



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, JUNE 1, 2023 AT 01:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - Councilmember Leah Cook**
- 3. Service Recognitions**
 - ♦ **Kyle Branham, Purchasing & Central Warehouse - 15 Years**
 - ♦ **Victorino Ortiz, Parks Department - 20 Years**
 - ♦ **Brett Schroeder, Fire Department - 20 Years**
- 4. Special Recognitions**
 - ♦ **Brenham Police Department Promotion - Tina Bruno, Corporal**
 - ♦ **Brenham Police Department Promotion - Sierra Randle, Sergeant**
 - ♦ **Brenham Police Department Promotion - Jimmy Ha, Sergeant**
- 5. Citizens Comments**

CONSENT AGENDA

- 6. Statutory Consent Agenda**

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

 - 6-a. Approve a Noise Variance in Connection with the 2023 Downtown Concert Series (Hot Nights, Cool Tunes) to be Held from 5:00 p.m. to Midnight on July 8, 15, 22, and 29, 2023 and Authorize the Mayor to Execute Any Necessary Documentation**

- 6-b. Approve a Noise Variance Request from the City of Brenham and Boys & Girls Club of Washington County for Pop-Up Play Day on June 23, 2023, at Henderson Park from 6:00 p.m. to 8:00 p.m.
- 6-c. Approve a Noise Variance Request from the City of Brenham Parks and Recreation Department for Movies in the Park to be Held June 23, 2023, at Henderson Park from 8:00 p.m. to 11:00 p.m.
- 6-d. Approve a Noise Variance Request from the Washington County Historical Juneteenth Association for the Juneteenth Celebration on Friday, June 16, 2023, from 5:00 p.m. to 10:00 p.m., and Saturday, June 17, 2023, from 10:00 a.m. to 10:00 p.m. at Fireman's Park
- 6-e. Approve Resolution No. R-23-018 Amending the Authorized Representatives for TexPool Local Government Investment Pool

WORK SESSION

- 7. Discussion and Presentation on City of Brenham's Noise Nuisance Ordinance

REGULAR SESSION

- 8. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 17, Offenses and Miscellaneous Provisions of the Code of Ordinances of the City of Brenham
- 9. Discuss and Possibly Act Upon Resolution No. R-23-019 Authorizing the Execution of an Agreement with the Texas Department of Transportation for the Temporary Closure of State Right-of-Way in Connection with the 2023 Downtown Summer Concert Series, Hot Nights, Cool Tunes, to be Held on July 8, 15, 22, and 29, 2023, and Authorize the Mayor to Execute Any Necessary Documentation
- 10. Discuss and Possibly Act Upon Resolution No. R-23-020 Adopting the Guidelines for Filming in Brenham, Texas
- 11. Administrative/Elected Officials Report

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 salutary recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

Adjourn

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

CERTIFICATION

I certify that a copy of the June 1, 2023 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan St., Brenham, TX on Friday, May 26, 2023 at 12:00 p.m..

Jeana Bellinger, TRMC, CMC

City Secretary

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

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2023 at _____ AM PM.

Signature

Title



Regular City Council
AGENDA ITEM 6-A.

Agenda Item: Approve a Noise Variance in Connection with the 2023 Downtown Concert Series (Hot Nights, Cool Tunes) to be Held from 5:00 p.m. to Midnight on July 8, 15, 22, and 29, 2023 and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-June 01, 2023

Department: Public Works

Staff Contact: JoAnne Hynes

SUMMARY STATEMENT:

The annual Hot Nights, Cool Tunes concert series is scheduled to take place in downtown Brenham on July 8, 15, 22, & 29, 2023. The concerts begin at 7:00 p.m., but street closures and set-up begin at 12:00 p.m. As in previous years, it will feature live music, classic cars, and food vendors. Due to the use of amplified sound equipment, a noise variance is required.

ATTACHMENTS:

- (1) Noise Variance Request
- (2) Rack Card

RECOMMENDED ACTION:

Approve a noise variance request from Main Street Brenham for Hot Nights, Cool Tunes to be held July 8, 15, 22, & 29, 2023 in downtown Brenham from 7:00 p.m. to 10:00 p.m.



Noise Variance Request

For: Hot Nights, Cool Tunes

Name of sponsoring organization: Main Street Brenham

Your Contact Information

Name: Leigh Linden

Phone: 979.337.7239

Email: llinden@cityofbrenham.org

Event Details

Event Name: Hot Nights, Cool Tunes

Purpose: Community event promoting Downtown Brenham

Location: Downtown Brenham Courthouse Square (Alamo Street)

Date: 2023-07-08 July 8, 15, 22, 29

Time: 7pm

Setup From: 1.30pm **To:** 7pm

Clean up From: 10pm **To:** 12am

Types of activities planned and any additional information specific to this event: Live music, classic car show, food vendors

Describe activities at this event that require the variance to the noise ordinance: live bands, musical instruments

Will you use sound amplification equipment? Yes

Cleanup Provisions: City staff will check restrooms, pick up trash, and remove then replace trash bags throughout event

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any court? No

Please identify the offence, State of conviction and penalty imposed:

Approved by City Council on:

20 23



HOT NIGHTS Cool Tunes

CONCERT SERIES BRENHAM

JULY 8 - ASHMORE

www.AshmoreRocks.com

100% genuine rock 'n roll band out of Dallas that is coming to rock Downtown Brenham for the 2nd year in a row!



Budweiser
Mike Hopkins Distributing



JULY 15 - SKYROCKET

www.SkyrocketTheBand.com

One of Austin's longest lasting and most popular bands playing a huge variety of songs from the 70's and 80's, along with some newer hits.



JULY 22 - SHEKERE

www.ShekereBand.com

Talented 7-piece band of musicians and singers who play a mix of English and Latin hits. Even if you don't salsa, you are guaranteed to hear something you can dance to!



JULY 29 - THE SPICOLIS

www.TheSpicolis.com

Houston's classic MTV tribute band returns for the 3rd year in a row, playing your favorite songs from the 80's... think Fast Times at Ridgemont High and The Breakfast Club!





Regular City Council
AGENDA ITEM 6-B.

Agenda Item: Approve a Noise Variance Request from the City of Brenham and Boys & Girls Club of Washington County for Pop-Up Play Day on June 23, 2023, at Henderson Park from 6:00 p.m. to 8:00 p.m.

Meeting Type: Regular Meeting-June 01, 2023

Department: Public Works

Staff Contact: JoAnne Hynes

SUMMARY STATEMENT:

City Staff and Boys & Girls Club of Washington County have requested a noise variance for Pop-Up Play Day, which brings free outdoor play for all ages. The event will be held at Henderson Park on Friday, June 23rd, from 6:00 p.m. to 8:00 p.m. The free event promotes connecting kids and families to our local parks and the following activities have been planned: touch a truck, lawn games, basketball, water safety, open play, and arts & crafts. Staff plans are to use a portable PA system for music and announcements throughout the event, therefore, a noise variance is required.

ATTACHMENTS:

- (1) Noise Variance Request
- (2) Event Flyer
- (3) Rack Card

RECOMMENDED ACTION:

Approve a Noise Variance Request for the Pop-Up Play Day to be held on June 23, 2023, in Henderson Park from 6:00 p.m. to 08:00 p.m.



Noise Variance Request

For: POP-UP PLAY DAY

Name of sponsoring organization: CITY OF BRENHAM AND BOYS & GIRLS CLUB OF WASHINGTON COUNTY

Your Contact Information

Name: TAMMY JASTER

Phone: 9793377246

Email: TJASTER@CITYOFBRENHAM.ORG

Event Details

Event Name: POP UP PLAY DAY

Purpose: FREE COMMUNITY EVENT PROMOTING LOCAL PARKS

Location: HENDERSON PARK

Date: JUNE 23, 2023

Time: 6PM – 8PM THEN MOVIE 8PM – 11PM

Setup From: 4PM **To:** 6PM

Clean up From: 11PM **To:** 12AM

Types of activities planned and any additional information specific to this event: TOUCH A TRUCK, LAWN GAMES, BASKETBALL, WATER SAFETY, OPEN PLAY, ART-N-CRAFTS, MOVIE BEGINNING AT 8PM

Describe activities at this event that require the variance to the noise ordinance: PORTABLE SPEAKER AND MICROPHONE

Will you use sound amplification equipment? Yes

Cleanup Provisions: ORGANIZERS WILL LEAVE THE PARK AS IT WAS FOUND

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any court? No

Please identify the offence, State of conviction and penalty imposed:

Approved by City Council on the 1st day of June 2023



POP-UP PLAY DAY

MOVIE IN THE PARK

June 23 | Henderson Park
Pop Up Play Day 6pm-8pm
Movie in the Park begins at 8pm
804 Old N. Market Street

TOUCH A TRUCK; MOVIE
begins @8pm; Lawn Games,
Kickball, Basketball, Open
Play; Art in the Park, & More

cityofbrenham.org/popup

designed by  freepik.com



Pop Up Play Days

Bringing FREE Outdoor Play for all ages, while promoting amenities within our Local Parks

Sponsored by the City of Brenham & Boys & Girls Club of Washington County

Each pop-up play day will have lawn games, basketball, open play, jump ropes, reading, arts-n-craft activities as well as special features & guests

(see below for specials for each park)



May 20

JACKSON STREET PARK

Celebrating Kids To Parks Day

9:30 am – 11:30 am

BLUE BELL AQUATIC CENTER

12 pm -2 pm

Featuring: Simply Wright Fitness; Brenham Pickleball Club; Water Safety

June 23

HENDERSON PARK

6 pm – 8 pm

Touch A Truck featuring vehicles from:
City of Brenham; Brenham Fire Department;
Brenham Police Department; BIG;
Platinum Bin Washers; and many more

**Special Guest: Brenham Animal Services
& AgriLife Extension**



September 30

FIREMAN'S PARK

10 am – 12 pm

**Featuring: Carousel Rides;
Skateboard Demonstrations**



November 18

HATTIE MAE FLOWERS PARK

10 am – 12 pm

Featuring: Zumba Class



Regular City Council
AGENDA ITEM 6-C.

Agenda Item: Approve a Noise Variance Request from the City of Brenham Parks and Recreation Department for Movies in the Park to be Held June 23, 2023, at Henderson Park from 8:00 p.m. to 11:00 p.m.

Meeting Type: Regular Meeting-June 01, 2023

Department: Public Works

Staff Contact: JoAnne Hynes

SUMMARY STATEMENT:

City Staff have requested a noise variance for Movies in the Park, which will be held at Henderson Park on Friday, June 23rd, from 8:00 p.m. to 11:00 p.m. This event is being held in conjunction with Pop-Up Play Day. Staff plans are to use speakers, a portable PA system and microphone for the event, therefore, a noise variance is required.

ATTACHMENTS:

- (1) Noise Variance Request
- (2) Event Flyer
- (3) Rack Card

RECOMMENDED ACTION:

Approve a Noise Variance Request for Movies in the Park to be held on June 23, 2023, at Henderson Park from 8:00 p.m. to 11:00 p.m.



Noise Variance Request

For: MOVIES IN THE PARK

Name of sponsoring organization: CITY OF BRENHAM PARKS AND RECREATION DEPARTMENT

Your Contact Information

Name: TAMMY JASTER

Phone: 979-337-7246

Email: TJASTER@CITYOFBREHAM.ORG

Event Details

Event Name: MOVIES IN THE PARK

Purpose: BRINGING FREE OUTDOOR MOVIE FOR ALL CITIZENS

Location: HENDERSON PARK

Date: 2023-06-23

Time: 8PM - 11PM

Setup From: 7PM **To:** 8PM

Clean up From: 1030P **To:** 1130P

Types of activities planned and any additional information specific to this event: MOVIE IN THE PARK WITH LARGE BLOW UP SCREEN FOR ALL THE COMMUNITY TO ENJOY

Describe activities at this event that require the variance to the noise ordinance: AMPLIFIED SOUND/SPEAKERS; PORTABLE PA AND MICROPHONE

Will you use sound amplification equipment? Yes

Cleanup Provisions: ORGANIZERS WILL LEAVE THE PARK AS IT WAS FOUND

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any court? No

Please identify the offence, State of conviction and penalty imposed:

Approved by City Council on the 1st day of June 2023



POP-UP PLAY DAY

MOVIE IN THE PARK

June 23 | Henderson Park
Pop Up Play Day 6pm-8pm
Movie in the Park begins at 8pm
804 Old N. Market Street

TOUCH A TRUCK; MOVIE
begins @8pm; Lawn Games,
Kickball, Basketball, Open
Play; Art in the Park, & More

cityofbrenham.org/popup

designed by  freepik.com





Friday, June 2 - 8:30 pm

Lyle, Lyle Crocodile

"Floats-n-Flicks" Movie will be shown at the Blue Bell Aquatic Center.



Sponsors:



Friday, June 23 - 8:30 pm

DC League of Super Pets

Movie will be shown at Henderson Park beginning 10 minutes after sunset.



Sponsors:

BRIANNAS

Friday, August 4 - 8:30 pm

Clifford the Big Red Dog

"Floats-n-Flicks" Movie will be shown at the Blue Bell Aquatic Center.



Thielemann Construction

Sponsors:



Stegent-Thielemann Plumbing



Regular City Council
AGENDA ITEM 6-D.

Agenda Item: Approve a Noise Variance Request from the Washington County Historical Juneteenth Association for the Juneteenth Celebration on Friday, June 16, 2023, from 5:00 p.m. to 10:00 p.m., and Saturday, June 17, 2023, from 10:00 a.m. to 10:00 p.m. at Fireman's Park

Meeting Type: Regular Meeting-June 01, 2023

Department: Public Works

Staff Contact: JoAnne Hynes

SUMMARY STATEMENT:

The Washington County Historical Juneteenth Association will be holding its annual Juneteenth Celebration in Fireman's Park on Friday, June 16, 2023, from 5 p.m. to 10 p.m. and Saturday, June 17, 2023, from 10 a.m. to 10 p.m. The event will feature live music and a DJ; therefore, a noise variance is required.

This event has been successfully held for many years, with organizers coordinating closely with staff regarding safety and logistics. Staff recommends approval of this noise variance request.

ATTACHMENTS:

(1) Noise Variance Request

RECOMMENDED ACTION:

Approve a Noise Variance request from the Washington County Historical Juneteenth Association for the Juneteenth Celebration on June 16, 2023 5:00 p.m. to 10:00 p.m. and June 17, 2023, from 10:00 a.m. to 10:00 p.m. at Fireman's Park.



Noise Variance Request

For: Juneteenth Celebration

Name of sponsoring organization: The Washington County Juneteenth Association

Your Contact Information

Name: Brandon Cooper

Phone: 215.834.8550

Email: wcjabrenham@gmail.com

Event Details

Event Name: Juneteenth Celebration

Purpose: Build and cultivate a community-based movement to recognize, honor, and preserve Juneteenth and celebrate the excellence of black culture, heritage, and freedom..

Location: Fireman's Park

Date: June 16 & 17 2023

Time: Friday, June 16 from 5-10 pm; Saturday, June 17 from 10 am-10 pm

Setup From: 10 am **To:** 10 pm

Clean up From: 10 pm **To:** Midnight

Types of activities planned and any additional information specific to this event: Live band, music, food vendors.

Describe activities at this event that require the variance to the noise ordinance: On Friday, June 16, 2023, we will host a Family Night at the Park featuring a live bank with musical instruments; a DJ will also be used.

Will you use sound amplification equipment? Yes

Cleanup Provisions: The committee along with community volunteers will ensure premises are left in good state and condition with use of city receptacles.

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any court? No

Please identify the offence, State of conviction and penalty imposed:

Approved by City Council on:



Regular City Council
AGENDA ITEM 6-E.

Agenda Item: Approve Resolution No. R-23-018 Amending the Authorized Representatives for TexPool Local Government Investment Pool

Meeting Type: Regular Meeting-June 01, 2023

Department: Finance

Staff Contact: Stacy Hardy

SUMMARY STATEMENT:

The authorized representatives for the City's TexPool bank accounts need to be updated. The City designates the following as Authorized Representatives who can perform transactions and receive confirmations and monthly statements: Mayor, City Manager, Director of Finance and City Secretary. The Accounting Manager is also designated as an authorized representative, but is limited to inquiry only functions on select information.

ATTACHMENTS:

- (1) Resolution No.23-018 Amending Authorized Representatives
- (2) Authorized Representative Deletion/Update Form

RECOMMENDED ACTION:

Approve Resolution No. R-23-018 amending the authorized representatives for TexPool Local Government Investment Pool.



Resolution Amending Authorized Representatives

RESOLUTION NO. R-23-018

Please complete this form to amend or designate Authorized Representatives. *This document supersedes all prior Authorized Representative forms.*

* Required Fields

1. Resolution

WHEREAS,

CITY OF BRENHAM

Participant Name*

78362

Location Number*

("Participant") is a local government of the State of Texas and is empowered to delegate to a public funds investment pool the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

WHEREAS, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, the Texas Local Government Investment Pool ("TexPool / Texpool Prime"), a public funds investment pool, were created on behalf of entities whose investment objective in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act.

NOW THEREFORE, be it resolved as follows:

- That the individuals, whose signatures appear in this Resolution, are Authorized Representatives of the Participant and are each hereby authorized to transmit funds for investment in TexPool / TexPool Prime and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.
- That an Authorized Representative of the Participant may be deleted by a written instrument signed by two remaining Authorized Representatives provided that the deleted Authorized Representative (1) is assigned job duties that no longer require access to the Participant's TexPool / TexPool Prime account or (2) is no longer employed by the Participant; and
- That the Participant may by Amending Resolution signed by the Participant add an Authorized Representative provided the additional Authorized Representative is an officer, employee, or agent of the Participant;

List the Authorized Representative(s) of the Participant. Any new individuals will be issued personal identification numbers to transact business with TexPool Participant Services.

1. CAROLYN D. MILLER CITY MANAGER
Name Title

9793377590 CMILLER@CITYOFBRENHAM.ORG
Phone Fax Email

Carolyn D. Miller
Signature

2. JEANA BELLINGER CITY SECRETARY
Name Title

9793377567 JBELLINGER@CITYOFBRENHAM.ORG
Phone Fax Email

Jeana Bellinger
Signature

3. STACY HARDY DIRECTOR OF FINANCE
Name Title

9793377570 SHARDY@CITYOFBRENHAM.ORG
Phone Fax Email

Stacy Hardy
Signature

1. Resolution (continued)

4. ATWOOD C. KENJURA MAYOR
Name Title
9 7 9 3 3 7 7 5 6 7 AKENJURA@CITYOFBRENHAM.ORG
Phone Fax Email

Signature

List the name of the Authorized Representative listed above that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement.

STACY HARDY
Name

In addition and at the option of the Participant, one additional Authorized Representative can be designated to perform only inquiry of selected information. *This limited representative cannot perform transactions.* If the Participant desires to designate a representative with inquiry rights only, complete the following information.

CYNTHIA LONGHOFFER ACCOUNTING MANAGER
Name Title
9 7 9 3 3 7 7 5 6 3 CLONGHOFFER@CITYOFBRENHAM.ORG
Phone Fax Email

- D. That this Resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant, and until TexPool Participant Services receives a copy of any such amendment or revocation. This Resolution is hereby introduced and adopted by the Participant at its regular/special meeting held on the 0 1 day of JUNE, 2 0 2 3.

Note: Document is to be signed by your Board President, Mayor or County Judge and attested by your Board Secretary, City Secretary or County Clerk.

CITY OF BRENHAM
Name of Participant*

SIGNED

Signature*
ATWOOD C. KENJURA
Printed Name*
MAYOR
Title*

ATTEST

Signature*
JEANA BELLINGER
Printed Name*
CITY SECRETARY
Title*

2. Delivery Instructions

Please return this document to **TexPool Participant Services:**

Email: texpool@dstsystems.com

Fax: 866-839-3291



Authorized Representative Deletion/Update Form

Please complete this form to delete Authorized Representative(s) of the Participant.

***Required Fields**

1. Participant Information

CITY OF BRENHAM

Participant Name*

7 8 3 6 2

Location Number*

0 6 0 1 2 0 2 3

Effective Date*

2. Deletions

Please print the name(s) of the individual(s) to be deleted:

As Authorized Representative(s):

1. MILTON Y. TATE, JR.

2.

3.

As Inquiry Only Representative(s):

1.

2.

3.

3. Primary Contact

If the person being deleted is the Primary Contact, please complete all fields in this section for the TexPool Authorized Representative that will be the new Primary Contact. *The Primary Contact is the individual who will receive the daily transaction confirmations, monthly statements, monthly newsletter, TexPool Updates, and other TexPool mailings.*

Name

Title

Telephone Number

Fax Number

Email Address

4. Inquiry Only

If the person being deleted is an Inquiry Only Representative, please complete all fields in this section if you wish to add another individual in this capacity. **Note:** *Inquiry Only Representatives cannot perform transactions.*

Name

Title

Telephone Number

Fax Number

Email Address

5. Approvals

Please enter the name of two individuals who are currently Authorized Representatives and who authorize the deletion(s) of the individual(s) above.

Note: This authorization must be executed by a current Authorized Representative of the Participant as set forth in the duly enacted Resolution of the Participant, which is on file with TexPool.

Carolyn D. Miller
Authorized Representative Signature*

06012023

Date*

CAROLYN D. MILLER

9793377590

Printed Name*

Telephone Number

CITY MANAGER

Title*

Jeana Bellinger
Authorized Representative Signature*

06012023

Date*

JEANA BELLINGER

9793377567

Printed Name*

Telephone Number

CITY SECRETARY

Title*

6. Delivery Instructions

Please return this document to **TexPool Participant Services:**

Email: texpool@dstsystems.com

Fax: 866-839-3291



Regular City Council
AGENDA ITEM 7.

Agenda Item: Discussion and Presentation on City of Brenham's Noise Nuisance Ordinance

Meeting Type: Regular Meeting-June 01, 2023

Department: Administration

Staff Contact: Karen Stack

SUMMARY STATEMENT:

Section 17-8 of the Code of Ordinances currently prohibits any artificial noise that is plainly audible fifty feet from the source. Staff have held two previous work sessions, and met with the Economic Development Subcommittee and individually with Council members, to discuss amending the ordinance. Based on Council's direction, staff have prepared a draft ordinance. The following features of the proposed new noise nuisance ordinance will be discussed:

1. Moving from a 'plainly audible' standard to a decibel-based system, with maximum decibels based on the zone and time of day.
2. An enforcement section that clarifies that the Noise Nuisance Ordinance will be enforced by police.
3. Five types of noises that will be prohibited, no matter the decibel level.
4. Thirteen exceptions. These types of noises will always be allowed, no matter the decibel level.
5. Providing that when a property line also splits zones, the more permissive standard will apply at the border.
6. A specific section that provides for live music at venues in downtown or Industrial zones, from 10 a.m. to 12:00 a.m.
7. A section allowing staff members to issue noise permits.
8. Violations will be a C misdemeanor, with initial fines of up to \$500.00.

ATTACHMENTS:

None

RECOMMENDED ACTION:

Discussion only.



Regular City Council
AGENDA ITEM 8.

Agenda Item: Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 17, Offenses and Miscellaneous Provisions of the Code of Ordinances of the City of Brenham

Meeting Type: Regular Meeting-June 01, 2023

Department: Administration

Staff Contact: Karen Stack

SUMMARY STATEMENT:

The attached draft noise nuisance ordinance was prepared in accordance with instructions from Council and public feedback.

ATTACHMENTS:

(1) Ordinance for First Reading

RECOMMENDED ACTION:

Approve an Ordinance on its first reading amending Chapter 17, Offenses and Miscellaneous Provisions, of the Code of Ordinances of the City of Brenham.

ORDINANCE NO. O-23-

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 17, OFFENSES AND MISCELLANEOUS PROVISIONS, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS BY REPEALING ARTICLE I, SECTION 17-8, NOISE NUISANCES; PROVIDING FOR NEW ARTICLE I, SECTION 17-8, RESERVED, FOR FUTURE AMENDMENTS TO CHAPTER 17; REPEALING ARTICLE V, RESERVED; REPEALING ARTICLE VI, RESERVED, PROVIDING FOR A NEW ARTICLE V, NOISE NUISANCES; PROVIDING FOR A REPEALER AND SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETINGS

WHEREAS, pursuant to Texas Local Government Code, Section 51.001, the City has the authority to adopt ordinances and regulations that are for good government, peace and order of the City; and

WHEREAS, as a home-rule municipality, Texas Local Government Code, Section 51.072 confirms that the City has the full power of local self-government; and

WHEREAS, the City Council finds that Chapter 17, Offenses and Miscellaneous Provisions, of the City of Brenham's Code of Ordinances should be amended to promote the health, safety, and welfare of the public; and

WHEREAS, the City Council hereby finds that the best interests of the City will be promoted by the enactment of this Ordinance.

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

SECTION 1.

Chapter 17, Offenses and Miscellaneous Provisions, Article I, In General, Section 17-8, Noise Nuisances, of the Code of Ordinances of the City of Brenham is hereby repealed in its entirety.

SECTION 2.

Chapter 17, Offenses and Miscellaneous Provisions, Article I, In General, Section 17-8, is hereby amended to read as follows:

Section 17-8 (**Reserved**)

SECTION 3.

Chapter 17, Article V, Reserved, of the Code of Ordinances of the City of Brenham is hereby repealed in its entirety.

SECTION 4.

Chapter 17, Article VI, Reserved, of the Code of Ordinances of the City of Brenham is hereby repealed in its entirety.

SECTION 5.

Chapter 17, Article V, of the Code of Ordinances of the City of Brenham is hereby amended to read as follows:

ARTICLE V. NOISE NUISANCES

Sec. 17-71. Definitions.

As used in this Article V, the following terms shall have the respective meanings ascribed in them:

Ambient noise shall mean the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environment noise at a given location.

Daytime hours shall mean the hours between 7:00 a.m. on one day and 10:00 p.m. on the same day.

Db(A) shall mean the intensity of a sound expressed in decibels read from a sound level meter utilizing the A-level weighting scale and the slow meter response, as specified by the American National Standards Institute.

Decibel shall mean a logarithmic unit of measure used in describing the amplitude of sound, denoted as Db.

Emergency shall mean any occurrence or set of circumstances involving actual or imminent threat of physical trauma or property damage loss which demands immediate action.

Emergency work shall mean any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, or which is otherwise necessary to restore property to a safe condition following a fire, accident or natural disaster, or which is required to protect persons or property from exposure to danger, or which is required to restore public utilities.

Nighttime hours shall mean the hours between 10:00 p.m. on one day and 7:00 a.m. on the following day.

Noise shall mean any sound which is unwanted by any person, or which causes, or tends to cause, an adverse psychological or physiological effect on human beings.

Person shall mean any individual, firm, association, partnership, corporation, or any other entity, public or private.

Plainly audible shall mean any sound which can be clearly heard. Determination of whether a sound is plainly audible shall be made without regard to the discernibility of words or phrases. Bass reverberations may be considered plainly audible.

Property line shall mean the line along the ground surface, and its vertical extension, which separates the real property owned, leased, or legally occupied by a person from that owned, leased or legally occupied by another person and the imaginary line which represents the legal limits of property of any person who owns, leases or otherwise legally occupies an apartment, condominium, hotel or motel room, office or any other type of occupancy.

Public right-of-way shall mean any street, avenue, boulevard, highway, road, thoroughfare, sidewalk, alley or any other property which is owned or controlled by a governmental entity.

Residential property shall mean any real property in the city limits used for human habitation and which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation. To be considered residential for the purposes of this Chapter, the property must be in a R-1, R-2, R-3 or B-1 zone as defined in the Official Zoning Map of the City of Brenham, as it exists now or may in the future be revised.

Sound shall mean any pressure variation that can be detected by the human ear.

Sec. 17-72. Enforcement.

1. The Police Department shall have primary enforcement responsibility for the provisions of this Article V.
2. Enforcement of any provision of this Article V by the Police Department shall not prevent an authorized representative of the Development Services Department from making necessary inspections and tests to determine whether any provision of the City's Zoning Ordinance may also be violated, and to issue a notice of violation and/or abatement order for any such violation.

Sec. 17-73. Maximum permissible sound levels; declaration of nuisance.

1. No person, including but not limited to a property owner, tenant, user, or invitee, shall make, assist in making, or allow the production of a sound in the territorial limits of the City which, when measured as provided in this section, exceeds the applicable Db(A) level listed in Table 1 of this section. Any sound in violation of this section is declared to be a public nuisance.

Table 1. Limiting Sound Levels for Land Use Districts

Land Use	Time	Maximum Allowable Exterior Sound Level
Residential (R-1, R-2, R-3)	10:00 pm to 7:00 am	50 dB (A)
	7:00 am to 10:00 pm	55 dB (A)
Commercial-Mixed Use (B-1, B-2, B-3)	10:00 pm to 7:00 am	62 dB (A)
	7:00 am to 10:00 pm	62 dB (A)
Industrial (I)	10:00 pm to 7:00 am	85 dB (A)
	7:00 am to 10:00 pm	85 dB (A)

2. Whenever portions of this Article V prohibit sound over a certain decibel limit, measurement of said sound shall be made with a Type 1 or Type 2 sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American National Standards Institute. Sound levels shall be measured in decibels and A-weighted.
3. Measurements of sound shall be taken so as to provide a proper representation of the sound being measured. The microphone of said meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. Measurements of sound shall be taken for at least one (1) minute. Measurements of sound shall be taken at the property line of the complaining person, at the point nearest as practicable to the source of the noise.
4. If the decibel level of a noise cannot be determined due to ambient noise from another source such as motor vehicle traffic, and such noise is not measurable over ambient noise, no violation of this section has occurred.
5. When a noise source can be identified and measured in more than one land use district, the maximum allowable exterior sound level limits of the more permissive district shall apply at the property line of the complaining person, at the point nearest as practicable to the source of the noise.

Sec. 17-74. Prohibited Acts.

The following acts are declared to be nuisances in violation of this section, regardless of whether the sound created is within the maximum allowable exterior sound levels specified in Section 17-73.

1. The operation of a sound amplifying device in a public park or public right-of-way so that the sound is plainly audible at fifty (50) feet or more from the sound amplifying device.

2. The operation of any loudspeaker or sound-amplifying equipment in or on any vehicle in or upon any street, alley, sidewalk, park or other public property so that the sound is plainly audible at a distance of fifty (50) feet or more from its source. This prohibition does not apply to emergency vehicles or individuals who possess a valid City of Brenham vendor's permit and are using the amplifying equipment to attract customers during daytime hours. It shall be presumed that the driver of any vehicle is the operator of the sound-making device(s).
3. The keeping of any animal or bird which is causing frequent or long-continued noise that disturbs the comfort and repose of any person of ordinary sensibilities near the property on which the animal or bird is being kept.
4. Yelling, shouting, whistling, or singing outdoors during nighttime hours.
5. The use of any motor vehicle or motorcycle so out of repair, so loaded, or so noisy that it creates loud and unreasonable grating, grinding, rattling or any other loud and unreasonable sound.

Sec. 17-75. Exceptions.

The following exceptions shall apply to any offense established in this Article V:

1. The sound was produced for the purpose of alerting people to the existence of an emergency, danger, or attempted crime. This exception applies to a vehicle theft alarm only when it is properly installed and maintained.
2. The sound was produced by emergency work.
3. The sound was produced by a commercial vehicle engaged in garbage collection.
4. The sound was created by an event sponsored or cosponsored, or permitted by the City, or by spectators and participants of the event.
5. The sound was created by a pyrotechnic display authorized by the Fire Marshal.
6. The sound was created by an event authorized by the city which is held at the Dr. Bobbie M. Dietrich Memorial Amphitheater located in Hohlt Park.
7. The sound was produced by the erection, excavation, construction, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in any such activity conducted during daytime hours.
8. The sound was produced by an aircraft in flight or in operation at the Brenham Municipal Airport, or railroad equipment in operation on railroad rights-of-way.
9. The sound was produced from operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawn mower, or any other similar device used during daytime hours for the maintenance or upkeep of the property on which it was used.

10. The sound emanates from properly maintained residential air conditioning systems, refrigeration systems or associated equipment.
11. The sound was produced by construction work in public rights-of-way or easements by the City or the Texas Department of Transportation.
12. The sound was created by a school or school-sponsored athletic event.
13. The sound was produced by an event at the Washington County Expo Center.

Sec. 17-76. Music Venues.

Notwithstanding any provision of Section 17-73 or 17-74, persons utilizing sound amplifying equipment to amplify a live musician or band on a property for which such entertainment is an allowed use under the City of Brenham Zoning Ordinance, may operate such equipment after 10:00 a.m. or before 12:00 a.m.

Sec. 17-77. Noise permit required for use of outdoor sound amplification.

Except as provided by Section 17-75 or 17-76, no person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier, or any other machine or device that produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner that exceeds the maximum allowable exterior sound levels specified in section 17-73, when measured from the property where the sound is being received, without first obtaining a noise permit to do so. A noise permit may be granted only for the amplification of music or human speech, or both.

1. The permit:
 - a) May be obtained by making application to the director of the city department so designated by the City Manager at least thirty (30) days prior to the scheduled event;
 - b) Requires payment of a fee established by the City Manager or his or her designee, for the administrative costs of issuing the permit;
 - c) Shall not authorize, allow, or otherwise permit the production, reproduction, or amplification of sound that exceeds 85 dB(A) when measured from the property line of the nearest receiving residential property;
 - d) Shall not authorize a permanent or ongoing exception to Section 17-73 or 17-74 or otherwise issue for a term of more than seventy-two (72) hours;
 - e) Application shall contain the date of the application, the date and hours for which the permit is requested; and the name, address, and telephone number of the applicant;
 - f) Application shall contain the name and address of the person who will have charge of the sound amplifying equipment;
 - g) Application shall contain the purpose for which the sound equipment will be used;
 - h) Application shall contain the address and a description of the location where the sound equipment will be used, and

- i) Application shall contain a description of the type of sound amplifying equipment to be used.
2. The individual who applies for a noise permit must remain on site during the permitted event and be able to answer the telephone at the number provided on the application. The applicant is responsible for ensuring that all participants comply with the terms of the permit.
3. A noise permit may be revoked or limited in scope by a City of Brenham police officer during a permitted event if in the opinion of the officer, such limitation is necessary for public health, safety, welfare or order. Failure by the applicant or his or her agents to promptly comply with such a limitation or revocation is a violation subject to the penalties in Section 17-80.
4. The City may require the applicant to notify residents and businesses in proximity to the proposed event as a condition of a permit. In such case, the City will provide a list of addresses to which a notice must be sent. The applicant will be required to certify to the city that the required notices have been sent. Failure to provide such certification will result in revocation of a noise permit.
5. If an application for a noise permit is denied by staff, the reason for denial will be provided to the applicant in writing. The applicant may appeal the denial to City Council by delivering a written request to the City Manager's office. Reasons for denial may include but are not limited to:
 - a) The application was not received at least thirty (30) days prior to the scheduled event;
 - b) The application did not contain all the required information;
 - c) The proposed activity would be an unreasonable burden to neighboring residents or business owners;
 - d) The applicant has had prior noise violations or has failed to comply with police instructions or,
 - e) Prior events sponsored by the person or the organization he or she represents have resulted in multiple citizen complaints and/or calls to emergency dispatch.

Sec. 17-78. Free Speech

This Article V shall not be administered or enforced in such a way as to directly or indirectly limit a citizen's rights guaranteed under the First Amendment of the Constitution of the United States of America. Permits shall not be refused based on the content of speech or the political, social or religious views of the applicant. In enacting this Article V, it is the intent of City Council to regulate only the time, place, and manner of speech in the interest of public health, safety and welfare.

Sec. 17-79. Presumptions.

When noise in violation of Section 17-73 or 17-74 originates from a property, and the person creating the noise cannot be ascertained, it shall be presumed that the property owner or tenant is the person who committed the violation.

Sec. 17-80. Violations; penalties; affirmative defenses.

1. Any person violating Section 17-73 or 17-74 is guilty of a class C misdemeanor and upon first conviction shall be fined in an amount not less than one dollar (\$1.00) and not more than five hundred dollars (\$500.00), plus costs. The penalty shall increase by fifty dollars (\$50.00) for each subsequent violation, up to a maximum penalty of two thousand dollars (\$2,000.00) per violation. Each occurrence of any violation shall constitute a separate offense.
2. The penalty provided for herein shall be in addition to any other legal remedies available to the city to prevent and prohibit any such violation of this article. The city may institute any appropriate administrative action or proceeding or any action at law or equity to require compliance with the provisions of this article.
3. If a person's conduct would otherwise violate Section 17-73 or 17-74, it is an affirmative defense to prosecution that:
 - a) The first order given by a police officer to discontinue the conduct was promptly obeyed and the violation was not repeated; or
 - b) The production of the sound was not directly under the control of the property owner, tenant, user, or invitee.

SECTION 6.
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 violation of occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 7.
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 remaining should any provision be declared unconstitutional or invalid.

SECTION 8.
REPEALER

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

SECTION 9.
EFFECTIVE DATE

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

SECTION 10.
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 on the ____ day of _____, 2023.

PASSED AND APPROVED, on its second reading on the ____ day of _____, 2023.

Atwood C. Kenjura
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 9.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-23-019 Authorizing the Execution of an Agreement with the Texas Department of Transportation for the Temporary Closure of State Right-of-Way in Connection with the 2023 Downtown Summer Concert Series, Hot Nights, Cool Tunes, to be Held on July 8, 15, 22, and 29, 2023, and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-June 01, 2023

Department: Economic Development

Staff Contact: Leigh Linden

SUMMARY STATEMENT:

The Hot Nights, Cool Tunes summer concert series is hosted by the City of Brenham and sponsored by local businesses. Concerts are on Saturdays, July 8, 15, 22, and 29, 2023, from 7:00 p.m. to 10:00 p.m. These are free public events with live entertainment, food vendors, and a classic car cruise-in. Brenham residents and visitors bring lawn chairs, set them up in the street, and enjoy fellowship and entertainment. One lane of Alamo Street between Park Street and St. Charles Street will close at 1:30 p.m. for stage setup, followed by both lanes of Alamo Street closing between Austin Street and Market Street from 4:00 p.m. to midnight or until the stage is removed. The estimated attendance per weekend is 2,500 people.

ATTACHMENTS:

- (1) Resolution No. R-23-019
- (2) TxDOT Agreement
- (3) Maps

RECOMMENDED ACTION:

Approve Resolution No. R-23-019 authorizing the execution of an agreement with the Texas Department of Transportation for the temporary closure of state right-of-way in connection with the 2023 Downtown Summer Concert Series, Hot Nights, Cool Tunes, to be held on July 8, 15, 22, and 29, 2023 and authorize the Mayor to execute any necessary documentation.

RESOLUTION NO. R-23-019

WHEREAS, the Texas Department of Transportation operates certain state highways within the City limits of the City of Brenham;

WHEREAS, the City of Brenham has received requests for street closings involving a portion of the state highway system within the City of Brenham;

WHEREAS, the Texas Department of Transportation and the City of Brenham have agreed to certain terms and conditions regarding the closing of a portion of the state highway system within the City limits for the purpose of said closings;

WHEREAS, the City Council of the City of Brenham has considered the foregoing and the aforesaid agreement and have agreed to be bound by the provisions thereof for the purpose of closing said streets for the 2023 Downtown Summer Concert Series, Hot Nights, Cool Tunes, to be held on July 8, 15, 22, and 29, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, the Mayor of Brenham, acting on behalf of the City Council of the City of Brenham is hereby authorized to execute the attached agreement with the Texas Department of Transportation in connection with the closure of a portion of the state highway system within the City of Brenham associated with the 2023 Downtown Summer Concert Series, Hot Nights, Cool Tunes. This resolution is effective upon its adoption.

PASSED AND APPROVED this the 1st day of June, 2023.

Atwood C. Kenjura., Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

STATE OF TEXAS §

COUNTY OF TRAVIS §

AGREEMENT FOR THE TEMPORARY CLOSURE OF STATE RIGHT OF WAY

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of Brenham, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "local government."

W I T N E S S E T H

WHEREAS, the State owns and operates a system of highways for public use and benefit, including Alamo Street, in Washington, County; and

WHEREAS, the local government has requested the temporary closure of Alamo Street (Business 290) for the purpose of 2023 Downtown Summer Concert Series, from 1:30 pm to 12:00 am as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the local government's incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right of way will be performed within the State's requirements; and

WHEREAS, on the 1st day of June, 2023, the Brenham City Council passed Resolution / Ordinance No. R-23-019, attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

A G R E E M E N T

Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event or unless terminated or modified as hereinafter provided.

Article 2. EVENT DESCRIPTION

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned physical modifications of any man-made or natural features in or adjacent to the right of way involved shall be attached hereto along with a location map and identified as "Exhibit C."

Article 3. OPERATIONS OF THE EVENT

A. The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

B. The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State's Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.

C. The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.

D. The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.

E. The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

F. The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

G. The local government hereby assures the State that there will be appropriate passage

allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

H. The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

Article 4. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

Article 5. TERMINATION

A. This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

B. The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

Article 6. DISPUTES

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

Article 7. RESPONSIBILITIES OF THE PARTIES

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 8. INSURANCE

A. Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period

that the local government and/or its contractors are encroaching upon the State right of way.

B. In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

Article 9. AMENDMENTS

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

Article 10. COMPLIANCE WITH LAWS

The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right of way.

Article 11. LEGAL CONSTRUCTION

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Article 12. NOTICES

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

Local Government:	State:
City of Brenham	Texas Department of Transportation
P.O. Box 1059	
Brenham, Texas 77833	

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

Article 13. SOLE AGREEMENT

This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

Each party is signing this agreement on the date stated beside that party's signature.

THE CITY OF BRENHAM

Executed on behalf of the local government by:

By _____ Date _____
City Official

Typed or Printed Name and Title Atwood C. Kenjura
Mayor

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____ Date _____
District Engineer

Exhibit A

This request is for the closure of Alamo Street (Business 290) in Brenham, Texas (Washington County) as follows: One lane of Alamo Street (Business 290) from Park Street to St. Charles Street closing at 1:30 pm until 12:00 am; both lanes of Alamo Street (Business 290) from Austin Street to Market Street closing at 4:00 pm until 12:00 am on July 8, 15, 22, and 29, 2023.

Streets will be barricaded with traffic control devices and staffed with personnel from the Brenham Police Department and Citizens on Patrol.

The proposed activity that requires these street closures is the Downtown Summer Concert Series, Hot Nights, Cool Tunes held on the last four (4) Saturdays in July. These are free concerts for the public with live entertainment, food vendors, and a classic car cruise-in. Brenham residents and visitors bring lawn chairs, set them up in the street, and enjoy fellowship and entertainment. Estimated attendance per event is approximately 2,500.

No animals. The elevated stage, 24'x 16'. will be set up at the intersection of Baylor and Alamo Streets.

Exhibit B

Agreement No. _____

Exhibit C

This request is for the closure of Alamo Street (Business 290) in Brenham, Texas (Washington County) as follows: One lane of Alamo Street (Business 290) from Park Street to St. Charles Street closing at 1:30 pm until 12:00 am; both lanes of Alamo Street (Business 290) from Austin Street to Market Street closing at 4:00 pm until 12:00 am on July 8, 15, 22, and 29, 2023.

Streets will be barricaded with traffic control devices and staffed with personnel from the Brenham Police Department and Citizens on Patrol.

The proposed activity that requires these street closures is the Downtown Summer Concert Series, Hot Nights, Cool Tunes held on the last four (4) Saturdays in July. These are free concerts for the public with live entertainment, food vendors, and a classic car cruise-in. Brenham residents and visitors bring lawn chairs, set them up in the street, and enjoy fellowship and entertainment. Estimated attendance per event is approximately 2,500.

No animals. The elevated stage, 24'x 16'. will be set up at the intersection of Baylor and Alamo Streets.



1 inch = 220 feet



Hot Nights Cool Tunes Detours



43

Hot Nights, Cool Tunes

July 9, 16, 23 & 30, 2022

Street Closures and Information

Alamo Street closes at 4pm



Park Street from Commerce

Street to Main Street closes at 4pm for food vendors to set-up.



Douglas Street from

Commerce Street to Main Street closes at 4pm.

St. Charles closes at 4pm



Alamo (one-lane) from Park to St. Charles closes at 1:30pm



Baylor Street from Commerce to Alamo closes at noon.

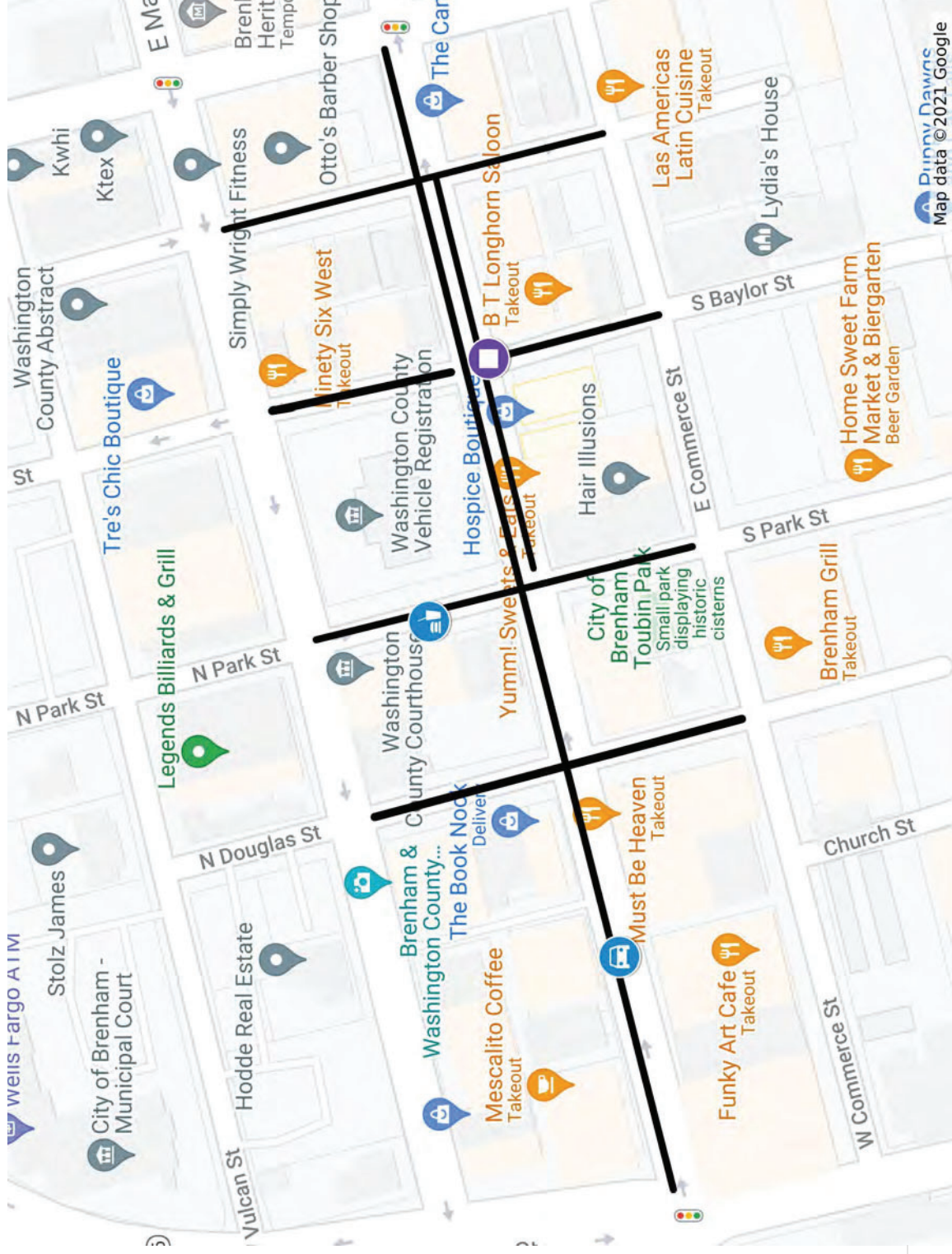


Baylor Street from Alamo to Main Street closes at 4pm.

Untitled layer

44

7:00pm-10:00pm





Regular City Council
AGENDA ITEM 10.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-23-020
Adopting the Guidelines for Filming in Brenham, Texas

Meeting Type: Regular Meeting-June 01, 2023

Department: Marketing and Tourism

Staff Contact: Jennifer Eckermann

SUMMARY STATEMENT:

As discussed in the May 18, 2023 Council meeting, one of the requirements to being certified as a Film Friendly Texas Community, the city must pass administratively enforceable filming guidelines that promote media production in a way that is beneficial for both resident and industry professionals alike.

One change that was discussed was changing the minimum requirement for filing an Application for Filming with the City Manager's Office, from two (2) days to five (5) days prior for commercials and episodic television, and from five (5) to ten (10) days prior for feature films. That change can be seen at the top of page 4 of the guidelines.

We ask for your approval of a Resolution adopting the attached Filming Guidelines for the City of Brenham, Texas.

ATTACHMENTS:

- (1) Resolution No. R-23-020
- (2) Guidelines for Filming in Brenham, Texas

RECOMMENDED ACTION:

Approve Resolution No. R-23-020 adopting the Guidelines for Filming in Brenham, Texas.

RESOLUTION NO. R-23-020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS ADOPTING FILMING GUIDELINES FOR THE CITY OF BRENHAM, TEXAS

WHEREAS, pursuant to Texas Local Government Code, Section 51.001, the City Council is authorized to adopt rules for the good government of the City; and

WHEREAS, in accordance with Texas Local Government Code, Section 51.001, the City Council has the authority to establish policies and guidelines as it deems necessary to carry out the functions and obligations of the City; and

WHEREAS, the City Council desires to establish a uniform policy and guideline for filming within the City of Brenham;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brenham, Texas as follows:

Section 1: That the recitals set forth above are incorporated herein for all purposes as if fully set forth in the body of this Resolution.

Section 2: That the City Council of the City of Brenham hereby adopts the Guidelines for Filming in Brenham, Texas as set forth in “Exhibit A,” attached hereto and incorporated herein for all purposes.

Section 3: That this Resolution shall be in full force and effect after its passage and approval according to law.

RESOLVED on this the 1st day of June, 2023.

Atwood C. Kenjura
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Guidelines for Filming in Brenham, Texas

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I. PURPOSE

The Guidelines contained in this policy are intended to create a program for promoting economic development activity within Brenham and the vicinity of the City. The following Guidelines are also intended to protect the personal and property rights of Brenham residents and businesses, and to promote public health, safety, and welfare. The City Manager reserves the right to impose additional regulations in the interest of public health, safety, and welfare, or if otherwise deemed appropriate by the City Manager.

These Guidelines cover requests for commercial use of City-owned property (including but not limited to streets, rights-of-way, parks, and/or public buildings), commercial use of private property which may affect adjacent public or private property, and the use of City equipment and personnel in all types of motion picture production, including, but not limited to, feature films, television programs, commercials, music videos and corporate films.

II. CITY CONTROL/CITY MANAGER AUTHORITY

The City Manager may authorize the use of any street, right-of-way, park, or public building, equipment, or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the City Manager may require that any or all the conditions and/or remuneration herein and as specified on the application be met as a prerequisite to that use.

The Applicant agrees that the City of Brenham shall have exclusive authority to grant the Applicant the use of public streets, rights-of-way, parks, and public buildings of the City, as well as authority to regulate the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming in order to promote public health, safety, or welfare.

The Applicant shall allow City departments (e.g., Police, Fire, Building, Utilities) to inspect all structures, property, devices, and equipment to be used in connection with the filming and taping, as deemed appropriate by the City Manager.

The City Manager may, at his/her discretion, require the Applicant to execute a license agreement with such additional provisions as he/she deems necessary for public health, safety, or welfare.

III. PERMIT REQUIREMENTS

Before filing an application for filming in Brenham, the Office of the City Manager must be contacted to discuss the production's specific filming requirements and the feasibility of filming in Brenham.

Any commercial producer who desires to undertake a commercial production in Brenham is required to complete and return the attached application for filming to the Office of the City Manager, within the time frames below:

- **Commercials or episodic television:** a minimum of five (5) business days prior to the commencement of filming or any substantial activity related to the project.
- **Feature films:** a minimum of ten (10) business days prior to the commencement of filming or any substantial activity related to the project.

IV. APPLICATION FEE

An application processing fee of \$25.00 should accompany each application for filming in Brenham.

The City Manager may waive this fee upon proof of an organization's non-profit status or for any other reason deemed appropriate by the City Manager.

V. USE OF CITY EQUIPMENT AND PERSONNEL

The Applicant shall pay for all costs of any Police, Fire, Public Works, Utilities, or other City personnel assigned to the project (whether or not specifically requested by the production). Remuneration rates for the use of any City equipment, including police cars and fire equipment, will be established on a case-by-case basis as determined by the City Manager. The Applicant shall pay all costs in full within ten (10) days after receipt of an invoice for said costs. The City Manager may, at his/her discretion, require an advance deposit for all costs related to City personnel and/or the use of City equipment.

The City Manager, in consultation with the Chief of Police and/or Fire Chief, shall have the authority to stipulate additional fire or police requirements and level of staffing for same, at any time during a film project if it is determined to be in the best interest of public health, safety and welfare, which cost shall be borne entirely by the Applicant.

Off-duty police officers and firefighters shall be paid by the production company at a rate no less than one and one-half times their hourly rate.

VI. USE OF CITY-OWNED REAL ESTATE

The City Manager may authorize the use of any street, right-of-way, park or public building, use of Brenham, Texas name, trademark or logo and/or use of City equipment and/or personnel for commercial uses in motion picture production. In conjunction with these uses, the City Manager may require that any or all the conditions and/or remuneration as specified herein and on the application be met as a prerequisite to that use. A security or damage deposit may be required at the discretion of the City Manager.

The Applicant shall reimburse the City for inconveniences when using public property. Following is the rate schedule:

Activity	Cost per calendar day
Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area	\$500.00
Partial, non-disruptive use of a public building, park, right-of-way, or public area	\$250.00
Total closure or obstruction of public street or right-of-way, including parking lots and on- street parking	\$50.00
Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking	\$25.00
Use of City parking lots, parking areas, and City streets (for the purpose of parking film trailers, buses, catering trucks, and other large vehicles)	\$50.00

The Applicant acknowledges and agrees that the City of Brenham, Texas, possesses and retains exclusive authority to grant the Applicant a revocable license for the use of its name, trademark, and logo, public streets, rights-of-way, parks, and buildings of the City as well as control over the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming activity in order to promote public health, safety and/or welfare.

In order to leave the City-owned property in as good condition as when received, the Applicant is responsible for and must provide professional cleaning and/or sanitation services upon completion of work, if the City requests such cleaning and/or sanitation services at any time. Upon such a request by the City, the Applicant must obtain approval from the City of the Applicant's arrangements for cleaning and/or sanitation services (which will not be unreasonably withheld). The City may require such approval before use of the City-owned property for production activity begins.

VII. VEHICLES AND EQUIPMENT

The Applicant shall provide a report listing the number of vehicles and types of equipment to be used during the filming, including proposed hours of use and proposed parking locations. Such locations will need to be specifically approved by the City Manager. On-street parking or use of public parking lots is subject to City approval.

The use of exterior lighting, power generators, or any other noise- or light-producing equipment requires on-site approval of the City Manager.

VIII. HOURS OF FILMING

Unless express written permission has been obtained from the City Manager in advance, and affected property owners, tenants and residents have been notified, filming will be limited to the following hours:

- Monday through Friday: 7:00 a.m. to 9:00 p.m.
- Saturday, Sunday, and holidays: 8:00 a.m. to 8:00 p.m.

IX. NOTIFICATION OF NEIGHBORS

The Applicant shall provide a short, written description, approved by the City Manager, of the schedule for the proposed production to the owners, tenants, and residents of each property in the affected neighborhood(s). The Applicant, or his or her designee, shall make a good faith effort to notify each owner, tenant, and resident of all such property, and shall submit, as part of this application, a report noting owners, tenants and/or residents' comments, along with their signatures, addresses and phone numbers. Based upon this community feedback, and other appropriate factors considered by the City Manager, the City Manager may grant or deny the filming application.

X. CERTIFICATE OF INSURANCE

The Applicant shall attach a valid certificate of insurance, issued by a company authorized to conduct business in the state of Texas, naming the City of Brenham and its agents, officers, elected officials, employees and assigns, as additional insured, in an amount not less than \$1,000,000 general liability, including bodily injury and property damage with a \$1,000,000 umbrella; and automobile liability (if applicable) in an amount not less than \$1,000,000 including bodily injury and property damage. In addition, if the Applicant or any of its employees or agents will be working on City-owned property, the Applicant must attach proof of Workers' Compensation insurance.

XI. DAMAGE TO PUBLIC OR PRIVATE PROPERTY

The Applicant shall pay in full, within ten (10) days of receipt of an invoice, the costs of repair for any and all damage to public or private property, resulting from or in connection with, the production, and restore the property to its original condition prior to the production, or to better than original condition.

XII. HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

The Applicant shall sign the following Hold Harmless Agreement holding the City harmless from any claim that may arise from their use of designated public property, right-of-way, or equipment in conjunction with the permitted use:

I certify that I represent the firm which will be performing the filming/taping at the locations specified on the attached permit application. I further certify that I and my firm will perform in accordance with the directions and specifications of The City of Brenham, Texas, and that I and my firm will indemnify and hold harmless the City of Brenham, Texas and its elected officials, officers, servants, employees, successors, agents, departments and assigns from any and all losses, damages, expenses, costs and/or claims of every nature and kind arising out of or in connection with the filming/taping and other related activities engaged in pursuant to this Application.

I further certify that the information provided on this Application is true and correct to the best of my knowledge, and that I possess the authority to sign this and other contracts and agreements with the City of Brenham, Texas on behalf of the firm.

_____	Date: _____
<i>Signature</i>	

<i>Printed Name</i>	

<i>Title</i>	

THE CITY OF BRENHAM, TX

Application for Commercial Filming

Title of Project: _____

Type of Production: _____
(*feature film, television series, commercial, music video, virtual reality, etc.*)

Proposed Filming Locations (attach additional pages if necessary):

Date(s) of Prep, Filming & Wrap:

Primary Contact Name: _____

Cell Phone Number: _____

Email: _____

Location Manager (if different from Primary Contact) Name: _____

Cell Phone Number: _____

Email: _____

Name of Production Company: _____

Address: _____

City/State/Zip: _____

Web Site: _____

Has this production already been in contact with the Texas Film Commission? _____

If yes, who is your contact at the Texas Film Commission? _____

Or

Has this production already completed the Texas Film Commission's Texas Production Registration Form? _____

PRODUCTION (*Attach additional sheets if necessary.*)

1. Production schedule and activities, including stunts, pyrotechnics, special effects, aerial or drone photography, amplified sound or use of animals: (give dates and times, hours should include prep, holding of sets, wrap and rain dates, if potentially needed)
2. Approximate number of persons involved with the production, including cast and crew:
3. Anticipated need of City or County personnel, equipment or property:
4. Public areas in which public access will be restricted during production:
5. Describe alterations to public property:
6. Number and type of production vehicles to be used and location(s) where vehicles will be parked:
7. Location where crew will be fed, if not at filming location:
8. Location where extras will be held, if not at filming location:
9. Please attach a map of anticipated street closure(s) or other public area use.

Applicant (production company representative):

Signature Date: _____

Printed Name & Title

Application approved by Brenham representative:

Date: _____

The "Guidelines for Filming in Brenham, Texas" apply to all motion picture production in Brenham.

The Office of the City Manager may require the applicant to acknowledge receipt of the Guidelines prior to approving this application.