CITY OF HUNTSVILLE, TEXAS
Andy Brauninger, Mayor

HUNTSVILLE CITY COUNCIL AMENDED AGENDA
TUESDAY, OCTOBER 3, 2017
WORK SESSION 5:00 P.M. - REGULAR SESSION 6:00 P.M.

HUNTSVILLE CITY HALL, 1212 AVENUE M, HUNTSVILLE, TEXAS, 77340

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact the City Secretary’s office (936.291.5403), two working days prior to the meeting for appropriate arrangements.

WORK SESSION [5:00 P.M.] – The City Council will discuss allowing exceptions for temporary and/or permanent parking restrictions for residents to accommodate guests, visitors, and/or service providers to park in areas where there are parking restrictions.

MAIN SESSION [6:00 P.M.]

1. CALL TO ORDER

2. INVOCATION AND PLEDGES
   U.S. Flag
   Texas Flag: Honor the Texas Flag. I pledge allegiance to thee, Texas, one state, under God, one, and indivisible.

3. PRESENTATIONS AND PROCLAMATIONS
   - Fire Prevention Week

4. CONSENT AGENDA
   Public comments will be called for by the presiding officer before action is taken on these items. (Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)

   a. Approve the minutes of the City Council meeting held on September 19, 2017. [Lee Woodward, City Secretary]
   b. Authorize the City Manager to approve a request from the Walker County Historical Commission to place a Historical Marker in Oakwood Cemetery for W. L. Dean. [Matt Benoit, City Manager]
   c. Renew annual software maintenance with Tyler Technologies for Finance and Public Safety in the amount of $87,036.36. [Bill Wavra, Director of Information Technology]
   d. Continue phone and data services with Verizon Wireless through the State of Texas Department of Information Resources (DIR) contract. [Bill Wavra, Director of Information Technology]
   e. Authorize the City Manager to award mowing and trimming services contract to I-Mow Texas and Wayne Pool. [Daryl Uptmoe, Public Works Director]

5. STATUTORY AGENDA
   a. Presentation, public comment, discussion, and possible action to consider adopting Ordinance 2017-43 amending the Huntsville Code of Ordinances, specifically Chapter 12, Buildings and Building Regulations, second first reading. [Aron Kulhavy, Director of Community and Economic Development]
   b. Presentation, public comment, discussion, and possible action to consider adoption of Ordinance 2017-50, amending Article 5 Lot and Setback Regulations; Table 5-1: Lot and Building Setback Regulations and Section 5.400 Residential Lots, Subsection 5.401 Rural Residential and Article 10 Infrastructure and Public Improvements; Section 10.400 Streets, Section 10.500 Sidewalks, Section 10.700 Wastewater, Section 10.1000 Street Lights, and Section 10.1500 Surveying and Monumentation in the Development Code of the City of Huntsville, and setting an effective date, second reading. [Aron Kulhavy, Director of Community and Economic Development]
   c. Presentation, discussion, public comment, and possible action to consider adoption of Ordinance 2017-51, amending Article 4 Use Regulations; Table 4-1 Use Table and Section 4.203 Mobile Homes and Manufactured Housing Units, Subsection 4.503.G in the Development Code of the City of Huntsville, and setting an effective date, second reading. [Aron Kulhavy, Director of Community and Economic Development]
   d. Presentation, discussion, public comment, and possible action to consider authorizing the City Manager and City Attorney to execute all documents necessary for the purchase of approximately 1.9 acres located in the R.P. McMillian Survey, A-388, Huntsville, Texas, for the construction of a ground storage tank and pump station. [Aron Kulhavy, Director of Community and Economic Development]

6. CITY COUNCIL/CITY MANAGER/CITY ATTORNEY
   a. Presentation, public comment, discussion, and possible action to consider adopting Ordinance 2017-52, regulating wireless network providers wishing to install small cellular equipment in the City’s rights-of-way, and Ordinance 2017-53 for the design manual and pole attachment agreement for installation of cellular equipment, second reading. [Leonard Schneider, City Attorney]
b. *Presentation, public comment, discussion, and possible action* to consider the Mayor's nomination of Don Johnson for appointment to the Planning Commission. [Mayor Brauninger]

7. **REQUESTS FOR CITIZEN PARTICIPATION**
   An opportunity for citizens to be heard on any topic and for the City Council to participate in the discussion. No action will be taken.
   a. Consideration and discussion on Citizen Participation Request from Ray Gravlin, to discuss "budget refund tax" and "new sewage truck."

8. **MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA**

9. **ITEMS OF COMMUNITY INTEREST**
   (Hear announcements concerning items of community interest from the Mayor, Councilmembers, and City staff, for which no action will be discussed or taken.)

10. **EXECUTIVE SESSION**
    a. City Council will convene in closed session as authorized by Texas Government Code Chapter 551, Section 551.074 - personnel matters regarding the evaluation and job duties of City Judge John Gaines.
    b. City Council will convene in closed session as authorized by Texas Government Code Chapter 551, Section 551.074 - personnel matters regarding the evaluation and job duties of City Manager Matt Benoit.
    c. City Council will meet in Executive Session pursuant to Texas Government Code Section 551.071 - consultation with counsel on legal matters, to receive legal advice on litigation Randolph v. City of Huntsville. [City Attorney Leonard Schneider]

11. **RECONVENE**
    a. Take action, if necessary, on items addressed during Executive Session.

12. **ADJOURNMENT**
    "If, during the course of the meeting and discussion of any items covered by this notice, City Council determines that a Closed or Executive session of the Council is required, then such closed meeting will be held as authorized by Texas Government Code, Chapter 551, Sections 551.071 - consultation with counsel on legal matters; 551.072 - deliberation regarding purchase, exchange, lease or value of real property; 551.073 - deliberation regarding a prospective gift; 551.074 - personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; 551.076 - implementation of security personnel or devices; 551.087 - deliberation regarding economic development negotiation; and/or other matters as authorized under the Texas Government Code. If a Closed or Executive session is held in accordance with the Texas Government Code as set out above, the City Council will reconvene in Open Session in order to take action, if necessary, on the items addressed during Executive Session.

CERTIFICATE
I, Lee Woodward, City Secretary, do hereby certify that a copy of the October 3, 2017, City Council Amended Agenda was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, www.huntsvilletx.gov, in compliance with Chapter 551, Texas Government Code.

DATE OF POSTING: 
TIME OF POSTING: 
TAKEN DOWN: 

Lee Woodward, City Secretary
MINUTES FROM THE HUNTSVILLE CITY COUNCIL REGULAR MEETING HELD ON THE 19th DAY OF SEPTEMBER 2017, IN THE CITY HALL, LOCATED AT 1212 AVENUE M, IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS, AT 6:00 P.M.

The Council met in a regular session with the following:
COUNCILMEMBERS PRESENT: Andy Brauninger, Tish Humphrey, Ronald Allen, Joe P. Rodriguez, Clyde D. Loll, Tyler McCaffety, Paul Davidhizar, Joe Emmett, Keith D. Olson
COUNCILMEMBERS ABSENT: None
OFFICERS PRESENT: Matt Benoit, City Manager; Leonard Schneider, City Attorney; Lee Woodward, City Secretary

MAIN SESSION [6:00 p.m.]

1. CALL TO ORDER – Mayor Brauninger called the meeting to order at 6:00 p.m.

2. INVOCATION AND PLEDGES
   U.S. Flag
   Texas Flag: Honor the Texas Flag. I pledge allegiance to thee, Texas, one state, under God, one, and indivisible.

   Councilmember Loll gave an invocation and Martin Oteng of Huntsville High School led the pledges.

3. PUBLIC HEARINGS
   a. The City Council will hear public comment on possible adoption of Ordinance 2017-50, amending Article 5 Lot and Setback Regulations; Table 5-1: Lot and Building Setback Regulations and Section 5.400 Residential Lots, Subsection 5.401 Rural Residential and Article 10 Infrastructure and Public Improvements; Section 10.400 Streets, Section 10.500 Sidewalks, Section 10.700 Wastewater, Section 10.1000 Street Lights, and Section 10.1500 Surveying and Monumentation in the Development Code of the City of Huntsville and setting an effective date.

   Mayor Brauninger opened the hearing at 6:05 p.m. Jerry McCrory offered public comment. Mayor Brauninger closed the hearing at 6:08 p.m.

   b. The City Council will hear public comment on possible adoption of Ordinance 2017-51, amending Article 4 Use Regulations; Table 4-1 Use Table and Section 4.203 Mobile Homes and Manufactured Housing Units, Subsection 4.503.G in the Development Code of the City of Huntsville and setting an effective date.

   Mayor Brauninger opened the hearing at 6:09 p.m. Mayor Brauninger closed the hearing at 6:09 p.m.

4. CONSENT AGENDA
   Public Comments will be called for by the presiding officer before action is taken on these items. (Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)
   a. Approve the minutes of the City Council meeting held on September 5, 2017. [Lee Woodward, City Secretary]
   b. Authorize the City Manager to accept the 2017-19 Victims Service Coordinator Grant for $141,322.83, plus a $36,330.71 City match. [Dr. Sherry McKibben, Director of Neighborhood Resources; Chief Kevin Lunsford, Director of Public Safety]
   c. Adopt Ordinance 2017-49 to amend the Capital Improvement Projects budget. [Steve Ritter, Finance Director]
   d. Adopt Resolution 2017-17 designating The Huntsville Item as the official newspaper for the City of Huntsville for FY 2017-18, annual item. [Lee Woodward, City Secretary]
   e. Authorize the City Manager to sign an Interlocal Agreement for the Improvement and Lease of Parking Area. [Matt Benoit, City Manager]

   Mayor Pro Tem Olson moved to approve the consent agenda, the motion was seconded by Councilmember Rodriguez. Mayor Pro Tem Olson pulled item e. The motion to approve items a-d was adopted, 9-0.

   Mayor Pro Tem Olson moved to approve the lease as amended by striking the fifth paragraph on the second page of the contract (page 4 of the packet, reading The CITY, to the extent of the law, agrees to indemnify and hold harmless Ernst/Ernst Guthrie and the COUNTY for any act or omission of the City or its officers, employees, contractors, agents or invitees in operating, maintaining, or using the Leased Premises. The COUNTY, to the extent provided by law, agrees to indemnify and hold harmless Ernst/Ernst Guthrie and the CITY for any act or omission of the COUNTY or its officers, employees, contractors, agents or invitees in operating, maintaining or using the Leased Premises. The lease copy had also been amended prior to the meeting to include the City Attorney's addition of Parties agree that they are not entitled to consequential damages, special damages, lost profits or future lost profits, below the addresses provided at the top of page 3 of the contract and was a part of the adopted contract), the motion was seconded by Councilmember Loll. The motion to adopt the amended lease was unanimously approved, 9-0.

5. STATUTORY AGENDA
   a. Presentation, public comment, discussion, and possible action to consider approval of First National Bank as the City's depository bank and authorize the City Manager to sign the contract for banking services with First National Bank. [Steve Ritter, Finance Director]

   Councilmember Davidhizar moved to approve First National Bank as the City's depository bank and authorize the City Manager to sign the contract for banking services with First National Bank; the motion was seconded by Councilmember Emmett. The motion was adopted, 9-0.
b. Presentation, public comment, discussion, and possible action to consider approving nominations for the 2018 Walker County Appraisal District Board of Directors (annual item). [Lee Woodward, City Secretary]

Councilmember Loll signed a Conflict of Interest affidavit and did not participate in the discussion or vote on the item. Mayor Brauningr moved to approve the nominations for the 2018 Walker County Appraisal District Board of Directors as listed, with the City's votes allocated among them as evenly as possible, with the first two candidates listed receiving 105 votes and each remaining candidate receiving 104 votes, as 730 is not evenly divisible by 7; the motion was seconded by Councilmember Humphrey. The motion was adopted, 8-0.

c. Presentation, public comment, discussion, and possible action to consider authorizing the City Manager to award the purchase of a new sewer combination truck, in the amount of $356,586 ($397,586 less trade in $41,000), from Rush Truck Center, and to cancel the purchase of a sewer combination truck, in the amount of $397,036.00, from Grande Truck Center, second reading. [Daryl Uptmore, Director of Public Works]

Councilmember Humphrey moved to authorize the City Manager to award the purchase of a new sewer combination truck, in the amount of $356,586 ($397,586 less trade in $41,000), from Rush Truck Center, and to cancel the purchase of a sewer combination truck, in the amount of $397,036.00, from Grande Truck Center; the motion was seconded by Councilmember Rodriguez. Ray Gravlin offered public comment. The motion was adopted, 7-2, Councilmembers Allen and Emmett voting against.

d. Presentation, public comment, discussion, and possible action to consider approval of the TIRZ 2016 Annual Report. [Steve Ritter, Finance Director]

Councilmember Rodriguez moved to approve the TIRZ 2016 Annual Report; the motion was seconded by Mayor Pro Tem Olson. The motion was adopted, 9-0.

e. FIRST READING - Presentation, public comment, discussion, and possible action to consider adoption of Ordinance 2017-60, amending Article 5 Lot and Setback Regulations; Table 5-1: Lot and Building Setback Regulations and Section 5.400 Residential Lots, Subsection 5.401 Rural Residential and Article 10 Infrastructure and Public Improvements; Section 10.400 Streets, Section 10.500 Sidewalks, Section 10.700 Wastewater, Section 10.1000 Street Lights, and Section 10.1500 Surveying and Monumentation in the Development Code of the City of Huntsville, and setting an effective date, first reading. [Aron Kulhavy, Director of Community and Economic Development]

First reading, no action taken.

f. FIRST READING - Presentation, discussion, public comment, and possible action to consider adoption of Ordinance 2017-51, amending Article 4 Use Regulations; Table 4-1 Use Table and Section 4.203 Mobile Homes and Manufactured Housing Units, Subsection 4.503.G in the Development Code of the City of Huntsville, and setting an effective date, first reading.

Councilmember Humphrey signed a Conflict of Interest affidavit and did not participate in the discussion on the item. First reading, no action taken.

6. CITY COUNCIL/CITY MANAGER/CITY ATTORNEY

a. Presentation, discussion, public comment, and possible action to adopt Ordinance 2017-47, adopting the Fiscal Year 2017-2018 Budget, with all policies, fees, rates, and provisions as referenced therein (record vote). [Steve Ritter, Finance Director]

Councilmember Rodriguez moved to adopt Ordinance 2017-47, adopting the Fiscal Year 2017-2018 Budget with all policies, fees, rates, and provisions as referenced therein; the motion was seconded by Councilmember Loll. Ray Gravlin gave public comment. The motion was adopted, 7-2, Mayor Brauningr and Councilmember Emmett voting against.

b. Presentation, discussion, public comment, and possible action to ratify the increased property tax revenues reflected in the Fiscal Year 2017-2018 Budget as adopted. [Steve Ritter, Finance Director]

Councilmember Davidhizar moved to ratify the increased property tax revenues of $150,595 reflected in the Fiscal Year 2017-2018 Budget as adopted; the motion was seconded by Councilmember Rodriguez. The motion was adopted, 9-0.

c. Presentation, discussion, public comment, and possible action to adopt Ordinance 2017-48, adopting the tax rate and levying taxes for the City of Huntsville Fiscal Year 2017-2018 (adoption of budget required to vote on this item). [Steve Ritter, Finance Director]

Councilmember Rodriguez moved to adopt Ordinance 2017-48 adopting the Effective Tax Rate of $0.3666/$100 valuation and levying taxes for the City of Huntsville for the Fiscal Year 2017-2018; the motion was seconded by Councilmember Allen. Councilmember Loll moved to call the question. There was no second or vote, but no objection, and the Council proceeded to the vote. The motion was adopted, 8-1, Councilmember Humphrey voting against.

d. FIRST READING - Presentation, public comment, discussion, and possible action to consider adopting Ordinance 2017-52, regulating wireless network providers wishing to install small cellular equipment in the City's rights-of-way, and Ordinance 2017-53 for the design manual and pole attachment agreement for installation of cellular
equipment, first reading. [Leonard Schneider, City Attorney]

First reading. no action taken.

e. Presentation, discussion, public comment, and possible action to adopt Resolution 2017-18 concerning Councilmember Allen. [Mayor Brauninger]

Councilmember Rodriguez moved to adopt Resolution 2017-18 declaring certain actions by Councilmember Ronald Allen were inappropriate and censuring Councilmember Allen for his behavior; the motion was seconded by Councilmember Humphrey. Councilmember Rodriguez moved to amend the resolution by waiving attorney-client privilege concerning the September 13, 2017, final report of Olson & Olson attorney Brian Bege to the City Council and attaching said report to the resolution; the motion was seconded by Councilmembers Humphrey and Davidhizar. The motion to amend was adopted, 8-1. (Councilmember Allen did not vote and Section 4.09 Abstentions of the City Charter declares that "A person who fails or refuses to vote without filing the affidavit describing the conflict of interest shall be recorded as having cast a negative vote.").

Councilmember Humphrey moved to amend Resolution 2017-18 by attaching the City Manager’s July 12, 2017, memo; the motion was seconded by Councilmember Davidhizar. The motion to amend was adopted. 8-1, (Councilmember Allen did not vote and Section 4.09 Abstentions of the City Charter declares that "A person who fails or refuses to vote without filing the affidavit describing the conflict of interest shall be recorded as having cast a negative vote.").

Mayor Pro Tem Olson moved to adjourn into Executive Session; the motion was seconded by Councilmember Humphrey. Without objection, the Council adjourned at 8:07 p.m. The Council reconvened at 8:15 p.m.

The original motion, as amended, was adopted, 8-1, (Councilmember Allen did not vote and Section 4.09 Abstentions of the City Charter declares that "A person who fails or refuses to vote without filing the affidavit describing the conflict of interest shall be recorded as having cast a negative vote.").

7. REQUESTS FOR CITIZEN PARTICIPATION
An opportunity for citizens to be heard on any topic and for the City Council to participate in the discussion. No action will be taken.

None received by noon on Tuesday, September 12, 2017.

8. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA
There were no media inquiries.

9. ITEMS OF COMMUNITY INTEREST
(Hear announcements concerning items of community interest from the Mayor, Councilmembers, and City staff, for which no action will be discussed or taken.)

Mayor Brauninger announced:
- The Huntsville Public Library will be 50 this weekend! Please join us on Saturday, from 1-3, for a 50th Anniversary Carnival at the Library. All are welcome; please come celebrate with us!
- Please don’t wait to make sure you are registered to vote in Walker County for the November elections. Call the Walker County Voter Registrar’s office at 936-436-4959 or visit VoteTexas.gov. Oct. 10 is the last day to register to vote in this fall’s general election.
- Take a look at this picture from Sept. 11. HEB annually sponsors a First Responder breakfast on 9/11, and we enjoyed the opportunity to share our observance of this important day with them. Thank you, HEB, and thank you, every single day, to our first responders.

Mayor Pro Tem Olson gave an HISD Minute! - Huntsville ISD has received approval from the state to offer FREE lunch to ALL students regardless of any eligibility effective until September 30, 2017. HISD already offers free breakfast and dinner to all students but this allows them to also offer free lunch to all students for the month of September only. Students needing assistance with lunch after September 2017 will need to apply for the Free and Reduced-Price Meal program. Call 936-435-6920 for more information. Mayor Pro Tem Olson also asked the community to remember there are local children who may not eat other than with these programs.

Councilmember Humphrey offered a CoH Clean Minute! – Thanks for helping keep Home Sweet Huntsville clean by being thoughtful about yard waste. Please check the City Connection in your monthly water bill for the dates for yard waste and heavy trash collection. Call 294-5712 if you have questions or need to schedule a pick up. We want a clean community because we live here, but also for all the visitors who will be joining us soon for National Night Out and Fair on the Square. Let’s make a great first impression! Councilmember Humphrey also shared that a community Friendship Luncheon would be held at the Sam Houston Memorial Museum Park grounds on October 13 at noon. All are invited!

Councilmember Loll announced the Cancer Survivors’ Parade – We’re making plans for the Huntsville Diamonds’ Cancer Survivors Parade on Oct. 21. To get ready, they’ll be holding a Paint the Town Pink contest the week before. Get all the details on the Huntsville Diamonds Cancer Team Facebook page or call LaTeel Richardson at 936-355-9502.

Councilmember Davidhizar reminded all of the Library Brown Bag Lunch Series - Huntsville Public Library is currently hosting monthly meetings - of the mind - with their Brown Bag Lecture Series, when an intellectual, thought-provoking lecture is held during the lunch hour. The topic changes monthly, from musical inspiration to building with recycled materials to invasive Texas species. Normally held on the fourth Thursday of each month, admission is free, & no registration is needed. Please check their
Events Calendar or social media pages to confirm dates and speakers. September's presenter will be Joel W. Walker, Ph.D., Physics Department Chair at Sam Houston State University, who will speak on Quantum Physics for the Rest of Us.

Councilmember Allen spoke on Emergency Preparedness Month — Remember, September is Emergency Preparedness Month. Texas got its share at the end of August, but this is a good reminder for us all - Disasters Don't Plan Ahead. You Can. Please follow the City on Facebook and Twitter this month for tips from Ready.Gov so you and your family are prepared. Mayor Brauninger lauded Walker County Emergency Management Coordinator Butch Davis for his excellent work and leadership during Hurricane Harvey.

Councilmember Emmett said the Walker County Voter Registrar's office is looking for residents to be trained as Deputy Voter Registrars. Call 936-436-4959 by this Friday for the September 26 training information and for future training schedules. Thank you for helping support our nation's election process!

10. ADJOURNMENT

Mayor Brauninger adjourned the meeting without objection at 8:30 p.m.

Lee Woodward, City Secretary
Item/Subject:  Consider authorizing the City Manager to approve a request from the Walker County Historical Commission to place a Historical Marker in Oakwood Cemetery for W. L. Dean.

Initiating Department/Presenter: City Manager

Presenter: Matt Benoit, City Manager

Recommended Motion: Move to authorize the City Manager to sign all appropriate documentation to allow the placement of a Historical Marker in Oakwood Cemetery for W. L. Dean.

Strategic Initiative: Goal #1 - City Appearance - Provide policies, amenities, and events that enhance the City's already beautiful and historic natural environment.

Discussion: Donna Coffen from the Walker County Historical Commission requests to place a Historical Marker in Oakwood Cemetery for W. L. Dean. Section 16.14(f) of the Code of Ordinances states, "No person shall construct or erect any kind of building or structure, permanent or temporary, within the cemetery grounds unless he has first obtained permission from the City."

A synopsis of W. L. Dean's life, as well as the application, is included.

Previous Council Action: None.

Financial Implications:
☒ There is no financial impact associated with this item.

Approvals: ☐ City Attorney ☐ Director of Finance ☒ City Manager

Associated Information:
- Request from Donna Coffen (page 2)
- Summary of W. L. Dean (pages 3-5)
- Texas Historical Commission marker placement form (page 6)
Dear Matt:

We will have another historical marker to be placed at Senator W.J. Khan's grave and application is being done now. We will need this signed before 11/15/17.

Thank you.

Diana Coggen
Marker Chairman
Walker County Historical Commission
(914) 381-1400
ope toad Senator Dean to our

ery "walking tour" when it is revised. He was a very important man in Huntsville and also in Texas.

D. Patton

: Dean, Leland [mailto:leland.dean@bny Mellon.com]

Friday, May 13, 2016 3:11 PM

historical Commission

:rcdean1934@yahoo.com

aker; David Dean; Kerry Dean

ect: Dean family

ather and I, Bob and

d Dean, met Donna Coffen at the Huntsville Cemetery on Tuesday, May 10th. Here is a little more history on the

ssion we had.

 Original

age----

D. Patton [mailto:rcdean1934@yahoo.com]

: Friday, May 13, 2016 2:41 PM

Dean, Leland

ect: Dean

Dean was born in

son County to Jules and Mary Jane Dean. Mary Jane was the daughter of Dr. G.W. Robinson who served as Captain

e Texas Volunteers at the 1835 siege of Bexar and in William Ware's Co., 2nd Regiment at the Battle
an Jacinto. He was wounded in that battle, discharged and returned to Midway where he practiced medicine for

est of his life.

am Luther Dean was

y attorney of Madison County in 1890. He moved to Huntsville in 1900 and practiced Law there. First, with the

of Ball and Randolph which was later known as Dean and Humphrey as Judge T.E. Humphrey joined
Agenda Item #4b

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In Memory of
Judge W. L. Dean

Mr. Burns offered the following resolution:

Whereas, July 14, 1933, the former Senator, Judge W. L. Dean, of Walker County, Texas, was a former Member of the Twenty-fifth Session of the Legislature of the State of Texas, and served in the Senate in the State of Texas in the Thirty-fifth and Thirty-sixth Sessions of the Legislature, was called to his eternal reward; and

Whereas, For more than fifty years he has lived in Madison and Walker Counties, rendering outstanding services as a private citizen; and

Whereas, During the time that he served in the Texas Senate he was the author of the Dean Law; and

Whereas, He was offered a place on the Supreme Court of Texas and also offered a place in the Attorney General's Office, and declined both; and

Whereas, Mr. Dean served as President of the Board of Trustees of Southwestern University at Georgetown for many years and gave much time and money to the support of this school; and

Whereas, The Members of this Body are deeply grieved of the passing of this distinguished Member of Texas and faithful former Member of this Body, and sympathise with his friends and members of his family; now, therefore, be it

Resolved by the House of Representatives of the Forty-third Legislature, First Called Session, That we extend our most sincere and deep sympathy in this sad hour, and that a copy of this resolution be spread upon the Journal of the House, and that three copies be furnished the family of the deceased, and that when we adjourn today it be in his memory.

BURNS,
GRAVES
DANIEL,
McCLAIN.

The resolution was read second time.

On motion of Mr. Camp, the names of all the Members of the House were added to the resolution as signers thereof:


The resolution was then unanimously adopted.
SUBJECT MARKERS:
PERMISSION OF PROPERTY OWNER FOR MARKER PLACEMENT

Please fill out this attachment, print and sign. Proof of current property ownership is also required and may be found at the county appraisal or tax office. Return both items to our offices via email, fax or mail by 5 p.m., December 8, 2017.

Proposed marker topic: County:

Will the marker be placed on right-of-way maintained by the Texas Department of Transportation (TxDOT)?

☐ Yes ☐ No

If the answer is yes, the THC will secure the necessary permission from TxDOT, and no other information is required. If the answer is no, please provide the following information for the person or group who owns the property.

Property owner:
Address: City, State, Zip:
Phone: Email address:

I, , certify that I am the legal owner or authorized representative of the property owner noted herein, and further certify that I have read the information regarding Official Texas Historical Markers and that I voluntarily seek the marker for the property described herein, and proof of ownership is attached to this form. I further certify that I will comply with the policies and procedures of the Official Texas Historical Marker Program.

Signature: ________________________________

NOTE: The property owner will not receive copies of correspondence from the THC. All procedural correspondence (notice of receipt, requests for additional information, inscription, shipping notice, etc.) will be sent by email to the CHC representative, who is encouraged to share the information with all interested parties as necessary.

Texas Historical Commission
History Programs Division
P.O. Box 12276, Austin, TX 78711-2276
Phone 512/463-5853
history@thc.texas.gov
Item/Subject: Consider renewal of annual software maintenance with Tyler Technologies for Finance and Public Safety in the amount of $87,036.38.

Initiating Department/Presenter: Information Technology

Presenter: Bill Wavra, Director of Information Technology

Recommended Motion: Move to approve continued annual maintenance with Tyler Technologies for Finance and Public Safety software in the amount of $87,036.38.

Strategic Initiative: Goal #4 - Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City’s core services can be provided in an effective and efficient manner.

Discussion: The City of Huntsville IT Department manages both financial and public safety software packages provided by New World Systems and Tyler Technologies, respectively. A recent acquisition of New World Systems by Tyler Technologies has merged the two separate vendors into one. This change causes the amount owed to Tyler Technologies to meet the $50,000.00 threshold, requiring Council’s approval. The threshold was not met due to an increase in fees, but rather by adding the cost of the two previously separate packages together.

New World Systems Financial Software is utilized by the City to manage payroll, project accounting, purchasing, accounts payable, miscellaneous billing, asset management and budget reporting. Additionally, New World is used extensively by Human Resources to maintain personnel benefits and deductions.

Tyler Technologies was originally purchased by Utility Billing and Solid Waste to maintain commercial and residential service data as well as customer information for water, sewer, and trash billing. Since then, modules have been added to accommodate Police and Municipal Court. The Public Safety module is utilized by Police for report writing and integrates with dispatch software to pull prior arrest and warrant information. Municipal Court uses Tyler Technologies for ticket fee collection.

Last year (FY16/17), the combined annual maintenance fee was $84,548.61. For this year (FY17/18), the combined maintenance fee will be $87,036.38. This price includes both software solutions and a 2.94% annual maintenance increase (5% is standard for most large software packages).

Although the companies have merged, Tyler Technologies indicates that the contracts will remain separate for the foreseeable future. This means that the payment schedule would continue to be split between the two original invoice maintenance payment dates. The Financial/HR portion ($37,219) is slated to be paid in October of 2017 and the Public Safety/UB portion ($49,817.38) in November 2017.

Previous Council Action: The City Council authorized the following:
- Tyler Technologies - Public Safety, Utility Billing and New World on 10/4/2016

Financial Implications:

- Item is budgeted: $87,036.38 is budgeted in Account # 101-640-55570

Approvals: ☐ City Attorney ☐ Director of Finance ☒ City Manager

Associated Information: None
Item/Subject: Consider continued phone and data services with Verizon Wireless through the State of Texas Department of Information Resources (DIR) contract.

Initiating Department/Presenter: Information Technology

Presenter: Bill Wavra, IT Director

Recommended Motion: Move to approve continued phone and data services with Verizon Wireless through the State of Texas Department of Information Resources (DIR) contract.

Strategic Initiative: Goal #4 - Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City’s core services can be provided in an effective and efficient manner.

Discussion: The City of Huntsville IT Department manages phone and data services through Verizon Wireless.

Verizon Wireless has been the City’s cellular carrier for the past six years and services include cell phone and air card (data). Currently, the City has a total of 74 cellular phones and 62 air cards. Estimated annual costs for Verizon cellular services are down approximately $5,000 from FY 16/17 to $80,423. This agenda item proposes continued services for a period of three years.

Cellular services are used by all departments to perform job tasks on a daily basis, which include, and not limited to, Inspections, Surveying, and Streets and Public Works callouts. Cellular and data services are essential for the Police and Fire Departments to perform their duties, such as communication with dispatch, reporting, transferring video from body worn and dash cameras, license plate readers and ticketing.

The City of Huntsville IT Department recommends maintaining Verizon as the City’s primary mobile data and cell phone carrier due to extensive coverage in city limits and throughout the county.

Verizon Wireless is a member of the State of Texas Cooperative DIR, and are in good standing under contract #DIR-TSO-3415, expiring April 27, 2020.

Previous Council Action: Verizon cellular was last approved by Council on 10/14/14.

Financial Implications:
☐ There is no financial impact associated with this item.
☒ Item is budgeted (Verizon): All departments-55195 in the amount of $39,596
☒ Item is budgeted (Verizon): 101-640-55034 in the amount of $40,827

Approvals: ☐ City Attorney ☐ Director of Finance ☒ City Manager

Associated Information:
• None
Item/Subject: Consider authorizing the City Manager to award mowing and trimming services contract to I-Mow Texas and Wayne Pool.

Initiating Department/Presenter: Public Works

Presenter: Daryl Uptmore, Director of Public Works

Recommended Motion: Move to approve the City Manager to award mowing and trimming services contract to I-Mow Texas and Wayne Pool.

Strategic Initiative: Goal #1 - City Appearance - Provide policies, amenities, and events that enhance the City’s already beautiful and historic natural environment.

Discussion: The City contracts mowing and trimming landscaping service on a routine schedule. The areas for which landscaping services are used are referred to as: Veterans Memorial Boulevard and surrounding arterial streets, and the City Transfer Station and Bruce Brothers Regional Airport. Additionally the City requested a cost per acre for areas currently unassigned. The service includes mowing, trimming, litter pick up, and use of herbicide where applicable.

Over the years the areas which involve outside services has experienced growth. These areas will exceed $50,000 this fiscal year and require a solicitation with formal Council adoption. A sealed proposal was conducted with five responses received with a two-year term. The proposal requested that each responder outline their qualifications and experience, not to mention cost.

City staff is recommending awarding this service to the top two responders, I-Mow Texas, Teague, TX and Wayne Pool, Huntsville. I-Mow Texas will conduct the areas which require finishing mowing (Veterans Memorial Boulevard and the Transfer Station) and Wayne Pool will conduct the areas for which shred mowing is applicable (the Bruce Brothers Regional Airport and additional acreage). Both firms are qualified, by awarding to two vendors the City can optimize pricing in order to gain the best value.

Previous Council Action: None

Financial Implications:

- Item is budgeted: Street, Solid Waste, and Airport budgets in the amount of $67,850

Approvals: [ ] City Attorney [x] Director of Finance [x] City Manager

Associated Information:

- Response list, page 2
CSP No. 17 - 23  
Mowing and Trimming Service  
CSP Response  

<table>
<thead>
<tr>
<th>Responders</th>
<th>Total Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-Mow Texas</td>
<td>84</td>
</tr>
<tr>
<td>Wayne Pool</td>
<td>79</td>
</tr>
<tr>
<td>Roy Lee Walker</td>
<td>69</td>
</tr>
<tr>
<td>Intergrity Lawn and Landscaping</td>
<td>61</td>
</tr>
<tr>
<td>Clayci Enterprise</td>
<td>45</td>
</tr>
</tbody>
</table>
CITY COUNCIL AGENDA

10/3/2017
Agenda Item: 5a

Item/Subject: Consider adopting Ordinance 2017-43 amending the Huntsville Code of Ordinances, specifically Chapter 12, Buildings and Building Regulations, first reading.

Initiating Department/Presenter: Community & Economic Development

Presenter: Kevin Byal, Building Official

Recommended Motion: None, first reading.

Strategic Initiative: Goal #6 - Public Safety - Provide safety and security for all citizens.

Discussion: Construction codes are key to keeping occupants of the buildings in our community safe. Minimum building codes are the most effective, least expensive way to protect public health and safety and reduce building energy consumption as well as addressing the safety of our first responder during catastrophic events.

At present, the building code edition that prescribes the way buildings are to be constructed and maintained in Huntsville is the 2009 edition of the International Codes, published by the International Code Council (ICC). These, in part, include the following;

- International Building Code (IBC)
- International Residential Code (IRC)
- International Property Maintenance Code (IPMC)

Governing development and building safety with dated codes presents challenges for both building designers and contractors alike since newly developed materials and construction methods that are now available in the industry are not recognized by older code edition. With the adoption of the 2015 International Codes, the provisions contained within will facilitate the design and construction of new buildings in our city by recognizing the advancements that are not available in the 2009 edition. In addition, maintaining current codes will help maintain or reduce the City’s ISO ratings, to minimize insurance costs as much as possible.

On June 28, 2017, the Board of Adjustments and Appeals met and staff gave the Board a presentation outlining the proposal to recommend the adoption of the 2015 edition of the International Codes. A subsequent Board of Adjustments and Appeals meeting was held on July 13, 2017 at 5:30 pm where a public hearing was held. In the weeks prior to this meeting notification was posted on the City’s web site as well as being distributed throughout the city to construction sites, contractors, supply houses, and hardware stores, announcing the meeting and soliciting input from the public. Five people were present in the audience at the meeting with two signing up to speak. They were Marilyn Soffar, who spoke in opposition, and Dan Phillips who stated his desire to see material re-use and conservation added to the code. The Board concluded the meeting with a vote reflecting unanimous support to recommend to City Council to adopt the 2015 International Codes.

Financial implications are always a concern to the construction industry when a new code edition is published. Four of the largest nationally recognized associations that represent multi-family housing
construction, home builders and commercial occupancies evaluated the financial impact and published their findings. The National Multifamily Housing Council (NMHC), National Apartment Association (NAA), Building Owners and Managers Association (BOMA), and National Association of Home Builders (NAHB) assembled this comparison of the older code and the 2015 edition to examine the financial impact the newer codes may have concerning the cost of construction. In their published findings, financial increases and decreases were both identified. Many of the increases result from the higher standards to attain energy code compliance found in the 2015 International Energy Conservation Code where compliance is mandated by the Texas legislature. In the end, the four associations concluded the study with the recommendation that cities should adopt the 2015 International Codes.

In addition to the adoption of the 2015 IBC, IRC, IPMC Codes, several amendments to our local ordinance are also proposed. These amendments include addressing the consistency of provisions in each of the codes for administrative procedures such as appeal processes, fee schedules, violation penalties, and refund policies. Additional amendments address actions taken during this year’s state legislative session where laws were passed prohibiting cities from charging a fee for registration of electrical contractors.

Contractor registration is a requirement of the City's ordinance which provides a degree of certainty that the tradesmen that are doing work for citizens and local businesses are legitimate. To further enhance the protection afforded to the community, an amendment is included that will require general contractors to provide proof of commercial general liability insurance or a permit bond. The benefits provided are that this gives property owners and the City a remedy to financial loss in the event that a general contractor damages private property or City infrastructure, and that insurance information will be on file should a claim for damages be warranted. State law already requires this for electrical, mechanical, and plumbing contractors and this amendment would bring general contractors in line with the state requirements for those other trades. The amendment specifically exempts property owners from this requirement when working on their own property.

Other amendments include; deletion of outdated and obsolete requirements, redundant or repeated code provisions that are found elsewhere in the code, and clarification concerning the requirements for contractor licensing and registration requirements.

**Previous Council Action:** On March 6, 2012, the City Council adopted Ordinance 2012-18, adopting the 2009 edition of the International Codes, and, on September 20, 2016, the Council adopted Ordinance 2016-43 for Chapter 12 of the Code of Ordinances to adopt the Energy Efficiency provisions of the 2015 International Residential Code. The Council held a first reading on the adoption of all the 2015 building codes at their August 15, 2017, meeting. A second reading for the formal adoption of the codes was pulled from the September 5, 2017, agenda.

**Financial Implications:**
- There is no financial impact associated with this item.
- Item is budgeted: ☑ Item is estimated to generate additional revenue:

| Approvals: | ☑ City Attorney | ☐ Director of Finance | ☑ City Manager |

**Associated Information:**
- Proposed Ordinance 2017-43 (pages 3-4)
- Proposed updates to Chapter 12 - Buildings and Building Regulations (pages 5-15)
ORDINANCE NO. 2017-43

AN ORDINANCE AMENDING THE CITY OF HUNTSVILLE, TEXAS CODE OF ORDINANCES, SPECIFICALLY CHAPTER 12 “BUILDINGS AND BUILDING REGULATIONS”; MAKING OTHER PROVISIONS AND FINDINGS THERETO; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Huntsville Code of Ordinances, Chapter 12 “BUILDING AND BUILDING REGULATIONS” provides for the regulation of residential and commercial buildings for the health, safety and public welfare of the City’s residents:

WHEREAS, the City of Huntsville, as a home rule city may regulate this activity pursuant to its broad powers of self-government; and

WHEREAS, City Council finds it necessary to amend its existing regulations of these activities to protect the health and public safety; now therefore

WHEREAS, the City Council of the City of Huntsville, Texas now wishes to amend Chapter 12 to help promote the health, safety and welfare of its residents;

WHEREAS, notice of the agenda for this meeting, was given in accordance with law by posting the same at the place reserved and designated for notices of public meetings and public activities and prior to the adoption of this ordinance.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, that:

SECTION 1: The facts and matters set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

SECTION 2: Huntsville Code of Ordinances Chapter 12 “BUILDINGS AND BUILDING REGULATIONS”, Article II, Sections 12-19 thru 12-22, 12-26 and 12-27 are hereby amended as shown on the attached Exhibit “A”.

SECTION 3: Huntsville Code of Ordinances Chapter 12 “BUILDINGS AND BUILDING REGULATIONS”, Article V, Sections 12-125 thru 12-127 and 12-129 are hereby amended as shown on the attached Exhibit “A”.

SECTION 4: All ordinances or parts of Ordinances that are in conflict or inconsistent with the provisions of this Ordinance shall be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 5: Should any paragraph, sentence, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.
SECTION 6: This Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Article 4.14 of the Charter of the City of Huntsville, Texas.

PASSED AND APPROVED on this the __________ th day of __________________ 2017.

THE CITY OF HUNTSVILLE

__________________________________________
Andy Brauninger, Mayor

ATTEST:

__________________________________________
Lee Woodward, City Secretary

__________________________________________
Leonard Schneider, City Attorney

Approved as to Form:

__________________________________________
Lee Woodward, City Secretary
Exhibit A

Chapter 12 - BUILDINGS AND BUILDING REGULATIONS[1]

Footnotes:

--- (1) ---


ARTICLE I. - IN GENERAL

Secs. 12-1—12-18. - Reserved.

ARTICLE II. - BUILDING CODES[2]

Footnotes:

--- (2) ---


(a) The book entitled "International Building Code, 2009-2015 Edition," a copy of which, authenticated by the signatures of the mayor and city secretary, and made a public record by this section, is on file in the city secretary's office, is hereby adopted as the building code of the city as fully as if copied at length in this article, and the provisions thereof shall be controlling in the construction of all buildings and other structures within the corporate limits of the city.

(b) The book entitled "International Property Maintenance Code, 2009-2015 Edition," a copy of which, authenticated by the signatures of the mayor and city secretary, and made a public record by this section, is on file in the city secretary's office, is hereby adopted as the housing code of the city as fully as if copied at length in this article, and the provisions thereof shall establish the minimum standards for occupancy of buildings.

(g) The book entitled "International Residential Code, 2009-2015 Edition," a copy of which, authenticated by the signatures of the mayor and city secretary, and made a public record by this section, is on file in the city secretary's office, is hereby adopted as the residential code of the city as fully as if it was copied at length in this article, and the provisions thereof shall establish the minimum standards for residential work in the city.

--- (3) ---

Footnotes:

(a) The book entitled "International Building Code, 2009-2015 Edition," a copy of which, authenticated by the signatures of the mayor and city secretary, and made a public record by this section, is on file in the city secretary's office, is hereby adopted as the building code of the city as fully as if copied at length in this article, and the provisions thereof shall be controlling in the construction of all buildings and other structures within the corporate limits of the city.

(b) The book entitled "International Property Maintenance Code, 2009-2015 Edition," a copy of which, authenticated by the signatures of the mayor and city secretary, and made a public record by this section, is on file in the city secretary's office, is hereby adopted as the housing code of the city as fully as if copied at length in this article, and the provisions thereof shall establish the minimum standards for occupancy of buildings.

(g) The book entitled "International Residential Code, 2009-2015 Edition," a copy of which, authenticated by the signatures of the mayor and city secretary, and made a public record by this section, is on file in the city secretary's office, is hereby adopted as the residential code of the city as fully as if it was copied at length in this article, and the provisions thereof shall establish the minimum standards for residential work in the city.

The International Building Code is amended as follows:

105.8. Contractor's registration required.

(1) It shall be the duty of every contractor or builder who shall make contracts and/or receive payment for the erection or construction or repair of buildings for which a permit is required, and every contractor or builder making such contracts and subletting the same, or any part thereof, to register with the city. The registration must be renewed annually from each date of issuance.

(2) A $60.00 fee is required for each annual registration under this section. Registration fees shall be as established by ordinance from time to time.

(3) No contractor's permit bond or commercial general liability insurance shall be required under the provisions of this section.

A. Insurance or bond required.

I. All persons, firms, and corporations performing construction, installation, or repair work on buildings, structures, trades systems, or any other improvements or demolition shall file with the city's Development Services Department, as part of his or her contractor registration application, proof of either: (1) a permit bond in the amount of ten thousand dollars ($10,000.00) or ten (10) percent of the project valuation, whichever is greater, or (2) general liability insurance in the following amounts:

   i. Three hundred thousand dollars ($300,000.00) per occurrence and six hundred thousand dollars ($600,000.00) aggregate combined for property damage and bodily injury.

   ii. Three hundred thousand dollars ($300,000.00) aggregate for products and completed operations.

II. Requirements for permit bond. In the event a contractor elects to submit a permit bond, the bond required by this subsection shall be written by an accredited company licensed to do business in the state of Texas and shall be required for each permitted project. The bond shall be made for the benefit of the city and any person dealing with the contractor and conditions upon which the contractor shall faithfully perform the duties and comply with the ordinances of the city pertaining to the permit applied for. The bond shall contain a provision that obliges the insurance company(ies) issuing such bond(s) to notify the city, in writing, of any material alteration or substantial reduction in the coverage of the bond, or any cancellation, at least thirty (30) days prior thereto.

III. Requirements for insurance. In the event a contractor elects to submit proof of commercial general liability insurance, the insurance required by this subsection shall be written by an accredited company licensed to do business in the state of Texas. Contractor shall file with the city's Development Services Department, certificate(s) of insurance evidencing the required coverage and endorsements and, upon request, a certified duplicate original of any required policy. The certificate(s) shall reflect the city as an additional insured and contain a provision that obliges the insurance company(ies) issuing such
policy(ies) to notify the city in writing of any material alteration or substantial reduction of policy limits or any cancellation at least thirty (30) days prior thereto.

Exception: Property owners performing work on their own property are exempt from the insurance or bond requirements of this section.

No person, firm or corporation shall commence work on any project for which a building permit is required under the provisions of section 104.105.1 of this code until such time as a building permit has been issued by the building official. The city may enjoin or restrain in a court of competent jurisdiction any construction or work, or continuing construction or work, on any project commenced prior to the issuance of such building permit.

107.7. Plat diagram. No building permit shall be issued unless adequate information is furnished showing the proposed vertical elevation of the finished floor of the structure in respect to the street and lot corner and proof that the building is not subject to flooding by stormwater. The city engineer may require additional engineering data, prepared by a registered professional engineer, indicating the calculated 100-year high water elevation of creeks or drainage channels when the building is proposed to be placed near the floodplain of the channel. Finished floor elevations of proposed buildings near the floodplain of a creek or drainage channel shall be a minimum of 1-2' foot vertically above the calculated 100-year high water elevation.

No permit shall be issued for building or improvements that propose to block the flow of water in creeks or drainage channels or may cause flooding of adjacent property.

108.4.2—Notice to affected property owners. The building official shall notify all affected property owners who own property within 100 feet of the site of a proposed variance, of the meeting on the variance, by sending postage prepaid a copy of the agenda and variance request. The building official shall determine the name and address of such affected persons by reference to the city tax records.

Appendix B is amended to read:

B101.2—Membership of board. Each member shall be appointed to a two-year term of office. Members are appointed by the Mayor with approval of the City Council, with three members appointed effective August 31, odd-numbered years, and two members appointed effective August 31, even-numbered years.

B101.2.2—Qualifications. There is hereby established a board to be called the board of appeals board of adjustments and appeals, which shall consist of five members. Such board shall be composed of three persons with technical background in building design or construction or experience in the building trades industry, and two other citizens. The mayor (chief appointing authority) shall appoint board members with the approval of the city council.

(7) Section 114.4 is amended as follows:

Section 114.4 After the word law in the first sentence of said section, a comma should be inserted and the language added—"114.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, repairs or occupies a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $2,000.00, and the punishment therefore shall be as provided in the Code of Ordinances, City of Huntsville, Texas." The remainder of said section remains unchanged.

Sec. 12-21. - Amendments to International Building Code, appendix J.

Appendix J of the International Building Code is amended as follows:

Section J103 is amended by adding paragraph J103.3, to read:

J103.3 Grading permit fees. A fee, as established by ordinance from time to time, for each grading permit shall be paid as set forth:

5,000 cubic yards or less:

5,000—10,000 cubic yards:

10,001 to 100,000 cubic yards:

100,001 to 200,000 cubic yards:

200,001 cubic yards or more:


Sec. 12-26. - Amendments to International Residential Code.


1. R102.5. Appendices: The following appendices are intended for enforcement and are made a part of this Code and the city's adopting ordinance for all intents and purposes:

Appendix A — (IFGS) Sizing and Capacities of Gas Piping

Appendix B — (IFGS) Sizing of Venting Systems Serving Appliances Equipped with Draft Hoods, Category I Appliances, and Appliances Listed for Use and Type B Vents

Appendix C — (IFGS) Exit Terminals of Mechanical Draft and Direct-Vent Venting Systems

Appendix J — Existing Buildings and Structures

Appendix G — Swimming Pools, Spas and Hot Tubs

2. R103.1. The division of central inspections is hereby created and the official in charge thereof shall be known as the building official.

3. R103.2. Delete R103.2.

4. R105.2. (1) (3) delete (3) is amended to add:

Regardless of size, accessory structures require a development permit.

5. R109.1.05. Required site surveys. Prior to inspections involving footings, foundations, concrete slabs or any item requiring under-floor inspection the building official shall require a site survey prepared by a registered professional land surveyor showing the location of placed forms to be inspected.

6. Section 113.4. is amended as follows:

113.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, repairs or occupies a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $2,000.00.

(6) R302.2. Change first sentence in exception to read:
A common 2-hour fire resistance-rated wall assembly is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the wall.

(8) P2905.4.1. Delete sentence in paragraph which states: “Water service pipe is permitted to be located in the same trench with a building sewer provided such sewer is constructed of materials listed for underground use within a building in section P3002.1.

(9) Table P2905 P2906.4 Delete all except is amended as follows:

<table>
<thead>
<tr>
<th>Material</th>
<th>Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS plastic pipe schedule 40 and 80</td>
<td>ASTM D 1527</td>
</tr>
<tr>
<td>CPVC plastic hot and cold water distribution systems</td>
<td>ASTM D 2846</td>
</tr>
<tr>
<td>CPVC plastic pipe schedule 40 and 80</td>
<td>ASTM F 441</td>
</tr>
<tr>
<td>CPVC plastic pipe schedule (SDR-PR)</td>
<td>ASTM F 442</td>
</tr>
<tr>
<td>Ductile iron pressure pipe</td>
<td>ASTM A 377</td>
</tr>
<tr>
<td>PVC plastic pipe schedule 40, 80 and 120</td>
<td>ASTM D 1785</td>
</tr>
<tr>
<td>PVC pressure rates pipe (SDR Series)</td>
<td>ASTM D 2241</td>
</tr>
<tr>
<td>Seamless brass type</td>
<td>ASTM B 135</td>
</tr>
<tr>
<td>Seamless copper tube</td>
<td>ASTM B 75</td>
</tr>
<tr>
<td>Seamless copper water tube Type K, L and M</td>
<td>ASTM B 88</td>
</tr>
<tr>
<td>Seamless red brass pipe, standard sizes</td>
<td>ASTM B 43</td>
</tr>
<tr>
<td>Welded copper water tube (WK, WL, WM)</td>
<td>ASTM B 447</td>
</tr>
<tr>
<td>PEX</td>
<td>ASTM F876</td>
</tr>
<tr>
<td></td>
<td>ASTM 877</td>
</tr>
</tbody>
</table>

Please note that Table P2905.4 includes standards for materials for use with cold water only.

(109) Section P2902.3. Add to P2902.3:

When a backflow assembly is used, only an "approved assembly" will be accepted. An "approved assembly" is a backflow assembly that has been manufactured, tested and approved in accordance with the standards adopted by the AWWA, or approved and listed by the
Table P3002. Delete is amended as follows:

<table>
<thead>
<tr>
<th>Material</th>
<th>Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concrete sewer, storm drain and culvert pipe</td>
<td>ASTM C 14</td>
</tr>
<tr>
<td>Compression joints for vitrified clay pipe and fittings</td>
<td>ASTM C 425</td>
</tr>
<tr>
<td>Vitrified clay pipe and fittings</td>
<td>ASTM C 700</td>
</tr>
<tr>
<td>Bitumenized fiber drain and sewer pipe</td>
<td>ASTM D 1861</td>
</tr>
<tr>
<td>ABS Sewer pipe and fittings</td>
<td>ASTM D 2751</td>
</tr>
<tr>
<td>Type PSM/PVC sewer pipe and fittings</td>
<td>ASTM D 3034</td>
</tr>
<tr>
<td>PVC—Cell Core</td>
<td>ASTM D 2949</td>
</tr>
</tbody>
</table>

Table R302.6 Dwelling-Garage Separation is hereby amended to read:

R302.6 Separation Required. The garage shall be separated from the residence and its attic area by not less than one-half inch (12.7 mm) gypsum board from the floor to the roof deck applied to the garage side or from the floor to the ceiling of the garage with the garage ceiling being covered with not less than five-eighths inch fire code gypsum board. Where the separation is a floor/ceiling assembly, the structure supporting the separation shall also be protected by not less than five-eighths inch fire code gypsum board as equivalent. Openings in garage walls and ceilings shall comply with Section R302.5.

**TABLE R302.6**

<table>
<thead>
<tr>
<th>SEPARATION</th>
<th>MATERIAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>From the residence and attics</td>
<td>Not less than 1/2-inch gypsum board or equivalent applied to the garage side from the floor to the roof deck or from the floor to the ceiling of the garage with the garage ceiling being covered with not less than 5/8-inch Type X gypsum board or equivalent.</td>
</tr>
<tr>
<td>From habitable rooms above the garage</td>
<td>Not less than 5/8-inch Type X gypsum board or equivalent</td>
</tr>
<tr>
<td>Structure(s) supporting floor/ceiling assemblies used for separation required by this section</td>
<td>Not less than 5/8-inch gypsum board or equivalent</td>
</tr>
<tr>
<td>Garages located less than 3 feet from a dwelling unit on the same lot</td>
<td>Not less than 5/8-inch gypsum board or equivalent applied to the interior side of exterior walls that are within this area</td>
</tr>
</tbody>
</table>
(13) Section P2904—Delete P2904.

(14) Section R313—Delete R313.

(15)(12) Chapters 34, 35, 36, 37, 38, 39, 40 41 42, 43—Delete Chapters 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and replace with: The installation of electrical systems, equipment and components indoors and outdoors shall be in accordance with NFPA 70 current edition as adopted and amended by the State of Texas and Article V Electricity Huntsville Code of Ordinances.

(15)(13) All plumbing work must be performed by persons with an appropriate plumbing license in accordance with the provisions of the State Plumbing License Law under the direct supervision of a master, or journeyman or tradesman plumber that is physically on the work site during all times that plumbing work is being performed.


The International Property Maintenance Code shall be amended as follows:

(4) Section 106.4 amended to read:

106.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, repairs or occupies a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $2,000.00.

(45) Section 107.1 amended to read:

Section 107.1. Last sentence should read: Notices for condemnation procedures shall comply with Section 12-61 of the Code of Ordinances.

(5) Section 107.5 amend to read:

Section 107.5. Penalties for noncompliance with orders and notices shall be as provided in Chapter 12 of the Huntsville Code of Ordinances.

(7) Section 111.4 Means of Appeal amend to read:

Section 111.1. Any person receiving notice from the building official of deficiencies to his property under this code may within (15) days following the date of such notice enter an appeal in writing to the Board of Adjustments and Appeals. The appellant must state the variance or appeal requested, the reason for it, and the hardship or conditions upon which the appeal is made.

111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Board of Adjustments and Appeals, provided that a written application for appeal is filed within 15 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted.

ARTICLE V. - ELECTRICITY

Sec. 12-125. - Installation standards.

(c) Approved wiring methods shall be limited as follows:
   
   (1) An approved direct burial cable may be used, when installed in accordance with the National Electrical Code and the Fire Code, for the distribution of electricity in total underground areas or in areas where only services are underground.

   (21) Electrical metallic tubing (EMT). Installations in dry walls, attics, outside with watertight fittings and strapped every five feet. Fibre bushings shall be used on all connections 1/4 through two inches. Under no conditions shall EMT be installed in concrete or underground.

   (32) Flexible metal conduit and MC Cable.

   a. Minimum size one-half-inch flexible metal conduit may be used in the following instances:
      
      1. On all adjustable motors, equipment, light fixtures when accessible;
      
      2. Three-eighths-inch premanufactured (fixture whips) with a ground may be used for lighting fixtures within an accessible location;
      
      3. Liquid tight with liquid tight fittings must be used in damp or grease-laden locations;
      
      4. In locations impractical or impossible for the use of solid conduit and approved by the building official.

   b. No connections shall be more than seven feet and not less than 18 inches and all flexible conduit must be made with a grounding conductor.

   (4) Surface metal raceways.

   (5) Underfloor raceways.

   (6) Cellular metal floor raceways.

   (7) Wireways and buss duct.

   (8) SEU Cable.

   (9) Nonmetallic sheathed cable, exception — See subsection (f) of this section.

   (d) Under no conditions shall BX or BXL be used for any type installation.

   (eg) The term "fire limits," as referred to in the provisions of this article relating to electrical work within the fire limits of the city, shall be taken to mean and include the district contained within the fire limits as they exist at the time of the installation or performance of such electrical work.

   (fe) No conductor smaller than #12 AWG shall be permitted within the city limits with the exception of low voltage control wiring. All switch legs shall be #12 AWG or larger. All nonmetallic cable shall be 12/2 with ground for all power outlets, switch legs not being considered a power outlet. Every major appliance shall be on a separate circuit. All air conditioning compressors and air handling units shall be on separate circuits. All receptacles shall be the grounding type.

   (g) All service above ground conductors shall be installed in galvanized metal conduit.

   (h) All electrical wiring in buildings within the fire limits of the city shall in all cases be one of the seven approved methods described in subsection (e)(1)—(7), inclusive, of this section.

   (if) All electrical wiring in non-residential commercial buildings and structures, in all cases, shall be one of the seven approved methods described in subsection (e)(1) through (7) inclusive of this section installed using an approved metallic wiring method.

Agenda Item #5a
Only approved - listed copper wiring conductors shall be installed in any building, house, or structure located within the corporate limits of the city upon which construction is commenced on or after April 1, 1971. Other approved wiring conductors may be used for service entrance conductors, and feeders. When aluminum conductors are permitted, the removal of the insulation to terminate shall be done in a manner so as not to damage the individual aluminum strands. All terminations shall be done in accordance with the adopted National Electrical Code. The equiptment bond conductor of a swimming pool must encircle the pool below the skimmer level and connect to the reinforcing bars at four points in a manner compliant with the adopted National Electrical Code. Additional bonding in other areas of the pool and deck must be in accordance with the adopted National Electrical Code.

Sec. 12-126 - Additional rules and regulations

2) It shall be unlawful for any person to attach any sign, device or representation used in the nature of advertising, announcements or direction on any electrical sign, which would bring the bottom below the minimum set forth in this article.

Exception: In other & two-family dwellings, feeders as defined by the adopted National Electrical Code (NEC), and only installed in horizontal application with no vertical rise in excess of 4 feet, shall be permitted.

3) Only approved listed copper wiring conductors shall be installed in any building, house, or structure located within the corporate limits of the city upon which construction is commenced on or after April 1, 1971. Other approved wiring conductors may be used for service entrance conductors, and feeders. When aluminum conductors are permitted, the removal of the insulation to terminate shall be done in a manner so as not to damage the individual aluminum strands. All terminations shall be done in accordance with the adopted National Electrical Code. The equiptment bond conductor of a swimming pool must encircle the pool below the skimmer level and connect to the reinforcing bars at four points in a manner compliant with the adopted National Electrical Code. Additional bonding in other areas of the pool and deck must be in accordance with the adopted National Electrical Code.

4) All panelboards, panels, switches, controllers, and disconnecting means shall be of the control and protective equipment used in residential and commercial buildings shall be used for the control of lighting and appliance circuits in residential and commercial buildings.

5) All panelboards, panels, switches, controllers, and disconnecting means shall be used for the control of lighting and appliance circuits in residential and commercial buildings.

6) All panelboards, panels, switches, controllers, and disconnecting means shall be used for the control of lighting and appliance circuits in residential and commercial buildings.

7) All panelboards, panels, switches, controllers, and disconnecting means shall be used for the control of lighting and appliance circuits in residential and commercial buildings.

8) All panelboards, panels, switches, controllers, and disconnecting means shall be used for the control of lighting and appliance circuits in residential and commercial buildings.

9) All panelboards, panels, switches, controllers, and disconnecting means shall be used for the control of lighting and appliance circuits in residential and commercial buildings.

10) All panelboards, panels, switches, controllers, and disconnecting means shall be used for the control of lighting and appliance circuits in residential and commercial buildings.

11) All panelboards, panels, switches, controllers, and disconnecting means shall be used for the control of lighting and appliance circuits in residential and commercial buildings.
(3) Light reflectors for the illumination of a building or signboard shall not project more than eight feet beyond the building line.

(d) All signs shall be connected to a separate circuit. There shall be provided one space circuit in panel board for each raceway.

(e) An individual circuit shall be provided for in buildings where provisions are made for attic ventilation and central heating system.

(f) Every new service, except single-family residential service, installed within the city, shall have a service disconnecting means installed on the exterior of the building.

(g) Wiring shall not be installed in the exterior wall(s) of a residential building until all exterior siding and veneer has been installed on the exterior wall(s).


Sec. 12-127. - Application for inspection and permit.

(a) Permits required.

(2) Permits shall be issued only to the following:

a. Any master electrician or master sign electrician holding a valid license issued by the state in the city and in charge of the proposed work; or

b. Any residential property owner, for electrical work to be done by him/her on a building their residential property occupied by him/her as his/her homestead.

(c) Application for such inspections and permit describing the work to be done shall be made in writing, accompanied by plans and specifications when required, and submitted to the city building official by the master electrician, electrical contractor, master sign electrician, electrical-contractor, or electrical sign contractor responsible for the work. Upon approval of submitted documents, the master electrician or master sign electrician will be responsible to obtain the necessary permit. The electrician shall be responsible for notifying the city building official when an inspection is desired.

(f) Master electricians and electrical sign contractors shall at all times keep the city building official notified of the progress of their work and shall request inspections as the work progresses. Upon receipt of an application requesting inspection, the city building official shall inspect or cause to be inspected said work within 48 hours after receiving applications. Saturdays, Sundays and holidays are not included in this time. After inspecting the electrical wiring covered by an application obtained by the master electrician, the city inspector shall leave a report which shall state that the work has been inspected and approved or that it is not approved and must be held open for correction. No person, including the master electrician, general contractor or his representative, shall lath, cover or in any manner conceal any wiring until they are informed that such wiring has been approved by the city building official.

(k) It shall be unlawful for any public-service-companyutility provider operating in the city to furnish current to any new building, tent, structure or outdoor wiring of any kind, nature or description without first obtaining a clearance from the city building official, stating that such wiring is approved and a permit has been issued for the use of current. Whenever any service is discontinued to any building structure for any cause whatever (excepting nonpayment of bill) a clearance will be necessary before each building or structure can be reconnected. Any time a building is vacated, the city building official must make certain that there have not been any unauthorized additions made to the wiring of such building that might create a fire hazard, or that the wiring has not become in such a condition as to be hazardous.
Sec. 12-129. - Prerequisites to engaging in electrical work; licenses.

(c) Register annually with the city as a master, journeyman, residential wireman, master sign, journeyman sign or maintenance electrician.

(d) The registration fees for persons holding the following types of licenses shall be as established by ordinance from time to time:

1. Master's license.
2. Journeyman's license.
3. Residential-wireman's license.
4. Master sign electrician's license.
5. Journeyman sign electrician's license.
6. Residential-appliance installer's license.

Sec. 12-132. - Double-investigation fees in certain cases.

All electrical permit, inspection, fixture and appliance fees shall apply except that if any person shall make application for permit as provided herein, after the work has been started or after the work has been partially completed or concealed, such person shall pay double an investigation fee that is 2 times the fee which would ordinarily be required. These double-investigation fees shall be paid by the person to whom the permit is issued under the terms and provisions of this article.

**Item/Subject:** Consider adoption of Ordinance 2017-50, amending Article 5 Lot and Setback Regulations; Table 5-1: Lot and Building Setback Regulations and Section 5.400 Residential Lots, Subsection 5.401 Rural Residential and Article 10 Infrastructure and Public Improvements; Section 10.400 Streets, Section 10.500 Sidewalks, Section 10.700 Wastewater, Section 10.1000 Street Lights, and Section 10.1500 Surveying and Monumentation in the Development Code of the City of Huntsville, and setting an effective date.

**Initiating Department/Presenter:** Community & Economic Development

**Presenter:** Aron Kulhavy, Director of Community and Economic Development

**Recommended Motion:** Move to adopt Ordinance 2017-50, amending Article 5 Lot and Setback Regulations; Table 5-1: Lot and Building Setback Regulations and Section 5.400 Residential Lots, Subsection 5.401 Rural Residential and Article 10 Infrastructure and Public Improvements; Section 10.400 Streets, Section 10.500 Sidewalks, Section 10.700 Wastewater, Section 10.1000 Street Lights, and Section 10.1500 Surveying and Monumentation in the Development Code of the City of Huntsville, and setting the effective date as recommended by the Planning Commission.

**Strategic Initiative:** Goal #6 - Public Safety - Provide safety and security for all citizens.

**Discussion:** The City of Huntsville Development Code was updated after a lengthy process and became effective on August 31, 2015. The updated Development Code made significant changes for infrastructure/public improvements for all new residential subdivision, including low density residential subdivisions. Since the adoption of the updated Code, the Planning Commission has considered a preliminary plan for another section of the Timberwilde development, a low-density residential subdivision, located in the ETJ. The developer requested numerous waivers/modifications of Subdivision Standards for the new section, which the Planning Commission denied. However, the Commission felt that all of the infrastructure requirements per the updated code may not need to apply to low density residential subdivisions such as Timberwilde. Therefore, the Planning Commission placed review of the Development Code infrastructure/public improvement regulations as applicable to low-density residential lot subdivisions on their task schedule for 2017.

The Commission began working on the revised development standards in February of 2017. A public hearing for the first draft of revised Code language was held by the Planning Commission on June 15, 2017. The Commission heard extensive comments from the public (developers and developer’s engineers as well as from Walker County Commissioners and Walker County Planning and Development staff) during the public hearing. As a result, the Planning Commission decided to postpone consideration of the drafted Code Language in order to further explore some to the issues brought forward by the public. (The first draft revised Code language is underlined and in red print in the attached ordinance Exhibit.)

Staff requested written comments addressing alternate development standards for low-density residential subdivisions from those persons who spoke at the June 15th public hearing. As a result of the received verbal and written comments, staff prepared a second draft of revised Code language, for
which a public hearing was held on August 17, 2017. (Additional revisions made in the second draft of the Code language are underlined and in green print in the Ordinance Exhibit.) The second draft of the revised Code language also changes the lot/subdivision designation from "Rural Residential" to "Low-Density Residential" as these alternate development standards will apply to any subdivision with lots meeting the minimum lot size requirement of 26,136 square feet whether located inside the City Limits or in the ETJ.

The proposed alternative development standards for low-density residential subdivision are to allow an open-ditch and/or non-curb and gutter street section, alternate sidewalk/trail construction, street lights only at intersections and end of cul-de-sacs or dead-end streets. The streets must still be constructed to City standards in terms of the vertical cross-section consisting of asphalt or concrete over an approved base. Code language is also revised to clarify alternate wastewater facility requirements. (Electrical, telephone, cable tv, etc. services are still required to be placed underground.)

Along with revised regulations for low-density residential subdivisions, there are several errors and omissions in Article 10 Infrastructure and Public Improvements that require correction and inclusion in the Code. These are also included in the drafted revised Code language. These are to require two points of access for subdivisions with over 150 dwelling units (inadvertently left out of the updated Development Code); sight triangle clarification (cleaning up conflicting Code language); and correction of two (2) Section references, Subsections 10.401.D and 10.1502.

The Planning Commission Discussion Form, as attached, details the content of the proposed ordinance to revise the regulatory code language for low-density residential subdivisions as well as to correct the errors and omission in Article 10. The received written comments from the public, with staff responses, are also attached, as well as the proposed alternate street cross section standard detail.

Previous Council Action: The Development Code was adopted in 1986. Since that time, several amendments have been adopted, many of those being minor changes to address specific issues. In April 2013, the City entered into a contract with Duncan and Associates to draft a Development Code update. In June 2014, Duncan and Associates held a joint workshop with the City Council and the Planning and Zoning Commission as an overview to the proposed changes to the code. The City Council adopted the Development Code in its current form in August 2015 with an effective date of August 31, 2015. Since that date, the Council has adopted amendments to the Development Code concerning manufactured homes, trees in the right-of-way, billboards in the ETJ, signs with dynamic displays, and sidewalks.

Financial Implications:
☒There is no financial impact associated with this item.

Approvals: ☒City Attorney ☐Director of Finance ☒City Manager

Associated Information:
- Planning Commission discussion form (pages 3-5)
- Written public comments (pages 6-14)
- Proposed Ordinance 2017-50 (pages 15-37)
- Excerpt from draft minutes of August 17, 2017 Planning Commission meeting (pages 38-40)
This discussion form focuses on the proposed revision of Development Code regulations and standards for low-density residential subdivisions. Along with revised regulations for low density residential subdivisions, there are several errors and omissions in Article 10 Infrastructure and Public Improvements that require correction and inclusion in the code.

A summary of the history of the low-density residential subdivisions follows.

The Development Code update of August 2015 made significant changes for infrastructure/public improvement requirements for all new residential subdivisions, including low-density subdivisions. Low-density residential subdivisions are mainly located outside of the Huntsville City Limits in the Extra Territorial Jurisdiction (ETJ) of the City of Huntsville. Recently the Planning Commission has considered a subdivision plat for another section of the Timberwilde development located in the ETJ. The Developer requested numerous Waivers/Modifications of Subdivision Standards for the new section, which the Commission denied. However the Commission feels that all of the infrastructure requirements per the updated code may not need to apply to low density residential lot subdivisions such as Timberwilde. Therefore, the Planning Commission has placed review of Development Code infrastructure/public improvement regulations as applicable to low density residential lot subdivisions on their task schedule for 2017.

In addition, the Council recently approved a development agreement for the Texas Grand Ranch II subdivision. This subdivision, with an average density of about 3 acres per lot, was granted relief from the Development Code for similar standards as requested by Timberwilde per the approved development agreement.

The Commission began review and discussion of the infrastructure/public improvements for low density residential subdivisions at the April 13, 2017 Planning Commission meeting. The following items have been reviewed and discussed at the two subsequent May meetings with Staff having supplied the Commission with a comparative spread sheet of other communities' requirements for rural residential subdivisions.

- Street Construction (cross-section)
- Sidewalks
- Street Lights
- Sanitary Sewer (Wastewater) Service
- Water Service
- Public Utility Construction (Electric, Telephone, Cable, etc.)
- Low-Density Lot Size
A Public Hearing was held on June 15, 2017 for the consideration of revised Development Code Language reflecting the following Commission recommendations.

- Street Construction – 60’ right-of-way, asphalt/concrete pavement with open ditch drainage.
- Sidewalks – Allow alternate for trails/sidewalks to be located within the boundary of the subdivision. (Length/quantity of required trails/sidewalks yet to be decided by Commission.)
- Street Lights - Require street lighting at intersections and at the end of cul-de-sacs or dead-end streets only.
- Sanitary Sewer (Wastewater) Service – no change to existing Code requirement, however clarify that conventional septic systems are allowed.
- Water Service – no change to existing Code requirement.
- Public Utility Construction (Electric, Telephone, Cable, etc.) – no change to existing Code requirement. (Underground utilities required.)
- Low- Density Lot Size – Use existing rural residential lot size, per Table 5-1: Lot and Building Setback Regulations as minimum requirement for low-density rural subdivisions. [Rural residential lots are required to be a minimum of 26,136 sq. ft., (0.6 acre), with a minimum of 150’ lot width.]

The Planning Commission had not yet determined the quantity of alternate trails/sidewalks to be required with two options under consideration.

1. The required linear footage of trails shall be equivalent to the street centerline linear footage. (Amount equal to a sidewalk constructed on one side of streets.)
2. The required linear footage of trails shall be equivalent to twice the street centerline linear footage. (Amount equal to sidewalks constructed on both sides of streets.)

The proposed Code Language revisions also addressed several errors and/or omissions within Article 10 Infrastructure and Public Improvements which were overlooked and/or missed when the updated Development Code was adopted. These errors and/or omissions are as follow. (Proposed Code Language for Section 10.407.D relating to sight triangles has received revision since the June 15th Public Hearing. See Bullet point 3 below.)

- Insert Subsection 10.401.D under Section 10.400 Streets requiring two points of access for subdivisions with over 150 dwelling units. This requirement was inadvertently left out of the updated Code.
- Correct Section reference in Subsection 10.402.B(3.). The referenced Code section should be Sec. 10.403.
- Table 10-2: Required Sight Triangle Distances labeling error. Wording should be “The Minimum Distance from Intersection Curb Lines (feet)” not ROW Lines. There has also been language regarding sight triangles added to Section 10.407.D(1.) and a Commentary added at the end of Section 10.407. With the planned removal of Sec. 44-161. – Obstruction of public rights-of-ways from the Municipal Code, Section 10.407.D of the Development Code will become the sole sight triangle regulation for the City. This is the reason for the proposed additional language for Section 10.407.D.
- Correct Section reference in Subsection 10.1502. The referenced Code section should be Sec. 10.1503.

The proposed Code Language for Section 5, Lot and Setback Regulations, Subsection 5.401 have also been revised since the June 15th Public Hearing to change the designation of Rural Residential lots to Low Density Residential lots along with the added statement to note that low density residential lots may be developed to the alternate standards outlined for
consideration. **Table 5-1: Lot and Building Setback Regulations** also will be revised to reflect the change in designation of Rural Residential to Low Density Residential.

At the Public Hearing on June 15 the Commission heard numerous comments from developers, developer’s engineers, and County officials. Based on the Public Hearing comments, the Commission voted to table consideration of the proposed Development Code language revisions on these items, pending a possible workshop and/or other means of input from the public regarding the revised language. In lieu or workshop, and after consulting with the Commission Chairman & Vice-Chairman, staff has requested written comments from the developers, engineers, County, etc. who offered comments at the Public Hearing. The written comments which have been received are attached with staff response comments noted in RED.

Based upon the written comments received, staff has made some revisions to the proposed Code language under consideration by the Commission. These revisions are tracked in **GREEN** on the attached drafts of Article 10 and the applicable Sections/Tables of Article 5 of the **Development Code**. Please make note of the revision made to the following items.

1. Table 5-1: Lot and Building Setback Regulations – Page 5-1
2. Sub-Section 5.401 – Page 5-2
4. Commentary – Page 10-3
5. Table 10-1: Street Cross-Sections – Page 10-5
7. Table 10-2: Required Sight Triangle Distances – Page 10-8
8. Sub-Section 10.407.D(4) – Page 10-8
10. Commentary – Page 10-12
11. Sub-Section 10.703.B – Pages 10-13 & 10-14

**STAFF RECOMMENDATION:**

*Upon Commission’s decision on quantity of trail requirement, Staff recommends the approval of the proposed code language for Article 5, Lot and Setback Regulations and Article 10 Infrastructure and Public Improvements as presented.*

*If the Commission would like additional time and/or input before consideration of the alternate development standards for low density residential subdivisions, staff recommends that the Commission move forward with the consideration of the revised Code language to correct the errors and/or omissions not related to alternate low density residential subdivision development standards.*

**ATTACHMENTS:**

- Article 5 Lot and Setback Regulations, Table 5-1: Lot and Building Setback Regulations and Subsection 5.401 Rural Residential Development Code revision draft.
- Article 10 Infrastructure and Public Improvements Development Code revision draft.
- Written comments from public with staff comments.
- L-3 Low-Density Residential Local Street proposed cross-section.
Comments from Walker County Commissioner’s Court

As requested the Walker County Commissioner’s Court (WCCC) offers the following comments on the proposed amendments to the City of Huntsville Development Code:

1. 10.401.D – The proposed language requires that a second point of access be provided to developments containing 150 dwelling units or more. We have two questions concerning this section. Is it intended that the dwelling units exist at the time of development or is the intent that a second entrance would be required if the development allows for the potential future construction of over 150 dwelling units? If the latter then a possible language change should be considered such as "... provided to developments that have the potential or are intended or are designed to contain or will allow for the construction of 150 dwelling units, etc." Second, how will the number of dwelling units served or intended be calculated? Second Entrance is required at the time subdivision design/plat reaches potential for 150 dwelling units. No changes to the code are recommended. (This requirement will apply to single family as well as multi-family developments so calculation is per total number of principal dwelling units to be located in the development.) (Guest Houses are not considered principal dwelling units and are allowed per Code as accessory structures.)

2. Section 10.402.B appears to require right of way dedication, sidewalk construction, and partial street construction for all developments along existing public roads. Is the intent of the code to require this on all developments or only certain types? If not on all developments then possibly consider some codified exemption to avoid having to issue large numbers of variances. Dedication of right-of-way and sidewalk construction is required for all new development, (Subparts 1 & 2). Commentary was added to clarify when the road improvements are required.

3. In Table 10-1 the Volume per Day quantities for L2 and L3 roads are given as 1000, it would appear that they should read <1000. Added <

4. For the purposes of Table 10-1 how are Volumes per Day calculated. Standard traffic and engineering guidelines. No changes to code recommended.

5. 10.501.D The WCCC has concerns related to the requirements for alternate trails/sidewalks within rights-of-way in areas planning to request public maintenance from Walker County. At this point the general feeling of the WCCC is that they are not equipped or sufficiently funded to begin the maintenance of sidewalks or ADA trail systems. The code appears to require the location of the sidewalks/trails within the right of way (10.502.B) unless a separate approved easement is provided. We would suggest that Huntsville consider options that might allow the placement of the sidewalks or trails in separate easement to be maintained by the owner or POA in perpetuity or until the subdivision is annexed by the City of Huntsville. Commentary added states that alternate trails shall be designed and constructed per the Forest Service Trail Accessibility Guidelines (FSTAG) and that trails/sidewalks may be maintained by a POA. (ADA requirements for trails is addressed in FSTAG guidelines)
6. 10.703-10.704 The WCCC suggests the use of the term On-Site Sewage Facilities, if that is what is being considered under the heading of temporary alternative sewage treatment systems, if this section is intended to have a broader meaning (ie: for the incorporation of package plants, etc.) then consider including the OSSF terminology in addition or as a subset. Also in addition to meeting the rules of the TCEQ, if an OSSF is installed it would also have to meet the requirements of the local Authorized Agent. (City of Huntsville within the City and Walker County in the ETJ) This section is meant to address all types of temporary/alternate sewage facilities, OSSFs and private treatment plants. Language is already included in code to address construction of sewage facilities (10.704).

7. 10.1000 The WCCC has concerns related to the requirements for street lighting within rights-of-way in areas planning to request public maintenance from Walker County. At this point the general feeling of the WCCC is that they are not equipped or sufficiently funded to begin the maintenance of public street lighting systems. We would suggest that Huntsville consider options that might allow the placement of the street lighting in a separate easement to be maintained by the owner or POA in perpetuity or until the subdivision is annexed by the City of Huntsville. The code does not specifically state where the lights are to be placed and they can be located in ROW or easement. All public street lights are maintained by the appropriate electric company and cost around $7/month. In the unincorporated areas of the County, these lights are paid for by the County, an HOA, MUD, or the State. As the low cost of the lights and variety of options to pay for them are less than the safety they provide, no changes are recommended to the code.

8. 5.200 and Table 5-1 include a minimum lot area under the Rural Residential classification. This minimum lot size may also be impacted by the City or County’s on-site sewage regulations in developments where no central sewage is being installed. Some statement might need to be considered either here or in 10.703 requiring lot sizing to additionally meet the minimum sizing requirements of the Authorized Agent and a TAC 30 Chapter 285 Subdivision/Development Review. One of the major goals of the rewrite of the Development Code was to simplify it and remove specific references to other codes that may change necessitating a change in the Development Code. As this concern is addressed specifically in other rules and regulations referenced elsewhere in the Development Code, staff recommends no changes to the code.

The Walker County Commissioner’s Court is providing these comments because of the request received from the City of Huntsville relating to the amendments in an attempt to assist in the development of codes that best serve our community as a whole. The Court would like to remind Huntsville staff that we have several concerns related to the application of the new Development Code adopted in 2015 to the extra-territorial jurisdiction without the adoption of a new inter-local agreement to address said change. The WCCC does not want the City staff or Council to misunderstand their comments as a statement validating the application of the old agreement to policies adopted after the agreement was put in place. This concern is outside the scope of this consideration.
We hope these comments will assist you in your efforts, and look forward to working with City of Huntsville staff and Council in the future to review both the inter-local agreement and the 2015 development code as a whole.

Thank you,

Walker County Commissioner's Court

Comments from Renee Howes, Texas Grand Ranch Developer Representative

Comments Regarding Low Density Subdivisions

City Huntsville 06/16/17

I am in agreement the current Development Code as adopted by the City needs to be amended to allow for an alternative standard for low density rural subdivisions. I think the Planning Board is on the right track but would caution about making the changes too quickly without the benefit of public and County comment.

Starting with the addition of more detail that distinguishes between a 0.6 acre lots in City and larger lots located in the ETJ. What is appropriate for a .6 acre lot may not be appropriate for a larger lot of 1 acre or larger.

The current proposal does not take into account the complexity for properties located in the ETJ as it pertains to the Interlocal Agreement between the City and the County. There are several areas, not just in this revision, but going back to Development Code changes that were made a year ago that require further detail of specific responsibilities on property in the ETJ. This includes road and drainage standards, responsibility for inspection and acceptance of the roads and drainage. Beyond scope of this Development Code Revision

I believe the current proposal does not go far enough in defining these differences which can leave the Developer in a position of satisfying the regulatory authority but not satisfying the ultimate authority over the improvements, the County. Beyond scope of this Development Code Revision

Additional comments at this time;

1. Road Performance Bonding and Maintenance Bonding for final acceptance of the roads and drainage remains unresolved between the City and County. Beyond scope of this Development Code Revision
2. Disparity in construction standards between the parties, resulting in the inability to maintain improvements required by the regulatory authority and the final accepting authority. Beyond scope of this Development Code Revision

3. Lot sizes being grouped in .6 acre lots and larger. A .6 acre lot is a totally different customer than a true rural customer that purchases an acreage property, more likely to be in the ETJ than the City limits. The Design standards, specifically the requirement for underground utilities is financially unfeasible on a 2 acre lot. This particular standard will economically force the smaller lots to be made to meet the margins. Regulations do not dictate what a customer will buy, the market does. A variety of product in the area brings diversity to the community. A 0.6 acre lot will typically bring a smaller, more starter home customer with less income that an estate sized lot with a customer building a larger home and having more disposable income to spend in the community.

4. The requirement for 150’ of frontage (or average width) on a lot for a 0.6 acre lot means you have lots that essentially have a 1 to 1.1 depth to width ratio; resulting in a square lot. A depth to width ratio is a more typical way to regulate min. lot widths. For example, using a guideline of a 3:1 w:d with a minimum width of 90’ would give a lot 90 x 290, with a 3:1 depth to width ratio. Under the existing code, the depth of a lot can be no more than 3 times the width and the width cannot be more than twice the depth. The reference to the essentially square lot is accurate if minimums are used for all dimensions of a lot; however, lots can be larger than the minimum. The 150’ width is large enough that the lot could be subdivided in the future should the property be redeveloped under urban residential standards. Staff recommends no change to the code; however, if the Commission wishes to reduce the minimum, it should not be lower than 100’-125’.

5. Alternate trails – This needs to be specific. Is it 1x the length of the road or 2x? This is a decision package for Commission consideration. What dictates this? Hard surfaced or not? The new guidelines say in a master planned community the parks are to be maintained by the HOA. If there is not a HOA then who maintains the parks and trails? Regarding the ODAAG guidelines; if these trails are private and not open to the public who decides if they need to be ADA accessible? Again, the size and type of property should dictate what is appropriate. Proposed Code language states that trails are to be designed and constructed to Forest Service Trail Accessibility Guidelines (FSTAG) which addresses ADA requirements. Trails may be located in either the right-of-way or an approved easement. Commentary was added stating trails may be privately maintained by an HOA.

6. The current standard allows for one dwelling per lot in Rural Residential. While this is probably appropriate for a .6 acre lot it would not be on a larger lot. People who build larger homes are more likely to have guest homes on their property, which under the current
guidelines would not be allowed. Guest houses are allowed per the Development Code as accessory structures to the principal dwelling unit.

There are other areas of the Code that I could suggest alternatives for but I understand at this time we are being asked for comments on the proposed changes to the current Code.

There is a vehicle for variances thru the Planning Board or waivers in a Development Agreement with the City Council. But if the City wishes to be more Developer friendly it needs to have regulations that leave less to interpretation and negotiation with recognition that regulations are not a “one size fits all”. If every aspect of a rural subdivision requires a waiver or a negotiated settlement it will deter development in the City and in the ETJ.

We look forward to being included in further discussions regarding how the Code could be further detailed.

+++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++

Comments from Chris Frerich, McClure & Browne Engineering/Surveying Inc., Engineer for Timberwilde

Table 5-1: I think that this table needs three additional rows: minimum required street width, maximum block length, and maximum cul de sac length. Reasons for this described below.

See below note

Section 10.404: Should a figure 10-3 be added, referring to an open-ditch street? Alternatively, can the [3] footnote in table 10-1 reference the new figure 2-4 in the EDC?

2-4 is in engineering design standards. I think it is covered well enough with footnote 2.

Section 10.404: Also regarding footnote 3, is the listed lot size average or minimum? Does it include road ROW areas? It may be advantageous to use the same "Minimum Lot Area per Unit" language as table 5-1.

This is a minimum. Development code changed change to at least 2 acres in footnote 3 to clarify.

Section 10.405B: For a 1-acre lot that's completely square, each side would be 208 feet. A typical rural subdivision has approximately 8-10 houses along each block. That corresponds to a block length of 2,080 feet. However, for urban 0.10 acre lots, a 600 foot block length is still very appropriate. I think that maximum block length should be specified by use type, using table 5-1 (or something similar).

Development Code has a max of 1200 feet for low density; 8 houses at 150' minimum. Planning Commission can make larger if appropriate.

Section 10.406A: 15 1-acre lots (7 on each side of the street + 1 at tip of cul-de-sac would be 1,560 feet long. Therefore, it seems that an appropriate limit for cul-de-sacs in a rural subdivision with average lot sizes of 1-acre would be about 1,500 feet. This is significantly longer than the 1,000 foot maximum currently specified. However, for urban 0.10 acre lots, a 1,000 foot maximum length for cul-de-sacs is still very appropriate. I think that maximum cul-de-sac length should be specified by use type, using table 5-1 (or something similar).

Removes the "1000' in length" in this section. That will set the max at 15 lots.
Section 10.500: I really like the included reference to Forest Service Trail Accessibility Guidelines (FSTAG). Given the hilly & sometime revine-laden terrain of the ETJ, allowing trails which meet FSTAG guidelines instead of ADA guidelines will be advantageous to both the residents and the developer. I'd like to clarify if the term "trail/sidewalk" is intended to be a reference walking paths which are not an ADA sidewalk, but are rather trails constructed to FSTAG guidelines? If it is, the reference doesn't seem clear enough.

Staff desired to provide options and let someone do sidewalk if they want. Section 10:501.D: Is it either centerline length, or twice the centerline length? Is it an either/or 1x2x, or would 1.5x be acceptable?

Decision package for Commission to decide.
Also, could this section
Section 10.504.B: Should this reference FSTAG? Also, what materials (concrete, crushed limestone, decomposed granite, grass, etc) would the City accept?

Staff included this in as other standards and specifications and wanted to allow as much flexibility as possible.

Section 10.703.A: Does the language "may be approved" allow for City staff to approve the use of OSSFs, or is a variance still required?

Staff decision with commission appeal authority for subdivisions.
Section 10.703.B: I think that this paragraph should be stricken in its entirety. It appears to require that engineering design & construction drawings be produced for a potential, hypothetical extension of the sewer system whenever section 10.703.A is used. For many areas, even within the City limits, this may results a requirement which cannot be met within the constraints or economic feasibility of a project. For example, approximately 2.5 miles of new sewer line (and also likely a lift station) would be required for "installation of City wastewater service to serve each lot" of Timberwilde. The cost of such a system would be at least $500,000, which is why a variance would be likely be granted under Section 10.703.B. However, the engineering fees to produce the plans required by 10.703.B would also be cost-prohibitive, especially since the production of those plans will not result in any benefit of the public. Even if plans are produced as required by 10.703.B, they would have a limited-shelf life because of the requirement of 10.704 to meet TCEQ standards, which are updated every 2 years; engineering plans which are not to current standards should not be constructed.

Draft language in code revised to address this concern.

Section 10.901: Commentary states that parks and open space should be "maintained privately by a property owners association". Would dedication of land be considered, or is POA maintenance the only option?

Existing commentary in Development Code addresses this issue.
Section 10.130: No mention is made of drainage or electric utilities in rural subdivisions. Will overhead electric utilities be considered in rural settings? Is open-ditch drainage acceptable?

No changes to code proposed. Open ditch will be considered and as drafted, utilities will need to be underground.

Figure 2-4: Are the road shoulders to be prime-coated? I usually see this done to control vegetation and erosion on the shoulders, but the detail doesn't specify.

This requirement would be in engineering design standards and specs.

+------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------
Comments from Michael Mathena, PE, LightPoint Consulting Engineers

Aron
I reviewed the packet that you sent me and I offer the following comments:

1. Sidewalks: On a rural subdivision, the developer may want to install walking trails that are not parallel, and adjacent to, roadways. Will trails such as this be able to count towards the 1LF (or 2LF) of sidewalk per 1LF of roadway requirement? I have a development south of FM 2854 in Montgomery County, where the developer created pathways along pipeline and major power line routes in the neighborhood. Also, would the City consider allowing the "sidewalks"/trail ways in a rural subdivision to be constructed of crushed granite? The main reason is the cost of the "sidewalks"/trail ways in a rural subdivision (due to the lot size) and the cost of asphalt/concrete.

Trails are not required to be located parallel/adjacent to roads, only required to be located within the boundaries of the subdivision. Trails are to be constructed in accordance with the Forest Service Trail Accessibility Guidelines (FSTAG).

2. Electric Utilities: I would ask that the Commission consider allowing for overhead electric lines in rural subdivisions. Due to the large size of the lots, and the total acreage of the development, installing underground electric can be a sizeable expense.

Commission is able to reconsider this is they desire.

Let me know if you need anything else from me, or if I can help in any way
Thanks
Michael Mathena, PE
President
LightPoint Consulting Engineers
Firm No. 18938
1314 10th Street, Suite 240
Huntsville, Texas 77320
Comments on 9-14-17 Council Agenda for Development Code Revision

- 5.200 Definition of low density subdivision; 26,136 sf, regardless of in ETJ or City limits. The Regulation as written does not have a recognition of the differences between ETJ/ rural vs. in City requirements. Developments in the ETJ should and are treated the same as subdivisions in the City limits. The goal is to ensure quality infrastructure whether it be maintained by either the City or the County.

There needs to be additional criteria, not a one size fits all. It does not need to be more complex than having an “In City” and “ETJ” standard. But those standards should be different for location and lot size. This revision to the code does expand the development options from the current code.

The original Regulation had a “rural standard” which would be an appropriate definition for property located in the ETJ. It has now been changed to “Low Density” which would be an appropriate definition of in City lots of .6 acres. The rural lots were changes to low density lots. The minimum size requirements of the lots were not changed, only the name of them. The old development code had some standards for low-quality roads for subdivisions of a density of 2-acres/lot or less that were removed.

10.13 -Public Utility Construction; Still requiring underground utilities (electric). This makes sense for a .6 acre lot but not for a 1+ acre lot. Why does the City feel the need to dictate that? Do they understand the difference in cost for UG vs. OH? They need to know that number, BEFORE, they adopt that. The cost we got from Mid So. on ITXGR was $15/lf OH, $90/ft UG. If a 1 acre lot has 125 lf of frontage that adds $11,250 cost to the lot. That relates in the real world to needing to get $22,500 more for that lot. The cost for OH would be $1,875/lf or needing to get $3,750 more for that lot. This will force developers to do only the .6 acre lots in order to keep the costs down. There will be no large lot subdivisions. Regulations should not dictate the product that is available to the market by making the costs unfeasible. The provision of underground utilities in low density subdivisions was a decision package considered by the Planning Commission. The Commission decided to keep this standard in place stating that they could consider a variance on a case by case basis recognizing that all underground utilities might not make sense in all cases.
Specific comments on sidewalks, roads, etc. are difficult to address when there is only one criteria for the definition of “low density” subdivisions.

My original comments regarding the City Regulations and the Interlocal Agreement and the conflict created when development takes place in the ETJ were considered” beyond the scope of this Development Code Revision”. I believe whatever the appropriate forum is, that conflict needs to be addressed. There are no known conflicts between the Interlocal Agreement for ETJ subdivisions and the Development Code.

My original comments applauded the efforts of the City Council and Planning Department to recognize there is need to regulate development differently for out of City, large lot development. I think this attempts to do that but does not accomplish the goal. I would recommend there be additional time and thought including work sessions with open discussion before any action is taken. The Planning Commission recommended changes to the Development Code that specifically address less costly infrastructure standards for low density developments as compared to what is in the code as currently written. In reviewing all of the comments, it seems that some would like even more relaxed standards. The Planning Commission, after much review and discussion during at least five separate public meetings on the topic, put forth the recommended changes as attached for Council consideration.
ORDINANCE 2017-50

AN ORDINANCE OF THE CITY OF HUNTSVILLE AMENDING CHAPTER 24 LAND DEVELOPMENT OF THE HUNTSVILLE, TEXAS CODE OF ORDINANCES BY ADOPTING REVISIONS TO THE DEVELOPMENT CODE OF THE CITY OF HUNTSVILLE, TEXAS; REQUIRING THE PUBLICATION OF THIS ORDINANCE; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR A PENALTY; MAKING OTHER PROVISIONS AND FINDINGS THERETO; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Planning Commission of the City of Huntsville held public hearings prior to consideration of amending the ordinance; and

WHEREAS, the Planning Commission recommended adopting the updates to the City of Huntsville Development Code; and

WHEREAS, the City Council held a public hearing at their meeting on ______________________ prior to consideration of amending the Ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, COUNTY OF WALKER, STATE OF TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Huntsville, Texas, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

II. AMENDMENT

The Development Code of the City of Huntsville, Texas, Article 5 Lot and Setback Regulations; Table 5-1: Lot and Building Setback Regulations and Section 5.400 Residential Lots, Subsection 5.401 Rural Residential and Article 10 Infrastructure and Public Improvements; Section 10.400 Streets, Section 10.500 Sidewalks, Section 10.700 Wastewater, Section 10.1000 Street Lights, and Section 10.1500 Surveying and Monumentation shall be amended as shown in Exhibit 1 attached hereto and incorporated herein.

III. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

IV. SEVERABILITY

Should any paragraph, sentence, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.
V. EFFECTIVE DATE
This Ordinance shall take effect on ________________. The City Secretary shall publish the caption of this Ordinance in the official City newspaper at least twice within ten (10) days of its passage.

VI. PROPER NOTICE AND MEETING
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and the public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Article 12 of the Development Code of the City of Huntsville,

PASSED AND APPROVED on this ______ day of _____________________ 2017.

THE CITY OF HUNTSVILLE

__________________________
Andy Brauninger, Mayor

ATTEST:

__________________________
Lee Woodward, City Secretary

APPROVED AS TO FORM:

__________________________
Leonard Schneider, City Attorney
Article 5 Lot and Setback Regulations

5.100 Lot Design, Arrangement and Layout Generally ................................................................. 5-1
5.200 Lot Size and Building Setback Regulations ........................................................................ 5-1
5.300 Agriculture Tracts ............................................................................................................... 5-2
5.400 Residential Lots ................................................................................................................. 5-2
5.500 Nonresidential Lots ............................................................................................................ 5-3
5.600 Flag Lots ............................................................................................................................. 5-3
5.700 Measurements ..................................................................................................................... 5-4
5.800 Access to Lots ...................................................................................................................... 5-6

5.100 Lot Design, Arrangement and Layout Generally
All lots to be created must comply with the following regulations:

5.101 Each lot must have sufficient size and shape to allow the construction of a residential or nonresidential building (as designated by the plat or development district map) that complies with all applicable lot and setback regulations and with all applicable development, building, housing and health codes.

5.102 Each lot must have sufficient size and shape to accommodate easements for all public and private utilities.

5.103 Lots must be designed with side lot lines at right angles or radial to any adjacent street right-of-way line.

5.104 Minimum lot dimensions, building setback lines and lot areas must conform to applicable development district requirements.

5.105 Depth and width of lots reserved or laid out for nonresidential use must be adequate to provide for the off-street service and parking facilities required by the type of use and development proposed.

5.200 Lot Size and Building Setback Regulations
Except as otherwise expressly stated in this Development Code, the lot and building setback regulations of Table 5-1 apply to all residential and nonresidential development.

<table>
<thead>
<tr>
<th>See Sec. 5.200 for measurement rules</th>
<th>Rural Low Density Residential</th>
<th>Urban Residential</th>
<th>Patio Home</th>
<th>Townhouse Unit</th>
<th>Apartment/ Condo</th>
<th>Manufactured Home</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot Area (sq. ft.)</td>
<td>26,136</td>
<td>6,000</td>
<td>5,000</td>
<td>2,400</td>
<td>6,000</td>
<td>7,500</td>
</tr>
<tr>
<td>Lot Area per Unit (sq. ft.)</td>
<td>26,136</td>
<td>6,000</td>
<td>5,000</td>
<td>2,400</td>
<td>6,000</td>
<td>7,500</td>
</tr>
<tr>
<td>Lot Width (feet)[1]</td>
<td>850</td>
<td>100</td>
<td>50</td>
<td>45</td>
<td>24</td>
<td>50</td>
</tr>
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</table>

Minimum Building Setbacks

<table>
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<tr>
<th>Street (feet)[2]</th>
<th></th>
<th></th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>25</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rear (feet)</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
</tr>
</tbody>
</table>

[1] The width must be at least 33% of the lot's depth, but not more than 2 times the lot's depth.
[2] No minimum street setbacks apply in D district. The sight triangle requirements of § 5.100 do apply.
[3] Or a minimum 10 feet between principal buildings on abutting lots, whichever results in the least required setback.

Huntsville Development Code: Effective 08.31.2015

5-1
5.300 Agriculture Tracts

Agricultural tracts created by land division within the ETJ of the City must be laid out and arranged in a way that allows the opening of future streets and subdivisions.

5.400 Residential Lots

5.401 Rural Low Density Residential

Rural low density residential lots are subject to compliance with rural low density residential lot and building setback regulations of Table 5.4. In addition, each plat containing rural low density residential lots must include a statement prohibiting more than one principal dwelling unit per lot and prohibiting the division of rural low density residential lots into lots smaller than 26,136 square feet. Rural Low density residential lot subdivisions may be constructed to alternative standards as defined in Article 10.

5.402 Urban Residential

Urban residential lots are subject to compliance with the urban residential lot and building setback regulations of Table 5.4. Except as otherwise expressly stated in this Development Code, urban residential lots that comply with the minimum lot area per unit requirements of Table 5.4 may be occupied by more than one principal residential building. Multiple principal residential buildings on a single lot are prohibited in the NC district. See also the mobile home and manufactured housing regulations of Sec. 5.300.

5.403 Patio Home

A patio home is a detached house that is placed against one of the interior side lot lines rather than centered on the lot, with setbacks on each side. Patio home lots are subject to compliance with the patio home lot and building setback regulations of Table 5.4. In addition, patio home lots are subject to the following regulations:

5.403.A A patio home development must consist of at least 3 contiguous lots with frontage on the same street.

5.403.B The interior side setback on one side of the lot containing a patio home may be reduced to as little as zero. The zero-or reduced setback side of a patio home may not abut a street and may not abut a lot that is not part of the patio home development. On the "non-zero" side, a setback must be provided in accordance with the minimum side setback requirement of Table 5.4.

5.403.C Eaves on the side of a patio home with a reduced setback may not project over the property line.

5.403.D When the patio home's exterior wall or eaves are set back less than 2 feet from the abutting property line, a perpetual maintenance easement at least 5 feet in width must be provided on the lot abutting the zero lot line property line, which, with the exception of walls and/or fences, must be kept clear of structures. The easement must be shown
Article 10 Infrastructure and Public Improvements

10.100 General

10.101 Purpose and Intent
The regulations of this article establish standards governing the development of property within the jurisdiction of the City of Huntsville. These standards are intended to:

10.101.A Provide for the protection of the public health, safety and welfare;
10.101.B Promote the orderly growth and development of the City and its extraterritorial jurisdiction; and
10.101.C Ensure the timely and coordinated provision of required transportation improvements, utilities and other facilities and services to new subdivisions and developments.

10.102 Standards, Specifications and Design Criteria
The City’s Standards, Specifications and Design Criteria are hereby incorporated by reference as if fully set forth in this Development Code. All infrastructure and improvements constructed or modified must comply with applicable Standards, Specifications and Design Criteria.

10.200 Infrastructure and Improvements Required

10.201 Developers are responsible for the construction and installation of the following infrastructure and public improvements, in accordance with the standards of this Development Code.

10.201.A Survey monuments;
10.201.B Streets within the development and improvements to existing streets that border the development and that are required for safe and adequate access to the development;
Article 10: Infrastructure and Public Improvements

10.300: Financial Guarantees

10.201.C Sidewalks;
10.201.D Water supply and wastewater systems;
10.201.E Surface drainage and storm sewers;
10.201.F Stormwater management facilities;
10.201.G Utilities;
10.201.H Traffic control signs and street signs;
10.201.I Street lights; and
10.201.J Any other on- or off-site infrastructure or public improvements required by this Development Code.

10.202 If a developer files a final plat for only a portion of the subdivision for which a preliminary plan was approved, the improvements required to be constructed, installed, and maintained in accordance with that final plat are those improvements that the Planning Commission deems necessary to serve the lots shown on the proposed final plat.

10.203 All improvements must be designed and installed to provide for a logical interconnected system of infrastructure and to create continuity of improvements for the development of adjacent properties.

10.204 During the course of installation and construction of required infrastructure and improvements, the City Engineer must make periodic inspections of the work to ensure that all improvements comply with all City requirements.

10.205 Upon completion of installation and construction of all required improvements, the development may seek acceptance of public improvements by the City by submitting the required number of record plans. In addition, the developer must provide a statement signed by a registered professional engineer that all required improvements have been installed and constructed in accordance with the submitted as-built plans.

10.300 Financial Guarantees

The City is authorized to require financial guarantees to ensure that developers install any improvements allowed to be temporarily deferred and to ensure that improvements are installed in a workmanlike manner, free from defects. Guarantees must be provided in a form approved by the City Attorney. The value of such financial guarantees must be based on an estimate of the actual cost to construct all required infrastructure and public improvements, as determined by the developer's engineer and approved by the City Engineer. Assurances may take the form of performance and payment bonds, cash deposits, certificates of deposit in the name of the City, irrevocable letters of credit or other forms approved by the City Attorney.

10.400 Streets

10.401 General Principles

Streets within developments must conform to the arrangement, width and location indicated on the transportation plan and the Comprehensive Plan. In addition, the street system must be laid out and designed with due regard for topography and drainage and to:

Huntsville Development Code: Effective 08.31.2015

10-2
10.401.A Create an integrated system of lots, streets, and infrastructure that provides for efficient movement by all lawful modes of transportation, both within the development and to and from adjacent development;

10.401.B Provide for the efficient movement of through traffic by providing an interconnected network of streets in order to avoid isolation of development areas and over-reliance on major roads; and

10.401.C Be uncomplicated, so that emergency services, public services, and visitors can find their way to their intended destinations.

10.401.D The developer shall provide a street system within the development with at least one point of access to a public street adjacent to the development; provided, however, that developments that are designed to containing one hundred and fifty (150) dwelling units or more shall provide at least two points of access to adjacent public streets.

10.402 Rights-of-Way

10.402.A Streets must have a right-of-way width that will safely accommodate the transportation (vehicular, pedestrian and bicycle) improvements and street cross-sections needed to provide appropriate, safe and adequate access to the subject development, in accordance with the City's Standards, Specifications and Design Criteria.

10.402.B When a proposed development has frontage on an existing public street, right-of-way must be dedicated and improved to meet the requirements of this Development Code. For existing streets on which a proposed development has frontage, the applicant must:

1. Dedicate a minimum of 50% of the required right-of-way width as measured from the centerline of the existing street right-of-way;

2. Install all required sidewalks; and

3. Provide a minimum of 50% of the pavement required in Sec. 10.603 and install it to the right-of-way centerline.

10.402.C Right-of-way dedication and street widening must extend for the full length of road frontage of the property under development and must conform to the standards of this Development Code.

Commentary: City Planner may exempt minor plats from the requirement of Section 10.402.B(2).
1. Finished Street
The finished street component of a street cross-section is the portion of the right-of-way made up of the paved street from curb to curb, or edge to edge where curb and gutter is not provided. The finished street includes the following elements:

(a) Vehicle travel lanes;
(b) On-street parking, where applicable;
(c) Turn lanes, where necessary;
(d) On-street bicycle facilities, where applicable; and
(e) Finished street edge (e.g., curb/gutter, swale/ditch, shoulder)

2. Pedestrian Zone
The pedestrian zone component of a street cross-section is the portion of the right-of-way that primarily accommodates pedestrian movement and buffers pedestrians and adjacent land uses from moving vehicles on the finished street. The pedestrian zone includes the following elements:

(a) Pedestrian or multi-use facility (e.g., sidewalk, trail or multi-use path), providing dedicated areas for pedestrian and nonmotorized travel along streets;
(b) Amenity/buffer area (e.g., tree lawn, vegetated natural buffer, expanded sidewalk), providing separation of nonmotorized users from moving vehicle lanes and providing a landscape or streetscape amenity; and
(c) Off-street bicycle facilities (optional), providing dedicated or shared off-street bicycle facilities along bike routes in areas where on-street facilities would be inappropriate or impractical.

3. Boulevard Treatment
The boulevard treatment is an optional component of a street cross-section that includes a landscaped median as the focal point.
of the street, and may include additional design elements such as frontage access lanes, buffer strips and parking.

10.403.B Design and Construction
Streets must be designed and constructed in accordance with the regulations of .............. and the City's Standards, Specifications and Design Criteria.

| Street Classification | Travel Lanes | Volume per Day | Minimum Right-of-Way Width (feet) | Minimum Pavement Width|]
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Arterial</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Primary, A-1</td>
<td>5</td>
<td>10,000+</td>
<td>120</td>
<td>90</td>
</tr>
<tr>
<td>Secondary, A-2</td>
<td>5</td>
<td>5,000+</td>
<td>90</td>
<td>61</td>
</tr>
<tr>
<td>Collector</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard, C-1</td>
<td>2</td>
<td>5,000 - 10,000</td>
<td>70</td>
<td>42</td>
</tr>
<tr>
<td>Local</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Local, L-1</td>
<td>2</td>
<td>&gt;3,000</td>
<td>50</td>
<td>32</td>
</tr>
<tr>
<td>Low-Volume, L2</td>
<td>2</td>
<td>1,000</td>
<td>50</td>
<td>28</td>
</tr>
<tr>
<td>Local, Low-Volume, L3</td>
<td>2</td>
<td>500</td>
<td>60</td>
<td>283/1</td>
</tr>
</tbody>
</table>

[1] Back of curb to back of curb or edge to edge. Reduced pavement widths may be approved by the City. In such cases, increased driveway and intersection radii may be required by the City to accommodate large vehicle turning movements.

[2] Local Low-Volume L3 Street Cross-Section is allowed only in low-density rural subdivisions. (See Table 5-1: Lot and Building Setback Regulations for Rural Residential lot size.)

[3] Minimum Pavement Width may be reduced to 26', 28' (2-28' travel lanes) for rural subdivisions with lots sizes of 2 acres or greater.

Figure 10-2: Typical Local Street Cross-Section

10.404 Connections to Abutting Property

10.404.A A network of interconnected streets is intended to:

1. Provide safe, convenient, and efficient means of access to lots;
2. Promote orderly development patterns;

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3. Facilitate the effective and efficient provision of emergency and public services; and

4. Avoid degradation of traffic carrying capacity on the major street network.

10.404.B Streets in new developments must connect with public streets in adjacent subdivisions and provide for future extension of streets into adjacent areas that are likely to be developed in the future. Waivers to street connection requirements may be approved in accordance with Sec. ______ if topography, sensitive natural resources or other physical constraints make such connections undesirable or impractical.

10.404.C Streets proposed for future extension ("stub streets") must be terminated with temporary turnarounds when the stub street extends 150 feet or more from the nearest intersecting street right-of-way or when more than one lot will have access solely from the stub street. Stub streets are subject to the maximum cul-de-sac length standard of Sec. ______. The Planning Commission is authorized to waive requirements for temporary turnarounds for nonresidential developments if they determine that adequate alternatives are available for vehicles to turn around.

10.404.D Temporary turnarounds must be constructed in accordance with the City's Standards, Specifications and Design Criteria.

10.404.E The developer must post a sign at the terminus of all stub streets indicating that the stub street is intended to be opened to through traffic when the adjacent property is developed. The sign must state "FUTURE THROUGH STREET. TO BE CONNECTED WHEN ABUTTING PROPERTY DEVELOPS." The City will provide specifications for required signs.

10.405 Blocks

10.405.A The length, width and shape of blocks must be suited for the planned use of the land, and need for convenient access, control and safety of street traffic and the limitations and opportunities relating to the terrain and natural environment.

10.405.B Blocks may not exceed 600 feet in length in residential subdivisions with a gross density of 4 or more dwelling units per acre. In nonresidential subdivisions and lower density residential subdivisions, blocks may not exceed 1,200 feet in length. The Planning Commission is authorized to allow longer block lengths if topography, sensitive natural resources or other physical constraints make shorter block lengths undesirable or impractical. In such cases, the Planning Commission is authorized to require the provision of emergency vehicle access routes, pedestrian connections (easements), crosswalks and other pedestrian access features that provide safe and adequate vehicle access and pedestrian connections to schools, playgrounds, shopping areas, transportation and other community facilities in the area.
10.406 Cul-de-Sacs

10.406.A Cul-de-sacs streets may not exceed 600 feet in length unless otherwise expressly approved by the Planning Commission. In no event may a cul-de-sac street be approved that exceeds 2,000 feet in length or that serves more than 25 dwelling units. The length of a cul-de-sac street is measured from the center point of its turnaround, along the centerline of its right-of-way to the nearest edge of the right-of-way of the nearest intersecting street.

10.406.B Turnarounds at the end of cul-de-sac streets must be constructed in accordance with the City's Standards, Specifications and Design Criteria.

10.406.C If a cul-de-sac is longer than 600 feet, the Planning Commission is authorized to require the provision of a pedestrian access easement to provide safe and convenient pedestrian access between the terminus of the cul-de-sac and any adjacent areas. Such pedestrian access easements must have a minimum width of 12 feet.

10.407 Intersections

10.407.A General
   Streets must intersect each other at right angles unless otherwise dictated by pedestrian and vehicle safety, topography or other factors of environmentally sensitive site design.

10.407.B Radii
   Intersection radii must comply with the City's Standards, Specifications and Design Criteria, provided that the City Engineer is authorized to require a greater or reduced radius when anticipated traffic or roadway and intersection improvements warrant.

10.407.C Off-sets
   Where it is necessary to stagger or offset street intersections, the streets must offset by at least 200 feet (centerline to centerline).

10.407.D Intersection Sight Triangles
   1. Sight triangles are required in order to help ensure an adequate area of clear vision for motorists at street intersections. If a sight triangle area as described in this section is required for adequate safety and public protection, it may be obtained by the City. If the sight triangle area cannot be established when justified, traffic control or warning devices may be installed.
   2. The triangular area shall be formed by connecting the points on each street right-of-way curb lines or pavement edges located the minimum required distance from the intersection of the street right-of-way curb lines or pavement edges and connected to the intersection point of the 25-foot setback lines (see ). The minimum required distance is based on street classification, as shown in .
10.400: Streets

Table 10-2: Required Sight Triangle Distances

<table>
<thead>
<tr>
<th>Street Type</th>
<th>Minimum Distance from Intersection of ROW Curb Lines (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local</td>
<td>50</td>
</tr>
<tr>
<td>Collector</td>
<td>75</td>
</tr>
<tr>
<td>Arterial</td>
<td>100</td>
</tr>
</tbody>
</table>

3. On any portion of a lot that lies within the required sight triangle area, nothing shall be erected, parked, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 3 feet and 8 feet above grade at the 2 street right-of-way lines.

**Figure 10-3: Intersection Sight Triangle**

4. Sight triangle requirements shall not apply to permanent structures, public utility poles, trees trimmed to the trunk at least 8’ above the level of the intersection, supporting members of appurtenances to existing structures, or official warning signs or signals, or places where the contour of the ground is such that there can be no cross-visibility at the intersection.

10.408 Grades
Street grades must provide safe and convenient traffic conditions while avoiding excessive grading and unnecessary removal of ground cover and tree growth. Street grades must comply with the City’s Standards, Specifications and Design Criteria.

10.409 Vertical Curvature
All changes in street grade must be connected by vertical curves and be designed for safe stopping sight distances and safe sight distance at the entrance to subdivisions, in accordance with the City’s Standards, Specifications and Design Criteria. The City Engineer is authorized to require that applicants submit a sight distance analysis at the time of preliminary subdivision plat review.

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10.410 Horizontal Curvature
The required centerline radius of horizontal curves must be based on engineering considerations of topography, length of street, number of curves and other factors, as determined by the City Engineer. Horizontal curves on arterial streets must be designed in accordance with the City's Standards, Specifications and Design Criteria.

10.411 Alleys
Alleys and service lanes are permitted within new developments. Alleys, whether public or private, must comply with the City's Standards, Specifications and Design Criteria. Dead-end alleys are prohibited.

10.412 Reserve Strips
Reserve strips that separate developed or undeveloped land from necessary access to streets are prohibited except when such access is controlled by the City.

10.413 Private Streets
10.413.A When Allowed
Private streets are allowed only when approved by the City in planned developments or recreational vehicle parks.

10.413.B Layout
Private streets must be designed to:
1. Provide adequate vehicular access to all buildings and facilities within the boundaries of the development;
2. Provide safe and adequate traffic circulation and access to all lots and buildings by emergency personnel and equipment; and
3. Provide direct access to the existing public street system outside the subject tract's boundaries.

10.413.C Access
1. Private street systems within a development must have at least one point of access to a public street adjacent to the development, provided that developments containing more than 150 dwelling units must have at least 2 points of access to adjacent public streets.
2. Private streets may provide access only to land within the subject development. Private streets may not be extended into adjacent tracts under a different ownership or a different property owners association.

10.413.D Intersections of Private and Public Streets
1. Private streets may not be direct (straight line) projections of any public street. Private streets must offset a minimum distance of 200 feet center-line to center-line from any public street intersection.
2. Intersections of all private streets with public streets must be at right angles or with acute angle variations not to exceed 15 degrees.
3. Right angle intersections of private streets must have a 20-foot radii for the pavement edge at all corners. Acute angle intersections must have 25-foot radii for the pavement edge at the acute corner on both public and private streets.

4. Developers are responsible for designing and constructing that portion of a private street within a public street right-of-way in accordance with the driveway standards of Sec. 10.413.

10.413.E Design and Construction Standards

1. Design and Construction
Private streets are subject to the same geometric design and construction standards as public streets.

2. Pavement Width
The minimum unobstructed pavement width of any private street must be at least 28 feet.

3. Easement Width
Private streets must be located within access easements of sufficient width to accommodate the private streets and related construction and maintenance activities.

10.413.F Maintenance
Maintenance of private streets and private street signs is the sole responsibility of property owners within the development, in accordance with Sec. 10.413.

10.500 Sidewalks

10.501 When Required

10.501.A Arterial and Collector Streets
Sidewalks are required to be installed by the owner of the subject property whenever development occurs on a lot with frontage on an arterial street or on a collector street. Unless the subject property is within 100' of an existing sidewalk, sidewalks are not required to be constructed along existing non-curbed streets except as adjacent to the following roadways:

- Bearkat Boulevard, from Highway 19 to Bobby K Marks Drive;
- Martin Luther King Jr. Drive, from Essex Boulevard to FM 2821;
- Avenue M, from 8th Street to FM 247;
- University Avenue, from 7th Street to FM 247;
- FM 247, from Avenue M/University Avenue to FM 2821; and
- Montgomery Road, from IH 45 S to Veterans Memorial Parkway.
10.501.B Local Streets
Sidewalks are required to be installed by the owner of the subject property whenever development occurs on a lot with frontage on a local street, provided that sidewalks are not required for construction of a detached house or two-unit house unless one or more of the adjacent properties have an existing sidewalk. Sidewalks are not required to be constructed along existing non-curbed streets except as adjacent to the following roadways:

- Avenue M, from Josey Street to IH 45 S.

10.501.C Other Areas
The Planning Commission is authorized to require installation of sidewalks in other locations recommended by the City’s adopted sidewalk master plan.

10.501.D Rural Low Density Residential Subdivisions
Alternate trail/sidewalk construction is allowed for low-density rural subdivisions. Developer is required to provide length of trails/sidewalks equivalent to the centerline length of roads or twice the centerline length of roads within the boundary of the subdivision.

Commentary: Sidewalks are not required whenever development occurs on a lot with frontage on the main travel lanes of an Expressway/Freeway. The construction of a sidewalk for a development with frontage along a curbed roadway owned and maintained by TxDOT, (Texas Department of Transportation), is not required if not approved for a permit by TxDOT.

10.502 Location

10.502.A Required sidewalks must extend across the entire frontage of the subject lot, and along all frontages of corner or multi-frontage lots.

10.502.B Required sidewalks must be constructed within the street right-of-way or in an approved easement.

10.502.C Existing sidewalks may not be removed except for purposes of reconstruction or replacement.

10.503 Timing of Construction
Sidewalks must be constructed at the time of building permit and completed before a certificate of occupancy is issued. Developers must construct sidewalks in common areas and throughout the subdivision as part of the required subdivision improvements.

10.504 Design

10.504.A Width
Sidewalks must have a minimum width of 5 feet. The City Engineer is authorized to allow exceptions to this minimum width requirement in

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cases where inadequate space or other factors prevent installation of a full-width sidewalk. The City Engineer is also authorized to establish the minimum width of shared use paths and trails depending on expected use and traffic volumes.

10.504. B Materials and Construction
Sidewalks and trails must be designed and constructed in compliance with the City's Standards, Specifications and Design Criteria, the Americans with Disabilities Act (ADA) and other applicable standards and specifications.

**Commentary: Forest Service Trail Accessibility Guidelines (FSTAG)** shall serve as the design and construction guideline for new trail construction for low density residential subdivisions. Trails may should be maintained privately by a property owners association.

10.600 Water

10.601 City Water Service

10.601.A Except as otherwise expressly allowed under this section, developers are responsible for providing domestic water service from a public water system to properly serve each lot within a development and for ensuring that existing or new water system facilities meet required demand for domestic water use and fire protection at the required pressure.

10.601.B The water distribution system required under this section includes all pumping station facilities, elevated storage tanks, fire hydrants and other appurtenances required to adequately serve the area being developed.

10.601.C The required system improvements include the extension of (off-site) water mains to the development, the installation of water mains (including fire hydrants) to serve all lots within the development and the extension of water mains to the perimeter of the development (to allow for future system extensions into adjacent areas).

10.602 Alternative Water Supply

10.602.A The Planning Commission is authorized to allow the use of individual private wells or community water systems meeting the design requirements of the Texas Commission on Environmental Quality when the Planning Commission determines that connection to the City water system is not feasible.

10.602.B In approving alternative water supply systems, the Planning Commission is authorized to require the provision of permanent utility easements and temporary construction easements for the future extension City water system improvements.

10.603 Design and Construction
All water systems must be designed and constructed in accordance with the City's Standards, Specifications and Design Criteria and applicable design criteria of the

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10.700 Wastewater Service

10.701 City Wastewater Service

A. Except as otherwise expressly allowed under this section, developers are responsible for providing City wastewater (sanitary sewer) service to properly serve each lot within a development and for ensuring that existing or new wastewater system facilities meet required demand for wastewater service.

B. The wastewater collection system required under this section includes all lift stations, force mains and appurtenances required to adequately serve the area being developed.

C. The required system improvements include the extension of (off-site) sewer mains to the development, the installation of sewer mains to serve all lots within the development and the extension of sewer mains to the perimeter of the development (to allow for future system extensions into adjacent areas).

10.702 Individual Service Connections

A. The developer must install individual service connections ("taps") for each principal building in a development at the time of construction of required wastewater improvements. Buildings containing 2 or more dwelling units must have individual service connections for each dwelling unit, provided that buildings containing 3 or more dwelling units may provide a common connection system from the building.

B. Each wastewater service connection may serve only one building; no sharing or common use of service connections is allowed by multiple buildings.

10.703 Alternative Facilities

A. If the City wastewater system is not within a distance of 1,000 feet of the development, temporary alternative sewage treatment systems may be approved. Such systems must meet the design requirements of the Texas Commission on Environmental Quality.

Commentary: Conventional septic systems as well as aerobic septic systems are allowed as alternative sewage treatment systems. All alternative systems must meet the design requirements of the Texas Commission on Environment Quality.

B. When temporary alternative sewage treatment systems are to be used, plans must be prepared and submitted to the City for installation of City wastewater service to serve each lot. P permanent utility easements and temporary construction easements for the future extension of City wastewater system improvements must be provided, and in addition,
Article 10: Infrastructure and Public Improvements
10.800: Drainage and Stormwater Management

as determined to be applicable by the City Engineer, those parts of the future City wastewater system that will lie in streets must be designed and installed (and capped) before the street is paved.

10.704 Design and Construction
All wastewater systems must be designed and constructed in accordance with the City's Standards, Specifications and Design Criteria and applicable design criteria of the Texas Commission on Environmental Quality (See Title 30 of the Texas Administrative Code).

10.800 Drainage and Stormwater Management
Developers are responsible for designing and installing drainage and stormwater management facilities in accordance with the Standards, Specifications and Design Criteria.

10.900 Parks and Open Space
10.901 Land Dedication
The developer of residential lots must dedicate land for neighborhood parks, open spaces or recreation areas at locations designated in the Comprehensive Plan or other City-approved locations at a rate of one acre per 100 dwelling units or 10% of the development's land area (as shown on the preliminary plan), whichever is less. The developer may dedicate the area in stages if the development contains 2 or more phases. The developer shall identify the area marked on the final subdivision plat as "DEDICATED FOR NEIGHBORHOOD PARK, OPEN SPACE OR RECREATION AREA PURPOSES."

Commentary: Park and open space areas identified on the Parks Master Plan are generally appropriate for dedication. Private park, recreation and open space areas should be shown on the plat and maintained privately by a property owners association.

10.902 Quality of Park Site
Any land proposed to be dedicated must be a size, character and location suitable for a neighborhood park, open space or recreation area, as approved by the City.

10.903 Open Space
A maximum of 50% of the land dedication required in Sec. 10.901 may be open space. Such open space must conserve land or other natural resources or be used for historic or scenic preservation purposes and be privately owned and maintained by a property owners association. Areas dedicated for open space uses may include, but not be limited to, sites that:

10.903.A Present existing or potential hazards such as earth slippage or subsidence or other geological hazards;
10.903.B Are used for drainage purposes or that may be in danger of flooding from stormwater runoff;
10.903.C Preserve or protect scenic sites;
10.903.D Provide a buffer between incompatible land uses (only land areas provided in excess of the minimum land use buffer requirements of Sec. ....... may be credited); or
10.903.E Contain woodlands, wetlands or other natural resources.

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10.904 Credit for Private Parks and Recreation Areas
The planning commission may allow private parks, open spaces and recreation areas to satisfy the land dedication requirements of Sec. ..........., provided that:

10.904.A Setbacks and open spaces required by this Development Code are not credited toward meeting land dedication requirements;
10.904.B Private ownership and maintenance is adequately provided for by a property owners association or by other means approved by the City;
10.904.C The area is of a character and location suitable for safe and convenient use as a playground, playfield or other recreation amenity; and
10.904.D The area has direct access to a street to allow for maintenance by motorized equipment.

10.1000 Street Lights
The City Engineer is authorized to require the installation of street lights at the time of development. The location and type will be determined during the development review process based on City's Standards, Specifications and Design Criteria and guidelines established in the American National Standard Practice for Roadway Lighting (ANSI/IESNA RP-8-00).

Commentary: For low-density rural residential subdivisions street lights are only required at street intersections and at the end of cul-de-sacs or dead-end streets only. Refer to Table 5-2: Lot and Building Setback Regulations in Article 5: Lot and Setback Regulations for Rural Low Density Residential Lot requirements.

10.1100 Traffic Control Signs and Street Signs
10.1101 All traffic control and street signs must be provided and installed by the developer.
10.1102 Traffic control signs must comply with the Texas Manual on Uniform Traffic Control Devices.
10.1103 Street signs must comply with the City's adopted Standards, Specifications and Design Criteria.

10.1200 Street Names
10.1201 Public Streets
Public streets must comply with the following street name regulations:

10.1201.A If a new street is a direct or logical extension of an existing street, the existing street name must be used.
10.1201.B Names of new streets that are not extensions of existing streets may not duplicate any existing street name in the City or county.
10.1201.C Street name suffixes such as place, court, circle and loop must be used on streets that are cul-de-sac or loop streets.
10.1201.D Suffixes such as highway, freeway or expressway may be used only on designated highways or freeways falling under the jurisdiction of the Texas Department of Transportation.
10.1201.E Street name prefixes such as North, South, East and West may be used to clarify the general location of the street, provided that such prefixes must be consistent with the existing and established street naming and address numbering system of the general area in which the street is located.

10.1201.F Alphabetical and numerical street names may not be used for new streets unless the street is a direct extension of an existing street with that name.

10.1202 Private Streets
Private street names are subject to the same regulations that apply to public streets and the following additional regulations:

10.1202.A The developer must provide signs for all private streets; the signs must comply with the size, height and material standards of the City.

10.1202.B Private streets must be designated as "lanes" and the suffix "PRIVATE" must be an integral part of any private street sign (Example: SCENIC LANE (PRIVATE)).

10.1202.C Private street signs must be brown.

10.1202.D No private street name may be changed without approval of the City.

10.1202.E No private street sign may be installed without the approval of the City.

10.1202.F The City is authorized to remove, without notice, any private street sign that does not comply with the provisions of this section or that is installed within the right-of-way of a public street.

10.1300 Utilities
All new electric, telephone, gas distribution, cable television and similar utilities must be placed underground in accordance with the policies and specifications of the respective utility providers, except that the requirements for underground utilities do not apply in infill situations when property adjacent to the subject lot is served by above-ground utilities. The underground requirements also do not apply to the following:

10.1301 Temporary overhead utility lines used in connection with construction, but only during periods of construction;

10.1302 Service connections, meters, and similar equipment that are customarily attached to the outside wall of the premises they serve;

10.1303 Poles used exclusively for street lighting; and

10.1304 Electric distribution transformers, switch gear, meter pedestals, and telephone pedestals that are customarily installed above-ground.

10.1400 Easements

10.1401 General

10.1401.A Easements must be provided as necessary to accommodate utilities, drainage facilities (surface or subsurface), best management practices, pedestrian access, emergency vehicle access or other required improvements.
Article 10: Infrastructure and Public Improvements

10.1500: Surveying and Monumentation

10.1401.B No structure, foundation, slab sign or other permanent improvement may be placed within any easement required under this Development Code without written permission from the City Engineer.

10.1402 Utility Easements

10.1402.A Utility easements must be provided in sufficient width and it such locations as required by the City or approved franchised utility provider.

10.1402.B The developer must place or construct all new utilities within required utility easements or street rights-of-way, as approved by the City franchised utility provider.

10.1402.C Utility easements are required adjacent to all streets and must be at least 20 feet in width along both sides of the street. Placement, arrangement and depth of utilities within such easements must be in accordance with the Standards, Specifications and Design Criteria.

10.1402.D Utility easements that are not adjacent to streets must be least 20 feet in width for utility construction, service and maintenance.

10.1402.E With the approval of the City Engineer and the applicable public utility, utility easements may vary from these requirements.

10.1403 Drainage Easements

10.1403.A Easements for storm drainage facilities must be provided at locations containing existing or proposed open drainage channels and enclosed drainage systems. The required width of drainage easements must be based on a drainage study and drainage calculations or other criteria submitted by the developer and approved by the City Engineer.

10.1403.B Storm drainage easements with a minimum width of 20 feet must be provided for existing and proposed enclosed drainage systems. The City Engineer is authorized to require additional easement width if such additional width is necessary to accommodate the drainage system and provide ingress and egress for maintenance operations.

10.1403.C Storm drainage easements along existing or proposed open drainage channels must have a width that encompasses the required channel plus at least 20 feet on each side of the channel to provide ingress and egress of maintenance equipment; to provide clearance from fences and space for utility poles; to allow maintenance of the channel bank; and to provide adequate slopes necessary along the bank.

10.1500 Surveying and Monumentation

10.1501 General
Developers are responsible for having surveys conducted and survey monuments installed in accordance with all requirements and procedures established by the City Engineer and the Professional and Technical Standards of the Texas Board of Professional Land Surveying (Title 22, Part 29, Chapter 663B of the Texas Administrative Code).

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10.1502 Metes and Bounds Description
All easements, rights-of-way and lands to be dedicated to the City, by deed or express grant, must be depicted on a survey plat and described by a metes and bounds description. Such descriptions must be tied to physical monuments of record related to the boundary of the affected area and referenced to the coordinate system described in Sec. 10.1503 unless otherwise approved by the City Engineer.

10.1503 Coordinate System
All surveys and plats must be referenced to the City of Huntsville Mapping Control Network. This network is referenced to the Texas Plane Coordinate System of 1983, Central Zone, as defined in V.T.C.A. Natural Resources Code § 21.076 unless otherwise approved by the City Engineer.

10.1504 Required Monuments

10.1504.A All property or boundary corners, angle points and points of curvature or tangency must be monumented or referenced by corner accessory monumentation carried out by a registered professional land surveyor.

10.1504.B All monuments must:
1. Be set at sufficient depth to retain a stable and distinctive location;
2. Be of a size and material, that in the surveyor's judgment, will best ensure that the monuments will withstand the deteriorating forces of nature;
3. Include a cap or marker identifying the responsible registrant, firm or associated employer;
4. Include a notation on the applicable plan or plat that the corner was either found or set and a description of its physical characteristics; and
5. Be left exposed for field inspection by the City.

10.1504.C The City Engineer may not accept new street construction or other public improvements until all required monuments and ties are provided.

10.1504.D Except as allowed by § 10.1504.C, all required monuments must be in place before filing a final plat.

10.1600 Maintenance of Infrastructure and Improvements

10.1601 General
The developer is responsible for maintaining all required infrastructure and public improvements until final acceptance of such improvements by the City or until responsibility for maintenance is transferred by legal agreement to a property owner's association.
10.1602 Property Owners Association

10.1602.A Establishment
If a property owners association is assigned responsibility for the maintenance and control of streets, open space, recreational facilities, or any other common areas and facilities within a subdivision, that property owners association must have legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from residents or property owners to cover their proportionate share of the costs associated with the maintenance of the common areas and facilities.

10.1602.B Scope and Documentation
[Based on Development Code section: 505]
1. Instruments establishing a property owners association must be submitted before approval of a final plat.
2. The association instrument must address at least the following:
   (a) Specific identification of what is owned and by whom;
   (b) Establish a system of interlocking relationships binding each owner to all other owners for maintaining and preserving what is owned and used in common;
   (c) Create an administrative vehicle to manage those elements shared in common and to enforce standards;
   (d) Provide for the operation and financing of the association.
3. The City must review the proposed instruments to ensure that the property owners association has clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from residents and property owners to cover their proportionate share of the costs associated with the maintenance of the common areas and facilities.
EXEMPLARY FROM DRAFT MINUTES OF AUGUST 17, 2017 PLANNING COMMISSION MEETING

5. PUBLIC HEARING to consider amending Article 5 Lot and Setback Regulations and Article 10 Infrastructure and Public Improvements of the Development Code to allow alternative development standards for low-density subdivisions; insert subdivision access requirement; and to correct section references sight triangle definition error.

Chairman Woods opened the Public Hearing. [5:35 PM]

Aron Kulhavy briefly updated the Commission on changes that were made to the proposed Code language to reflect input received from the public and making note of the process used to receive the comments from the public. He specifically noted the change in the designation of the subject subdivision standards from “rural” residential to “low density” residential. In addition commentary has been added that states the City Planner may exempt minor subdivision plats from the requirement to construct the ½ street section, Section 10.402.B(3) of the Code. Kulhavy also explained that additional language has been added for the sight triangle requirement due to the “clean-up” of the Code of Ordinances. (The sight triangle definition in the Code of Ordinances which conflicts with the Development Code sight triangle definition is being deleted.) Kulhavy added that a decision is needed by the Commission as to the length of alternative trails/sidewalks to be required for low density residential subdivisions.

The Commission discussed the language for the alternative trails/sidewalks regarding the length of trails to be required and maintenance of the alternative trials. The Commission would like the commentary regarding trial maintenance to indicate that trails should be maintained privately by a property owners association. There was also discussion regarding the applicability of the alternate sidewalk/trail requirements for the expansion of existing subdivisions.

Aron Kulhavy finished the overview of the revised Code language by noting the clarification of language for alternative wastewater facilities, Section 10.703.A. He also noted that the meeting packet included all of the written comments received from the public.

Commissioner Durda inquired as to the staff reply comment of “Beyond scope of this Development Code Revision” to some of the submitted written comments from the public. Kulhavy explained that these written comments referred to issues with the current City/County Interlocal Agreement for approval and acceptance of subdivisions located in the ETJ. These issues cannot be addressed/resolved by these proposed revisions of Code language for low density residential subdivision development requirements.

Charles Smither, Jr. stated that he did not receive notice of the request for written comments to be submitted to staff regarding the drafted Code language for low-density residential subdivision standards; commented that the sight triangle definition Code section still has conflicting wording; and questioned whether a minimum size low-density lot with the minimum lot width would meet the Code width to depth ratio requirement.

Aron Kulhavy addressed Mr. Smither’s comments regarding minimum lot size, minimum width, and the lot width to depth ratio. He noted that a minimum lot width of 150’, existing Code requirement, for a minimum size low density does make the lot nearly square, but it does meet the minimum lot width to depth ratio. The minimum lot width of 100’ per the revised proposed Code language will make a minimum size lot more rectangular and will also meet the minimum lot width to depth ratio. Staff thanked Mr. Smither for catching the conflicting wording in the sight

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triangle Code section and noted that a motion to recommend City Council approval of the revised Code Language will need to reflect the needed revision of the sight triangle section to correct the conflicting wording.

Chairman Woods closed the Public Hearing. [6:03 PM]

6. CONSIDER amending Article 5 Lot and Setback Regulations and Article 10 Infrastructure and Public Improvements of the Development Code to allow alternative development standards for low-density subdivisions; insert subdivision access requirement; and to correct section references sight triangle definition error.

Chairman Woods summarized the proposed revisions to the Development Code Language and called for a motion regarding the length of alternative tails to be required.

Commissioner Barry moved to require the length of alternative trails/sidewalks to be twice the centerline road length. Second was by Commissioner Durda.

Chairman Woods called for further discussion. Commissioner Nichols expressed concern for the additional cost for developers to construct the required trails/sidewalks.

After no further discussion, Chairman Woods called for the vote. The vote was unanimous.

Chairman Woods called for a motion to approve the proposed revised Development Code language and recommend adoption by City Council.

Commissioner Barry moved to approve the revised Development Code language with the necessary changes to correct the conflicting wording in the sight triangle section and the revision of the wording in the alternative trail commentary to indicate that the trials should be maintained privately by a property owners association. Second was by Commissioner Durda. The vote was unanimous.
60' ROW

28' EDGE TO EDGE

14' GRAVEL SHOULDER

14' PAVED LANE

CL

14' PAVED LANE

14' GRAVEL SHOULDER

60' ROW
LOW-DENSITY RESIDENTIAL - NO CURB AND GUTTER
TWO (2), 14' TRAVEL LANES
NO PARKING ON ROADWAY

STABILIZED SUBGRADE

COMPACTED BASE

Scale: N.T.S.

FIGURE 2-4

Huntsville Design Criteria

Revisions
06/05/2017

L-3 LOW-DENSITY RESIDENTIAL LOCAL STREET

Agenda Item #5b
CITY COUNCIL AGENDA

10/3/2017
Agenda Item: 5c

Item/Subject: Consider adoption of Ordinance 2017-51, amending Article 4 Use Regulations; Table 4-1 Use Table and Section 4.203 Mobile Homes and Manufactured Housing Units, Subsection 4.503.G in the Development Code of the City of Huntsville and setting an effective date.

Initiating Department/Presenter: Community & Economic Development

Presenter: Aron Kulhavy, Director of Community and Economic Development

Recommended Motion: Move to adopt Ordinance 2017-51, amending Article 4 Use Regulations; Table 4-1 Use Table and Section 4.203 Mobile Homes and Manufactured Housing Units, Subsection 4.503.G in the Development Code of the City of Huntsville, and setting the effective date as recommended by the Planning Commission.

Strategic Initiative: Goal #6 - Public Safety - Provide safety and security for all citizens.

Discussion: The City of Huntsville Development Code was updated after a lengthy process and became effective on August 31, 2015. Following this, in 2016, the Planning Commission identified some items that necessitated additional discussion, one of them being placement of manufactured homes inside and outside Manufactured Home Parks/Subdivisions. In April 2016, the Planning Commission approved and recommended for Council adoption Code Language to require that no more than two (2) manufactured homes may be located on a single lot outside of a mobile/manufactured home park/subdivision. The placement of more than two (2) manufactured homes on a single lot is to be considered a Manufactured Home Park/Subdivision and be developed as such. Ordinance 2016-20 was approved by the City Council on May 3, 2016, adopting the revised Code language for placement of manufactured homes.

The 85th Texas Legislature passed Texas Senate Bill 1248 (TX SB1248) which addressed a municipality’s regulation of manufactured home communities. The bill prohibits a municipality from regulating a tract or parcel of land as a manufactured home community, park, or subdivision unless it contains at least four (4) spaces offered for lease for installing and occupying manufactured homes. The revised Code language has been drafted to be in compliance with TX SB1248 which is currently in effect. The Planning Commission held a public hearing on August 17, 2017, regarding the drafted revised Code language. The Commission then considered and unanimously voted to recommend Council adoption of the drafted revised Code language.

The Planning Commission Discussion Form, as attached, details the content of the proposed ordinance to revise the regulatory code language for the placement of manufactured homes. A summary of TX SB1248 is also attached.

Previous Council Action: The Development Code was adopted in 1986. Since that time, several amendments have been adopted, many of those being minor changes to address specific issues. In April 2013, the City entered into a contract with Duncan and Associates to draft a Development Code update. In June 2014, Duncan and Associates held a joint workshop with the City Council and the Planning and Zoning Commission as an overview to the proposed changes to the code. The City Council adopted the Development
Code in its current form in August 2015, with an effective date of August 31, 2015. Since that date, the Council has adopted amendments to the Development Code concerning manufactured homes, trees in the right-of-way, billboards in the ETJ, signs with dynamic displays, and sidewalks.

Financial Implications:

☒There is no financial impact associated with this item.

Approvals: ☒City Attorney ☐Director of Finance ☒City Manager

Associated Information:

- Planning Commission discussion form (pages 3-4)
- TX SB1248 – bill analysis (pages 5-7)
- Proposed Ordinance 2017-51 (pages 8-11)
- Excerpt from draft minutes of August 17, 2017, Planning Commission meeting (page 12)
This discussion form focuses only on a proposed change to the Development Code concerning the number of Manufactured Housing units which may be allowed to be placed on a single lot outside of a Manufactured Home Park in order to comply with current state law.

The 85th Texas Legislature passed Texas Senate Bill 1248 (TX SB1248) which addresses a municipality's regulation of manufactured home communities. The bill prohibits a municipality from regulating a tract or parcel of land as a manufactured home community, park, or subdivision unless it contained at least four (4) spaces offered for lease for installing and occupying manufactured homes. The Bill becomes effective on September 1, 2017. (Summary of Bill Attached)

A brief history of the adoption of the current Development Code manufactured home placement regulations follows.

During the consideration of the Development Code update in 2015, the original recommendation of the Planning Commission to limit the placement of new Manufactured Housing (MH) units within the City limits to only Mobile/Manufactured Home parks (MH parks) was not adopted by the City Council in the final code. The adopted version of the code still allows for the placement of MHs throughout Huntsville, only prohibiting them in the Neighborhood Conservation development district.

In discussions with the Commission concerning topics of discussion for 2016, the Commission's first priority was to revisit the MH park issue as well as the placement of MHs both inside and outside of parks. In February of 2016, some preliminary drafts were presented to the Commission for review and comment. The direction presented by the Commission is summarized below:

1. Require MHs to be no older than 20 years (currently, built in or after 1996 and changing yearly).
2. Require an outdoor storage building. A storage building is a shed or garage used to store outdoor equipment such as gardening tools, bicycles, etc.
3. **Change the Maximum number of MHs per property to two (2). More than 2 MHs require development as a MH subdivision.**
4. Require that the development of a MH park/subdivision be to the same standards as all other subdivisions in the City/ETJ.
5. Create new lot standards for MH lots

Staff drafted code language for the above items and the Commission voted unanimously on April 7, 2016 to recommend the revised code language for all of the above to the City Council for adoption.
City Council held a Public Hearing with First reading of Ordinance 2016-20 to amend the Development Code regulations for the placement of manufactured homes on April 19, 2016 per the Commission's recommendations. The Second Reading of the Ordinance was on May 3, 2017. The Ordinance was approved by City Council with the exception of the requirement for a storage building to be located on the same lot or space as the manufactured home.

In order to be in compliance with TX SB1248, Section 4.100 Allowed Uses, Table 4-1: Use Table and Section 4.203.G of the Development Code are in need of revision to reflect that no more than three (3) manufactured homes may be placed on or occupy a single lot except within a mobile home/manufactured housing park. Proposed Code language for Table 4-1 and Section 4.203.G is attached.

STAFF RECOMMENDATION:

In order to comply with State of Texas Senate Bill 1248 Staff recommends that the Development Code language reflect the minimum number of manufactured homes that are allowed per the Bill for placement on property before regulation of the property as a manufactured home park is allowed. Therefore Staff recommends that the Code language to revised to allow a maximum of three (3) manufactured home units to be placed on a single lot except within a mobile home/manufactured home park.
SUBJECT: Addressing municipal regulation of manufactured home communities

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 6 ayes — Herrero, Bell, Bailes, Blanco, Faircloth, Stucky

0 nays

1 absent — Krause

SENATE VOTE: On final passage, April 19 — 31-0

WITNESSES: None

DIGEST: SB 1248 would limit a municipality's ability to make changes to the nonconforming use of a manufactured home lot and to regulate a manufactured home community. It also would allow a municipality to prohibit manufactured homes from being installed on a floodplain in certain circumstances.

The bill would prohibit a municipality from requiring a change in the nonconforming use of a manufactured home lot in a manufactured home community if the nonconforming use of land where the community was located was authorized by law and at least 50 percent of the home lots in the community were physically occupied by a manufactured home used as a residence.

Requiring a change in the nonconforming use would include:

- requiring the number of manufactured home lots designated as a nonconforming use to be decreased; and
- declaring that the nonconforming use of the manufactured home lots had been abandoned if the lot had been continuously abandoned for less than 12 months.

SB 1248 would allow a manufactured home owner to install a new or used manufactured home or home accessory on a manufactured home lot

- 17 -
SB 1248
House Research Organization

located in a community for which a nonconforming use was authorized by law, if the installation complied with:

- nonconforming land use standards — including those relating to separation, setback distances, and lot size — applicable on the date the nonconforming use of the land was authorized; and
- all applicable state and federal law and standards in effect on the date of installation.

The bill would prohibit a municipality from regulating a tract or parcel of land as a manufactured home community, park, or subdivision unless it contained at least four spaces offered for lease for installing and occupying manufactured homes.

SB 1248 would allow a municipality that prohibited the construction of new single-family residences or additions to existing single-family residences on a site in a designated floodplain to also prohibit the installation of a manufactured home on a lot in a manufactured home community that was in an equivalently designated floodplain.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

SB 1248 would protect the property rights of manufactured home community owners and their tenants by preventing municipalities from adopting policies aimed at eliminating all or portions of these communities. Some manufactured home communities that existed before current municipal zoning regulations or that were in an area annexed by a city were allowed to continue operating under the ordinance to which they were subject before the zoning change or annexation. This is considered "nonconforming use" of the land, and in some cases, cities interpret their nonconforming use and abandonment ordinances such that current land-use requirements apply after existing homes are removed or replaced, which discourages people from updating their manufactured homes.

The bill would ensure community owners and tenants could replace existing manufactured homes with new ones within 12 months, without the threat of having their lots deemed abandoned by a municipality. Allowing for the installation of newer manufactured homes would help
address the concern that older manufactured home communities do not meet necessary health and safety standards due to the age of units.

SB 1248 also would prevent municipalities from imposing arbitrarily large setback requirements on manufactured home communities. Setback requirements for manufactured homes are sometimes much larger than those for single-family home communities. This could be interpreted as a mechanism to make manufactured home communities unviable so that they have to close.

The bill would not represent an erosion of municipal zoning controls but rather would bolster the property rights of manufactured home owners and tenants who often involuntarily have municipal zoning imposed on them through annexation, forcing some of these communities to close.

SB 1248 also would establish a statewide standard for when a manufactured home community could be regulated by a municipality to create continuity across localities. The bill would clarify that land with multiple manufactured homes without a leasing component would not be considered a manufactured home community to be regulated, protecting family-owned land from unnecessary regulation.

SB 1248 would prevent a municipality from being able to impose its health and safety standards on certain manufactured home communities to ensure residents' wellbeing and safety. Because many manufactured homes and communities were built decades ago, they often do not meet current health and safety standards. Additionally, the owners of manufactured home communities often replace old homes with only slightly newer ones that still have significant issues. The ability of a municipality to impose certain standards is critical for making sure the residents of these communities are not living in hazardous conditions. The bill also would represent an erosion of zoning controls for municipalities by setting the precedent of establishing a special category of housing that would be outside the jurisdiction of a municipality's regulatory powers.

NOTES: A companion bill, HB 1852 by Lucio, was reported favorably from the House Committee on Land and Resource Management on April 25.
ORDINANCE 2017-51

AN ORDINANCE OF THE CITY OF HUNTSVILLE AMENDING CHAPTER 24 LAND DEVELOPMENT OF THE HUNTSVILLE, TEXAS CODE OF ORDINANCES BY ADOPTING REVISIONS TO THE DEVELOPMENT CODE OF THE CITY OF HUNTSVILLE, TEXAS; REQUIRING THE PUBLICATION OF THIS ORDINANCE; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR A PENALTY; MAKING OTHER PROVISIONS AND FINDINGS THERETO; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Planning Commission of the City of Huntsville held public hearings prior to consideration of amending the ordinance; and

WHEREAS, the Planning Commission recommended adopting the updates to the City of Huntsville Development Code; and

WHEREAS, the City Council held a public hearing at their meeting on _________________ prior to consideration of amending the Ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, COUNTY OF WALKER, STATE OF TEXAS:

I. FINDINGS OF FACT
All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Huntsville, Texas, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

II. AMENDMENT
The Development Code of the City of Huntsville, Texas, Article 4 Use Regulations; Table 4-1: Use Table and Section 4.203 Mobile Homes and Manufactured Housing Units, Subsection 4.503.G shall be amended as shown in Exhibit 1 attached hereto and incorporated herein.

III. REPEALER
All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

IV. SEVERABILITY
Should any paragraph, sentence, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

V. EFFECTIVE DATE
This Ordinance shall take effect on _______________. The City Secretary shall publish the caption of this Ordinance in the official City newspaper at least twice within ten (10) days of its passage.
VI. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and the public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Article 12 of the Development Code of the City of Huntsville,

PASSED AND APPROVED on this the _______ day of __________________________, 2017.

THE CITY OF HUNTSVILLE

__________________________________________________________
Andy Brauninger, Mayor

ATTEST:

__________________________________________________________
Lee Woodward, City Secretary

APPROVED AS TO FORM:

__________________________________________________________
Leonard Schneider, City Attorney
# EXHIBIT 1

**Article 4: Use Regulations**

4.100: Allowed Uses

### Table 4-1: Use Table

<table>
<thead>
<tr>
<th>USE CATEGORY</th>
<th>Definition/Description</th>
<th>Districts</th>
<th>Supplemental Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential</strong></td>
<td>Uses that provide living accommodations for one or more persons.</td>
<td>P P P</td>
<td></td>
</tr>
<tr>
<td>Household Living</td>
<td>Residential occupancy of a dwelling unit by a household. When dwelling units are rented, tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered a form of lodging.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Detached house</td>
<td>A single dwelling unit on a single lot, with private yards on all sides.</td>
<td>P P P</td>
<td></td>
</tr>
<tr>
<td>Townhouse</td>
<td>A single dwelling unit on a single lot that shares at least one common or abutting wall with another attached house located on a separate lot.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Two-unit house</td>
<td>Two dwelling units within the same principal building, located on a single lot. The 2 dwelling units are attached and may be located on separate floors or side-by-side. Also known as &quot;duplexes.&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Apartment/condo</td>
<td>One or more residential buildings occupied by 3 or more dwelling units that share common walls and/or common floors/ceilings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobile/Manufactured dwelling unit</td>
<td>3 or fewer mobile homes or manufactured dwelling units located on a single lot outside of a mobile/manufactured home park. See also the definition in Sec. 33.002.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobile/Manufactured home park</td>
<td>A lot upon which more-than-two four or more manufactured housing units are available for lease or upon which multiple spaces intended for occupancy by manufactured housing units are available for lease. Mobile/manufactured home parks have an internal street network, park management buildings and common areas for residents.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recreational Vehicle (outside of RV)</td>
<td>One or more recreational vehicles located on a single lot outside of a recreational vehicle park. See also the definition in Sec. 15.002.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Group Living</td>
<td>Residential occupancy of a building or any portion of a building by a group other than a household. Group living uses typically provide communal kitchen/dining facilities.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community home</td>
<td>A community-based residential home occupied by no more than 8 disabled persons and 2 nonresident supervisory personnel and that otherwise complies with the Community Homes for Disabled Persons Location Act, Chapter 233,003, Texas Human Resources Code.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nursing home</td>
<td>An institution providing meals and resident care and services for persons who are generally admitted for periods of time exceeding 30 days. Such service includes custodial or attendant care, and may or may not provide for routine and regular medical and skilled nursing services. Nursing homes include homes for the aged, and convalescent and rest homes.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Public, Civic and Institutional</strong></td>
<td>Public, quasi-public and private uses that provide unique services that are of benefit to the public at large.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aircraft Landing Area</td>
<td>Institutions of higher learning (beyond senior high school) that offer courses of general or specialized study and are authorized to grant academic degrees.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>College or University</td>
<td>Institutions of higher learning (beyond senior high school) that offer courses of general or specialized study and are authorized to grant academic degrees.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community Center</td>
<td>A building and its surrounding premises owned, leased or otherwise controlled by a unit of local government or a school district and that contains rooms or other facilities limited to use for purposes of meetings, gatherings or other functions or activities carried on or performed by or under the supervision of a unit of local government, a school district or a civic, educational, religious or charitable organization.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Governmental Facility</td>
<td>Uses (not otherwise classified) that are related to the administration of local, state or federal government services or functions.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Huntsville Development Code: Effective 08.31.2015**

Agenda Item #5c
Article 4: Use Regulations
4.200: Supplemental Use Regulations

4.203 Mobile Homes and Manufactured Housing Units

4.203.A The installation of any mobile home or manufactured housing unit for use as a dwelling unit is prohibited except as expressly stated in this section.

4.203.B A lawfully existing mobile home may be replaced with a (HUD-code) manufactured housing unit.

4.203.C A lawfully existing mobile home may not be relocated within the city limits. The owner of a mobile home or manufactured housing unit may remove the home or housing unit from its location and install a replacement manufactured housing unit on the same property if the replacement is a newer model manufactured housing unit and it contains at least as much living space (floor area) as the mobile home or manufactured housing unit that was removed.

4.203.D It is unlawful for a person to place a manufactured housing unit within the City unless the manufactured housing unit is equipped with permanently affixed skirting that effectively hides the underside of the manufactured housing unit or mobile home from view. The owner and occupant will have 30 days from the date of the electrical inspection to install the required skirting. All skirting must be constructed of rock, brick, plastic, metal, treated wood, concrete masonry materials or other materials approved by the Building Official, and must be installed so there is no visible gap between the finished floor of the manufactured housing unit and the ground. Cloth of any type, or shrubbery, is not acceptable material for skirting. Existing manufactured housing units or mobile homes with existing skirting that is in good condition may be allowed until replacement is needed.

4.203.E The skirting used on a particular manufactured housing unit or mobile home must be consistent in material, orientation and color, must be of such design as to not permit the passage of a sphere 4 inches or greater in diameter and must present a continuous and complete surface.

4.203.F The skirting requirements of §4.203.E and §4.203.E also apply to all other building types utilizing pier and beam or post and beam construction.

4.203.G No more than 3 manufactured housing units may be placed on or occupy a single lot except within a mobile home/manufacturinged housing park. Mobile home/manufacturinged housing parks are allowed only in those development districts indicated in Table 4.203.G. and are subject to the supplemental use regulations of Sec. 4.200.

4.203.H Any New manufactured housing unit placed inside the city limits shall be less than 20 years old on the date of application.

4.204 Mobile Home/Manufactured Housing Parks
Mobile home/manufactured housing parks/subdivisions are subject to all applicable city regulations including the subdivision plat standards of §12.700 and the infrastructure and public improvement standards of Article 10.

Huntsville Development Code: Effective 08.31.2015

4-9

Agenda Item #5c
7. **PUBLIC HEARING** regarding amending **Article 4: Use Regulations, Table 4-1: Use Table and Section 4.203 Mobile Homes and Manufactured Housing Units, Subsection 4.403.G** of the City of Huntsville Development Code.

*Chairman Woods opened the Public Hearing. [6:08 PM]*

Aron Kulhavy gave a brief overview of the Code language revision per the staff discussion form, noting that the purpose of the revision is to be in compliance with Texas Senate Bill 1248 (TX SB1248) which was passed by the 85th Texas Legislature. The bill prohibits a municipality from regulating a tract or parcel of land as a manufactured home community, park, or subdivision unless it contains at least four (4) spaces offered for lease for installing and occupying manufactured homes. The Development Code language currently requires that the placement of more than two (2) manufactured homes on a parcel or tract of land to be regulated as a manufactured home park or subdivision.

There were no public comments

*Chairman Woods closed the Public Hearing. [6:09 PM]*

8. **CONSIDER** amending **Article 4: Use Regulations, Table 4-1: Use Table and Section 4.203 Mobile Homes and Manufactured Housing Units, Subsection 4.403.G** of the City of Huntsville Development Code.

*Commissioner Durda moved to approve the revised Development Code language. Second was by Commissioner Barry. The vote was unanimous.*
Item/Subject: Consider authorizing the City Manager and City Attorney to execute all documents necessary for the purchase of approximately 1.9 acres located in the R.P. McMillian Survey, A-388, Huntsville, Texas, for the construction of a ground storage tank and pump station.

Initiating Department/Presenter: Community & Economic Development
Presenter: Aron Kulhavy, CED Director

Recommended Motion: Move to authorize the City Manager and City Attorney to execute all documents necessary for the purchase of approximately 1.9 acres located in the R.P. McMillian Survey, A-388, Huntsville, Texas, for a ground storage tank and pump station.

Strategic Initiative: Goal #4 - Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City’s core services can be provided in an effective and efficient manner.

Discussion: As part of the Proposition 3 projects, the City is making vast improvements to the water system including a ground storage tank (GST) and a pump station for the low-pressure plane. The project will consist of a 4,800 gpm pump station and a 2 million gallon storage tank and must be located in the vicinity of the intersection of SH 30 and SH 19.

In review of the siting of the GST and pump station, the City’s consultants, Freese and Nichols, had to consider several factors around the subject intersection. These factors included available acreage, elevation of approximately 380’, proximity to the TRA and existing water lines, and the total costs of the project to include land acquisition and construction cost.

After evaluating multiple sites that met the given criteria, an offer was made for 1.9 acres located at the intersection of SH 19 and SH 30, owned by Starry Cross Properties, LLC. The City has placed the property under contract at the agreed upon price of $2.85 per square foot. The purchase price of the property is estimated at $235,877.40 based upon the 1.9 acres; however the final purchase price may vary slightly based upon the final calculated acreage once the survey is complete.

Upon approval of this item, it is anticipated the City will execute the closing documents on the property within 30 days.

Previous Council Action: The Council discussed the acquisition of property for proposition 3 projects in executive session at their August 15, 2017 meeting.

Financial Implications:
- **Item is budgeted** 704-70401-62251  In the amount of $736,900 (amount Budgeted in FY 17-18 CIP Budget for land and easement purchases related to Proposition 3 projects)

Approvals: ☑City Attorney ☑Director of Finance ☑City Manager

Associated Information:
- Map of subject property (page 2)
Item/Subject: Consider adopting Ordinance 2017-52, regulating wireless network providers wishing to install small cellular equipment in the City's rights-of-way, and Ordinance 2017-53 for the design manual and pole attachment agreement for installation of cellular equipment, second reading.

Initiating Department/Presenter: City Attorney

Presenter: Leonard Schneider, City Attorney

Recommended Motion: Move to adopt Ordinance 2017-52, regulating wireless network providers wishing to install small cellular equipment in the City’s rights-of-way, and Ordinance 2017-53 for the design manual and pole attachment agreement for installation of cellular equipment.

Strategic Initiative: Goal #4 - Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City’s core services can be provided in an effective and efficient manner.

Discussion: The Texas State Legislature recently enacted Texas Senate Bill (SB) 1004 (Hancock/Green) mainly requiring the municipalities to allow wireless network providers for installation of their small cellular equipment in the City’s rights-of-way. Each cellular equipment apparatus is termed a “network node.” SB 1004 was sought by wireless companies and network providers to quickly install small cellular equipment/network nodes in cities’ rights-of-way. The bill was passed during the 2017 regular session and became effective September 1, 2017.

The provisions of the SB 1004 on deployment of network nodes in public rights-of-way has been included in Local Government Code (LGC) Chapter 284.

LGC Ch. 284 requires the municipalities to review and permit wireless network providers for installation of network nodes in cities’ rights-of-way provided that the proposed installations meet the cities’ design criteria and adopted ordinances. The LGC also has provisions for the municipalities to receive fair and reasonable compensation from wireless network providers for use of the public rights-of-way. The annual fee for each network node installed in the public rights-of-way may not exceed $250.

Proposed Ordinance 2017-52 is prepared for adoption by the City Council to enable regulation of network node installations in the City’s rights-of-way in the future. If adopted, the proposed ordinance will become effective October 1, 2017. The proposed ordinance covers design parameters and fee structures, among other requirements for permitting network providers to install their elements.

The City has finalized a manual for the network providers to develop acceptable design for installation of network nodes and network support poles in the City’s rights-of-way. Also, a Pole Attachment Agreement is developed, which will be used if network providers are allowed to install their equipment on City-owned poles. Ordinance 2017-53 is prepared for adoption of the design manual and pole attachment agreement by the City Council.

Also, a Wireless Network Permit Application has been developed for the providers to obtain permits before installation of network nodes. A copy of the permit application is included in the agenda item.
Municipalities around the state have already adopted similar ordinances to the one proposed here.

Previous Council Action: First reading at September 19, 2017 meeting.

Financial Implications:
☐ There is no financial impact associated with this item.
☐ Item is budgeted: In the amount of $  
☐ Item is not budgeted:  
☒ Item is estimated to generate additional revenue: Estimate is not available at this time

Approvals:  ☐ City Attorney  ☐ Director of Finance  ☒ City Manager

Associated Information:
- Proposed Ordinance 2017-52 for regulating wireless networks providers on their equipment and small tower installations in the City’s rights-of-way (pages 3-14)
- Proposed Ordinance 2017-53 for adopting the design manual and pole attachment agreement for cellular equipment (pages 15-17)
- Pole attachment Agreement – Exhibit “B” to Ordinance No. 2017-53 (pages 44-46)
- A copy of the proposed Wireless Network Permit Application (pages 47-48)
A PUBLIC RIGHT-OF-WAY MANAGEMENT ORDINANCE BY THE CITY OF HUNTSVILLE, TEXAS; REGULATING THE PHYSICAL USE, OCCUPANCY AND MAINTENANCE OF CITY RIGHTS-OF-WAY BY WIRELESS NETWORK PROVIDERS; DESCRIBING THE PURPOSE; PROVIDING DEFINITIONS; REQUIRING COMPLIANCE WITH THE CITY DESIGN MANUAL AND APPLICABLE CODES FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES PURSUANT TO CHAPTER 284 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING CITY PROCEDURES FOR APPLICATIONS FOR PERMITS; ESTABLISHING TIME PERIODS FOR APPROVAL OF PERMIT APPLICATIONS; PROVIDING APPLICATION FEES AND ANNUAL PUBLIC RIGHT-OF-WAY RENTAL RATES; PROVIDING RESTRICTIONS ON PLACEMENT OF NETWORK NODES AND NODE SUPPORT POLES IN MUNICIPAL PARKS, RESIDENTIAL AREAS, AND HISTORIC DISTRICTS; PROVIDING INDEMNITY FOR THE CITY; PROVIDING REPEALING AND SAVINGS CLAUSES; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF OCTOBER 1, 2017.

WHEREAS, the City of Huntsville, Texas ("City") recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities; and

WHEREAS, Chapter 284 of the Texas Local Government Code ("the Code") allows certain wireless network providers to install in the City's public rights-of-way their wireless facilities, described and defined in Section 284.002 of the Code as "Micro Network Nodes", "Network Nodes", and "Node Support Poles;" and

WHEREAS, as expressly allowed by Section 284.108 of the Code and pursuant to its police power authority reserved in Sec. 284.301 of the Code, the City has developed a Design Manual for the Installation of Network Nodes and Node Support Poles ("the Design Manual") in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications network providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment, and
WHEREAS, the City Council desires to regulate the installation of Network Nodes and Network Support Poles pursuant to Chapter 284 of the Code in a way that is fair, reasonable and nondiscriminatory.

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

SECTION I
FINDINGS OF FACT

The forgoing recitals are incorporated into this Right-of-Way Management Ordinance as findings of fact.

SECTION II.
USE OF PUBLIC RIGHTS-OF-WAY

§ 1.01 PURPOSE.
The purpose of this chapter is to:

(A) Assist the City in the competitively neutral and nondiscriminatory management of the physical use, occupancy and maintenance of its public rights-of-way by wireless network providers;

(B) Secure fair and reasonable compensation for the physical use and occupancy of the public rights-of-way by wireless network providers in a nondiscriminatory and competitively neutral manner; and

(C) Assist the City in protecting the public health, safety, and welfare.

§ 1.02 GOVERNING LAW.
This chapter shall be construed in accordance with Chapter 284 of the Texas Local Government Code ("the Code") to the extent not in conflict with the Constitution and laws of the United States or of the State of Texas.

§ 1.03 DEFINITIONS.
For the purpose of this chapter, the definitions found in the City Design Manual for the Installation of Network Nodes and Node Support Poles ("the Design Manual") are hereby incorporated into this chapter and shall apply unless the context clearly indicates or requires a different meaning. The following definitions as found in the Design Manual are specifically applicable to this chapter:

**Applicable codes** means:

(A) the City uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and

(B) local amendments to those codes to the extent not inconsistent with Chapter 284.

**City** means the City of Huntsville, Texas or its lawful successor.

**City Council** means the municipal governing body of the City of Huntsville, Texas.

**City Manager** shall mean City Manager or designee of the City of Huntsville, Texas.

**Chapter 284** means Texas Local Government Code, Chapter 284.

**Code** means the Texas Local Government Code.

**Collocate and collocation** mean the installation, mounting, maintenance, modification, operation, or replacement of Network Nodes in a public right-of-way on or adjacent to a pole.

**Decorative pole** means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory City codes and ordinances.

**Easement** means and shall include any public easement or other compatible use created by dedication, or by other means, to the City for public utility purposes or any other purpose whatsoever. "Easement" shall include a private easement used for the provision of utilities.

**Federal Communications Commission or FCC** means the Federal Administrative Agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.

**Highway right-of-way** means right-of-way adjacent to a state or federal highway.

**Historic district** means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

**Law** means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

**Local** means within the geographical boundaries of the City.
Location means the City-approved and lawfully permitted location for the Network Node.

Micro network node means a Network Node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Municipal park means an area that is zoned or otherwise designated by the City as a public park for the purpose of recreational activity.

Network node means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:
   (i) equipment associated with wireless communications;
   (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
   (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:
   (i) an electric generator;
   (ii) a pole; or
   (iii) a macro tower

Network provider means:

(A) a wireless service provider, or

(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:
   (i) Network Nodes; or
   (ii) Node Support Poles or any other structure that supports or is capable of supporting a network node.

Node support pole means a pole installed by a network provider for the primary purpose of supporting a Network Node.

Permit means a written authorization for the use of the public right-of-way or collocation on a service pole required from the City before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

Pole means a service pole, City-owned utility pole, node support pole, or utility pole.

Private easement means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

Provider has the same meaning as “Network Provider.”

Public right-of-way means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City has an interest. The term does not
include:
(A) a private easement; or
(B) the airwaves above a public right-of-way with regard to wireless telecommunications.

Service pole means a pole, other than a City-owned utility pole, owned or operated by the City and located in a public right-of-way, including:
(A) a pole that supports traffic control functions;
(B) a structure for signage;
(C) a pole that supports lighting, other than a decorative pole; and
(D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

Street means only the paved portion of the right-of-way used for vehicular travel, being the area between the inside of the curb to the inside of the opposite curb, or the area between the two parallel edges of the paved roadway for vehicular travel where there is no curb. A “Street” is generally part of, but smaller in width than the width of the entire right-of-way, while a right-of-way may include sidewalks and utility easements. A “Street” does not include the curb or the sidewalk, if either are present at the time of a permit application or if added later.

Traffic Signal means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

Transport facility means each transmission path physically within a public right-of-way, extending with a physical line from a Network Node directly to the network, for the purpose of providing backhaul for network nodes.

User means a person or organization which conducts a business over facilities occupying the whole or a part of a public street or right-of-way, depending on the context.

Utility pole means a pole that provides:
(A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
(B) services of a telecommunications provider, as defined by Chapter 284, Section 51.002, Utilities Code.

Wireless service means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a Network Node.

Wireless service provider means a person that provides wireless service to the public.

Wireless facilities mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles” as defined in Texas Local Government Code, Chapter 284.

§ 1.04 USE AND OCCUPANCY OF PUBLIC RIGHTS-OF-WAY.

Pursuant to this chapter and subject to the Design Manual and the Code, a wireless network provider has the nonexclusive right to use and occupy the public rights-of-way in the City for the
purpose of constructing, maintaining, and operating its facilities used in the provision of Wireless facilities.
The terms of this chapter shall apply to all wireless network providers' facilities used, in whole or part, in the provision of wireless services throughout the City, including any annexed areas upon the effective date of annexation or the date the City provides the company written notice, whichever date occurs later.

§ 1.05 COMPLIANCE WITH DESIGN MANUAL AND APPLICABLE CODES.
All wireless network providers shall comply with the terms of this right-of-way management ordinance, City applicable codes, and the terms and conditions of the City’s Design Manual.

§ 1.06 GENERAL CONSTRUCTION AND MAINTENANCE REQUIREMENTS.
A network provider shall construct and maintain Network Nodes and Network Support Poles described in the Code in a manner that does not:
(A) Obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
(B) Obstruct the legal use of a public right-of-way by other utility providers;
(C) Violate nondiscriminatory applicable codes;
(D) Violate or conflict with the City’s publicly disclosed public right-of-way design specifications; or
(E) Violate the federal Americans with Disabilities Act of 1990 (ADA).

§ 1.07 PERMIT APPLICATIONS.
(A) Except as otherwise provided in Chapter 284 of the Code, a network provider shall obtain a permit or permits from the City to install a Network Node, Node Support Pole, or Transport Facility in a City public right-of-way.
(B) As required by Chapter 284 of the Code, the City shall not require a network provider to perform services for the City for which the permit is sought.
(C) A network provider that wants to install or collocate multiple Network Nodes inside the municipal limits of the City is entitled to file a consolidated permit application with the City for not more than 30 Network Nodes and upon payment of the applicable fee(s), receive a permit or permits for the installation or collocation of those Network Nodes.
(D) The network provider shall provide the following information in its permit applications:

1. Applicable construction and engineering drawings and information to confirm that the applicant will comply with the City’s Design Manual and applicable codes;

2. Any additional information reasonably related to the network provider’s use of the public rights-of-way to ensure compliance with the Design Manual and this chapter;

3. A certificate that the Network Node(s) complies with applicable regulations of the Federal Communications Commission; and certification that the proposed Network Node(s) will be placed into active commercial service by or for the network provider not later than the 60th day after the date of construction and final testing of each Network Node is completed.

4. A certificate of insurance that provides that the Network Provider and its contractor has at least $1,000,000.00 in general liability coverage.

(E) Exception: As provided in Section 284.157 of the Code, a network provider is not required to apply, obtain a permit, or pay a rate to the City for:

1. Routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way;

2. Replacing or upgrading a Network Node or Network Pole with a node or pole that is substantially similar in size or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; or

3. The installation, placement, maintenance, operation, or replacement of Micro Network Nodes that are strung on cables between existing poles or Node Support Poles in compliance with the National Electrical Safety Code;

4. Notwithstanding Subdivision (D) above, the network provider or its contractors shall notify the City at least 24 hours in advance of work described in this Subdivision (D).

§ 1.08 INSTALLATION IN HISTORIC DISTRICTS

A network provider must obtain advance written consent from the City Council before collocating new Network Nodes or installing new Node Support Poles in an area of the City that has been zoned or otherwise designated as a historic district if the district has decorative poles. The network provider shall be required to comply with the General Aesthetic Requirements described in the City’s Design Manual. The City has the authority to designate new historic districts and design districts at a future date.
§ 1.09 INSTALLATION IN MUNICIPAL PARKS AND RESIDENTIAL AREAS

A network provider may not install a new Node Support Pole in a public right-of-way without the City Council’s discretionary, nondiscriminatory and written consent if the public right-of-way:

1) Is in a municipal park; or

2) Is adjacent to a street or thoroughfare that is:
   i. Not more than 50 feet wide; and
   ii. Adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

3) In addition to the above, a network provider installing a Network Node or Node Support Pole in a public right-of-way shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

4) The network provider shall be further required to comply with guidelines set out in the City’s Design Manual.

§ 1.10 MUNICIPAL REVIEW PROCESS BY THE CITY.

A) Determination of Application Completeness: The City shall determine whether the permit application is complete and notify the applicant of that determination:

1) For Network Nodes and Note Support Poles: no later than 30 days after the date the City receives the permit application.

2) For a Transport Facility: no later than 10 days after the date the City receives the permit application.

B) Approval or Denial of Application: The City shall approve or deny a completed application after the date it is submitted to the City:

1) For Network Nodes: No later than 60 days after the date the City receives the complete application.

2) For Network Support Poles: No later than 150 days after the date the City receives the complete application.

3) For Transport Facilities: No later than 21 days after the City receives the complete application.
(C) **Basis for Denial of Application:** If an application is denied by the City, it shall document the basis for the denial, including the specific applicable City code provisions or other City rules, regulations, or other law on which the denial is based. The documentation for the denial must be sent by electronic mail to the applicant on or before the date that the City denies the application.

(D) **Resubmission of Denied Application:** The applicant may cure the deficiencies identified in the denial application.

   1) The applicant has 30 days from the date the City denies the completed application to cure the deficiencies identified in the denial documentation without paying an additional application fee, other than any fee for actual costs incurred by the City.

   2) The City shall approve or deny the revised completed application after a denial not later than the 90th day after the City receives the revised completed application. The City's review shall be limited to the deficiencies cited in the denial documentation.

(E) **Nondiscriminatory Review:** Each completed application shall be processed by the City on a nondiscriminatory basis.

§ 1.11 **TIME OF INSTALLATION.**

A network provider shall begin installation for which a permit is granted not later than six months after final approval of the application and shall diligently pursue installation to completion. The City Manager may in his/her sole discretion grant reasonable extensions of time as requested by the network provider.

§ 1.12 **APPLICABLE FEES AND RENTAL RATES TO THE CITY.**

(A) As compensation for the network provider's use and occupancy of the City public rights-of-way, the network provider shall pay application fees and annual public right-of-way rental rates as set forth below, which shall be in lieu of any lawful tax, license, charge, right-of-way permit, use, construction, street cut or inspection fee; or other right-of-way related charge or fee, whether charged to the network provider or its contractor(s) within the City, except the usual general ad valorem taxes, special assessments and sales tax levied in accordance with state law and equally applicable to all general businesses in the City.

(B) **Network Nodes:**
(1) **Application Fee:** The application fee shall be $100.00 for each Network Node for up to but not more than 30 Network Nodes.

(2) **Annual Public Right-of-Way Rate Fee:** The annual public right-of-way rate shall be $250.00 per Network Node installed in the City public rights-of-way.

(3) **Public Right-of-Way Rate Adjustment:** As provided in Section 284.054 of the Code, the City may adjust the amount of the annual public right-of-way rate not more than annually by an amount equal to one-half the annual change, if any, in the Consumer Price Index (CPI). The City shall provide written notice to each network provider of the new rate; and the rate shall apply to the first payment due to the City on or after the 60th day following the written notice.

(C) **Node Support Poles:**

(1) The application fee for each Network Support Pole shall be $100.00.

(D) **Transfer Facilities:**

(1) The application fee for each Transfer Facility shall be $100.00.

(2) The annual Transfer Facility rental rate shall be $28.00 monthly for each Network Node site located in a public right-of-way. However, no rate is required if the network provider is already paying the City an amount equal to or greater than the amount of other City right-of-way fees for access lines under Chapter 283 of the Code or cable franchise fees under Chapter 66 of the Texas Utility Code.

(E) **Micro Network Nodes:**

(1) No application fee is required for a Micro Network Node if the installation is attached on lines between poles or node support poles.

(F) **Collocation of Network Nodes on Service Poles**

(1) Subject to the City’s Pole Service Agreement, the collocation of Network Nodes on City service poles shall be at a rate of $20.00 per year per service pole.

(G) **City-Owned Municipal Utility Poles:**

(1) A network provider shall pay an annual pole attachment rate for the collocation of a Network Node supported by or installed on a City-owned utility pole based upon the pole attachment rate consistent with Section 54.024 of the Texas Utilities Code, applied on a per-foot basis.
(H) The City shall not seek or accept in-kind services in lieu of or as additional payment or consideration from any user of the public rights-of-way for use of the public rights-of-way.

§ 1.13 INDEMNITY.

As provided in Section 284.302 of the Code, a wireless Network Provider shall indemnify, defend, and hold the City harmless from and against all liability, damages, cost, and expense, including reasonable attorney's fees, arising from injury to person or property proximately caused by the negligent act or omission of the Network Provider. The City shall promptly notify the Network Provider of any claims, demands, or actions ("claims") covered by this indemnity after which the Network Provider shall defend the claims. The Network Provider shall have the right to defend and compromise the claims. The City shall cooperate in the defense of the claims. The foregoing indemnity obligations shall not apply to claims arising solely from the negligence of City; however, they shall apply in the case of all claims which arise from the joint negligence of the Network Provider and the City; provided that in such cases, the amount of the claims for which the City shall be entitled to indemnification shall be limited to that portion attributable to the Network Provider. Nothing in this section shall be construed as waiving any governmental immunity available to the City under state law or waiving any defenses of the parties under state law.

§ 1.14 EFFECT ON OTHER UTILITIES AND TELECOMMUNICATION PROVIDERS.
Nothing in this Ordinance shall govern attachment of Network Nodes on poles and other structures owned or operated by investor-owned electric utilities, electric cooperatives, telephone cooperatives, or telecommunication providers.

SECTION III.
REPEALING ALL ORDINANCES IN CONFLICT

All other ordinances or parts of ordinances inconsistent or in conflict herewith, or to the extent of such inconsistency or conflict are hereby repealed.

SECTION IV.
SAVINGS CLAUSE

This City Council of the City of Huntsville, Texas does hereby declare that if any section,
subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event that it would have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declare that its intent is to make no portion of this Ordinance dependent upon the validity of any portion thereof, and that all said remaining portions shall continue in full force and effect.

SECTION V.  
COMPLIANCE WITH OPEN MEETINGS ACT

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

SECTION VI.  
EFFECTIVE DATE.

This Ordinance shall become effective on October 1, 2017.

PASSED AND APPROVED THIS ____ DAY OF _______ 2017.

THE CITY OF HUNTSVILLE

______________________________
Andy Brauninger, Mayor

ATTEST:  
APPROVED AS TO FORM:

______________________________  
Lee Woodward, City Secretary  Leonard Schneider, City Attorney
ORDINANCE NO. 2017-53

AN ORDINANCE BY THE CITY OF HUNTSVILLE, TEXAS, APPROVING A DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES; AND APPROVING A POLE ATTACHMENT AGREEMENT REGULATING THE INSTALLATION OF NETWORK NODES ON CITY SERVICE POLES AND UTILITY POLES; DECLARING GOVERNING LAW; PROVIDING REPEALING AND SAVINGS CLAUSES; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF OCTOBER 1, 2017.

WHEREAS, the City of Huntsville, Texas ("City") recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities; and

WHEREAS, Chapter 284 of the Texas Local Government Code ("the Code") allows certain wireless network providers to install in the public rights-of-way their wireless facilities, described and defined in Section 284.002 of the Code as "Micro Network Nodes", "Network Nodes", and "Node Support Poles;" and

WHEREAS, as expressly allowed by Section 284.108 of the Code and pursuant to its police power authority reserved in Sec. 284.301 of the Code, the City desires to enact a Design Manual by the City of Huntsville, Texas for the Installation of Network Nodes and Node Support Poles ("the Design Manual") in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications network providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment; and

WHEREAS, the City Council desires to approve a Pole Attachment Agreement by which wireless telecommunication network providers may attach and collocate their network nodes on city service and utility poles subject to the Code, the Design Manual, and the City Right-of-Way Management Ordinance.
NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF HUNTSVILLE, TEXAS THAT:

SECTION I
FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance as true and correct findings of fact.

SECTION II.
APPROVING DESIGN MANUAL

The City Council hereby approves the Design Manual by the City of Huntsville, Texas for the Installation of Network Nodes and Node Support Poles, which is attached here as Exhibit "A."

SECTION III.
APPROVING POLE ATTACHMENT AGREEMENT

The City Council hereby approves the Pole Attachment Agreement, which is attached here as Exhibit "B."

SECTION IV.
GOVERNING LAW

This Ordinance shall be construed in accordance with Chapter 284 of the Texas Local Government Code ("the Code") to the extent not in conflict with the Constitution and laws of the United States or of the State of Texas.

SECTION V.
REPEALING ALL ORDINANCES IN CONFLICT

All other ordinances or parts of ordinances inconsistent or in conflict herewith, or to the extent of such inconsistency or conflict are hereby repealed.

SECTION VI.
SAVINGS CLAUSE

This City Council of the City of Huntsville, Texas does hereby declares that if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event that it would
have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declare that its intent is to make no portion of this Ordinance dependent upon the validity of any portion thereof, and that all said remaining portions shall continue in full force and effect.

SECTION V.
COMPLIANCE WITH OPEN MEETINGS ACT

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

SECTION VI.
EFFECTIVE DATE.

This Ordinance shall become effective on October 1, 2017.

PASSED AND APPROVED THIS _______ DAY OF ____________ 2017.

THE CITY OF HUNTSVILLE

__________________________
Andy Brauninger, Mayor

ATTEST:                          APPROVED AS TO FORM:

__________________________     __________________________
Lee Woodward, City Secretary  Leonard Schneider, City Attorney
Design Manual

by the City of

Huntsville, Texas

for the

Installation of Network Nodes and Node Support Poles

pursuant to Tex. Loc. Gov. Code, Chapter 284.
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SECTION 1. PURPOSE AND APPLICABILITY.

The City of Huntsville Texas ("City") recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities.


As expressly allowed by Tex. Loc. Gov. Code, Chapter 284, Section 284.108, and pursuant to its police power authority reserved in Sec. 284.301, the City enacts these Design Guidelines in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment.

Applicability: This Design Manual is for siting and criteria for the installation Wireless Facilities, including Micro Network Nodes, Network Nodes, Node Support Poles and related ground equipment being installed pursuant to Loc. Gov. Code, Chapter 284

This Design Manual shall apply to any sitings, installations, collocations in, on, over or under the public rights-of-way of Network nodes, Node support poles, Micro network nodes, Distributed Antenna Systems, microwave communications or other Wireless Facilities, by whatever nomenclature, whether they are installed pursuant to Chapter 284, or installed pursuant to an agreement as agreed to and consented to by the City in its discretion, or installed as may otherwise be allowed by state law.

City Rights-of-Way Management Ordinance: A Network Provider shall comply with the City's Rights-of-Way Management Ordinance except where in conflict with this Design Manual or Chapter 284, Subchapter C.

SECTION 2. DEFINITIONS.

The definitions as used in Tex. Loc. Gov. Code, Chapter 284, Sec. 284.002 shall be used in this Design Manual, unless otherwise noted in this Section 2, below.

Abandon and its derivatives means the facilities installed in the right-of-way (including by way of example but not limited to: poles, wires, conduit, manholes, handholes, cuts, network nodes and node support poles, or portion thereof) that have been left by Provider in an unused or non-functioning condition for more than 120 consecutive calendar days unless, after notice to Provider, Provider has established to the reasonable satisfaction of the City that the applicable facilities, or portion thereof, is still in active use.
Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes means:
   (A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and
   (B) local amendments to those codes to the extent not inconsistent with Chapter 284.

City means the City of Huntsville, Texas or its lawful successor.

City Manager shall mean City Manager or designee

City Council means the municipal governing body of the City of Huntsville, Texas.


Collocate and collocation mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

Concealment or Camouflaged means any Wireless Facility or Pole that is covered, blended, painted, disguised, camouflaged or otherwise concealed such that the Wireless Facility blends into the surrounding environment and is visually unobtrusive as allowed as a condition for City advance approval under Chapter 284, Sec. 284.105 in Historic or Design Districts. A Concealed or Camouflaged Wireless Facility or Pole also includes any Wireless Facility or Pole conforming to the surrounding area in which the Wireless Facility or Pole is located and may include, but is not limited to hidden beneath a façade, blended with surrounding area design, painted to match the supporting area, or disguised with artificial tree branches.

Decorative pole means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

Design District means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

Disaster emergency or disaster or emergency means an imminent, impending, or actual natural or humanly induced situation wherein the health, safety, or welfare of the residents of the city is threatened, and includes, but is not limited to any declaration of emergency by city state or federal governmental authorities.

Distributed Antenna System or DAS shall be included as a type of “Network Node.”
Easement means and shall include any public easement or other compatible use created by dedication, or by other means, to the city for public utility purposes or any other purpose whatsoever. "Easement" shall include a private easement used for the provision of utilities.

Federal Communications Commission or FCC means the Federal Administrative Agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.

Highway right-of-way means right-of-way adjacent to a state or federal highway.

Historic district means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

Law means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

Local means within the geographical boundaries of the City.

Location means the City approved and lawfully permitted location for the Network Node.

Macro tower means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Chapter 284, Section 284.103 and that supports or is capable of supporting antennas.

Mayor means the Mayor for the City of Huntsville, Texas, or designee.

Micro network node means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Municipal park means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

Municipally owned utility pole means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.


Network node means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:
(i) equipment associated with wireless communications;
(ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
(iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:
(i) an electric generator;
(ii) a pole; or
(iii) a macro tower

Network provider means:
(A) a wireless service provider; or
(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:
(i) network nodes; or
(ii) node support poles or any other structure that supports or is capable of supporting a network node.

Node support pole means a pole installed by a network provider for the primary purpose of supporting a network node.

Permit means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

Pole means a service pole, municipally owned utility pole, node support pole, or utility pole.

Private easement means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

Provider has the same meaning as “Network Provider.”

Public right-of-way means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:
(A) a private easement; or
(B) the airwaves above a public right-of-way with regard to wireless telecommunications.

Public right-of-way management ordinance means an ordinance that complies with Chapter 284, Subchapter C.

SCADA or Supervisory Control and Data Acquisition systems means a category of software application programs and hardware used by the City for process control and gathering of data in real time from remote locations in order to monitor equipment and conditions of the City public water and wastewater utility facilities. These systems may utilize both cable and wireless communications.

Service pole means a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including:
(A) a pole that supports traffic control functions;
(B) a structure for signage;
(C) a pole that supports lighting, other than a decorative pole; and
(D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.
Small cell shall be included as a type of “Network Node.”

Street means only the paved portion of the right-of-way used for vehicular travel, being the area between the inside of the curb to the inside of the opposite curb, or the area between the two parallel edges of the paved roadway for vehicular travel where there is no curb. A “Street” is generally part of, but smaller in width than the width of the entire right-of-way, while a right-of-way may include sidewalks and utility easements, a “Street” does not. A “street” does not include the curb or the sidewalk, if either are present at the time of a permit application or if added later.

SWPPP shall mean Storm Water Pollution Prevention Plan.

TAS means Texas Accessibility Standards.

Traffic Signal means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

Transport facility means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

Underground Requirement Area shall mean means an area where poles, overhead wires, and associated overhead or above ground structures have been removed and buried or have been approved for burial underground pursuant to municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way.

User means a person or organization which conducts a business over facilities occupying the whole or a part of a public street or right-of-way, depending on the context.

Utility pole means a pole that provides:
(A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
(B) services of a telecommunications provider, as defined by Chapter 284, Section 51.002, Utilities Code.

Wireless service means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

Wireless service provider means a person that provides wireless service to the public.

Wireless facilities mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles” as defined in Texas Local Government Code Chapter 284.
SECTION 3. PROHIBITED AND PREFERRED LOCATIONS OF MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.

A. Prohibited or Restricted Areas for Certain Wireless facilities, except with Separate City Agreement or Subject to Concealment Conditions.

1. Municipal Parks and Residential Areas. In accordance with Chapter 284, Sec. 284.104 (a), a Network Provider may not install a Node Support Pole in a public right-of-way without the City's discretionary, nondiscriminatory, and written consent if the public right-of-way is in a Municipal park or is adjacent to a street or thoroughfare that is:

a. not more than 50 feet wide of paved street surface, being the area measured as the shortest distance between the inside of the curb to the inside of the opposite curb, or the area measured as the shortest distance between the two parallel edges of the paved roadway for vehicular travel where there is no curb; and

b. adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

1.1 In accordance with Chapter 284, Sec. 284.104 (b), a Network Provider installing a Network Node or Node Support Pole in a public right-of-way described above shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

1.2 Each permit application shall disclose if it is within a Municipal Park and Residential Areas as described above.

2. Historic District and Design Districts. In accordance with Chapter 284, Sec. 284.105, a Network Provider must obtain advance written approval from the City before collocating Network Nodes or installing Node Support Poles in a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

2.1. As a condition for approval of Network Nodes or Node Support Poles in Design Districts with Decorative Poles or in a Historic District, the City shall require reasonable design or Concealment measures for the Network Nodes or Node Support Poles. Therefore, any request for installations in a Design District with Decorative Poles or in a Historic District, must be accompanied with proposed Concealment measures in the permit applications.

2.2. The City request that a Network Provider explore the feasibility of using Camouflage measures to improve the aesthetics of the Network Nodes, Node Support Poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in Design Districts or in an Historic District.

2.3. A Network Provider shall comply with and observe all applicable City, State, and federal historic preservation laws and requirements.
2.4. Each permit application shall disclose if it is within a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

3. **Historic Landmarks**. A Network Provider is discouraged from installing a Network Node or Node Support Pole within 300 feet of a historic site or structure or Historic Landmark recognized by the City, state or federal government (see, for example, and not limited to §442.001(3) of the Texas Government Code, and 16 U.S.C. §470), as of the date of the submission of the permit. It is recommended that each permit application disclose if it is with 300 feet of such a structure.

4. **Compliance with Undergrounding Requirements**. In accordance with Chapter 284, Sec. 284.107, a Network Provider shall comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

4.1 Areas may be designated from time to time by the City as Underground Requirement Areas in accordance with filed plats, and or conversions of overhead to underground areas, as may be allowed by law.

4.2 Each permit application shall disclose if it is within an area that has undergrounding requirements.

**B. Least preferable locations.**

1. **Residential Areas and Parks**. A Network Provider is discouraged from installing a Network Node on an existing pole in a public right-of-way without written consent from the City Council if the public right-of-way is located in or adjacent to a street or thoroughfare that is adjacent to a municipal park or single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

   1. In accordance with Chapter 284, Sec. 284.104 (b) a Network Provider installing a Network Node or a Node Support Pole in a public right-of-way shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

2. **Historic Districts and Design Districts**. A Network Provider is discouraged from installing a Network Node or a Node Support Pole in the public right-of-way in any area designated by the City as a Design Districts or in an area of the City zoned or otherwise designated as a Historic District unless such a Network Node or a new Node Support Pole is camouflaged.

**C. Most preferable locations**

1. **Industrial areas** if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

2. **Highway Rights-of-Way** areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.
3. Retail and Commercial areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

D. Designated Areas.

1. The City Council may designate an area as a Historic District or a Design District under Chapter 284.105 at any time.

2. The failure to designate an area in this Chapter shall not mean that such an area is not within a defined district, if so designated by the City Council. Future areas may be designated as one of these Districts at any time. Such a designation does not require a zoning case.

3. While not required under Chapter 284 to designate Underground Compliance Areas to prohibit above ground Wireless facilities, the City may also, from time to time, also designate Underground Compliance Areas.

E. Exceptions

The City by its discretionary consent and agreement may grant exceptions to the above prohibited locations and sizes, but only in a non-exclusive, and non-discriminatory manner, as allowed or required by Chapter 284, Sec. 284.109 and Sec. 284.110.

F. Order of Preference regarding Network Node attachment to existing facilities and New Node Support Poles.

1. Existing telephone or electrical lines between existing utility poles. Micro Network Nodes shall only be lashed on existing telephone or electrical lines between existing utility poles (electric poles or telephones poles), with notice to the pole owner as required by the Federal Pole Attachment Act, and not placed on Utility Poles, Node Support Poles or Service Poles.

2. Existing Utility Poles (electric poles or telephones poles), shall be the preferred support facility for Network Nodes and related ground equipment.

3. Municipal Service Poles:
   a. Non-decorative street lights with a height of more than 20 feet.
   b. Traffic signal structures when such installation will not interfere with the integrity of the facility and will not interfere with the safety of public and in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b).
   c. Street signage shall be a low priority use for attachment of a Network Node.
   d. Other municipal Service pole use is discouraged.

4. New node support poles shall be the least preferred type of allowed facility for attachment of Network Nodes.
5. **Ground Equipment.** Ground equipment should be minimal and the least intrusive.

**SECTION 4. GUIDELINES ON PLACEMENT.**

**A. Generally.**

In accordance with Chapter 284.102, a Network Provider shall construct and maintain Network Nodes and Node Support Poles in a manner that does not:

1. obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
2. obstruct the legal use of a public right-of-way by other utility providers;
3. violate nondiscriminatory applicable codes;
4. violate or conflict with the City's publicly disclosed public right-of-way management ordinance or this Design Manual;
5. violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

**B. General Requirements and Information:**

1. **Size Limits.** Network Providers shall provide detailed drawings, with calculations to show strict conformity to the size limitations as set forth in Chapter 284, in accordance with, but not limited to Chapter 284, Sec. 284.002, size of a Micro Network Node, Sec. 284.003, Size of Network Nodes, and Sec. 284.103, Max. pole height, with each application and with each request for a permit for each location.3

2. **State and Federal Rights-of-way permit.** If the project lies within a Highway Right-of-Way, the applicant must provide evidence of a permit from the State or Federal Government.

3. **Confirmation of non-interference with City Safety Communication or SCADA Networks.**

   a. The Network Provider needs to provide analysis that the proposed network node shall not cause any interference with City public safety radio system, traffic signal light system, SCADA system, or other city safety communications components in accordance with Chapter 284, Sec. 284.304.

   b. It shall be the responsibility of the Network Provider to evaluate, prior to making application for permit, the compatibility between the existing City infrastructure and Provider's proposed Network Node. A Network Node shall not be installed in a location that causes any interference. Network Nodes shall not be allowed on City's public safety radio infrastructure.

4. **Improperly Located Network Node facilities, Node Support Poles and related ground equipment:**

   a. Improperly Located Network Node facilities, Node Support Poles and related ground equipment shall not impede pedestrian or vehicular traffic in the Right-of-Way. If any Network Node facilities, Node Support Poles or ground equipment is installed in a location that is not in accordance with the plans approved
by the City Manager and impedes pedestrian or vehicular traffic or does not comply
or otherwise renders the Right-of-Way non-compliant with applicable Laws,
including the American Disabilities Act, then Network Provider shall promptly
remove the Network Node facilities, Node Support Poles or ground equipment.

b. Notice to Remove unauthorized facilities and relocate and penalty: After 30 days’
notice to remove of Network Node facilities, Node Support Poles or ground equipment that
is located in the incorrect permitted location, if not relocated the Network Provider shall
be subject to a penalty of $500.00 per day penalty until the Network Node facilities, Node
Support Poles or ground equipment is relocated to the correct area within the permitted
Location, regardless of whether or not the Network Provider’s contractor, subcontractor,
or vendor installed the Network Node facilities, Node Support Poles or ground equipment
in strict conformity with the City Rights-of-way management ord., and other applicable
ordnances concerning improperly located facilities in the rights-of-way.

B. Underground Requirement Areas.

1. In accordance with Chapter 284.107, a Network Provider shall, in relation to
installation for which the City approved a permit application, comply with
nondiscriminatory undergrounding requirements, including municipal ordinances, zoning
regulations, state law, private deed restrictions, and other public or private restrictions, that
prohibit installing aboveground structures in a public right-of-way without first obtaining
zoning or land use approval.

2. If a location is designated by the City to transits to be an Underground
Requirement Area, then a Network Provider’s permit for the location of the Micro Network
Node, Network Node, Node Support Pole, and related ground equipment at such location
will be revoked 90 days after the designation, with removal of said the Micro Network
Node, Network Node, Node Support Pole, and related ground equipment at such location
within 90 days of such designation, or as otherwise reasonably allowed by the City for the
transition of other overhead facilities.

3. Before commencing underground installation, 811 Dig Toss must be called so that the
area can be flagged for underground utilities.

C. Network Node facilities placement:

equipment shall be placed, as much as possible, within two feet of the outer edge of the
Right-of-Way line to minimize any obstruction, impediment, or hindrance to the usual
travel or public safety on a public right-of-way.

2. Height above ground. Network Node attachments to a pole shall be installed at
least eight (8) feet above the ground in accordance with Chapter 284, Sec. 284.108, and if
a Network Node attachment is projecting toward the street, for the safety and protection
of the public and vehicular traffic, the attachment shall be installed no less than sixteen
(16) feet above the ground.
3. **Protrusions.** In accordance with Chapter 284, Sec. 284.003 (a) (1) (C), Sec. 284.003 (a) (2) (C) and Sec. 284.003 (a) (3) (B) no protrusion from the outer circumference of the existing structure or pole shall be more than two (2) feet.

4. **Limit on number of Network Nodes per Site.** There shall be no more than one Network Node on any one Pole.

**D. New Node Support Poles.**

1. **New Node Support Poles Spacing.** New node support poles shall be spaced apart from existing utility poles or Node Support poles at the same as the spacing between utility poles in the immediate proximity, but no less than at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

2. **Height of Node Support Poles or modified Utility Pole.** In accordance with Chapter 284, Sec. 284.103 a Node support pole or modified Utility Pole may not exceed the lesser of:

   a. 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or

   b. 55 feet above ground level.

**E. Ground Equipment.**

1. **Ground Equipment near street corners and intersections:** Ground equipment should be minimal and the least intrusive. In accordance with Chapter 284.102 (1), to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way the maximum line of sight required to add to safe travel of vehicular and pedestrian traffic and in order to maximize that line of sight at street corners and intersections and to minimize hazards at those locations, ground equipment may not be installed within 250 feet of a street corner or a street intersection.

2. **Ground Equipment near Municipal Parks.** For the safety of Municipal park patrons, particularly small children, and to allow full line of sights near Municipal park property, the Network Provider shall not install Ground Equipment in a Right-of-Way that is within a Park or within 250 feet of the boundary line of a Park, unless approved by the City Manager in writing.

3. **Minimize Ground equipment density:**

   In accordance with Chapter 284, Sec. 284.102 (1) to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City's designee may deny a request for a proposed Location if the Network Provider installs Network Node ground equipment where existing ground equipment within 300 feet already occupies a footprint of 25 sq. ft. or more.

4. **Water, Sewer and Storm Drainage Lines:**

   Special precautions must be taken where underground fiber optic cable is installed in public street right-of-ways commonly used for utility corridors.
a. Underground utilities and service connections must be identified prior to excavation. "Dig Alert," "One Call," or similar underground utility contractor must be contacted to identify the locations of subsurface utilities.

b. If temporary disruption of service is required, the installation contractor must notify the City, the service provider, and customers at least 24 hours in advance. No service on such lines may be disrupted until prior approval from the City and the service provider.

c. At locations where the fiber optic cable will cross other subsurface utilities or structures, the cable must be installed to provide a minimum of 12 inches of vertical clearance between it and the other subsurface utilities or structures, while still maintaining the other applicable minimum depth requirement. To maintain the minimum depth requirement, the cable must be installed under the existing utility. If the minimum 12-inch clearance cannot be obtained between the proposed cable facility and the existing utility, the fiber optic cable must be encased in steel pipe of avoid future damage.

d. *Existing Water Lines:* No communication lines shall be placed on top of a water line but may be placed to the side of a water line at least 4 feet from the center line of the water line. When crossing a water line, a 12-inch vertical or horizontal clearance must be maintained. Poles must be at least 3 feet from a water line.

e. *Existing Sewer Lines:* No communication lines shall be placed on top of a sewer line but may be placed to the side of a sewer line at least 4 feet from the center line of the sewer line. When crossing a sewer line, a 12-inch vertical or horizontal clearance must be maintained. Poles must be at least 3 feet from a sewer line.

f. *Existing Storm Drainage Lines:* No communication lines shall be placed on top of a storm drainage line but may be placed to the side of a storm drainage line at least 4 feet from the center line of the storm drainage line. When crossing a storm drainage line, a 12-inch vertical or horizontal clearance must be maintained. Poles must be at least 3 feet from a storm drainage line.

5. Blocking streets, roads, alleys or lanes:

Texas Department of Transportation (TxDOT) standards must be followed for work zone areas that will block streets, roads, alleys or lanes. A traffic plan must be submitted to the City prior to construction.

F. Municipal Service Poles:

1. *In accordance with Agreement:* Installations on all Service Poles shall be in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b).
2. Required industry standard pole load analysis: Installations on all Service Poles shall have an industry standard pole load analysis completed and submitted to the municipality with each permit application indicating that the Service Pole to which the Network Node is to be attached will safely support the load, in accordance with Chapter 284.108.

3. Height of attachments: All attachments on all Service Poles shall be at least 8 feet above grade, in accordance with Chapter 284, Sec. 285.108 (a) (1) - (2) and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

4. Installations on Traffic Signals: Installations on all Traffic signal structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with an agreement as allowed by Chapter 284, Sec. 283.056 and Sec. 284.101 (a) (3), and (b). Installation of Network Node facilities on any traffic signal structures shall:
   a. Be encased in a separate conduit than the traffic light electronics;
   b. Have a separate electric power connection than the traffic signal structure; and
   c. Have a separate access point than the traffic signal structure; and

5. Installations on Street signage: Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of Network Node facilities on any street signage structures that has electrics shall:
   a. Be encased in a separate conduit than any City signage electronics;
   b. Have a separate electric power connection than the signage structure;
   c. Have a separate access point than the signage structure; and

6. Restoration of City facilities and private property: The Network Provider shall be responsible for repairing any damage to any street, street right-of-way, ditch or any structure to its original condition immediately upon completing the installation. Any change to the slope of the land must be remedied, and there must be replacement of top soil and grass to its original condition.

SECTION 5. GENERAL AESTHETIC REQUIREMENTS

A. Concealment.

1. Concealment of Network Nodes and Node support poles shall be required by the City in Design Districts with Decorative Poles and in Historic Districts pursuant to Chapter 284.105.

2. It is also the City’s preference that all new node support poles be camouflaged, except those located in an area zoned or predominantly industrial area. Companies shall submit their proposal for camouflage with the permit application.

3. The Network Node facilities shall be concealed or enclosed as much as reasonably possible in an equipment box, cabinet, or other unit that may include ventilation openings. External
cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

4. The Network Node facilities shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible, except to the extent not consistent with Chapter 284.

B. New Node Support Pole Spacing.

New node support poles shall be at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

C. Minimize Ground Equipment Concentration.

In order to minimize negative visual impact to the surrounding area, and in accordance with Chapter 284, Sec. 284.102 (1) to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City’s designee may deny a request for a proposed Location if the Network Provider installs Network Node ground equipment where existing ground equipment within 300 feet already occupies a footprint of 25 sq. ft. or more to minimize effect on property values and aesthetics on the area.

D. Allowed Colors.

1. Colors in Historic Districts and Design Districts must be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

2. Colors in Historic Districts and Design Districts must be approved by the City Manager from a palette of approved colors. Unless otherwise provided, all colors shall be earth tones or shall match the background of any structure the facilities are located upon and all efforts shall be made for the colors to be inconspicuous. Colors in areas other than in Historic Districts and Design Districts shall conform to colors of other installations of telecommunication providers in the immediately adjacent areas.

SECTION 6. ELECTRICAL SUPPLY

A. Network Provider shall be responsible for obtaining any required electrical power service to the Micro Network Node, Network Node facilities, Node Support Poles and ground equipment. The City shall not be liable to the Network Provider for any stoppages or shortages of electrical power furnished to the Micro Network Node, Network Node facilities, Node Support Poles or ground equipment, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or Network Provider of the structure, or for any other cause beyond the control of the City.
B. Network Provider shall not allow or install generators or back-up generators in the Public Right-of-Way in accordance with Chapter 284, Sec. 284.002 (B) (1).

SECTION 7. INSURANCE, INDEMNITY, BONDING AND SECURITY DEPOSITS.

A. Insurance, bonding and security deposits shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

B. Indemnity shall be in accordance with Chapter 284, Sec. 284.302, as provided for in Chapter 283, Sec. 283.057 (a) and (b) of the Texas Loc. Gov’t Code.

SECTION 8. REQUIREMENTS IN REGARD TO REMOVAL, REPLACEMENT, REPLACEMENT, MAINTENANCE AND REPAIR

A. REMOVAL OR RELOCATION BY NETWORK PROVIDER.

1. Removal and relocation by the Network provider of its Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

2. If the Network Provider removes or relocates a Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, it shall notify the City Manager in writing not less than 10 business days prior to removal or relocation. Network Provider shall obtain all Permits required for relocation or removal of its Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment prior to relocation or removal.

3. The City shall not issue any refunds for any amounts paid by Network Provider for Micro Network Node, Network Node facilities, Node Support Poles or related ground equipment that have been removed.

B. REMOVAL OR RELOCATION REQUIRED FOR CITY PROJECT.

1. Removal and Relocation of Network Provider’s Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof required for a City project shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284, Sec. 284.107, except as provided in existing state and federal law.

2. In accordance with Chapter 284, Sec. 284.107, except as provided in existing state and federal law, a Network Provider shall relocate or adjust Micro Network Node, Network Node, Node Support Pole and related ground equipment in a public right-of-way in a timely manner and without cost to the City managing the public right-of-way.

3. Network Provider understands and acknowledges that the City may require Network Provider to remove or relocate its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or any portion thereof from the Right-of-Way for City construction projects as allowed by state and federal law, including the common-law.
4. Network Provider shall, at the City Manager’s direction, remove or relocate the same at Network Provider’s sole cost and expense, except as otherwise provided in existing state and federal law, whenever the City Manager reasonably determines that the relocation or removal is needed for any of the following purposes: Required for the construction, completion, repair, widening, relocation, or maintenance of, or use in connection with, any City construction or maintenance project of a street or public rights-of-way to enhance the traveling public’s use for travel and transportation.

5. If Network Provider fails to remove or relocate the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof as requested by the City Manager within 90 days of Network Provider’s receipt of the request, then the City shall be entitled to remove the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof at Network Provider’s sole cost and expense, without further notice to Network Provider.

6. Network Provider shall, within 30 days following issuance of invoice for the same, reimburse the City for its reasonable expenses incurred in the removal (including, without limitation, overhead and storage expenses) of the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof.

C. REMOVAL REQUIRED BY CITY FOR SAFETY AND IMMINENT DANGER REASONS.

1. Network Provider shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment within the time frame and in the manner required by the City Manager if the City Manager reasonably determines that the disconnection, removal, or relocation of any part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the Micro Network Node, Network Node, Node Support Pole and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) Network Provider fails to obtain all applicable licenses, Permits, and certifications required by Law for its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or use of any Location under applicable law in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

2. If the City Manager reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment at the Network Provider’s sole cost and expense in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

3. Network Provider shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment within the time frame and in the manner required by the City Manager if the City Manager reasonably determines that the disconnection, removal, or relocation of any part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the Micro Network Node, Network Node, Node Support Pole and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) Network Provider fails
to obtain all applicable licenses, Permits, and certifications required by Law for its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or use of any Location under applicable law. If the City Manager reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment at the Network Provider's sole cost and expense.

4. The City Manager shall provide 90 days written notice to the Network Provider before removing a Micro Network Node, Network Node, Node Support Pole and related ground equipment under this Section, unless there is imminent danger to the public health, safety, and welfare.

5. Network Provider shall reimburse City for the City's actual cost of removal of Micro Network Node, Network Node, Node Support Pole and related ground equipment within 30 days of receiving the invoice from the City.

SECTION 9. INSTALLATION AND INSPECTIONS

A. INSTALLATION.

1. Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and workmanlike manner in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

2. Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and workmanlike manner and in accordance with the requirements promulgated by the City Manager, as such may be amended from time to time. Network Provider's work shall be subject to the regulation, control and direction of the City Manager. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment shall be in compliance with all applicable laws, ordinances, codes, rules and regulations of the City, applicable county, the state, and the United States ("Laws").

B. INSPECTIONS.

1. The City Manager, or designee, may perform visual inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way shall be allowed in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

2. The City Manager, or designee, may perform visual inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way as the City Manager deems appropriate without notice. If the inspection requires physical contact with the Micro Network Node, Network Node, Node Support Poles or related ground equipment, the City Manager shall provide written notice to the Network Provider within five business days of the planned inspection. Network Provider may have a representative present during such inspection.
SECTION 10. REQUIREMENTS UPON ABANDONMENT OF OBsolete MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.

1. Abandoned or obsolete Micro Network Node, Network Node, Node Support Pole and related ground equipment shall be removed in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

2. Network Provider shall remove Micro Network Node, Network Node, Node Support Pole and related ground equipment when such facilities are Abandoned regardless of whether or not it receives notice from the City. Unless the City sends notice that removal must be completed immediately to ensure public health, safety, and welfare, the removal must be completed within the earlier of 90 days of the Micro Network Node, Network Node, Node Support Pole and related ground equipment being Abandoned or within 90 days of receipt of written notice from the City. When Network Provider removes, or Abandons permanent structures in the Right-of-Way, the Network Provider shall notify the City Manager in writing of such removal or Abandonment and shall file with the City Manager the location and description of each Micro Network Node, Network Node, Node Support Pole and related ground equipment removed or Abandoned. The City Manager may require the Network Provider to complete additional remedial measures necessary for public safety and the integrity of the Right-of-Way.

SECTION 11. GENERAL PROVISIONS.

1. As Built Maps and Records. Network Provider’s as built maps and records shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

1.1 A Network Provider shall maintain accurate maps and other appropriate records of its Network Node facilities, Node Support Poles and related ground equipment as they are actually constructed in the Rights-of-Way, including, upon request, the use of Auto CAD/GIS digital format. Network Provider will provide additional maps to the City upon request.

2. Courtesy and Proper Performance. Courtesy and Proper Performance of Network provider’s personnel, and contractors shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

2.1 A Network Provider shall make citizen satisfaction a priority in using the Right-of-Way. Network Provider shall train its employees to be customer service-oriented and to positively and politely interact with citizens when dealing with issues pertaining to its Micro Network Node, Network Node, Node Support Pole and related ground equipment in the Right-of-Way. Network Provider’s employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of interaction with the public. If, in the opinion of the City Manager or designee, Network Provider is not interacting in a positive and polite manner with citizens, he or she shall request Network Provider to take all remedial steps to conform to these standards.

3. DRUG POLICY. Drug policy of Network provider’s personnel, and contractors in the public rights-of-way shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.
3.1 It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by Network Provider’s employees, contractors, subcontractors, sub-Network Provider’s, or vendors while on City rights-of-way is prohibited.

4. ALLOCATION OF FUNDS FOR REMOVAL AND STORAGE. The City Council has currently appropriated no funds to pay for the cost of any removal or storage of Micro Network Node, Network Node, Node Support Pole and related ground equipment, as authorized under the law.

5. OWNERSHIP. Ownership of Network Node and related equipment shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable codes and ordinances, except to the extent not consistent with Chapter 284.

5.1 No part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment erected or placed on the Right-of-Way by Network Provider will become, or be considered by the City as being affixed to or a part of, the Right-of-Way. All portions of the Micro Network Node, Network Node, Node Support Pole and related ground equipment constructed, modified, erected, or placed by Network Provider on the Right-of-Way will be and remain the property of Network Provider and may be removed by Network Provider at any time, provided the Network Provider shall notify the City Manager prior to any work in the Right-of-Way.

6. Tree Maintenance. Tree maintenance shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

6.1 A Network Provider, its contractors, and agents shall obtain written permission from the City Manager before trimming trees hanging over its Micro Network Node, Network Node, or Node Support Pole, to prevent branches of such trees from contacting attached Micro Network Node, Network Node, or Node Support Pole. When directed by the City Manager, Network Provider shall trim under the supervision and direction of the City Manager. The City shall not be liable for any damages, injuries, or claims arising from Network Provider’s actions under this section.

7. Signage. Signage shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

7.1 Network Provider shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the Network Node facility that is visible to the public. Signage required under this section shall not exceed 4” x 6”, unless otherwise required by law (e.g. RF ground notification signs) or the City Manager.

7.2 Except as required by law or by the Utility Pole owner, a Network Provider shall not post any other signage or advertising on the Micro Network Node, Network Node, Node Support Pole, Service pole or Utility Pole.

8. Graffiti Abatement. Graffiti abatement shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.
8.1 As soon as practical, but not later than fourteen (14) calendar days from the date Network Provider receives notice thereof, Network Provider shall remove all graffiti on any of its Micro Network Node, Network Node, Node Support Pole, and related ground equipment located in the Right of Way. The foregoing shall not relieve the Network Provider from complying with any City graffiti or visual blight ordinance or regulation.

9. Restoration.

9.1 A Network Provider shall restore and repair of the public rights-of-way from any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider’s removal or relocation activities (or any other of Network Provider’s activities hereunder) in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

9.2 A Network Provider shall repair any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider’s removal or relocation activities (or any other of Network Provider’s activities hereunder) within 10 calendar days following the date of such removal or relocation, at Network Provider’s sole cost and expense, including restoration of the Right-of-Way and such property to substantially the same condition as it was immediately before the date Network Provider was granted a Permit for the applicable Location or did the work at such Location (even if Network Provider did not first obtain a Permit), including restoration or replacement of any damaged trees, shrubs or other vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable approval of the City Manager.

10. Network provider’s responsibility.

10.1 A Network Provider shall be responsible and liable for the acts and omissions of the Network Provider’s employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-Network Provider’s and subcontractors in connection with the installations of any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as if such acts or omissions were Network Provider’s acts or omissions in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

10.2 A Network Provider shall be responsible and liable for the acts and omissions of the Network Provider’s employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-Network Provider’s and subcontractors in connection with the installations of any Micro Network Node, Network Node, Node Support Pole, Transport Facility and related ground equipment, as if such acts or omissions were Network Provider’s acts or omissions.

SECTION 12. ADMINISTRATIVE HEARING – REQUEST FOR EXEMPTION
12.1 Should the Network Provider desire to deviate from any of the standards set forth in the Design Manual, the Network Provider may request an Administrative Hearing before a Board of Appeals. The City Council shall act as the Board of Appeals for a Request for Exemption.

12.2 The process for an application, hearing and vote shall follow the process set out for a variance.

SECTION 13-19 RESERVED

SECTION 20. DESIGN MANUAL - UPDATES

Placement or Modification of Micro Network Node, Network Node, Node Support Pole, Transport Facility, and related ground equipment shall comply with the City's Design Manual at the time the Permit for installation or Modification is approved and as amended from time to time.

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1 Sec. 284.301. LOCAL POLICE-POWER-BASED REGULATIONS. (a) Subject to this chapter and applicable federal and state law, a municipality may continue to exercise zoning, land use, planning, and permitting authority in the municipality's boundaries, including with respect to utility poles.

(b) A municipality may exercise that authority to impose police-power-based regulations for the management of the public right-of-way that apply to all persons subject to the municipality.

(c) A municipality may impose police-power-based regulations in the management of the activities of network providers in the public right-of-way only to the extent that the regulations are reasonably necessary to protect the health, safety, and welfare of the public.

2 The definitions as used in Tx. Loc. Gov. Code, Chapter 284, Sec. 284.002 shall be used in this Design Manual.

Tex. Loc. Gov. Code, Chapter 284, Sec. 284.002. DEFINITIONS. In this chapter:

(1) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

(2) "Applicable codes" means:
   (A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and
   (B) local amendments to those codes to the extent not inconsistent with this chapter.

(3) "Collocate" and "collocation" mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

(4) "Decorative pole" means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or direction signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

(5) "Design district" means an area that is zoned, or otherwise designated by municipal
code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

(6) "Historic district" means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

(7) "Law" means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

(8) "Macro tower" means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Section 284.103 and that supports or is capable of supporting antennas.

(9) "Micro network node" means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

(10) "Municipally owned utility pole" means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.

(11) "Municipal park" means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

(12) "Network node" means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:
   (i) equipment associated with wireless communications;
   (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
   (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:
   (i) an electric generator;
   (ii) a pole; or
   (iii) a macro tower.

(13) "Network provider" means:

(A) a wireless service provider; or

(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:
   (i) network nodes; or
   (ii) node support poles or any other structure that supports or is capable of supporting a network node.

(14) "Node support pole" means a pole installed by a network provider for the primary purpose of supporting a network node.

(15) "Permit" means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

(16) "Pole" means a service pole, municipally owned utility pole, node support pole, or utility pole.

(17) "Private easement" means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.
(18) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:
   (A) a private easement; or
   (B) the airwaves above a public right-of-way with regard to wireless telecommunications.

(19) "Public right-of-way management ordinance" means an ordinance that complies with Subchapter C.

(20) "Public right-of-way rate" means an annual rental charge paid by a network provider to a municipality related to the construction, maintenance, or operation of network nodes within a public right-of-way in the municipality.

(21) "Service pole" means a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including:
   (A) a pole that supports traffic control functions;
   (B) a structure for signage;
   (C) a pole that supports lighting, other than a decorative pole; and
   (D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

(22) "Transport facility" means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

(23) "Utility pole" means a pole that provides:
   (A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
   (B) services of a telecommunications provider, as defined by Section 51.002, Utilities Code.

(24) "Wireless service" means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

(25) "Wireless service provider" means a person that provides wireless service to the public.

3 Sec. 284.002. DEFINITIONS (8) "Micro network node" means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Sec. 284.003. LIMITATION ON SIZE OF NETWORK NODES. (a) Except as provided by Section 284.109, a network node to which this chapter applies must conform to the following conditions:
   (1) each antenna that does not have exposed elements and is attached to an existing structure or pole:
      (A) must be located inside an enclosure of not more than six cubic feet in volume;
      (B) may not exceed a height of three feet above the existing structure or pole; and
      (C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;
   (2) if an antenna has exposed elements and is attached to an existing structure or pole, the antenna and all of the antenna's exposed elements:
(A) must fit within an imaginary enclosure of not more than six cubic feet;
(B) may not exceed a height of three feet above the existing structure or pole; and
(C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

(3) the cumulative size of other wireless equipment associated with the network node attached to an existing structure or pole may not:
   (A) be more than 28 cubic feet in volume; or
   (B) protrude from the outer circumference of the existing structure or a node support pole by more than two feet;

(4) ground-based enclosures, separate from the pole, may not be higher than three feet six inches from grade, wider than three feet six inches, or deeper than three feet six inches; and

(5) pole-mounted enclosures may not be taller than five feet.

(b) The following types of associated ancillary equipment are not included in the calculation of equipment volume under Subsection (a):

   (1) electric meters;
   (2) concealment elements;
   (3) telecommunications demarcation boxes;
   (4) grounding equipment;
   (5) power transfer switches;
   (6) cut-off switches; and
   (7) vertical cable runs for the connection of power and other services.

(c) Equipment attached to node support poles may not protrude from the outer edge of the node support pole by more than two feet.

(d) Equipment attached to a utility pole must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and the utility pole owner's construction standards.
TEXAS LOCAL GOVERNMENT CODE CHAPTER 284

POLE ATTACHMENT AGREEMENT

THE STATE OF TEXAS

COUNTY OF WALKER

THIS AGREEMENT is made and entered into pursuant to Section 284.056, Section 284.201, and Section 284.301 of the Texas Local Government Code, effective this _____ day of _____, by and between the CITY OF HUNTSVILLE, TEXAS, hereinafter called "the City", and hereby called “the Network Provider,” and is as follows:

WHEREAS, the Network Provider is a wireless telecommunications network provider as that term is defined in Section 284.002 of the Code; and

WHEREAS, the City owns certain public rights-of-way with service and or utility poles within its municipal territorial limits; and

WHEREAS, the Network Provider desires to attach certain Network Nodes, as that term is defined in Section 284.002 of the Code, on City-owned service poles and/or utility poles; and

WHEREAS, the Network Provider and the City desire to enter into this Agreement to secure authority from the City for the Network Provider to install certain Network Nodes on such City poles, subject to the City’s Design Manual for the Installation of Network Nodes and Node Support Poles ("the Design Manual") and the City’s Right-of-Way Management Ordinance; and

WHEREAS, this Agreement is entered into pursuant to Chapter 284 of the Texas Local Government Code, in order to address the desires of the Network Provider and the procedures of the City; and

WHEREAS, the Network Provider and the City acknowledge that this Agreement is binding upon the City and the Network Provider and their respective successors and assigns for the term (defined below) of this Agreement; and

NOW, THEREFORE, BE IT MUTUALLY AGREED AS FOLLOWS:

1. Location of the City Poles. The Service and/or Utility Poles owned by the City on which the Network Nodes are to be attached by the Network Provider are generally described as:
2. The Network Provider acknowledges that it has received and reviewed the applicable provisions in the City Design Manual and the Right-of-Way Management Ordinance; and further acknowledges that this Pole Attachment Agreement is subject to the terms and regulations of each.

3. The Network Provider agrees to pay the City for collocation of its Network Nodes at the following annual rates:
   a. City Service Poles: $20.00 per year per service pole.
   b. City Utility Poles: An annual pole attachment rate applied on a per-foot basis consistent with Section 54.024 of the Texas Utilities Code.

4. The City acknowledges that it will comply with the requirements of the Code and that it will allow the collocation of Network Nodes on the City service and utility poles on a non-exclusive, nondiscriminatory basis, subject to the Network Provider paying the applicable fees to the City and complying with the Design Manual and the Right-of-Way Management Ordinance.

5. Pursuant to Section 284.301 of the Texas Local Government Code, the Network Provider agrees that the City is authorized to enforce all of the City's regulations that do not materially interfere with the use of Network Nodes.

6. The primary term of this Agreement shall be five (5) years commencing upon the effective date first set forth above. This Agreement shall be automatically renewed and extended for subsequent one (1) year terms unless at least sixty (60) days prior to the expiration of the term either party shall give written notice to the other of the party's intent to terminate the Agreement at the end of the current term.

7. Any notice required or permitted under this Agreement shall be in writing and shall be delivered in hand or by registered or certified US mail. Notice to the Network Provider and the City may be addressed as follows:

________________________________________

________________________________________

________________________________________
8. This Agreement may be enforced by Network Provider or City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the Agreement thereafter.

9. If any provision contained in this Agreement is held unconstitutional, invalid or unenforceable, then the remaining provisions shall be deemed severable and shall remain in full force and effect.

10. This Agreement shall be governed by the law of the State of Texas and construed in conformity with the provisions of Texas Local Government Code, Chapter 284. Venue shall lie in Huntsville, Walker County, Texas.

IN WITNESS WHEREOF, the parties have signed and executed this Agreement effective as of the date first set forth above.

CITY OF HUNTSVILLE, TEXAS

Mayor

ATTEST:

City Secretary

NETWORK PROVIDER:

Signature of Authorized Officer

Dated: ______________________

Title of Authorized Officer

Dated: ______________________
NOTICE: AS AUTHORIZED BY CHAPTER 284 OF THE TEXAS LOCAL GOVERNMENT CODE, A NETWORK PROVIDER SHALL OBTAIN A PERMIT OR PERMITS FROM THE CITY TO INSTALL A NETWORK NODE, NODE SUPPORT POLE OR TRANSPORT FACILITY IN A CITY OF HUNTSVILLE PUBLIC RIGHT-OF-WAY

Owner: ______________________________ | Owner Phone #: (___) ______________

Owner Mailing Address: __________________________________________________________

City: ____________________________ State: _______ Zip: __________

Contractor: ___________________________ Cont. Phone #: (___) ______________

Contractor Mailing Address: __________________________________________________________

City: ____________________________ | State: _______ | Zip: __________

Job Site Addresses:

Is any network node being installed in a City municipal park? ____________________________

Is any network node being installed in a residential area? ____________________________

The permit applicant must submit the following information with this application:

1. Applicable construction and engineering drawings of the facilities to be installed.
2. Any additional information to confirm that the applicant will comply with the City’s Design Manual and Right-of-Way Management Ordinance.
3. A certificate that the proposed Network Node(s) comply with applicable Federal Communications Commission regulations.
4. A certificate that the proposed Network Nodes will be placed into active commercial service not later than the 60th day after the date of construction and final testing of each Network Node.
5. A certificate of insurance confirming that the Owner and Contractor each have at least $1,000,000.00 of general liability insurance coverage.

Agenda Item #6a
FEES FOR WIRELESS NETWORK FACILITIES PLACED IN CITY RIGHTS--WAY:

<table>
<thead>
<tr>
<th>Fee Description</th>
<th>Fee Amount</th>
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<tr>
<td>Application Fee Per Network Node</td>
<td>$100.00</td>
</tr>
<tr>
<td>Annual Public Right-of-Way Rate Per Network Node</td>
<td>$250.00</td>
</tr>
<tr>
<td>Application Fee Per Node Support Pole</td>
<td>$100.00</td>
</tr>
<tr>
<td>Application Fee Per Transfer Facility</td>
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<tr>
<td>Monthly Rental Rate Per Network Node For Each Transfer Facility</td>
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</tr>
<tr>
<td>Annual Rental Rate For Collocation of Network Node Per Service Pole</td>
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</tr>
</tbody>
</table>

APPLICANT HEREBY ACKNOWLEDGES THAT IT HAS READ AND WILL COMPLY:

1. WITH THE CITY DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES, AND

2. WITH THE CITY RIGHT-OF-WAY MANAGEMENT ORDINANCE.

I hereby certify that I have read and examined this application and know the same to be true & correct. All provisions of law and ordinances governing this type of work will be complied with whether or not specified herein. The granting of this permit does not presume to give authority to violate or cancel the provisions of any state law or local ordinance regulating the installation of wireless telecommunication network nodes, node support poles, and transfer facilities.

Name of Applicant: ____________________________
Title: _______________________________________
Date: ____________________________

OFFICE USE ONLY

Date Delivered: ____________________________
Accepted By: ____________________________

Application Fees for ____ Network Nodes: $____
Application Fees for ____ Node Support Poles: $____
Application Fees for ____ Transfer Facilities: $____
Annual Rental Rate for ____ Network Nodes: $____
Annual Rental Rate for ____ Transfer Facilities: $____
Annual Rental Rate for Collocation of Network Nodes on ____ City Service Poles: $____

PERMIT FEES AND ANNUAL RATE TOTAL: $____
Item/Subject: Consideration and discussion on Citizen Participation Request from Ray Gravlin, to discuss “budget refund tax” and “new sewage truck.”

Initiating Department/Presenter: City Manager

Presenter: Matt Benoit, City Manager

Recommended Motion: Item is not posted for action. Council consideration and discussion is encouraged. If there appears to be majority support for any action, the motion may be to, “Move to direct the City manager to prepare ________ for Council consideration at the ________ City Council meeting.”

Strategic Initiative: Goal #7 - Finance - Provide a sustainable, efficient and fiscally sound government through conservative fiscal practices and resource management.

Discussion: Mr. Gravlin submitted a Citizen Participation Request form on Tuesday, September 12th for the September 19th meeting. However, it was not submitted timely. Still, Mr. Gravlin offered public comment on both item 5c, “Authorizing the City Manager to award the purchase of a new sewer combination truck” and item 6a, “Adopt Ordinance 2017-47, adopting the Fiscal Year 2017-2018 Budget” at the September 19th meeting. Both items were approved by the City Council. Mr. Gravlin confirmed to City staff on Monday, September 25, his desire to address the City Council on these items tonight.

Approvals: ☐ City Attorney ☐ Director of Finance ☑ City Manager

Associated Information:
- Ray Gravlin’s Citizen Participation Request (Page 2)
CITIZEN PARTICIPATION REQUEST (per Council Rules of Procedure)

NAME (required):

KAY GRAVELL

ADDRESS (required):

1510 18th St
Huntsville TX

PHONE#: 239-417-9592

EMAIL: ____________________________

I wish to place the following item on the agenda:

1. BUDGET REFORM TAX
2. NEW SEWAGE TRUCK

A citizen may provide an item for the agenda of a regular meeting (first and third Tuesdays of each month) by submitting a Citizen Participation Request in writing (in person, by mail, to citysecretary@huntsvilletx.gov, or at http://bit.ly/1kw04AN) to the City Secretary by noon on the Tuesday prior to a regular City Council meeting.

Any items handled through this process will be placed in the Citizen Participation portion of the agenda. The individual who submitted the item will be permitted five minutes to speak when called upon by the presiding officer.