony as set forth in Section 12.04 of the Texas Penal Code;

(e) For which:

- (i) Less than two (2) years have elapsed since the date of conviction, or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense; or
 - (ii) Less than five (5) years have elapsed since the date of conviction, or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or
 - (iii) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four-month period.
- (10) The applicant or the applicant’s spouse is required to register as a sex offender under the provisions of Chapter 62 of the Texas Code of Criminal Procedure.
- (11) The applicant failed to comply with any of the requirements of Sec. 243.0075 of the Texas Local Government Code regarding the posting of an outdoor sign.
- (12) The applicant of the proposed establishment is in violation of or is not in compliance with any of the requirements outlined in Section [**ISSUANCE OF LICENCE**] or Section [**LOCATION**].

An applicant, or applicant’s spouse, who has been convicted of or placed on deferred disposition, probation or community supervision for an offense listed in subsection [**ISSUANCE OF LICENSE**] above, may qualify for a sexually oriented business license only when the time period required by subsection (9)(e)(i-iii) above, has elapsed.

The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the sexually oriented business. The license shall be posted in accordance with the provisions of [**LICENSE REQUIRED**].

Sec. _____. Manager/Entertainer license required.

A person commits an offense if the person manages and/or or entertains in a licensed sexually oriented business without a valid manager and/or entertainer license, issued by the city.

The person desiring to obtain a manager and/or entertainer license shall make an application on a form provided by the City Secretary and provide all of the following information:

- (1) A valid copy of the current sexually oriented business license for each of the sexually oriented businesses in which the manager and/or entertainer proposes to work or perform;
- (2) Applicants name, any aliases, mailing address for receipt of notices, home address and telephone number, date and place of birth, social security number, and, in the case of entertainers, any stage names or nicknames used in entertaining;
- (3) Name and address of each sexually oriented business where the applicant intends to work;
- (4) A statement that the applicant is eighteen (18) years or older, confirmed by provision of documentation issued by a state or federal agency bearing the applicant's date of birth and photograph;
- (5) A statement that the applicant has no record of being convicted of, or released from confinement or conviction of, or received an order for, deferred adjudication, of any felony or any misdemeanor where such felony or misdemeanor violation constitutes a specified criminal act; the fact that the applicant has appealed such action shall have no effect on the disqualification of the applicant;
- (6) A statement that the applicant has no record of being convicted of or released from confinement for conviction of, or received an order for, deferred adjudication, whichever event is later, of any other felony with the five (5) years or any other misdemeanor within the two (2) years immediately preceding the date of application; the fact that the applicant has appealed such action shall have no effect on the disqualification of the applicant;
- (7) A statement that the applicant has not had a sexually oriented manager or entertainer license, or comparable license, of any type revoked within the past five (5) years nor one suspended within the past two (2) years, immediately preceding the date application, the fact that the applicant has appealed such action shall have no effect on the disqualification of the applicant;
- (8) A statement that the applicant has had, within the two (2) years immediately preceding the date of application, an ownership, operational or managerial position, as a sexually oriented business that has demonstrated an inability to operate in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers;

- (9) A statement that the applicant does not owe delinquent taxes, assessments or other financial obligations to the city, or if such debts and/or obligations are owed, that arrangements satisfactory to the City Manager have been made for the payment of such debts or obligations; and
- (10) A statement signed under oath by the applicant that the information contained in the application is true and correct; that the applicant grants permission to the city to perform any necessary background checks on the applicant; and that the applicant has read all the provisions of the Chapter regulating sexually oriented businesses.

Sec. _____. Issuance of manager/entertainer license.

The annual fee for a manager and/or entertainer license shall be \$_____. A manager and/or entertainer's license shall be valid from the date of issuance through January 31 of the following year.

If the applicant meets all the applicable requirements, the Chief of Police, or his designee, shall approve the issuance of a license by the City Secretary to an applicant within fifteen (15) days after receipt of an application.

In the event the application is determined incomplete, the notification to the applicant shall include a written explanation of the reason(s) why the application is incomplete. The applicant may resubmit the application within ten (10) days. Once a completed application has been re-submitted, the Police Chief shall have forty-five (45) days to approve or disapprove the application.

The Police Chief shall base his decision on the information provided by the applicant, the police department's investigation, license denial criteria, and any other information provided by other city departments or governmental agencies. The applicant shall be notified in writing of the Chief's decision.

The license, if granted, shall state on its face: the license number, the name of the license holder (including any stage names), a photograph of the licensee, the date of issuance and expiration, the address of the sexually oriented business where such license is applicable.

A valid copy of the manager's license shall be posted in accordance with the provisions of [**LICENSE REQUIRED**]. A valid copy of the entertainer's license shall not be posted but shall be available onsite within the office of the sexually oriented business for inspection at any time.

Sec. _____. Certificate of occupancy.

Prior to submitting an application for a sexually oriented business license, the applicant must obtain a certificate of occupancy from the city's building official.

If applicable city ordinances do not require that a building permit be obtained, the building official shall issue or deny a certificate of occupancy not later than fifteen (15) business days subsequent to the date of the applicant's request. A certificate of occupancy application not issued or denied by the building official by the fifteenth (15th) business day following submission shall be deemed to be approved.

If a building and/or other construction related permit is required under applicable city ordinances, the applicant shall submit to the building inspection department, all necessary plans and permit applications. The building official shall cause all plans and permit applications to be processed and reviewed under the terms of applicable codes and ordinances. Permit applications found to be in compliance with applicable codes and ordinances shall not be unreasonably withheld. Upon approval of a final inspection, by applicable city departments, the building official shall issue a certificate of occupancy.

Sec. _____. Inspection and maintenance of records.

A licensee, operator or employee of a sexually oriented business shall be subject to regulation under this article and shall permit representatives of the police department, health department, fire department, building inspections division and code enforcement division to inspect all portions of the premises where customers are allowed and inspect the records required to be maintained under this article, for the purpose of ensuring compliance, at any time it is occupied or open for business.

A licensee or operator of a sexually oriented business commits an offense if:

- (1) The person operates the establishment without maintaining a current list of all employees of the business, along with a completed updated employment application for each employee. A legible copy of a valid driver's license, state identification card, or passport, with a photograph, together with an original photograph accurately depicting the employee as the person appears at the time the person is hired, shall be required and maintained on the premises with the employee's application.
- (2) The person refuses to permit a lawful inspection of the records and premises by a representative of the police department at any time the sexually oriented business is occupied or open for business.
- (3) The person does not maintain the required records on the premises of the licensed establishment.
- (4) The person does not permit representatives of the police department to take photographs of the licensee, operator or employee of the sexually oriented business, for official police department purposes, at any time it is occupied or open for business.

The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

Sec. _____. Expiration of licenses.

An application for renewal of a sexually oriented business license shall be made at least thirty (30) days before the expiration date of the license. A business that fails to renew a license shall forfeit the right to conduct business within the city until such time as the renewal is approved. A sexually oriented business license may be renewed by submission to the City Secretary of an application on the form prescribed by the City Secretary and payment of a nonrefundable renewal fee of \$_____. Annual renewal fees shall not be prorated.

An application for renewal of a manager and/or entertainer license shall be made at least thirty (30) days before the expiration date of the license. A person that fails to renew their license shall forfeit the right to manage and/or entertain within the city until such time as the renewal is approved. A manager and/or entertainer license may be renewed by submission to the City Secretary of an application on the form prescribed by the City Secretary and payment of a nonrefundable renewal fee of \$_____. Annual renewal fees shall not be prorated.

Sec. _____. Suspension of license.

The Chief of Police shall issue a written intent to suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any section of this article; or
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this article; or
- (3) Knowingly permitted gambling by any person on the sexually oriented business premises; or
- (4) Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.

Sec. _____. Revocation of license.

The Chief of Police shall issue a written statement of intent to revoke a sexually oriented business license if:

- (1) A cause of suspension in [**SUSPENSION OF LICENSE**] occurs and the license has been suspended one (1) other time within the preceding twelve (12) months;
- (2) On two or more occasions within a five-year period of time a licensee(s) or operator(s) (or any combination thereof) has/have been convicted of or placed on deferred disposition, probation or community supervision for conduct occurring in a licensing period on the premises of a sexually oriented business that constitutes any of the offenses of the state or criminal attempt, conspiracy, or solicitation to commit same for:

- (a) Any of the following offenses as described in Chapter 43 of the Texas Penal Code:
 - (i) Prostitution;
 - (ii) Promotion of prostitution;
 - (iii) Aggravated promotion of prostitution;
 - (iv) Compelling prostitution;
 - (v) Obscenity;
 - (vi) Sale, distribution or display of harmful material to a minor;
 - (vii) Sexual performance by a child;
 - (viii) Possession of child pornography;
 - (b) Any of the following offenses as described in Chapter 21 of the Texas Penal Code:
 - (i) Public lewdness;
 - (ii) Indecent exposure;
 - (iii) Indecency with a child;
 - (c) Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;
 - (d) Incest, solicitation of a child or harboring a runaway child as described in Chapter 25 of the Texas Penal Code; or
 - (e) Those crimes defined as “drug-defined offenses” or “drug-related offenses” by the Bureau of Justice Statistics Drug and Crime Data Fact Sheet, 1994, for which punishment would be classified as a felony as set forth in section 12.04 of the Texas Penal Code.
- (3) A licensee or operator gave false or misleading information in the material submitted to the chief of police during the application process;
 - (4) A licensee or operator has knowingly allowed possession, use or sale of a controlled substance on the premises;
 - (5) A licensee or operator has on two (2) or more occasions knowingly allowed prostitution on the premises;
 - (6) A licensee or operator knowingly operated the sexually oriented business during a period of time when the licensee’s license was suspended;
 - (7) A licensee or operator has, on two (2) or more occasions, knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in or on the licensed premises. The term sexual contact shall have the same meaning as it is defined in Section 21.01, Texas Penal Code;
 - (8) A licensee is delinquent in payment to the city for hotel occupancy taxes, ad valorem taxes or sales taxes related to the sexually oriented business;
 - (9) The licensee is required to register as a sex offender under the provisions of Chapter 62 of the Texas Code of Criminal Procedure; or
 - (10) A license is transferred in violation of [**TRANSFER OF LICENSE**];

The fact that a conviction is being appealed shall have no effect on the revocation of the license.

Section 2(a) above does not apply to adult motels as a ground for revoking the license, unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view.

Sec. _____. Denial, suspension and revocation procedures.

If the Chief of Police determines that facts exist for denial, suspension or revocation of a license under this article, the City Secretary shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend or revoke the license, including the grounds therefor, by personal delivery, or by certified mail.

The notification shall be directed to the most current business address on file with the city. Within five (5) working days of receipt of such notice, the respondent may provide to the City Secretary, in writing, a response that shall include a statement of reasons why the license or permit should not be denied, suspended or revoked. Within three (3) days of the receipt of respondent's written response, the City Secretary shall notify respondent in writing of the hearing date on respondent's denial, suspension or revocation proceeding.

Within ten (10) working days of the receipt of respondent's written response, the City Manager shall conduct a hearing at which respondent shall have the opportunity to be represented by counsel and present evidence and witnesses on his or her behalf. If a response is not received by the City Manager in the time stated or, if after the hearing, the City Manager finds that grounds as specified in this article exist for denial, suspension or revocation, then such denial, suspension, or revocation shall become final five (5) days after the hearing unless within that time the City Manager sends, by certified mail, written notice that the license has been denied, suspended, or revoked or has been accepted. If denied, such notice shall include a statement advising the applicant or licensee of the right to appeal such decision to a court of competent jurisdiction.

If the City Manager finds that no grounds exist for denial, suspension or revocation of a license, then within five (5) days after the hearing, the City Manager shall withdraw the intent to deny, suspend or revoke the license, and shall so notify the respondent in writing by certified mail of such action and shall contemporaneously issue the license.

When a decision to deny, suspend, or revoke a license becomes final, the applicant or licensee (aggrieved party) whose application of a license has been denied, or whose license has been suspended or revoked, shall have the immediate right to appeal such action to a court of competent jurisdiction. Until the court of competent jurisdiction issues its final judgment, the decision to deny, suspends or revoke a license shall remain in force and be enforced.

A sexually oriented business license or the ownership or control of a sexually oriented business which is directly or indirectly a part of civil litigation or administrative hearings or procedures regarding the denial, suspension or revocation shall not be transferred, sold or given to another during the pendency of the judicial or administrative processes.

Sec. _____. Transfer of license.

A person commits an offense if the person transfers a license or permits to another person or operates a sexually oriented business under the authority of a license at any place other than the address designated on the license. A transfer of a license is deemed to have occurred if there is a transfer of more than fifty percent (50%) of the ownership or control of a sexually oriented business.

A person commits an offense if the person counterfeits, forges, changes, defaces or alters a license.

Sec. _____. Location requirements.

A person commits a violation if that person operates or causes to be operated a sexually oriented business in any zoning district other than the industrial district as defined in {Division/Section/Article} of the City's zoning ordinance.

A person commits a violation if he operates or causes to be operated a sexually oriented business within one thousand (1,000) feet of:

- (1) A religious institution including a church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities;
- (2) A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. The term school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
- (3) A boundary of a residential district as defined in {Division/Section/Article} of the City's zoning ordinance;
- (4) A public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trail, swimming pool, athletic field, basketball, or tennis court, pedestrian/bicycle path, or other similar public land within the city, or its ETJ, which is under the control of the city park and recreation authorities;
- (5) The property line of a lot or parcel devoted to a residential use as defined in {Division/Section/Article} of the City's zoning ordinance;

- (6) A family oriented recreation facility including but not limited to a roller skating rink, an ice skating rink or a facility devoted to children's athletic activities;
- (7) Any premise licensed pursuant to the alcoholic beverage control regulations of the state;
- (8) A public library.

A person commits a violation if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

A person commits a violation if that person causes or permits the operation, establishment or maintenance of more than one sexually oriented business in the same building structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

For the purpose of subsection (b) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (b). The presence of a city, county or other political subdivision boundary shall be irrelevant for the purposes of calculating and applying the distance requirements of this section.

For the purposes of subsection (c) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

Sec. _____. Regulations pertaining to exhibition of sexually explicit films, videos, or live entertainment in viewing rooms.

A person who operates or causes to be operated a sexually oriented business (other than an adult motel) which exhibits on the premises, in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video, or live entertainment which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises providing all information specified in **[LICENSE REQUIRED]** of this article. Manager stations shown on this diagram shall be dimensioned and shall not contain in excess of thirty-two (32) square feet of floor area per station.
- (2) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city.

- (3) It is the duty of the licensee of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (4) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more managers' stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (5) It shall be the duty of the licensee to ensure that the view area specified in subsection (4) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) of this section.
- (6) No viewing room may be occupied by more than one (1) person at any time.
- (7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot candles as measured at the floor level.
- (8) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (9) No licensee shall allow openings of any kind to exist between viewing rooms or booths.
- (10) No person shall make or attempt to make an opening of any kind between viewing rooms or booths.
- (11) The licensee shall, during each business day, regularly inspect the walls between the viewing booths or rooms to determine if any openings or holes exist.
- (12) The licensee shall cause all floor coverings in viewing booths or rooms to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (13) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within forty-eight (48) inches of the floor.

A person having a duty under subsections (1) through (13) above commits a violation if he or she knowingly fails to fulfill that duty.

Sec. _____. Additional regulations for escort agencies.

An escort agency shall not employ any person under the age of eighteen (18) years.

A person commits a violation if the person acts as an escort, or agrees to act as an escort, for any person under the age of eighteen (18) years.

Sec. _____. Additional regulations concerning public nudity.

A person commits a violation if the person knowingly and intentionally, in a sexually oriented business, appears nude or in a state of nudity or engages in specified sexual activities.

A person commits a violation if the person knowingly and intentionally, in a sexually oriented business, appears in a semi-nude state, unless the person is an employee who, while semi-nude, is at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.

A person commits a violation if the person receives directly any pay or gratuity from any patron or customer, or if any patron or customer pays or gives any gratuity directly to the person, while the person is an employee and semi-nude in a sexually oriented business.

A person commits a violation if the person, while semi-nude, knowingly and intentionally touches a part on or the clothing of a patron or customer.

Sec. _____. Prohibition against children in a sexually oriented business.

A person commits a violation if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business.

Sec. _____. Hours of operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of twelve o'clock (12:00) a.m. and eight o'clock (8:00) a.m. on weekdays and Saturdays, and twelve o'clock (12:00) a.m. and noon (12:00) p.m. on Sundays.

Sec. 16.39. Exemptions.

It is a defense to prosecution under [ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY] that a person appearing in a state of nudity did so in a modeling class operated:

- (1) By a proprietary school, licensed by the state; a college, junior college, or university supported entirely or partly by taxation;
- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:
 - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - (b) Where in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
 - (c) Where no more than one (1) nude model is on the premises at any one time.

Sec. _____. Violation a Class A misdemeanor.

Except as otherwise stated herein, any person, firm, corporation, agent or employee thereof who violates any provision of this article (a violation) shall be guilty of a Class A misdemeanor punishable by a fine not to exceed \$4,000.00 and/or confinement in jail for a term not to exceed one (1) year.

Each day that a violation exists or is permitted to exist shall constitute a separate offense.

The refusal to issue a permit based on ineligibility shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the refusal to issue a permit based on ineligibility.

The revocation or suspension of a permit shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the revocation or suspension of a permit.

Sec. _____. Civil remedies.

The city reserves the right to seek all available civil remedies in a court of law to include, but not be limited to, injunction and civil fines for any violations of this article.

Any person, firm, corporation, agent or employee thereof who violates any provision of this article, in addition to any criminal remedies, shall be subject to a civil fine up to and including two thousand dollars (\$2,000.00) per day for each day the violation occurs.

Sec. 16.42. Notice of violation.

The city shall send to a sexually oriented business written notice of each citation issued to an operator or employee of the business for an alleged violation of this article. The notice will be sent within three (3) business days of the issuance of the citation to the operator or employee. The notice will be sent by certified mail, return receipt requested, to the business address of the sexually oriented business as it appears on its license application, to the attention of the licensee, as it appears on the license application. A failure of the city to provide such notice is not a violation of this article.

SECTION 4. **SAVINGS CLAUSE**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violations occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5. **SEVERABILITY**

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

SECTION 6. **PENALTY**

Any person violating any provision of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined up to \$2,000.00 per violation and each day that a violation continues or each occurrence shall be considered a separate offense and punished accordingly.

SECTION 7. **REPEALER**

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

SECTION 8.
EFFECTIVE DATE

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

SECTION 9.
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 at the meeting of the City Council held on this the _____ day of _____, 2011.

PASSED AND APPROVED, on its second reading at the meeting of the City Council held on this the _____ day of _____, 2011.

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, TRMC, City Secretary



AGENDA FORM

DATE OF MEETING: June 16, 2011		DATE SUBMITTED: June 8, 2011	
DEPT. OF ORIGIN: Main Street		SUBMITTED BY: Jennifer Eckermann	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION		CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	
ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☐ RESOLUTION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Request from the Main Street Board Approving the Renewal of a Reserved Parking Space for Hospice Boutique			
SUMMARY STATEMENT: New requests for reserved downtown parking spaces and annual renewals of those reserved spaces come before the Main Street Board for recommendation to Council. The Main Street Board met Monday, June 6, and discussed a request for a renewal of the free, reserved parking space by Hospice Boutique, located at 101 E. Main Street. Their space is on the side of their building (Park Street), and is only reserved for afternoons from 1 – 5 p.m. for donation drop-off. The Board is recommending to Council to continue this agreement for the period June, 2011 through May, 2012.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Approval of Main Street recommendation will allow Hospice a reserved space for donation drop-off. B. CONS: Persons wishing to drop off donations to Hospice would have to find parking in another location.			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Request for Reserved Parking Space by Hospice Boutique			
FUNDING SOURCE (Where Applicable):			
RECOMMENDED ACTION: Approve the request from the Main Street Board approving the renewal of the half day reserved parking space for Hospice Boutique			
APPROVALS: Wesley Brinkmeyer			

REQUEST FOR RESERVED PARKING SPACE

Date: 5-14-11

Person Making Request (Please type or print neatly):

Name: Karen Gardner Business Name: Hospice Boutique

Mailing Address: 101 E. Main St Brenham 77833
City State Zip

Phone Number(s): (979) 277 9623 ()

Please indicate the reason for this request (Please note that the Code of Ordinances, Chapter 25, Article III, Section 25-57 reads that reserved parking shall not be allowed except in cases of extreme necessity and that each request will be reviewed by the Main Street Board and presented to City Council for approval.):

For unloading donations

I understand and agree to timely pay all fees and charges related to each reserved parking space approved by the City of Brenham. I understand and agree that the fees and charges may be changed from time to time by the City of Brenham, and I am responsible for the full payment of any and all fees and charges as may be assessed by the City. Furthermore, I understand and agree that the reserved parking space may be revoked for non-payment of fees and charges, or as provided for in Chapter 25, Article III, Section 25-57 of the Code of Ordinances of the City of Brenham.

Karen Gardner
Requestor Signature

FOR CITY OF BRENHAM USE ONLY

Date Received: _____ Received By: Mail Fax Email In Person

Date Request Presented to Main Street Board: _____

Main Street Board Recommendations: _____

Date Presented to City Council: _____ Approved: ☐ Yes ☐ No

IF APPROVED

Location of Reserved Space: _____

Monthly Fee To Be Invoiced: _____ (per City Council action)

Date Sign Requested: _____ By: _____



AGENDA FORM

DATE OF MEETING: 6-16-11	DATE SUBMITTED: 6-6-11															
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Kim Hodde															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:														
☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING														
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING														
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Request for a Noise Variance from the Citizens for Community Progress to Hold a Praise Dance and Step Contest at Henderson Park from 4:00 p.m. to 7:00 p.m. on June 26, 2011																
SUMMARY STATEMENT: The Citizens for Community Progress have requested a variance to the noise ordinance for a praise dance and step contest that is being held at Henderson Park on June 26, 2011 from 4:00 pm to 7:00 pm promoting community family activities. They will be using sound amplification equipment. The Brenham Police Department does not object to granting the variance, and therefore, asks the City Council to approve the variance request.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: Noise Variance Request																
FUNDING SOURCE (Where Applicable): N/A																
RECOMMENDED ACTION: Approve a request for a noise variance from the Citizens for Community Progress to hold a praise dance and step contest at Henderson Park from 4:00 p.m. to 7:00 p.m. on June 26, 2011																
APPROVALS: Brenham Police Department & Brenham Fire Department.																

E-mail agenda item form to: "Agenda Item Submit"

NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization: CITIZENS FOR COMMUNITY PROGRESS
2. Name and address of individual making application on behalf of sponsoring organization: EDDIE HARRISON P O Box 193 BRENHAM, TEX
979 836 7753
3. Purpose of the Event: COMMUNITY FAMILY ACTIVITIES
4. Location of Event: HENDERSON PARK
5. Date of the event: JUN 12, JUN 26, 2011
6. Time of Event: 4:00 PM - 7:00 PM
7. Event Set-up: From: 3:00 PM To: 4:00 PM
Event Clean-up: From: 7:00 PM To: 7:30 PM
8. You are required to describe the following:
 - a) Types of Activities Planned and any additional information specific to this event: PRAISE DANCE & STEP CONTEST
 - b) Bands/Musical Instruments: _____
 - c) Sound amplification equipment: ✓
 - d) Cleanup provisions: _____

EDDIE E HARRISON

Name of Applicant (Printed or Typed)

Eddie E H

Applicant or Authorized Person's Signature

Date: JUN 2, 2011

Phone: 979 836 7753

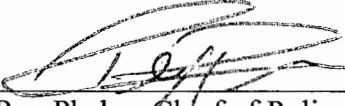
Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any Court?
Yes; ✓ No. If "Yes", please identify the offense, State of conviction and penalty imposed (attach additional sheets if necessary):

CITY STAFF REVIEW

Date received: 6-2-11

☒ APPROVED

☐ DENIED



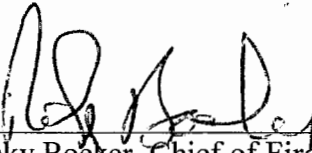
Rex Phelps, Chief of Police

Date: 6-6-11

Comments/Reason for Denial: _____

☒ APPROVED

☐ DENIED



Ricky Boeger, Chief of Fire Department

Date: 6-7-11

Comments/Reason for Denial: _____

Noise Variance Approved by the City Council on the _____ day of _____, 2011.

Milton Y. Tate, Jr., Mayor

Date: _____

ATTEST:

Teana Bellinger, City Secretary
