

**City of Cedar Park**  
**Regular Called Meeting Agenda**  
**City Council Chambers**  
**450 Cypress Creek Road, Building Four**  
**Cedar Park, Texas**  
**Thursday, December 20, 2012**  
**6:30 P.M.**

- A.1 [CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN.](#)
- A.2 [Invocation. \(4\)](#)
- A.3 [Pledges of Allegiance. \(U.S. and Texas\)](#)
- A.4 [Presentation: Recognition Of Tony Dale, Former Council Place Five And Mayor Pro Tem.](#)
- A.5 [Presentation: Ceremonial Swearing In Of Chief James Mallinger, Cedar Park Fire Department.](#)
- A.6 [Citizens Communications. \(Not For Items Listed On This Agenda. Three Minutes Each. No Deliberations With Council. Council May Respond With Factual Information\)](#)
- A.7 [Mayor and Council Opening Comments.](#)
- A.8 [City Manager Report: Employee Recognition For Service With The City Of Cedar Park.](#)
  - a. Battalion Chief Jeffrey Queen, Fire Department - Fifteen Years Of Service.
- A.9 [City Manager Report: Recognition Of Dale Fuller's Volunteer Services For Santa's Workshop.](#)
- A.10 [City Manager Report: 2012 Cedar Park Video. \(Mayor Powell\)](#)
- A.11 [City Manager Report: Quarterly Investment Report For The Period Ending September 30, 2012 - Josh Selleck, Finance Director.](#)
- A.12 [City Manager Report: Review Of The FY 2012-2013 Financial Report Through October 2012 - Joseph Gonzales, Finance Director.](#)
- B.1 [Receipt Of Minutes From The Arts Advisory Board Meeting Of November 7, 2012.](#)
- C.1 [Second Reading And Approval Of An Ordinance Amending Appendix A, Article 5.000 Library Related Fees, Sections 5.200 Special Equipment Use, 5.400 Circulation, 5.500 Interlibrary Loan, 5.600 Misc. Of The Code Of Ordinances Of The City Of Cedar Park, Texas.](#)
- D.1 [A Resolution Authorizing And Directing The City Manager To Apply For The Texas Department Of Transportation Selective Traffic Enforcement Program \("STEP"\) For Fiscal Year 2014.](#)

- D.2 [A Resolution Authorizing The Release Of A 25' Drainage Easement Granted To The City of Cedar Park Out of Lot 18, Block C, Breakaway Park Section 4, A Subdivision Recorded in Doc. No. 2002092927, Official Public Records of Williamson County, Texas.](#)
- D.3 [A Resolution For City Acceptance Of The Reserve At Brushy Creek Section 1 Subdivision Improvements.](#)
- D.4 [A Resolution For City Acceptance Of Caballo Ranch Section 3 Subdivision Improvements.](#)
- D.5 [A Resolution Authorizing And Directing The Police Department To Replace And Upgrade 48 Existing X26 Tasers And Cameras.](#)
- D.6 [A Resolution Awarding Bids For Water And Wastewater Treatment Chemicals For Use At The Cedar Park Water Treatment Plant And The Cedar Park Water Reclamation Facility For Fiscal Year 2013.](#)
- E.1 [First Reading And Public Hearing Of An Ordinance Amending Chapter 11, Zoning Ordinance, Article 11.03 Height, Setback And Lot Requirements For All Districts, By Deleting Division 2, Variances To Building Setbacks And Lot Standards And Revising Article 11.10 Boards And Commission, Division 1 Board Of Adjustment, Regarding Variance Criteria. The Planning And Zoning Commission Voted 4-0 To Approve This Amendment.](#)
- E.2 [First Reading And Public Hearing Of An Ordinance Amending Chapter 12, Subdivision Ordinance, Article 12.12 Design Standards, Section 12.12.010\(A\)\(7\) Lot Arrangements Regarding Flag Lots; And To Section 12.12.019 Variances To Design Standards To Revise Variance Criteria. The Planning And Zoning Commission Voted 4-0 To Approve This Amendment.](#)
- E.3 [First Reading And Public Hearing Of An Ordinance To Amend Chapter 14, Site Development, Article 14.07, Tree And Landscape Requirements, And Article 14.12, Definitions.](#)
- E.4 [First Reading And Public Hearing Of An Ordinance Amending Chapter 12, Subdivision Ordinance, Section 12.12.004 Sidewalks, To Add A Provision For An Administrative Waiver Regarding Sidewalk Construction. The Planning And Zoning Commission Voted 4-0 To Approve This Amendment.](#)
- E.5 [First Reading And Public Hearing Of An Ordinance Amending Appendix A, Article 2.00 Development Service Related Fees, Section 2.200 Of The City Of Cedar Park Code Of Ordinances To Amend Fees Assessed for New Commercial Project Building Plan Review Performed By City Staff.](#)
- E.6 [First Reading And Public Hearing Of An Ordinance Granting A Franchise Agreement To Texas Gas Service Company, A Division Of ONEOK, Inc.](#)
- F.0 [Discussion And Possible Action:](#)

- F.1 [Consideration Of The 83rd Legislative Session As It Impacts The City's Adopted 2013 Legislative Agenda.](#)
- F.2 [Review On The Capital Area Council Of Governments \("CAPCOG"\) General Assembly Meeting. \(Tracy\)](#)
- F.3 [Consideration For The Dissolution Of The Ranch At Cypress Creek Annexation Sub-Committee.](#)
- F.4 [Consideration For The Dissolution Of The Veteran Memorial Sub-Committee.](#)
- F.5 [Consideration Of Appointments To The Cedar Park Comprehensive Plan Advisory Committee.](#)
- F.6 [Consideration Of Appointment To Place Three On The Cedar Park Economic Development Corporation \("4A"\). \(Mayor Powell\)](#)
- F.7 [Consideration Of Appointment To Place Four On The Planning And Zoning Commission. \(Moore\)](#)
- F.8 [Consideration To Appoint Councilmember Lux To Place Six On The Tax Increment Reinvestment Zone #1.](#)
- F.9 [Consideration To Appoint Councilmember Lux To The Brushy Creek Regional Utility Authority \("BCRUA"\)](#)
- G.0 [Executive Session](#)
- G.1 [Section 551.071 \(1\)\(A\) And \(2\) Consultation With Attorney Concerning Legal Matters Covered By The Texas Disciplinary Rules Of Professional Conduct Of The State Bar Of Texas.](#)
  - a. Legal Issues Concerning Fire Service Agreements For Emergency Service District 12.
- H.0 [Reconvene into Open Meeting and consider action, if any, on items discussed in Executive Session](#)
- H.1 [Mayor And Council Closing Comments.](#)
- H.2 [Adjournment.](#)



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.1  
**CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN.**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.2  
**Invocation. (4)**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.3  
**Pledges of Allegiance. (U.S. and Texas)**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.4

**Presentation: Recognition Of Tony Dale, Former Council Place Five And Mayor Pro Tem.**

**Commentary:**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.5

**Presentation: Ceremonial Swearing In Of Chief James Mallinger, Cedar Park Fire Department.**

**Commentary:**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.6  
**Citizens Communications. (Not For Items Listed On This Agenda. Three Minutes Each.  
No Deliberations With Council. Council May Respond With Factual Information)**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.7  
**Mayor and Council Opening Comments.**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.8

**City Manager Report: Employee Recognition For Service With The City Of Cedar Park.**

**a. Battalion Chief Jeffrey Queen, Fire Department - Fifteen Years Of Service.**

**Commentary:**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.9  
**City Manager Report: Recognition Of Dale Fuller's Volunteer Services For Santa's Workshop.**

**Commentary:**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.10  
**City Manager Report: 2012 Cedar Park Video. (Mayor Powell)**

**Commentary:**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.11  
**City Manager Report: Quarterly Investment Report For The Period Ending September 30, 2012 - Josh Selleck, Finance Director.**

**Commentary:**



Quarterly and Fiscal Year

Investment Report

Period Ending Sept. 30, 2012

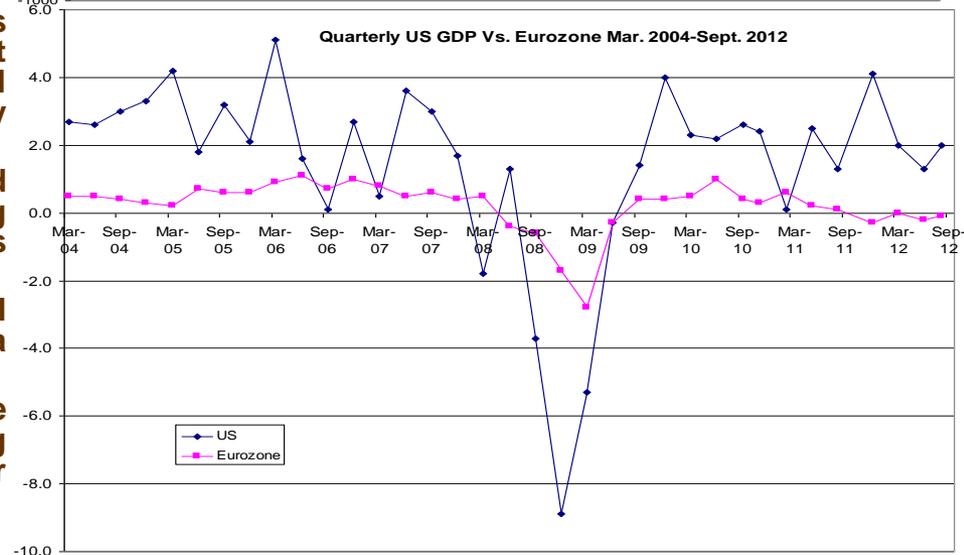
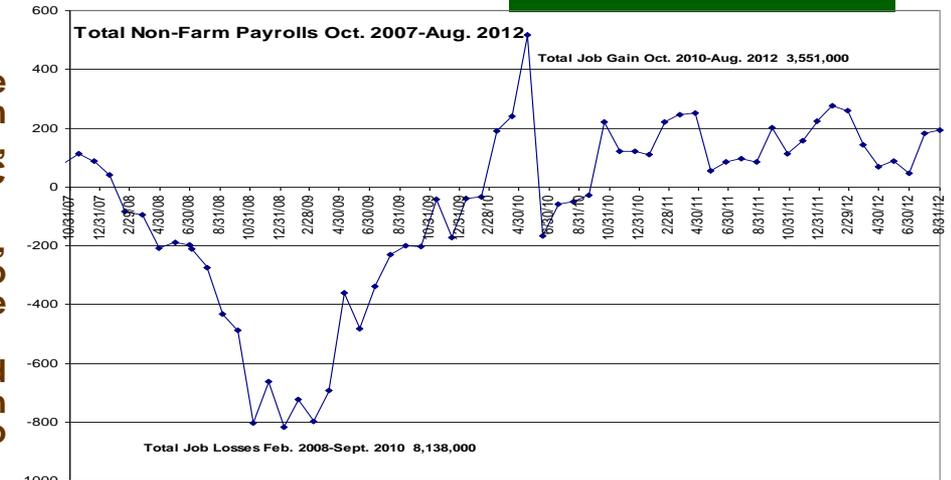
# The Results of Policy Fog

- Europe is in recession largely from austerity measures. The German engine is slowing with weak retail sales and higher unemployment.
- The ECB pronouncements keep markets supported, but as of yet, there is much talk and no action.
- ECB has hinted at support for sovereign debt (Spain and Italy) but withdrew the same support for Ireland on bonds they used for their own banks.
- Technical and operational details on planned – and possible – support expected in September remain incomplete heading into year end.
- Spain needs the ECB to buy its bonds but denies they need assistance.
- Now Germany, China, the US and the ECB are not showing a willingness to support EU banks. It's politics as well as economics.
- Policy fog banks exist in the US and Europe increasing concerns.
- China has reiterated its support for Europe but China can not lower rates because of its own inflation and employment problems. China wants “internal comprehensive measures” for Europe to get back on track.
- The US's looming fiscal cliff, if not faced, may push the US to the head of the line of slowing economies and could bring a global recession at worst.



# Puny Progress on All Fronts

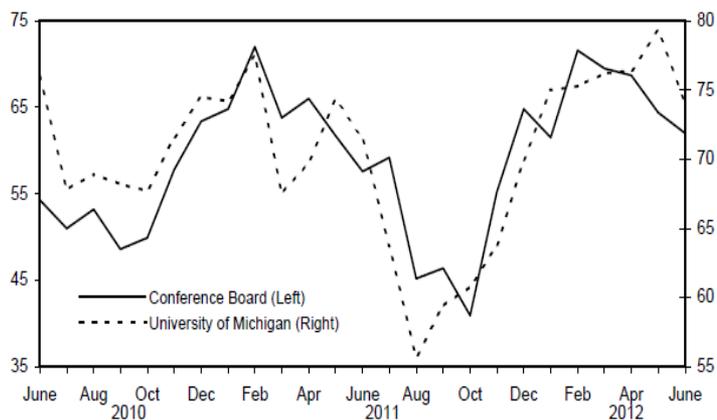
- Markets are currently headline driven. The extreme volatility we are seeing is derived from continuing major events: bank downgrades, Greek elections, Euro-Zone friction and FOMC twists to name a few.
- Europe's problems focus on bank stability, deficits and debts. The chaos is difficult to monitor as sovereigns maneuver to preserve their own self interest and living standards.
- Many feel the EU has always been doomed because there is no central fiscal union which eliminates fiscal control. We have come to crunch time.
- The only functioning financial engine is Germany who refuses to subsidize deficit spending in southern Europe. It is doubtful this will change – their position is too clearly set i.e. 'over my dead body.'
- Students of history realize the threat imposed by one (or an Axis) of countries imposing fiscal and sovereign control in Europe is anathema.
- This turmoil was born after easy credit, a real estate bubble, socialization of losses and a growing recession in Europe.
- Bank lending will be necessary to stimulate growth but recent bank regulations, including Basel III, further restricts lending calling for higher capital balance~



# Global Pressures Drag on US

- The turmoil in Europe and the threat of slowing growth in China extends globally.
- The vulnerability of banks to Europe's woes contributes to waning confidence in the US. But the economic situation doesn't balance out this negative.
- Manufacturing and capacity utilization is slowing markedly and the GDP estimates for 2013 continue to fall and may reach 1.5%.
- Moody's downgraded 15 banks in June (5 of which are US based) because of Europe, which was expected but the market barely reacted. This may be that it was slow coming but may also be a slap at the validity of Moody's rating, suspect since 2008.
- FOMC retains its bias to easing and expanded the Twist through 2013 by \$267bb with the nod to further easing if necessary. With little concern for inflation the Fed is addressing a moribund employment through 2013.
- Housing provides a bright side as prices start to move up slowly and some distressed mortgages are re-financed.
- With the election looming in four months and no adult supervision in Washington, there is little chance of change.

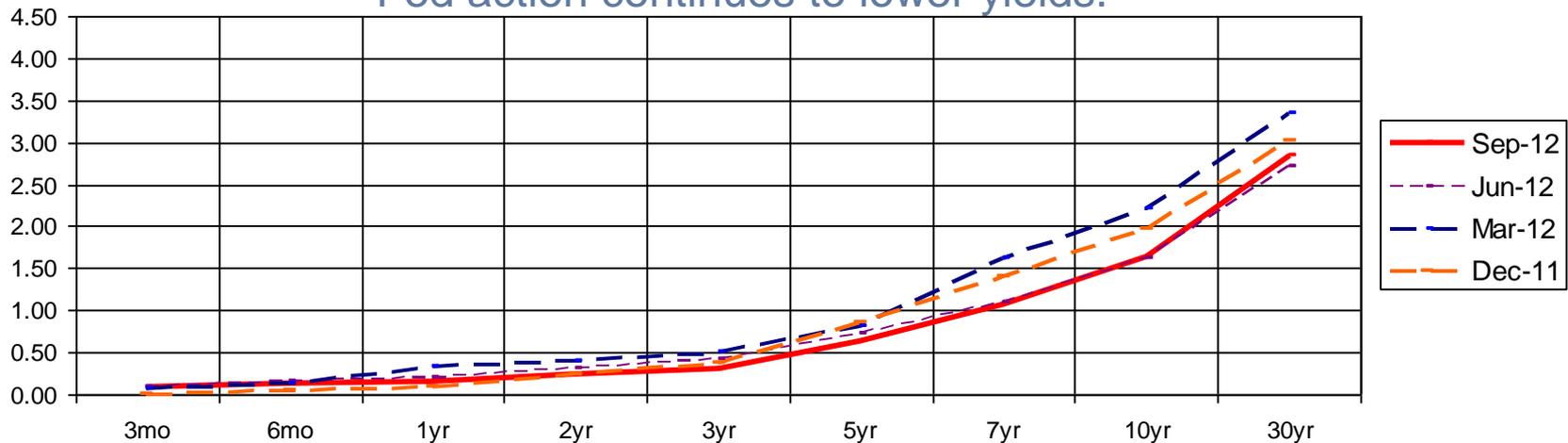
Consumer Confidence (June)



# With the Fed timing will be the key.

- “If the outlook for the labor market does not improve substantively, the [FOMC] Committee will continue its purchase of agency MBS, undertake additional asset purchases, and employ tools as appropriate until such improvement is achieved in a context of price stability.”
- With this statement from this month’s FOMC meeting the goal of the Fed is clear – they will not back off quantitative easing until growth takes hold. Clearly their goal is support housing. Their buying of MBS will also force investors out of MBS and into other fixed income therefore even further lowering rates.
- The vote for QE3 was clear but a flurry of inconsistent Fed-speak keeps markets jumpy and rates low.
- Fair criticism aims at (a) the role the Fed is taking on itself outside Congress’ actions and (b) the ability of the Fed to exit this huge liquidity reserve bubble it is building.

## Fed action continues to lower yields.



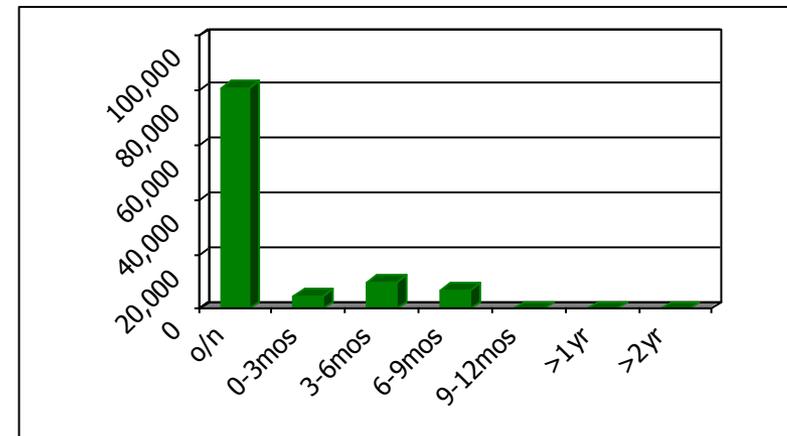
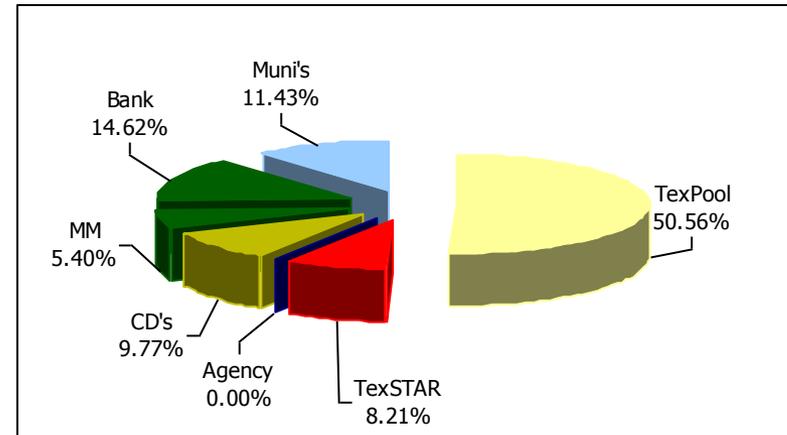
End of Month Rates - Full Yield Curve – Fed Funds to 30yr



# Your Portfolio

As of September 30, 2012

- P&A constantly reviews your portfolio for optimal asset allocation and a controlled average maturity because a diversified portfolio can better adjust to volatile market conditions.
- The extremely low short-term rates make diversification difficult and they are reasonably expected to continue now at least through 2013.
- Banks remain uninterested in accepting new deposits and CD rates are unusually low.
- Municipal bonds are adding value in many portfolios adding a safe alternative.
- Portfolios are cash heavy as we struggle to find value with a flat yield curve which provides little value under six months. This could start to change in 2013.
- Your net yield of 0.26% compared to some basic benchmarks generated additional quarterly earnings of:
  - Q 3 mo. T-Bill \$ 41,345.84
  - Q 6 mo. T-Bill \$ 30,935.68
  - Q 1 yr T-Bill \$ 20,525.51
  - Texpool \$ 30,927.00



# Benchmark Review (Quarterly Average Rates)

	<u>1Q FY'11-12</u>	<u>2Q FY'11-12</u>	<u>3Q FY'11-12</u>	<u>4Q FY'11-12</u>
<b>Consolidated Fund</b>	<b>0.345%</b>	<b>0.345%</b>	<b>0.328%</b>	<b>0.345%</b>
<b>3 Mo T-Bill</b>	<b>0.007%</b>	<b>0.063%</b>	<b>0.082%</b>	<b>0.063%</b>
<b>6 Mo T-Bill</b>	<b>0.041%</b>	<b>0.105%</b>	<b>0.139%</b>	<b>0.105%</b>
<b>1 Yr T-Note</b>	<b>0.090%</b>	<b>0.160%</b>	<b>0.178%</b>	<b>0.160%</b>
<b>3 Mo Agency</b>	<b>0.096%</b>	<b>0.112%</b>	<b>0.104%</b>	<b>0.112%</b>
<b>6 Mo Agency</b>	<b>0.133%</b>	<b>0.159%</b>	<b>0.159%</b>	<b>0.159%</b>
<b>1 Yr Agency</b>	<b>0.277%</b>	<b>0.233%</b>	<b>0.196%</b>	<b>0.233%</b>

# The Dollar Impact of Rates

- The average on the portfolio generated the following additional earnings compared to the benchmarks during each quarter.

	<u>1Q FY'11-12</u>	<u>2Q FY'11-12</u>	<u>3Q FY'11-12</u>	<u>4Q FY'11-12</u>
3-Month T-Bill	\$ 91,931	\$ 79,915	\$ 64,055	\$ 41,345
6-Month T-Bill	\$ 93,304	\$ 68,682	\$ 50,545	\$ 30,935
1-Year T-Bill	\$ 64,458	\$ 54,642	\$ 37,035	\$ 20,525
3-Mo. Agency	\$ 67,887	\$ 64,560	\$ 62,560	\$ 40,226
6-Mo. Agency	\$ 57,799	\$ 51,537	\$ 48,887	\$ 28,987
1-Yr. Agency	\$ 18,539	\$ 31,033	\$ 34,844	\$19,942

# Fiscal Year Review

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- Average Portfolio Balance \$108,599,173
- Average Portfolio Yield .32%
- Average Portfolio Weighted Average maturity 85 days
- Average Benchmark (1 Yr. T-Bill) Yield .15%
- Portfolio Interest Earnings for FY 2011-2012 \$ 317,101
- Realized Gains \$ 12,088

Cedar Park's partner in  
Treasury management.

*Patterson & Associates  
Austin, Texas*





**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. A.12  
**City Manager Report: Review Of The FY 2012-2013 Financial Report Through October 2012 - Joseph Gonzales, Finance Director.**

**Commentary:**

**GENERAL FUND**

**STATEMENT OF REVENUES AND EXPENDITURES AT OCTOBER**

OBJECT CATEGORIES	FY 2011-2012 Budget	FY 2011-2012 Y-T-D	FY 2011-2012 Actual	Variance	FY 2012-2013 Budget	FY 2012-2013 Y-T-D	% of Budget	Budget Balance
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**REVENUE SUMMARY**

<b>Ad Valorem Taxes</b>								
Current	\$ 10,538,890	\$ 101,930	\$ 10,743,997	\$ (10,436,960)	\$ 11,754,464	\$ 29,059	0.2%	\$ 11,725,405
<b>Total Ad Valorem Taxes</b>	<b>\$ 10,538,890</b>	<b>\$ 101,930</b>	<b>\$ 10,743,997</b>	<b>\$ (10,436,960)</b>	<b>\$ 11,754,464</b>	<b>\$ 29,059</b>	<b>0.2%</b>	<b>\$ 11,725,405</b>
<b>Sales Tax*</b>	<b>\$ 7,176,739</b>	<b>\$ 566,601</b>	<b>\$ 7,083,821</b>	<b>\$ (6,610,138)</b>	<b>\$ 7,685,119</b>	<b>\$ 635,284</b>	<b>8.3%</b>	<b>\$ 7,049,835</b>
<b>Development Related Fees</b>								
Building Permits	\$ 900,000	\$ 89,998	\$ 1,353,555	\$ (810,002)	\$ 1,119,596	\$ 86,335	7.7%	\$ 1,033,261
Construction Inspection Fees	99,000	34,837	191,371	(64,163)	106,724	-	0.0%	106,724
Engineer Review Fees	18,000	3,684	41,887	(14,316)	31,772	3,429	10.8%	28,344
Planning and Zoning Fees	49,135	2,110	78,136	(47,025)	63,971	4,851	7.6%	59,120
Professional Fee Recovery	11,796	2,412	30,172	(9,384)	23,118	1,400	6.1%	21,718
Site Review/Dev. Permit Fees	23,770	5,104	42,844	(18,666)	18,120	2,225	12.3%	15,895
Fire Code Compliance Fees	20,000	2,030	32,732	(17,970)	23,752	1,455	6.1%	22,297
Other - Permits & Fees	-	-	50	-	-	-	N/A	-
<b>Total Development Related Fees</b>	<b>\$ 1,121,701</b>	<b>\$ 140,176</b>	<b>\$ 1,770,747</b>	<b>\$ (981,525)</b>	<b>\$ 1,387,053</b>	<b>\$ 99,693</b>	<b>7.2%</b>	<b>\$ 1,287,360</b>
<b>Franchise Fees</b>	<b>\$ 3,412,161</b>	<b>\$ 381,398</b>	<b>\$ 3,484,788</b>	<b>\$ (3,030,763)</b>	<b>\$ 3,416,255</b>	<b>\$ 8,518</b>	<b>0.2%</b>	<b>\$ 3,407,737</b>
<b>Administrative and Contract Svcs</b>								
LISD Resource Officer Reimb.	\$ 118,587	\$ 9,882	\$ 128,674	\$ (108,705)	\$ 121,049	\$ 10,088	8.3%	\$ 110,962
Utility Fund	2,749,242	-	2,665,443	(2,749,242)	2,968,459	-	0.0%	2,968,459
WCID Admin. Services Fee	69,150	1,225	74,747	(67,925)	62,000	693	1.1%	61,307
CTRMA INTERLOCAL	229,521	-	229,524	(229,521)	231,595	-	0.0%	231,595
Bond Fund	225,000	-	-	(225,000)	225,000	-	0.0%	225,000
Hotel Occupancy Fund	94,770	-	101,673	(94,770)	109,208	-	0.0%	109,208
4A & 4B	497,290	-	412,465	(497,290)	504,214	-	0.0%	504,214
<b>Total Administrative and Contract S</b>	<b>\$ 3,983,560</b>	<b>\$ 11,107</b>	<b>\$ 3,612,526</b>	<b>\$ (3,972,453)</b>	<b>\$ 4,221,525</b>	<b>\$ 10,780</b>	<b>0.3%</b>	<b>\$ 4,210,745</b>
<b>Fines and Forfeitures</b>	<b>\$ 907,500</b>	<b>\$ 88,750</b>	<b>\$ 957,960</b>	<b>\$ (818,750)</b>	<b>\$ 925,000</b>	<b>\$ 80,278</b>	<b>8.7%</b>	<b>\$ 844,722</b>
<b>REVENUE SUMMARY</b>								
<b>Fees for Service</b>								
Fire Protection Fees	\$ 1,089,513	\$ 52,648	\$ 1,193,673	\$ (1,036,865)	\$ 1,098,595	\$ 6,722	0.6%	\$ 1,091,873
Fire Protection - Ins. Rec.	62,500	10,323	106,701	(52,177)	83,300	2,969	3.6%	80,331
Parks and Recreation Fees	918,600	35,220	1,097,596	(883,380)	975,000	54,347	5.6%	920,653
Library Fines and Fees	100,000	7,792	116,502	(92,208)	100,000	8,160	8.2%	91,840
Animal Control Fees	9,000	541	8,787	(8,459)	8,839	345	3.9%	8,494
Justice Administration Fees	2,000	330	3,793	(1,670)	2,862	278	9.7%	2,584
Teaching Fees - Fire	1,500	-	-	(1,500)	-	-	0.0%	-
Detention & Dispatch Services	4,132	386	4,063	(3,746)	4,222	60	1.4%	4,162
<b>Total Fees for Service</b>	<b>\$ 2,187,245</b>	<b>\$ 107,240</b>	<b>\$ 2,531,115</b>	<b>\$ (2,080,005)</b>	<b>\$ 2,272,818</b>	<b>\$ 72,881</b>	<b>3.2%</b>	<b>\$ 2,199,937</b>
<b>Miscellaneous Fees</b>								
Interest	\$ 66,000	\$ -	\$ 43,185	\$ (66,000)	\$ 55,000	\$ -	0.0%	\$ 55,000
Credit Card Fees	2,100	82	827	(2,018)	1,400	59	4.2%	1,341
Beverage Tax	50,000	14,098	76,916	(35,902)	65,723	-	0.0%	65,723
Delinquent/Penalty and Int.	105,000	18,767	86,945	(86,233)	131,466	-	0.0%	131,466
Other	64,366	1,489	343,421	(62,877)	50,000	17,561	35.1%	32,439
<b>Total Miscellaneous Fees</b>	<b>\$ 287,466</b>	<b>\$ 34,436</b>	<b>\$ 551,294</b>	<b>\$ (253,030)</b>	<b>\$ 303,589</b>	<b>\$ 17,620</b>	<b>5.8%</b>	<b>\$ 285,969</b>
<b>Total Revenue</b>	<b>\$ 29,615,262</b>	<b>\$ 1,431,636</b>	<b>\$ 30,736,248</b>	<b>\$ (28,183,626)</b>	<b>\$ 31,965,823</b>	<b>\$ 954,113</b>	<b>3.0%</b>	<b>\$ 31,011,710</b>

\* - Includes sales tax thru October, which was collected in December

**GENERAL FUND**

**STATEMENT OF REVENUES AND EXPENDITURES AT OCTOBER**

OBJECT CATEGORIES	FY 2011-2012	FY 2011-2012	FY 2011-2012	Variance	FY 2012-2013	FY 2012-2013	% of Budget	Budget Balance
	Budget	Y-T-D	Actual		Budget	Y-T-D		

**EXPENDITURE SUMMARY**

Expenditures by Category

Personnel Services	\$ 20,216,758	\$ 906,073	\$ 18,835,332	\$ (19,310,685)	\$ 22,006,586	\$ 1,651,178	7.5%	\$ 20,355,408
Materials & Supplies	1,661,064	58,063	1,712,477	(1,603,001)	1,559,220	56,192	3.6%	1,503,028
Repairs & Maintenance	892,146	68,275	1,006,773	(823,871)	1,031,891	65,394	6.3%	966,497
Occupancy	1,373,842	25,842	1,537,460	(1,348,000)	1,390,592	(156,097)	-11.2%	1,546,689
Contractual Services	4,256,803	360,668	4,152,224	(3,896,135)	4,263,545	128,238	3.0%	4,135,307
Other Charges	2,010,974	254,343	1,819,911	(1,756,631)	2,042,165	50,386	2.5%	1,991,779
Capital Outlay	1,234,920	-	191,062	(1,234,920)	442,766	-	0.0%	442,766
Transfers Out	800,000	-	1,833,266	(800,000)	800,000	-	0.0%	800,000
Contingency	115,500	-	230	(115,500)	103,500	-	0.0%	103,500
<b>TOTAL BY CATEGORY</b>	<b>\$ 32,562,007</b>	<b>\$ 1,673,264</b>	<b>\$ 31,088,735</b>	<b>\$ (30,888,743)</b>	<b>\$ 33,640,265</b>	<b>\$ 1,795,292</b>	<b>5.3%</b>	<b>\$ 31,844,973</b>

Expenditures by Function

**General Government**

General Non-Departmental	1,608,642	202,311	2,094,180	(1,406,331)	1,524,605	40,050	2.6%	1,484,555
Council	53,745	3,948	43,982	(49,797)	53,745	2,049	3.8%	51,696
City Manager	498,258	15,012	393,846	(483,246)	511,452	35,929	7.0%	475,523
City Secretary	163,211	3,192	115,655	(160,019)	145,409	5,667	3.9%	139,742
Media and Communications	208,978	12,994	191,297	(195,984)	220,189	10,342	4.7%	209,847
Economic Development	1,249,151	160,284	1,113,016	(1,088,867)	1,252,784	39,905	3.2%	1,212,879
Legal Services	499,689	44,351	609,119	(455,338)	512,825	46,377	9.0%	466,448
<b>General Government</b>	<b>\$ 4,281,674</b>	<b>\$ 442,092</b>	<b>\$ 4,561,095</b>	<b>\$ (3,839,582)</b>	<b>\$ 4,221,009</b>	<b>\$ 180,319</b>	<b>4.3%</b>	<b>\$ 4,040,690</b>

**Public Safety**

Municipal Court	506,783	21,018	492,032	(485,765)	520,036	40,144	7.7%	479,892
Police	8,283,720	367,598	8,728,393	(7,916,122)	9,117,781	355,043	3.9%	8,762,738
Animal Services	286,385	3,670	262,181	(282,715)	349,061	9,271	2.7%	339,790
Fire	6,807,484	306,196	6,606,920	(6,501,288)	6,819,265	305,120	4.5%	6,514,145
Emergency Management	107,550	7,141	72,789	(100,409)	132,610	5,604	4.2%	127,006
<b>Public Safety</b>	<b>\$ 15,991,922</b>	<b>\$ 705,624</b>	<b>\$ 16,162,315</b>	<b>\$ (15,286,298)</b>	<b>\$ 16,938,753</b>	<b>\$ 715,182</b>	<b>4.2%</b>	<b>\$ 16,223,571</b>

**Public Works and Development**

Engineering	791,179	32,618	768,357	(758,561)	888,868	45,695	5.1%	843,173
Building Inspection	549,167	23,029	535,624	(526,138)	631,757	36,806	5.8%	594,951
Planning and Transportation	608,168	23,907	429,497	(584,261)	680,738	30,534	4.5%	650,204
Code Enforcement	168,027	5,395	149,641	(162,632)	180,916	8,636	4.8%	172,280
Streets	2,103,216	61,979	1,953,229	(2,041,237)	1,955,687	87,448	4.5%	1,868,239
Signal Maintenance	404,087	16,907	372,751	(387,180)	639,803	19,509	3.0%	620,294
Fleet Maintenance	412,927	18,842	413,960	(394,085)	436,511	33,223	7.6%	403,288
<b>Public Works and Development</b>	<b>\$ 5,036,771</b>	<b>\$ 182,677</b>	<b>\$ 4,623,059</b>	<b>\$ (4,854,094)</b>	<b>\$ 5,414,280</b>	<b>\$ 261,851</b>	<b>4.8%</b>	<b>\$ 5,152,429</b>

**Culture and Recreation**

Parks and Recreation	2,820,612	145,590	2,751,143	(2,675,022)	3,013,159	110,108	3.7%	2,903,051
Library	1,037,371	58,546	1,022,609	(978,825)	1,133,455	72,136	6.4%	1,061,319
Tourism	68,947	4,326	89,251	(64,621)	97,124	7,217	7.4%	89,907
<b>Culture and Recreation</b>	<b>\$ 3,926,930</b>	<b>\$ 208,462</b>	<b>\$ 3,863,003</b>	<b>\$ (3,718,468)</b>	<b>\$ 4,243,738</b>	<b>\$ 189,462</b>	<b>4.5%</b>	<b>\$ 4,054,276</b>

**Support Services**

Finance	785,279	24,569	686,323	(760,710)	814,555	43,094	5.3%	771,461
Information Technology	905,476	91,330	826,062	(814,146)	1,044,165	46,833	4.5%	997,332
Human Resources	399,035	18,512	416,707	(380,523)	520,999	36,480	7.0%	484,520
<b>Support Services</b>	<b>\$ 2,089,790</b>	<b>\$ 134,411</b>	<b>\$ 1,929,092</b>	<b>\$ (1,955,379)</b>	<b>\$ 2,379,719</b>	<b>\$ 126,406</b>	<b>5.3%</b>	<b>\$ 2,253,313</b>

**Capital Outlay**

<b>Capital Outlay</b>	<b>\$ 1,234,920</b>	<b>\$ -</b>	<b>\$ 889,210</b>	<b>\$ (1,234,920)</b>	<b>\$ 442,766</b>	<b>\$ -</b>	<b>0.0%</b>	<b>\$ 442,766</b>
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<b>TOTAL BY FUNCTION</b>	<b>\$ 32,562,007</b>	<b>\$ 1,673,265</b>	<b>\$ 32,027,774</b>	<b>\$ (30,888,742)</b>	<b>\$ 33,640,265</b>	<b>\$ 1,473,220</b>	<b>4.4%</b>	<b>\$ 32,167,045</b>
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**UTILITY FUND**

**STATEMENT OF REVENUES AND EXPENDITURES AT OCTOBER**

OBJECT CATEGORIES	FY 2011-2012	FY 2011-2012	FY 2011-2012	FY 2012-2013	FY 2012-2013	% of Budget	Budget Balance
	Budget	Y-T-D	Actual	Budget	Y-T-D		

**REVENUE SUMMARY**

	3	4	5	6			
<b>Water Sales</b>							
Water Sales	\$ 15,278,040	\$ 882,540	\$ 16,224,707	\$ 15,888,714	\$ 380,880	2.4%	\$ 15,507,834
Water Sales - Blockhouse	744,044	-	702,981	690,047	(8,143)	-1.2%	698,190
Water Sales - WTC Mud	743,869	69,057	707,372	655,359	31,138	4.8%	624,221
Twin Creeks	70,000	914	194,808	66,000	550	0.8%	65,450
Avery Ranch	75,000	1,239	71,032	40,000	909	2.3%	39,091
LCRA	315,000	-	1,389	-	-	#DIV/0!	-
<b>Total Water Sales</b>	<b>\$ 17,225,953</b>	<b>\$ 953,749</b>	<b>\$ 17,902,289</b>	<b>\$ 17,340,120</b>	<b>\$ 405,333</b>	<b>2.3%</b>	<b>\$ 16,934,787</b>

5.5%

<b>Sewer Billings</b>							
Sewer Billings	\$ 9,313,369	\$ 453,550	\$ 9,818,300	\$ 9,278,692	\$ 240,772	2.6%	\$ 9,037,920
Mayfield Ranch	92,144	932	96,271	107,502	1,219	1.1%	106,283
Blockhouse	336,828	-	310,465	326,480	-	0.0%	326,480
WTC Mud	292,060	19,063	262,801	273,037	11,575	4.2%	261,462
<b>Total Sewer Billings</b>	<b>\$ 10,034,401</b>	<b>\$ 473,545</b>	<b>\$ 10,487,837</b>	<b>\$ 9,985,711</b>	<b>\$ 253,566</b>	<b>2.5%</b>	<b>\$ 9,732,145</b>

4.7%

<b>Transfer-Impact Fees</b>	<b>\$ 1,543,288</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>#DIV/0!</b>	<b>\$ -</b>
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**Other Charges**

UB Account Transfer Fee	\$ 5,300	\$ 300	\$ 5,200	\$ 5,000	\$ 275	5.5%	\$ 4,725
Temp Water Service Fee	550	-	350	400	-	0.0%	400
Late Charges	403,605	45,995	378,603	412,686	39,056	9.5%	373,630
Reconnect Fee	82,358	7,300	82,501	84,211	9,250	11.0%	74,961
Water Tap Fee	7,500	-	5,575	7,500	-	0.0%	7,500
Sewer Tap Fee	2,500	-	3,800	2,500	-	0.0%	2,500
Water Connection Fee	56,681	3,625	70,850	57,956	6,475	11.2%	51,481
Water Meter Insp Fee	-	-	40	-	40	#DIV/0!	(40)
Sewer Insp Fee	26,371	1,400	32,600	26,964	2,900	10.8%	24,064
Industrial PreTreat Rev	3,200	375	2,775	2,500	75	3.0%	2,425
BCRUA Reimbursement	-	-	29,878	-	9,749	#DIV/0!	(9,749)
Misc Revenues	6,500	1,375	64,591	30,600	400	1.3%	30,200
Interest Income	75,000	-	39,026	76,688	-	0.0%	76,688
Credit Card Fees	19,100	1,344	15,802	15,500	1,460	9.4%	14,040
<b>Total Other Charges</b>	<b>\$ 688,665</b>	<b>\$ 61,714</b>	<b>\$ 731,591</b>	<b>\$ 722,505</b>	<b>\$ 69,681</b>	<b>9.6%</b>	<b>\$ 652,824</b>

<b>Total Revenue</b>	<b>\$ 29,492,307</b>	<b>\$ 1,489,008</b>	<b>\$ 29,121,717</b>	<b>\$ 28,048,336</b>	<b>\$ 728,580</b>	<b>2.6%</b>	<b>\$ 27,319,756</b>
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**EXPENDITURE SUMMARY**

**Expenditures by Category**

Personnel Services	\$ 4,344,640	\$ 188,715	\$ 3,923,553	\$ 4,416,759	\$ 355,047	8.0%	\$ 4,061,712
Materials & Supplies	851,050	60,021	787,261	839,850	56,779	6.8%	783,071
Repairs & Maintenance	507,150	24,073	511,810	527,205	22,206	4.2%	504,999
Occupancy	1,880,200	5,034	1,499,807	1,754,603	176,674	10.1%	1,577,929
Contractual Services	9,384,459	1,067,978	7,353,681	9,594,905	285,142	3.0%	9,309,763
Other Charges	459,090	49,801	416,098	599,632	31,356	5.2%	568,276
Capital Outlay	1,696,500	5,713	971,503	1,520,000	3,310	0.2%	1,516,690
Transfers Out	21,633,197	-	19,932,109	11,148,109	-	0.0%	11,148,109
<b>TOTAL</b>	<b>\$ 40,756,286</b>	<b>\$ 1,401,335</b>	<b>\$ 35,395,822</b>	<b>\$ 30,401,063</b>	<b>\$ 930,514</b>	<b>3.1%</b>	<b>\$ 29,470,549</b>

**OTHER FUNDS**

**STATEMENT OF REVENUES AND EXPENDITURES AT OCTOBER**

	<b>FY 2011-2012 Budget</b>	<b>FY 2011-2012 Y-T-D</b>	<b>FY 2011-2012 Actual</b>	<b>FY 2012-2013 Budget</b>	<b>FY 2012-2013 Y-T-D</b>	<b>% of Budget</b>	<b>Budget Balance</b>
<b>DEBT SERVICE FUNDS</b>							
<b>GENERAL DEBT SERVICE FUND</b>							
Revenues	12,972,568	108,269	13,869,286	14,497,568	36,888	0.25%	14,460,680
Expenditures	14,466,066	600	15,829,588	14,446,067	-	0.00%	14,446,067
Variance	(1,493,498)	107,669	(1,960,302)	51,501	36,888		
<b>UTILITY DEBT SERVICE FUND</b>							
Revenues	7,211,617	-	5,669,349	7,189,737	-	0.00%	7,189,737
Expenditures	7,189,617	300	6,796,262	7,185,237	-	0.00%	7,185,237
Variance	22,000	(300)	(1,126,913)	4,500	-		
<b>SOLID WASTE FUND</b>							
Revenues	2,858,557	140,820	3,117,748	3,208,079	82,069	2.56%	3,126,010
Expenditures	2,941,891	247,556	3,150,579	3,085,503	279,988	9.07%	2,805,515
Variance	(83,334)	(106,736)	(32,831)	122,576	(197,919)		
<b>VES FUND</b>							
Revenues	2,163,915	-	2,210,304	1,879,833	49,768	2.65%	1,830,065
Expenditures	2,525,663	28,776	1,987,672	3,861,828	277	0.01%	3,861,552
Variance	(361,748)	(28,776)	222,632	(1,981,995)	49,491		
<b>SPECIAL REVENUE FUNDS</b>							
<b>GRANT RESTRICTED FUNDS</b>							
Revenues	143,000	5,949	252,093	135,370	16,460	12.16%	118,910
Expenditures	143,000	1,528	86,681	134,480	6,660	4.95%	127,820
Variance	-	4,422	165,412	890	9,800		
<b>MUNICIPAL COURT FUND</b>							
Revenues	96,567	8,323	107,683	105,650	9,180	8.69%	96,470
Expenditures	295,185	24,066	64,788	295,185	10,502	3.56%	284,683
Variance	(198,618)	(15,743)	42,895	(189,535)	(1,322)		
<b>PUBLIC ART FUND</b>							
Revenues	17,150	2	35,746	40,150	2	0.00%	40,148
Expenditures	82,268	-	75,334	63,914	-	0.00%	63,914
Variance	(65,118)	2	(39,588)	(23,764)	2		
<b>TOURISM BOARD - H.O.T.</b>							
Revenues	309,500	24,369	428,302	403,200	75,254	18.66%	327,946
Expenditures	449,463	14,210	659,158	403,200	4,880	1.21%	398,320
Variance	(139,963)	10,159	(230,856)	-	70,374		
<b>CPTV-10/CABLE FUND</b>							
Revenues	94,000	-	108,176	97,339	-	0.00%	97,339
Expenditures	97,339	1,385	54,566	97,339	-	0.00%	97,339
Variance	(3,339)	(1,385)	53,610	-	-		
<b>TAX INCREMENT REINVESTMENT ZONE</b>							
Revenues	488,272	-	483,961	445,148	-	0.00%	445,148
Expenditures	964,045	-	475,654	484,961	-	0.00%	484,961
Variance	(475,773)	-	8,307	(39,813)	-		
<b>4A-ECONOMIC DEVELOPMENT</b>							
Revenues	3,400,519	283,300	3,218,642	3,860,060	335,997	8.70%	3,524,063
Expenditures	4,533,880	-	4,073,533	4,241,679	-	0.00%	4,241,679
Variance	(1,133,361)	283,300	(854,891)	(381,620)	335,997		
<b>4B-COMMUNITY DEVELOPMENT</b>							
Revenues	3,405,519	283,300	3,216,789	3,860,356	335,997	8.70%	3,524,359
Expenditures	6,107,483	49,232	2,639,362	3,857,867	2,952	0.08%	3,854,915
Variance	(2,701,964)	234,069	577,427	2,489	333,045		



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. B.1  
**Receipt Of Minutes From The Arts Advisory Board Meeting Of November 7, 2012.**

**Commentary:**

## MINUTES

**CEDAR PARK ARTS ADVISORY BOARD  
REGULAR SCHEDULED MEETING  
WEDNESDAY, NOVEMBER 7, 2012 AT 6:30 PM  
CEDAR PARK CITY HALL, 450 CYPRESS CREEK ROAD,  
BUILDING 4, CEDAR PARK, TX**

### BOARD MEMBERS

Sheela Goodrich, Board Member, Chair	Mike Vermeeren, Place 4
Mark Ledyard, Board Member, Vice Chair	Paul J. Gorski, Board Member, Place 5
Robert F. Carter, Board Member, Secretary	Vacant, Place 6
Andy DeBruyn, Board Member, Place 3	

- 
1. CALL TO ORDER:  
Meeting called to order at 6:30 p.m. by Sheela Goodrich, Chair  
Staff present: Mark Lewis, Building Inspections Director  
Lisa Mann, Recording Secretary to the Board  
J.P. LeCompte, Asst. City Attorney
  
  2. BOARD MEMBERS IN ATTENDANCE:  
**ALL PRESENT**
  
  3. CITIZEN COMMUNICATIONS:  
**NONE**
  
  4. BOARD MEMBER OPENING COMMENTS:  
Board Members welcomed Mike Vermeeren to the Board. Mr. Vermerren introduced himself to the Board and provided a brief overview of his background.  
  
Chair, Sheela Goodrich mentioned an October 3<sup>rd</sup> Cedar Park Statesman article that was based on an interview she provided. She also mentioned an upcoming Community Impact article that will be based on an interview provided by her and City staff members Mark Lewis and Jennie Huerta. She stated that the article is slated for the paper's mid-November edition.

5. APPROVAL OF MINUTES:  
Motion from Andy DeBruyn to approve minutes from Regular Scheduled Art Advisory Board Meeting dated October 3, 2012.

Second: P.J. Gorski  
Vote: 6:0 Motion passes

6. DISCUSSION AND POSSIBLE ACTION:

A. Staff Update Regarding Public Art Master Plan Adoption

Mr. Lewis thanked the Board for their efforts in the creation of the master plan and stated that the plan was officially adopted by City Council on October 18<sup>th</sup>. Chair, Sheela Goodrich, commented that Jennie Huerta, the City's Communications & Media Relations Manager, would be placing a PDF of the master plan on the City's website for public access.

B. Consideration of Public Art Initiatives

Mr. Lewis presented a PowerPoint of photos of a tile project in Georgetown. Board Member Andy DeBruyn briefly spoke about each slide. Mark Ledyard suggested that Milburn Park be considered as a location for a project of this nature. Mr. Lewis stated that with the direction of the Board, staff will move forward and gather price information.

Mr. Lewis asked for a designee from the Arts Board in order to move forward with the sculpture garden project. The person(s) designated would address the Parks Board and after reporting back to the Arts Advisory Board, go forward to Tourism and/or Council with a formal project proposal.

Mark Ledyard proposed that Tourism and Parks liaisons work with staff to come up with a presentation to the Parks Board. Mr. Lewis stated that he would coordinate with Curt Randa to procure a date for everyone to sit down to work on the presentation.

C. Consideration of a Public Arts Awareness Campaign

Mr. Lewis notified the Board that Jennie Huerta would not be in attendance at this meeting but that she will be actively working on putting together some ad concepts for the Boards consideration. Sheela Goodrich asked if Jennie would also be putting together the survey. Mr. Lewis confirmed that she would.

D. Consideration of need for January 2013 Arts Advisory Board meetings

Board discussed the matter and by consensus chose to defer the decision until a future date.

7. BOARD MEMBER CLOSING COMMENTS:  
**NONE**

8. ADJOURNMENT:  
Sheela Goodrich, Chair, adjourned meeting at 6:50 p.m.

PASSED AND APPROVED THIS 5<sup>th</sup> DAY OF December 2012.



Sheela Goodrich, Chair

ATTEST:



Bob Carter, Secretary



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. C.1  
**Second  Reading And Approval Of An Ordinance Amending Appendix A, Article 5.000 Library Related Fees, Sections 5.200 Special Equipment Use, 5.400 Circulation, 5.500 Interlibrary Loan, 5.600 Misc. Of The Code Of Ordinances Of The City Of Cedar Park, Texas.**

**Commentary:**

The Library Department reviews its policies every two years and makes recommendation for revision when needed. The recommended fees are for new services and current services as revised in accordance with increased actual costs, service bundling, and material demand/availability. The staff has recommended the following new and revised fees for the City Council to consider.

<b>Ordinance #</b>	<b>Type of Service</b>	<b>Current Fee</b>	<b>Current Services— Revised fee</b>	<b>New Services— Recommended Fee</b>
	<b>Current Services</b>			
Appendix A Section 5.200	Public Rental Room Use of AV equipment	\$20	\$40	
	Refundable damage deposit for AV equipment	\$100	\$150	
Appendix A Section 5.500	Interlibrary Loan return Postage	\$2.50 per item	\$2.75	
	<b>New Services</b>			
Appendix A Section 5.400	Overdue fee for Books To Go Kit (BTGK)			\$1.00/day, max \$15

	Lost or Damaged Fee Books to Go Kit (total 10 books in each Kit)			Replacement for one Book = MSRP; Replacement cost for Kit = 10x MSRP, \$7.00 processing, \$8.00 for the Kit
	Overdue fee for e-Reader devices			\$2.00/day (no grace period), max \$30
	Damaged fee (reparable) E-book devices			Cost of repairs
	Lost or Damaged Fee (beyond repair) e-Reader devices			Cost of device + Total cost of all accessories
	Overdue fee for Laptops			\$2.00/ hr (with 30 minutes grace), max \$18
	Lost or Damaged fee (beyond repair) Laptops			Cost of laptop + Total cost of downloadable software
	Damaged fee (reparable) Laptops			Cost of repairs
	Laminate plastic cover for Paperbacks			\$2.00
	Replacement of Library Card	\$2.00 (currently not listed)	\$2.00	
	<b>Services no longer available</b>			
	Damaged videotape case	\$2.00	Deleted-\$0	

	Damaged Videotape shell	\$2.00	Deleted- \$0	
	Rebinding of books	Binding cost	Deleted -\$0	
	Missing video case door	\$1.00	Deleted-\$0	
	Lost Video insert card	\$1.00	Deleted-\$0	
	Damaged or missing yellow AV case stickers	\$.50	Deleted-\$0	
Appendix A Section 5.600	Computer Disk	\$1.00	Deleted-\$0	
	Tote Bag	\$8.00	Deleted-\$0	

**Recommendation:**

- Staff recommends adoption of the new and revised fees.

**Reason for Staff Recommendation:**

- The proposed fees will provide a consistent structure for the new services funded by grant funds.
- The amended ordinance will revise current fees and remove fees for services that are no longer available.

**Fiscal Impact**

Fund:

Department:

Amount:

**Associated Information:**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING APPENDIX A, ARTICLE 5.000 LIBRARY RELATED FEES, SECTIONS 5.200 SPECIAL EQUIPMENT USE, 5.400 CIRCULATION, 5.500 INTERLIBRARY LOAN, 5.600 MISC OF THE CODE OF ORDINANCES OF THE CITY OF CEDAR PARK, TEXAS, PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the amended ordinance provides a consistent fee structure for Library services.

WHEREAS, the amended ordinance removes fees from services that are no longer available and State fees for new services.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1: That Appendix A, Article 5.000 Library Related Fees, be amended as provided hereto in Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.

READ, CONSIDERED, PASSED and APPROVED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 13<sup>th</sup> day of December, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED and APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 20<sup>th</sup> day of December, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

ATTEST:

\_\_\_\_\_  
Matthew Powell, Mayor

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
Charles W. Rowland, City Attorney

**EXHIBIT A**

**ARTICLE 5.000 LIBRARY FEES**

**Sec. 5.100 Community room and conference room**

(a) Community room fees.

	(1)	<u>Cleaning/damage deposit.</u>	150.00
	(2)	<u>Use fees.</u>	
	(A)	<u>Youth oriented and senior groups.</u> Chartered organizations (examples: Boy Scouts, Girl Scouts, 4-H, AARP, Family Eldercare, etc.)	Minimum \$10.00 for up to two consecutive hours plus an additional \$5.00 per hour for each additional consecutive hour or part thereof of use on the same day. In addition, such group shall pay a fee of \$20.00 if use is made of kitchen. Adequate adult supervision is required for children that are present. The cleaning/damage and equipment deposits must be paid in cash or in a check separate from the rental fee.
	(B)	<u>Civic and community oriented.</u> Chartered organizations non-commercial or nonprofit with tax exemption certificate (example: service organizations, churches)	Minimum \$50.00 for up to two consecutive hours plus an additional \$25.00 per hour for each additional consecutive hour or part thereof of use on the same day. In addition, such group shall pay a fee of \$20.00 if use is made of kitchen. Rates apply to any organization with a tax exemption certificate that can satisfactorily show its primary purpose is civic and community oriented. The cleaning/damage and equipment deposits must be paid in cash or in a check separate from the rental fee.
	(C)	<u>Noncommercial and commercial oriented groups or individuals.</u> (example: private lesson groups, private educational institutions, or	Minimum \$100 for up to two consecutive hours plus \$50.00 per hour for each additional consecutive hour or part thereof of use on the same day. In addition, such groups shall pay a

		any individual, organization or business which stands to receive personal or corporate gain from use of the facility)	minimum fee of \$20.00 if use is made of the kitchen. Rates apply to any individual or group without tax exemption certificate and/or those who charge fees for services or instruction to individuals or groups. In certain cases where admission is being charged, the city reserves the right to charge the larger of either 10% of the gross gate receipt or the schedule fee. The cleaning/damage and equipment deposits must be paid in cash or in a check separate from the rental fee.
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(b) Conference room fees.

	(1)	<u>Cleaning/damage deposit.</u>	150.00
	(2)	<u>Use fees.</u>	
	(A)	<u>Youth oriented or senior groups.</u> Chartered organizations (examples: Boy Scouts, Girl Scouts, 4-H, AARP, Family Eldercare, etc.)	Minimum \$10.00 for up to four consecutive hours plus an additional \$10.00 for each additional consecutive four hour block of time or part thereof on the same day. Adequate adult supervision is required for children that are present. The cleaning/damage and equipment deposits must be paid in cash or in a check separate from the rental fee.
	(B)	<u>Civic and community oriented.</u> Chartered organizations noncommercial or nonprofit with tax exemption certificate (example: service organizations, churches)	Minimum \$20.00 for up to four consecutive hours plus an additional \$20.00 for each additional four hour block of time or part thereof on the same day. Rates apply to any organization with a tax exemption certificate that can satisfactorily show its primary purpose is civic and community oriented. The cleaning/damage and equipment deposits must be paid in cash or in a check separate from the rental fee.
	(C)	<u>Noncommercial and commercial oriented groups or individuals.</u> (example:	Minimum \$40.00 for up to four consecutive hours plus an additional \$40.00 per each additional consecutive

		private lesson groups, private educational institutions, or any individual, organization or business which stands to receive personal or corporate gain from use of the facility)	four hour block of time or part thereof on the same day. Rates apply to any individual or group without tax exemption certificate and/or those who charge fees for services or instruction to individuals or groups. In certain cases where admission is being charged, the city reserves the right to charge the larger of either 10% of the gross gate receipt or the schedule fee. The cleaning/damage and equipment deposits must be paid in cash or in a check separate from the rental fee.
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(c) The rate for nonresidents who wish to reserve the community room conference room or computer literacy room shall be calculated at the rates listed above in subsections (a) through (b) plus an additional 20%.

(Ordinance CO48-06-09-14-4E adopted 9/14/06)

**Sec. 5.200 Special equipment use**

If ~~special equipment~~ the audio-video (AV) equipment in the Community Room is needed by the user (projector, television, films, videos) arrangements shall be made in advance to reserve the equipment. The community room's Public Announcement PA system is for city's use only and ~~will not be rented out to the public~~ and shall not be available for use by the Public. A ~~\$20.00~~ \$40 nonrefundable fee will be charged on ~~each piece of equipment~~ the use of the equipment. In addition, a refundable damage deposit of \$150 will be charged. ~~according to the following schedule.~~

<del>(1)</del>	<del>TV/VCR</del>	<del>\$100.00</del>
<del>(2)</del>	<del>Overhead projector</del>	<del>\$100.00</del>
<del>(3)</del>	<del>LCD projector</del>	<del>\$100.00</del>
<del>(4)</del>	<del>Movie screen</del>	<del>\$50.00</del>

(Ordinance CO48-06-09-14-4E adopted 9/14/06)

**Sec. 5.300 Removal of books**

(a) Non-residents wishing to borrow books shall purchase a non-resident library card. The charge for such cards shall be \$35.00 annually.

(b) Non-residents wishing to borrow books may purchase a non-resident library card which will expire six months after its issuance. The charge for such card shall be \$20.00.

(c) Late fees as provided in [chapter 1, article 1.09, Section 1.09.003](#) shall also be imposed on non-resident book borrowers who fail to return books on a timely basis as well as fees for damaged or lost books.

## Sec. 5.400 Circulation

(a) Overdue fines.

(1) Books, magazines. \$0.10 per day per item, with a maximum fine of \$7.00 per item.

(2) Audiobooks on tape/CD; ~~videotape~~/DVDs; ~~computer software~~; musical CDs. and Book Club To Go Kit. \$1.00 per day per item, with a maximum fine of \$15.00 per item.

(3) e-Reader devices \$2.00 per day, with a maximum fine of \$30.00 per device.

(4) Laptops: \$2.00 per hour, with a maximum fine of \$18.00 per laptop.

(5) InterLibrary Loan Books, Audiobooks on tape/CD, DVDs, and Musical CDs; \$1.00 per day per item, with a maximum fines of \$15.00 per item.

(b) Lost or damaged items.

(1) Books, magazines. If the item is Lost or damaged beyond repair, the charge is the ~~full retail price~~Manufacturer's Suggested Retail Price (MSRP) of the item, plus a \$7.00 processing fee. If the book is out of print or the price unknown, the library charges a flat fee of \$30.00 for a hardbound book or \$8.00 for a paperback book plus a \$7.00 processing fee.

(2) ~~Videotapes,~~ DVDs. If the item is Lost or damaged beyond repair, the charge is the ~~full retail price~~MSRP of the item plus a \$7.00 processing fee. If the ~~purchase price of the videotape or~~MSRP of the DVD is unknown, the library charges a flat fee of \$20.00 per ~~videotape or~~ DVD and \$10.00 for each additional unit for a multi-volume set, plus a \$7.00 processing fee.

(3) Audiobooks ~~on tape~~/CD. If the item is Lost or damaged beyond repair, the charge is the ~~full retail price~~MSRP of the complete set of audiobook ~~on tape~~ or CDs plus a \$7.00 processing fee. If an individual tape from a multi-volume set is lost or damaged beyond repair, the library charges \$6.00 per tape plus a \$7.00 processing fee. If an

individual CD from a multi-volume set is lost or damaged beyond repair, the library charges \$8.00 per CD plus a \$7.00 processing fee.

(4) BookClub to Go Kit: If the item is lost or damaged beyond repair, the charge is the MSRP of each paperback plus a \$7.00 processing fee. If the whole Kit is lost, replacement price will be the MSRP times 10 items plus 7.00 processing fee and \$8.00 for the container.

(5) eReader devices. If the item is lost or damaged beyond repair, the charge is the replacement price plus cost of all accessories. Repairable damage is cost of repair.

(6) Laptops. If the item is lost or damaged beyond repair, the charge is replacement cost of the laptop plus cost of all software in the laptop. Repairable damage is the cost of repair.

NOTICE REGARDING COLLECTION OF OUTSTANDING FINES AND FEES:

PATRON ACCOUNTS WITH OUTSTANDING FINES AND FEES BALANCES TOTALING \$25.00 OR MORE FOR MORE THAN 45 DAYS WILL BE TURNED OVER TO AN INDEPENDENT COLLECTION AGENCY. ONCE AN ACCOUNT HAS ENTERED COLLECTIONS, THE LIBRARY CANNOT ACCEPT ANY PAYMENTS OR RECEIVE RETURNED ITEMS, AND ALL TRANSACTIONS SHALL BE DIRECTED THROUGH THE COLLECTION AGENCY.

(c) The library reserves the right to determine the extent of damage to an item and whether or not an item is repairable. If any material is damaged but repairable, the following repair charges apply (per instance):

Torn page:	\$0.50
Scribble or mark on page	\$0.50
Damaged or missing security target	\$1.00
Damaged or missing bar code	\$1.00
Damaged spine	\$2.00
Damaged mylar cover or book cover	\$1.00
<u>Damaged laminate cover for paperback</u>	<u>\$2.00</u>
<u>Damaged videotape case</u>	<u>\$2.00</u>
<u>Damaged videotape shell</u>	<u>\$2.00</u>
Damaged children's audiotape bag	\$2.00
Damaged audiobook on tape case	\$8.00
Damaged audiobook on CD case	\$8.00

Damaged CD or DVD case	\$2.50
<del>Rebinding of book</del>	<del>Cost per binding company's schedule</del>
Water damage (item still usable)	½ retail price of item
<del>Lost videotape insert card</del>	<del>\$1.00</del>
<del>Damaged or missing yellow audiovisual case sticker</del>	<del>\$0.50</del>
<del>Missing video case door</del>	<del>\$1.00</del>
Cleaning of books or other materials	\$1.00
Damaged or missing CD lyric booklet	\$2.50
<u>Replacement of Library Card</u>	<u>\$2.00</u>

### Sec. 5.500 Interlibrary loan

The return postage fee is ~~\$2.50~~ \$2.75 per item.

### Sec. 5.600 Miscellaneous

(a) Coin-operated copy machine	\$0.25 per copy
(b) Printout from public computer	\$0.25 per page
(c) Fax	
(1) Incoming	\$1.00 per page
(2) Outgoing local	\$1.00 per page, including cover
(3) Outgoing long distance (within the United States)	\$3.00 for the first page and \$1.00 for each additional page. No international faxes will be sent.
<del>(d) Computer disk</del>	<del>\$1.00</del>
<del>(e) Tote bag</del>	<del>\$8.00</del>
<del>(f) Pencil</del>	<del>\$0.25</del>

(Ordinance CO24-03-07-10-9.B. adopted 7/10/03)

(g) Coin-operated color copy machine and public computer color printing	\$1.00 per copy
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(Ordinance CO46-03-11-13-10A adopted 11/13/03)



## CITY COUNCIL AGENDA

Date: 12-20-2012

Subject: Agenda Item No. D.1

### **A Resolution Authorizing And Directing The City Manager To Apply For The Texas Department Of Transportation Selective Traffic Enforcement Program ("STEP") For Fiscal Year 2014.**

#### **Commentary:**

The Cedar Park Police Department is requesting to apply for a grant from the Texas Department of Transportation's 2014 Selective Traffic Enforcement Program. If awarded, this grant would provide funds for overtime activities by law enforcement to reduce the incidence of speeding, driving while intoxicated and intersection traffic control violations. A match of at least 20% of the total project cost is required. The grant application amount is for \$73,284.41, with the Grant providing \$51,299.09 in personnel costs and the City matching \$21,985.32. The matching portion of the application is met by City funds in the amount of \$9,538.61 for personnel costs and in-kind mileage in the amount of \$12,446.71 for vehicles used during traffic enforcement.

#### **Fiscal Impact**

Fund:

Department:

Amount:

#### **Associated Information:**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AUTHORIZING AND DIRECTING THE CITY MANAGER TO APPLY FOR THE TEXAS DEPARTMENT OF TRANSPORTATION SELECTIVE TRAFFIC ENFORCEMENT PROGRAM FOR FISCAL YEAR 2014; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Cedar Park City Council finds it in the best interest of the citizens of Cedar Park, that the Selective Traffic Enforcement Program grant be operated for Fiscal Year 2014; and

WHEREAS, the Cedar Park City Council designates the City Manager as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

WHEREAS, the Cedar Park City Council agrees to provide applicable matching funds for the said project as required by the Texas Department of Transportation grant application; and

WHEREAS, the Cedar Park City Council agrees that in the event of loss or misuse of the Texas Department of Transportation funds, the Cedar Park City Council assures that the funds will be returned to the Texas Department of Transportation in full.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS THAT:

SECTION 1. The Cedar Park City Council hereby approves submission of the grant application for the Selective Traffic Enforcement Program to the Texas Department of Transportation.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 20<sup>th</sup> day of December, 2012.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Matthew Powell, Mayor

ATTEST:

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LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

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Charles W. Rowland, City Attorney



## CITY COUNCIL AGENDA

Date: 12-20-2012

Subject: Agenda Item No. D.2

**A Resolution Authorizing The Release Of A 25' Drainage Easement Granted To The City of Cedar Park Out of Lot 18, Block C, Breakaway Park Section 4, A Subdivision Recorded in Doc. No. 2002092927, Official Public Records of Williamson County, Texas.**

### **Commentary:**

Premier West Homes, the owner of Lot 18, Block C, Breakaway Park Section 4 (see attached Exhibit "A"), has requested that the City release a Drainage Easement that presently crosses the lot in a location that is not suitable for the construction of a home. The owner has proposed to dedicate a new Drainage Easement and to relocate the existing drainage infrastructure to a different location on the lot. Staff recommends that this Drainage Easement be released to facilitate development of this lot.

### **Fiscal Impact**

Fund:

Department:

Amount:

### **Associated Information:**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AUTHORIZING THE RELEASE OF A 25' DRAINAGE EASEMENT GRANTED TO THE CITY OF CEDAR PARK OUT OF LOT 18, BLOCK C, BREAKAWAY PARK SECTION 4, A SUBDIVISION RECORDED IN DOC. NO. 2002092927; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Cedar Park was granted a 25' Drainage Easement in 2002, Out of Lot 18, Block C, Breakaway Park Section 4, A Subdivision Recorded in Doc. No. 2002092927 ; and

WHEREAS, the owner of the lot on which the easement crosses has requested that the City release the easement to facilitate development of the lot; and

WHEREAS, a new drainage easement will be dedicated to the City and the existing drainage infrastructure will be relocated.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS THAT:

SECTION 1. The City Council of Cedar Park hereby authorizes the release of a 25' Drainage Easement in 2002, Granted To The City of Cedar Park Out of Lot 18, Block C, Breakaway Park Section 4, A Subdivision Recorded in Doc. No. 2002092927

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 20<sup>th</sup> day of December, 2012.

CITY OF CEDAR PARK, TEXAS

ATTEST:

\_\_\_\_\_  
Matthew Powell, Mayor

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
Charles W. Rowland, City Attorney



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. D.3  
**A Resolution For City Acceptance Of The Reserve At Brushy Creek Section 1 Subdivision Improvements.**

**Commentary:**

The developer of this subdivision has completed construction of the improvements in general accordance with plans approved by the city. The subdivision improvements are defined as water, wastewater, street and drainage systems installed within public rights-of-way and any dedicated drainage or public utility easements within the subdivision. They have also provided the city a two (2) year maintenance bond in the amount of ten (10) percent of the cost of the construction for any repairs that may be necessary during a two-year period from the date of acceptance by council. Reserve at Brushy Creek Sec. 1 subdivision is comprised of one final plat, which has 25.18 acres, 42 single family lots, 3 commercial lots, and 1 water quality / drainage lot.

**Director**

**Fiscal Impact**

**Budget**

**Account No.:**

**Budget/Expended:**

The total infrastructure value is \$2,236,574.00. This includes 2,825 linear feet (LF) of water line at \$200,784.00; 3,672 LF of wastewater line at \$270,728.00; 2,520 LF of streets with a value of \$410,213 and \$1,354,849 in drainage improvements.

**Finance Director Review**

**Legal Certification**

Approved as to form and content:

Yes

No **City Attorney**

**Associated Information:**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS FOR CITY ACCEPTANCE OF RESERVE AT BRUSHY CREEK SEC. 1 SUBDIVISION IMPROVEMENTS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the developer of this subdivision has completed construction of the improvements in general accordance with plans approved by the City of Cedar Park; and

WHEREAS, the subdivision improvements are defined as water, wastewater, street, and drainage systems installed within public rights-of-way and any dedicated drainage or public utility easements within the subdivision; and

WHEREAS, the contractor has also provided the City a two (2) year maintenance bond in an amount of ten (10) percent of the cost of the construction for any repairs that may be necessary during a two-year period from the date of acceptance by City Council.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. The City Council hereby accepts the subdivision improvements within Reserve at Brushy Creek Sec. 1 for operation and maintenance.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 20th day of December, 2012.

CITY OF CEDAR PARK, TEXAS

ATTEST:

\_\_\_\_\_  
Matthew Powell, Mayor

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

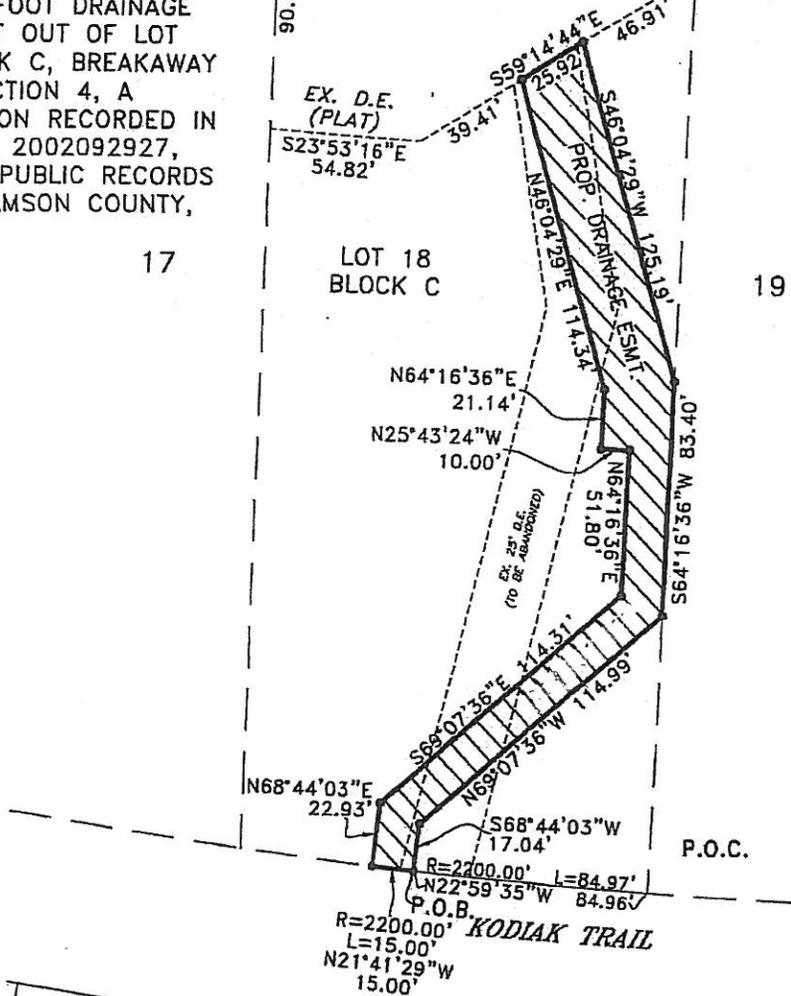
\_\_\_\_\_  
Charles W. Rowland, City Attorney

SKETCH TO ACCOMPANY  
FIELD NOTES FOR A 6417  
SQUARE FOOT DRAINAGE  
EASEMENT OUT OF LOT  
18, BLOCK C, BREAKAWAY  
PARK SECTION 4, A  
SUBDIVISION RECORDED IN  
DOC. NO. 2002092927,  
OFFICIAL PUBLIC RECORDS  
OF WILLIAMSON COUNTY,  
TEXAS

17

LOT 18  
BLOCK C

19



**CRICHTON**  
AND ASSOCIATES INC.  
LAND SURVEYORS

6448 East Highway 290  
Suite B105  
Austin, Texas 78723  
PHONE: (512) 244-3395  
FAX: (512) 244-9508

- LEGEND**
- ⊙ 1/2" IRON PIN FOUND
  - ⊙ CALCULATED POINT
  - △ NAIL FOUND
  - ⊕ POWER POLE
  - ⊕ GUY WIRE
  - ⊕ FIRE HYDRANT
  - ⊕ WATER METER
  - ⊕ WATER VALVE
  - ⊕ GAS METER
  - ⊕ SEWER CLEANOUT
  - ⊕ UTILITY PEDESTAL
  - ⊕ SANITARY SEWER MANHOLE
  - ⊕ GUG UTILITY WARNING SIGN
  - ⊕ CONC. PAD WITH ELEC.
  - - - WOOD FENCE
  - - - CHAIN LINK FENCE
  - x - x - WIRE FENCE
  - E - OVERHEAD ELECTRIC LINE
  - ( ) RECORD INFORMATION

SCALE: 1" = 60'  
JOB NUMBER: 12\_297

DATE: 11/19/2012

CRICHTON AND ASSOCIATES, INC  
LAND SURVEYORS  
6448 HIGHWAY 290 EAST SUITE B-105  
AUSTIN, TEXAS 78723  
512-244-3395

EXHIBIT "A"  
DRAINAGE EASEMENT

FIELD NOTES

**FIELD NOTES FOR A 6417 DRAINAGE EASEMENT OUT OF LOT 18,  
BLOCK C OF BREAKAWAY PARK SECTION 4, A SUBDIVISION  
RECORDED IN CAB. W SLIDES 341 – 343 OF THE WILLIAMSON  
COUNTY, TEXAS PLAT RECORDS. SAID TRACT BEING MORE  
PARTICULARLY DESCRIBED BY METES AND BOUNDS AS  
FOLLOWS:**

COMMENCING at point on the curving East R.O.W. of Kodiak Trail being the West common corner of Lots 18 and 19, block C of Breakaway Park Section 4 for the POINT OF COMMENCING.

THENCE with the West line of said Lot 18, Block C and East R.O.W. of Kodiak Trail with a curve to the right whose elements are  $R= 2200.00$ ,  $L= 84.97$  whose chord bears  $N 22^{\circ} 59' 35'' W$ , 84.96 feet to the Southwest corner of this tract and the POINT OF BEGINNING.

THENCE continuing with the West line of said Lot 18, Block C and East R.O.W. of Kodiak Trail with a curve to the right whose elements are  $R= 2200.00$ ,  $L= 15.00$  whose chord bears  $N 21^{\circ} 41' 29'' W$ , 15.00 to a point for the Northwest corner of this tract.

THENCE through the interior of said Lot 18 the following eight courses:

- 1)  $N68^{\circ}44'03''E$ , a distance of 22.93 feet to a point.
- 2)  $S69^{\circ}07'36''E$ , a distance of 114.31 feet to a point.
- 3)  $N64^{\circ}16'36''E$ , a distance of 51.80 feet to a point.
- 4)  $N25^{\circ}43'24''W$ , a distance of 10.00 feet to a point.
- 5)  $N64^{\circ}16'36''E$ , a distance of 21.14 feet to a point.
- 6)  $N46^{\circ}04'29''E$ , a distance of 114.34 feet to a point on an existing Drainage Easement as dedicated on the plat of Breakaway Park Section 4 for the Northeast corner of this tract.
- 7)  $S59^{\circ}14'44''E$  with said drainage easement, a distance of 25.92 feet to a point for the Southeast corner of this tract
- 8)  $S46^{\circ}04'29''W$ , a distance of 125.19 feet to a point on the common line of said Lots 18 and 19.

THENCE  $S64^{\circ}16'36''W$  with the common line of said Lots 18 and 19, a distance of 83.40 feet to a point.

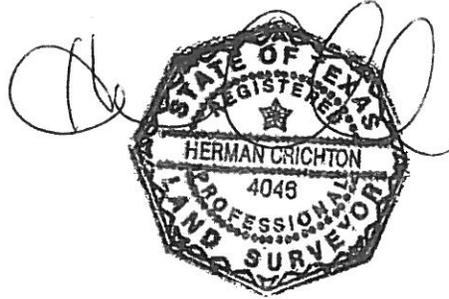
THENCE through the interior of said Lot 18 the following two (2) courses:

- 1) N69°07'36"W, a distance of 114.99 feet to a point.
- 2) S68°44'03"W, a distance of 17.04 feet to a point. to the POINT OF BEGINNING and containing 6417 square feet, more or less.

I hereby certify that the foregoing field notes were prepared from public records and does not represent a survey on the ground, under my supervision and are true and correct to the best of my knowledge and belief.

Witness my hand and seal November 19, 2012.

Herman Crichton, R.P.L.S. 4046  
12\_297





**CITY COUNCIL AGENDA**

Date:12-20-2012

Subject: Agenda Item No. D.4  
**A Resolution For City Acceptance Of Caballo Ranch Section 3 Subdivision Improvements.**

**Commentary:**

The developer of this subdivision has completed construction of the improvements in general accordance with plans approved by the city. The subdivision improvements are defined as water, wastewater, street and drainage systems installed within public rights-of-way and any dedicated drainage or public utility easements within the subdivision. They have also provided the city a two (2) year maintenance bond in the amount of ten (10) percent of the cost of the construction for any repairs that may be necessary during a two-year period from the date of acceptance by council. Caballo Ranch Sec. 3 subdivision is comprised of one final plat, which has 16.570 acres, 60 single family lots and 2 drainage easement lots.

**Director**

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**Fiscal Impact**  
**Account No.:**

**Budget**  
**Budget/Expended:**

The total infrastructure value is \$968,355.50. This includes 2,929 linear feet (LF) of water line at \$201,539.00; 2,460 LF of wastewater line at \$188,988; 2,765 LF of streets with a value of \$395,712.50 and \$182,116.00 in drainage improvements.

**Finance Director Review**

**Legal Certification**

Approved as to form and content:

Yes

No **City Attorney**

**Associated Information:**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS FOR CITY ACCEPTANCE OF CABALLO RANCH SEC. 3 SUBDIVISION IMPROVEMENTS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the developer of this subdivision has completed construction of the improvements in general accordance with plans approved by the City of Cedar Park; and

WHEREAS, the subdivision improvements are defined as water, wastewater, street, and drainage systems installed within public rights-of-way and any dedicated drainage or public utility easements within the subdivision; and

WHEREAS, the contractor has also provided the City a two (2) year maintenance bond in an amount of ten (10) percent of the cost of the construction for any repairs that may be necessary during a two-year period from the date of acceptance by City Council.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. The City Council hereby accepts the subdivision improvements within Caballo Ranch Sec. 3 for operation and maintenance.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 20th day of December, 2012.

CITY OF CEDAR PARK, TEXAS

ATTEST:

\_\_\_\_\_  
Matthew Powell, Mayor

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
Charles W. Rowland, City Attorney



## CITY COUNCIL AGENDA

Date: 12-20-2012

Subject: Agenda Item No. D.5  
**A Resolution Authorizing And Directing The Police Department To Replace And Upgrade 48 Existing X26 Tasers And Cameras.**

### **Commentary:**

This upgrade will replace and upgrade 48 existing X26 Taser Units and cameras. Cost per unit is \$2,067.64 minus a \$275 trade in credit for a cost of \$1,792.64 each for a total of \$86,047. This upgrade will reduce the liability of the Tasers the officers currently carry. Taser has addressed many safety concerns from law enforcement to make the newer model safe and more durable. Taser has also addressed the main concern of limiting the trigger to 5 second bursts instead of having the ability to continuously press the trigger and provide constant power to the probes and to the suspect that can result in substantial injury or death.

### **Fiscal Impact**

Fund: Operations Small Tools 101-091-5240

Department: Police

Amount: \$86,047

### **Associated Information:**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AUTHORIZING AND DIRECTING THE POLICE DEPARTMENT TO UPGRADE AND PURCHASE 48 TASER X26 UNITS AND CAMERAS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Cedar Park Police Department needs to purchase and upgrade 48 Taser X26 units and cameras.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS THAT:

SECTION 1. The Police Department is hereby authorized and directed to purchase and upgrade 48 Taser X26 units and cameras for the amount of \$86,047.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 20<sup>th</sup> day of December, 2012.

CITY OF CEDAR PARK, TEXAS

ATTEST:

\_\_\_\_\_  
Matthew Powell, Mayor

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
Charles W. Rowland, City Attorney



GT Distributors - Austin  
 P.O. Box 16080  
 Austin TX 78761  
 (512) 451-8298

Quote	QTE0061119
Date	12/6/2012
Page:	1

**Bill To:**

**Ship To:**

Cedar Park Police Dept (TX)  
 Po Box 1569  
 Attn: Accounts Payable  
 Cedar Park TX 78630

Cedar Park Police Dept (TX)  
 911 Quest Parkway  
 Attn:  
 Cedar Park TX 78613

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
	000011	BF	FACTORY DIRECT	NET 15	0/0/0000	935,125
Quantity	Item Number	Description	UOM	Unit Price	Ext. Price	
48	AT-22003*	Taser X2 Yellow ECD Handle Only	EA	\$950.00	\$45,600.00	
10	AT-22501*	Taser Holster, X2, Right Hand, Blackhawk	EA	\$59.95	\$599.50	
38	AT-22504*	Taser Holster, X2, Left Hand, Blackhawk	EA	\$59.95	\$2,278.10	
48	AT-22014*	Taser 4 Year Extended Warranty	EA	\$299.95	\$14,397.60	
100	AT-22151*	Taser X2 25' Live Smart Cartridge	EA	\$28.95	\$2,895.00	
150	AT-22157*	Taser 25' Training Smart Cartridge (Blue Blast	EA	\$27.95	\$4,192.50	
48	AT-26810*	Taser Cam HD	EA	\$499.95	\$23,997.60	
48	AT-26763*	Taser Cam HD 4-Year Extended Warranty	EA	\$149.95	\$7,197.60	
48	USED-TASERX26	USED TASER X26  Used Taser X26 with Taser Cams Trade value is good until 12/31/12.	EA	(\$275.00)	(\$13,200.00)	

**All returns must be authorized by GT Distributors. Interest charges on past due invoices at the maximum rate allowed by law.**

Darlene Lewis 512.260.4724  
 darlene.lewis@cedarparktexas.gov  
 Thank you, your salesman was Adam Balak

<b>Subtotal</b>	\$87,957.90
<b>Misc</b>	\$0.00
<b>Tax</b>	\$0.00
<b>Freight</b>	\$0.00
<b>Total</b>	\$87,957.90

## SUPPLEMENTAL DETAILS

<b>TITLES</b>	<b>TYPE</b>	<b>RANK</b>
<b>TASERS - DEPARTMENT UPGRADE EXISTING</b>	<b>ENHANCEMENT</b>	<b>5</b>

COMMENTS	
WHAT IS THE PURPOSE OF THIS REQUEST?	DESCRIBE THE BENEFITS THAT WILL BE GAINED FROM THIS REQUEST?
<p>This upgrade will replace and upgrade 48 existing X26 Units and Cams. Cost per unit is \$2,067.64 minus a \$275 trade in credit for a cost of \$1,792.64 each. This upgrade will reduce the liability of the equipment the officers carry. Taser has addressed many safety concerns from law enforcement to make the newer model safer and more durable. They have also addressed the main concern of limiting the trigger to 5 second bursts instead of having the ability to continuously press the trigger and providing constant power to the probes and to the suspect that can result in substantial injury or death.</p>	<p>Taser has addressed safety concerns on current Taser Model X26. Taser Model X2 improvements include the electrical charge can penetrate through bulky clothing, limits the trigger to 5 second bursts instead of a continuous charge, delivers a consistent charge, has a protected secondary cartridge built in, allows for a spark test (required each day) without removing cartridge and reducing officer injury and accidental deployment, additional laser site picture, more durable and reliable, shorter camera to prevent damage and separation from unit, and cartridges are reduced in static or radio interference. Newer models also have 4 year extended warranty. VES also added as they have useful life of approximately 5 years. Currently this equipment is not on VES.</p>
WHAT ARE THE REVENUE ENHANCEMENTS ASSOCIATED WITH THIS REQUEST?	WHAT ARE THE CONSEQUENCES OF NOT FUNDING THIS REQUEST?
<p>There are not associated revenues with this purchase. Taser is offering trade in credits based on date of purchase. Prior to 6/30/12 \$365 per unit and cam, prior to 9/30 \$325 per unit and cam, or prior to 12/31 \$275 per unit and cam. This will result in a savings of \$16,790, \$14,950, or \$12,650. Cost was calculated as purchased after 10/01 with a \$275 saving per unit and cam.</p>	<p>There is a large amount of liability in the current Taser model X26. The current model allows the trigger to be held continuously providing a constant charge or power to the probes and suspect. The device only guarantees an average charge and not a specific charge. The cartridges may also be set off due to static or radio interference. The secondary cartridges are not normally carried due to size and potential damage to the cartridges. This limits an officers ability to have a secondary cartridge if needed to re-engage a suspect if both probes do not penetrate. The required spark test requires the officer to remove the cartridge prior to test. This increases the chances for accidental discharge of probes or shock to the officer.</p>
SUMMARIZE NEW POSITIONS IN THIS REQUEST	FINANCE / BUDGET OFFICE / CMO COMMENTS
<p>There is no additional position with this request.</p>	

RESOURCES REQUESTED					
LINE ITEM	FY 2012-2013	FY 2013-2014	FY 2014-2015	FY 2015-2016	FY 2016-2017
5240 SMALL TOOLS & EQUIPMENT	\$86,047	\$0	\$0	\$0	\$0
5566 VEHICLE/EQUIP SERVICES RENTAL	\$0	\$17,210	\$17,210	\$17,210	\$17,210
<b>TOTAL</b>	<b>\$86,047</b>	<b>\$17,210</b>	<b>\$17,210</b>	<b>\$17,210</b>	<b>\$17,210</b>



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. D.6

**A Resolution Awarding Bids For Water And Wastewater Treatment Chemicals For Use At The Cedar Park Water Treatment Plant And The Cedar Park Water Reclamation Facility For Fiscal Year 2013.**

**Commentary:**

The City of Cedar Park contracted with CDM Smith to develop the technical specifications and the bid form for the various chemicals required to treat drinking water at the Cedar Park Water Treatment Plant and to treat wastewater at the Cedar Park Water Reclamation Facility. The City received bids on November 1, 2012 for the treatment chemicals for both the Water Treatment Plant and the Wastewater Reclamation Facility. CDM Smith analyzed the bids received for each treatment chemical and recommended the best value to the City based on price and treatment capacity of the individual chemical. Below is a summary of the award recommendation.

<b>Chemical</b>	<b>Supplier</b>	<b>Price</b>	<b>Est. Annual Use</b>	<b>Est. Annual Cost</b>
Liquid Chlorine	Acetylene Ox. Co	\$495/ton	110 tons	\$54,450
Fluoride	PENNCO	\$3.31/gal	14,100 gal	\$46,671
LAS	General Chemical	\$0.979/gal	48,500 gal	\$47,482
Sodium Bisulfite	Pool Sure	\$1.98/gal	15,000 gal	\$29,700
Hypochlorite (Non-NFS)	Altivia	\$0.759/gal	80,000 gal	\$60,720
Cationic Polymer	Fort Bend	\$0.72/lb	4,000 gal	\$28,527

The estimated annual savings, compared to current chemical prices, is \$41,200.

The engineer's letter of recommendation and sealed bid tabulation are attached.

☒ **Director**

**Fiscal Impact**

Account No.: 202-314-5220

Account No.: 202-316-5220

**Budget**

Budget/Expended: 270,500/16,481

Budget/Expended: 200,000/16,023

This will be funded through the Utility Operations budget.

**Finance Director Review**

**Legal Certification**

Approved as to form and content:

Yes       No **City Attorney**

**Associated Information:**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AWARDING BIDS FOR WATER AND WASTEWATER TREATMENT CHEMICALS FOR USE AT THE CEDAR PARK WATER TREATMENT PLANT AND THE CEDAR PARK WATER RECLAMATION FACILITY FOR FISCAL YEAR 2013; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the water and wastewater treatment chemicals for use at the Cedar Park Water Treatment Plant and the Cedar Park Water Reclamation Facility will be funded through the FY13 Utility Operations Budget; and

WHEREAS, bids were received and publicly read aloud on November 1, 2012; and

WHEREAS, Acetylene Oxygen Co. provided the best value bid for Liquid Chlorine (Chlorine Gas) at \$495/ton; and

WHEREAS, PENNCO, Inc. provided the best value bid for Hydrofluorosilicic Acid (Fluoride) at \$3.31/gal; and

WHEREAS, General Chemical LLC provided the best value bid for Liquid Ammonium Sulfate (LAS) at \$0.979/gal; and

WHEREAS, Commercial Chemical/Pool Sure provided the best value bid for Liquid Sodium Bisulfite at \$1.98/gal; and

WHEREAS, Altivia Corp. provided the best value bid for Liquid Sodium Hypochlorite (Non-NSF 60 Certified) at \$0.759/gal; and

WHEREAS, Fort Bend Services, Inc. provided the best value bid for Cationic Polymer at \$0.72/lb.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. Bids for the water and wastewater treatment chemicals for use at the Cedar Park Water Treatment Plant and the Cedar Park Water Reclamation Facility for Fiscal Year 2013 are hereby awarded as follows:

- a) Acetylene Oxygen Co. for Liquid Chlorine (Chlorine Gas) at \$495/ton; and
- b) PENNCO, Inc. for Hydrofluorosilicic Acid (Fluoride) at \$3.31/gal; and
- c) General Chemical LLC for Liquid Ammonium Sulfate (LAS) at \$0.979/gal; and
- d) Commercial Chemical/Pool Sure for Liquid Sodium Bisulfite at \$1.98/gal; and

e) Altivia Corp. for Liquid Sodium Hypochlorite (Non-NSF 60 Certified) at \$0.759/gal; and

f) Fort Bend Services, Inc. bid for Cationic Polymer at \$0.72/lb.; and

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 20th day of December, 2012.

CITY OF CEDAR PARK, TEXAS

---

Matthew Powell, Mayor

ATTEST:

---

LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

---

Charles W. Rowland, City Attorney



Riata Corporate Park  
12357-A Riata Trace Parkway, Suite 210  
Austin, Texas 78727  
tel: +1 512 346-1100  
fax: +1 512 345-1483  
cdmsmith.com

December 5, 2012

Mr. Kenneth Wheeler, P.E.  
City of Cedar Park - Utility Administration  
2401 Brushy Creek Loop  
Cedar Park, Texas 78613

Subject: Chemical Procurement  
Recommendations of Award for Liquid Chlorine, Polymer, Fluoride, LAS,  
Sodium Bisulfite, Hypochlorite (Non-NFS)

Dear Mr. Wheeler:

On November 1, 2012 at 11:00 am, bids for the procurement of chemicals were received and publicly opened for the City of Cedar Park. Attached is the bid tabulation of all the bids compiled by the City at the bid opening as well as the separated bid tabulations for each of chemicals. Below is a summary table of the low bidders for Liquid Chlorine, Polymer, Fluoride, LAS, Sodium Bisulfite, and Hypochlorite (Non-NFS) and the associated bid option and price:

Chemical	IFB#	Supplier	Bid Option	Price
Liquid Chlorine	102	Acetylene Ox. Co	Base Bid	\$495/ton
Polymer	103	Fort Bend	Base Bid	\$0.72/lbs
Fluoride	104	PENNCO	Base Bid	\$3.31/gal
LAS	105	General Chemical	Base Bid	\$0.979/gal
Sodium Bisulfite	106	Poolsure	Base Bid	\$1.98/gal
Hypochlorite (Non-NFS)	108	Altivia	Base Bid	\$0.759/gal

In regards to the Liquid Chlorine Bid (IFB #102), although there was an informality in the bid form submitted by Acetylene Ox. Co, the informality was waived.

In regards to the Polymer Bid (IFB #103), the City is not aware of another WTP that has Lake Travis as their water source and uses polymer supplied by Brenntag SW, Inc.; therefore, Brenntag SW, Inc. is not being considered an equivalent to the polymers listed in the IFB. Both Altivia and Fort Bend are listed as acceptable suppliers in the IFB, so then, the City performed testing on these two polymers. Based on the test results, Fort Bend was determined to be best value based on treatment ability.





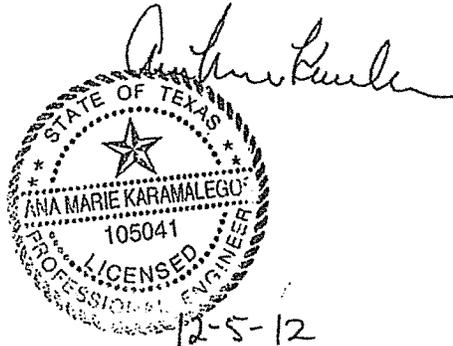
Mr. Kenneth Wheeler, P.E.  
December 5, 2012  
Page 2

The City has previous experience with the low bidders for Liquid Chlorine, Polymer, Fluoride, LAS, and Hypochlorite (Non-NFS approved). CDM Smith also investigated the low bidder for Sodium Bisulfite to determine if they are qualified to complete the work, and their references have stated that Poolsure has successfully provided them with chemicals. Thus, based on the information that we have attained by both the City and by contacting the Poolsure references, we believe that the list of low bidders in the table above for Liquid Chlorine (IFB #102), Polymer (IFB #103), Fluoride (IFB #104), LAS (IFB #105), Sodium Bisulfite (IFB #106), and Hypochlorite (Non-NFS) (IFB #108) has the experience and the capability to provide chemicals to the City of Cedar; therefore, we recommend these chemical suppliers.

If you have any questions regarding this recommendation of award, please contact me.

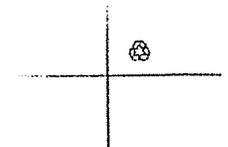
Sincerely,

Ana Marie Karamalegos, P.E.  
CDM Smith, Inc.  
TBPE Firm Registration No. F-3043



ATTACHMENTS ENCLOSED

xc: Thomas J. Dawkins, P.E. / City of Cedar Park  
Allen Woelke, P.E., BCEE / CDM Smith



City of Cedar Park Chemical Bid FY13

Company Name	Acknowledgement Addendum	Base Bid	Alt Bid	Vendor Info	Bid Response	Reference	Chlorine Safety Plan
<b>Liquid Chlorine (IFB #102)</b>							
Altivia	√	\$516/ton	NA	√	√	√	√
Acetylene Ox. Co	√	\$495/ton	\$495/ton	√	√	√	X
DPC	√	\$548/ton	\$539/ton	√	√	√	√
<b>Polymer (IFB #103)</b>							
Brenntag SW, Inc	√	\$0.697/lbs	\$0.739/lbs	√	√	√	
Altivia	√	\$1.2314/lbs 3001 \$0.7130/lbs 3006	\$1.6419/lbs s 3001 \$0.9507/lbs s 3006	√	√	√	
Fort Bend	√	\$0.72/lbs	\$0.72/lbs	√	√	√	
<b>Flouride (IFB #104)</b>							
PENSCO	√	\$3.31/gal	NA	√	√	√	
Mosaic	X	\$3.34/gal	NA	√	√	√	
<b>LAS (IFB #105)</b>							
General Chemical	√	\$0.979/gal	\$1.071/gal	√	√	√	
Altivia	√	\$1.06/gal	\$1.24/gal	√	√	√	
<b>Sodium Bisulfite (IFB #106)</b>							
Pool Sure	√	\$1.98/gal	\$2.17/gal	√	√	√	
DPC	√	\$2.90/gal	\$2.76/gal	√	√	√	
<b>Hypochlorite - Non-NSF Approved (IFB #108)</b>							
FSTI	X	\$0.89/gal	\$0.89/gal	√	√	√	
DPC	√	\$0.8249/gal	\$0.7980/gal	√	√	√	
Altivia	√	\$0.759/gal	\$0.84/gal	√	√	√	



## CITY COUNCIL AGENDA

Date: 12-20-2012

Subject: Agenda Item No. E.1

**First Reading And Public Hearing Of An Ordinance Amending Chapter 11, Zoning Ordinance, Article 11.03 Height, Setback And Lot Requirements For All Districts, By Deleting Division 2, Variances To Building Setbacks And Lot Standards And Revising Article 11.10 Boards And Commission, Division 1 Board Of Adjustment, Regarding Variance Criteria. The Planning And Zoning Commission Voted 4-0 To Approve This Amendment.**

### Commentary:

In an effort to further clarify the variance criteria within the Zoning Ordinance (Chapter 11) and align with state law and documented case law, staff is recommending some modifications to the existing language for variance criteria within the Zoning Ordinance.

Currently, there are two sets of variance criteria within the Zoning Ordinance. Article 11.03 Height, Setback and Lot Requirements for All Districts, Division 2: Variances to Building Setbacks and Lot Standards establishes criteria specifically for variance requests from the lot standards established in Article 11.03. In addition, this Section establishes variance notice and procedure requirements. Article 11.10 Boards and Commissions, Division 1: Board of Adjustment establishes variance criteria that must be considered for any deviation from the provisions of the Zoning Ordinance.

The proposed amendments would eliminate the variance criteria established in Article 11.03 and would relocate the notice and procedure requirements into Article 11.10. In addition, the variance criteria established in Article 11.10 would be revised to comply with state law and case law.

The proposed revisions are outlined below.

---

## **ARTICLE 11.03 HEIGHT, SETBACK AND LOT REQUIREMENTS FOR ALL DISTRICTS**

### **~~DIVISION 2: VARIANCES TO BUILDING SETBACKS AND LOT STANDARDS~~**

#### **~~Sec. 11.03.013 General~~**

~~A. The Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Board of Adjustment shall prescribe only conditions that it deems necessary to or desirable in the public interest.~~

~~B. No variance shall be granted unless the Board of Adjustment finds that all of the following are met:~~

~~1. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the area (an area encompassing approximately a two hundred (200) foot radius); and~~

~~2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property; and~~

~~3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this Chapter.~~

~~C. Such findings of the Board of Adjustment, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Board of Adjustment meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this Chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship.~~

~~D. All requested variances from this Chapter shall be made in writing at least thirty (30) working days prior to the date on which consideration is to be given by the Board of Adjustment. Submittal shall be made to the Planning and Transportation Department.~~

~~E. The Board of Adjustment shall hold at least one (1) public hearing on each application:~~

~~Written notice of all public hearings on proposed variances shall be sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within two hundred feet (200') of any property affected thereby, within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail.~~

~~Notice of all public hearings on proposed variances shall also appear in the local newspaper of general circulation within not less than ten (10) days before such hearing is held.~~

~~F. Positive action by the Board of Adjustment shall be recorded in the County Clerk's Office.~~

## ARTICLE 11.10 BOARDS AND COMMISSIONS

### DIVISION 1: BOARD OF ADJUSTMENT

#### Sec. 11.10.008 Limitations on the authority of the Board

A. The Board may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought.

B. The Board shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.

C. The Board shall not grant ~~a request for~~ any variance to any parcel of property or portion thereof prior to upon which submission of a Site Plan, Preliminary Plan, or Final Plat, where required. ~~has not been finally acted upon by both the Planning and Zoning Commission and, where required, by the City Council.~~

#### Sec. 11.10.009 Variance

A. "Variance" shall mean a deviation from the literal provisions of this Chapter which is granted by the Board when strict conformity to this Chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted. The Zoning Board of Adjustment may grant a variance from this Chapter if it makes written findings that:

1. There are special conditions unique to the property, such as lot size, shape, orientation, topography or other physical features, that are not generally characteristic of other properties in the area; and
2. Due to these special conditions, strict application of this Ordinance would deprive the applicant of reasonable use of the property and would result in an undue hardship; and
3. The undue hardship is not self-induced or created by the applicant, nor is it strictly pecuniary/financial; and
4. Development under the variance would not alter the character of the area adjacent to the property, impair the use of adjacent property developed in compliance with this Ordinance,

or impair the purpose of the regulations of the zoning district in which the property is located; and

5. Granting the variance request would not be contrary to the public interest or detrimental to the public health, safety, or welfare; and

6. Granting the variance request would be within the spirit of the Ordinance and result in substantial justice.

~~1. the requirement does not allow for a reasonable use of the property;~~

~~2. the hardship for which the variance is requested is owing to a special condition inherent in the property itself, such as restricted area, shape, topography or physical features;~~

~~3. the special condition is unique to this property and is not generally characteristic of other parcels of land in the area; and~~

~~4. development under the variance does not:~~

~~a. alter the character of the area adjacent to the property;~~

~~b. impair the use of adjacent property that is developed in compliance with the City requirements; or~~

~~c. impair the purposes of the regulations of the zoning district in which the property is located.~~

~~B. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor may a variance be granted to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.~~

B. In granting a variance, the Board of Adjustment may impose such additional conditions if necessary and desirable in the public interest.

C. The applicant bears the burden of proof in establishing the facts justifying a variance.

D. Such findings of the Board of Adjustment, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Board of Adjustment meeting at which such variance is granted.

E. All requested variances from this Chapter shall be made in writing at least thirty (30) calendar days prior to the date on which consideration is to be given by the Board of Adjustment. Submittal shall be made to the Development Services Department.

F. The Board of Adjustment shall hold at least one (1) public hearing on each application:

Written notice of all public hearings on proposed variances shall be sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within two hundred feet (200') of any property affected thereby, within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail.

Notice of all public hearings on proposed variances shall also appear in the local newspaper of general circulation within not less than ten (10) days before such hearing is held.

G. Positive action by the Board of Adjustment shall be recorded in the County Clerk's Office.

Public Information Plan:

- November 7, 2012:* Notice of the Planning and Zoning Commission public hearing appears in the Cedar Park Leander Statesman
- November 20, 2012:* Planning and Zoning Commission Meeting and Public Hearing
- December 5, 2012:* Notice of the City Council public hearing appears in the Cedar Park Leander Statesman
- December 20, 2012:* Public Hearing and 1<sup>st</sup> Reading at City Council

**Director**

City Manager's Remarks

**City Manager**

Legal Certification

Approved as to form and content:

Yes

No **City Attorney**

Associated Information: Ordinance

ORDINANCE NO \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING CHAPTER 11, ZONING ORDINANCE, ARTICLE 11.03 HEIGHT, SETBACK AND LOT REQUIREMENTS FOR ALL DISTRICTS, BY DELETING DIVISION 2, VARIANCES TO BUILDING SETBACKS AND LOT STANDARDS AND REVISING ARTICLE 11.10 BOARDS AND COMMISSIONS, DIVISION 1 BOARD OF ADJUSTMENT REGARDING VARIANCE CRITERIA; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

SECTION 1. That Chapter 11 Zoning Ordinance of the Cedar Park Code of Ordinances be amended as provided hereto in Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 20<sup>th</sup> day of December, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2013, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Matthew Powell, Mayor

ATTEST:

---

LeAnn M. Quinn, City Secretary

APPROVED AS TO FORM  
AND CONTENT:

---

Charles W. Rowland, City Attorney

## **EXHIBIT A**

**DELETE** Article 11.03 Height, Setback and Lot Requirements for All Districts, Division 2: Variances to Building Setbacks and Lot Standards

### **ARTICLE 11.10 BOARDS AND COMMISSIONS**

#### **DIVISION 1: BOARD OF ADJUSTMENT**

##### **Sec. 11.10.008 Limitations on the authority of the Board**

A. The Board may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought.

B. The Board shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.

C. The Board shall not grant any variance to any parcel of property or portion thereof prior to submission of a Site Plan, Preliminary Plan, or Final Plat, where required.

##### **Sec. 11.10.009 Variance**

A. "Variance" shall mean a deviation from the literal provisions of this Chapter which is granted by the Board when strict conformity to this Chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted. The Zoning Board of Adjustment may grant a variance from this Chapter if it makes written findings that:

1. There are special conditions unique to the property, such as lot size, shape, orientation, topography or other physical features, that are not generally characteristic of other properties in the area; and
2. Due to these special conditions, strict application of this Ordinance would deprive the applicant of reasonable use of the property and would result in an undue hardship; and
3. The undue hardship is not self-induced or created by the applicant, nor is it strictly pecuniary/financial; and

4. Development under the variance would not alter the character of the area adjacent to the property, impair the use of adjacent property developed in compliance with this Ordinance, or impair the purpose of the regulations of the zoning district in which the property is located; and

5. Granting the variance request would not be contrary to the public interest or detrimental to the public health, safety, or welfare; and

6. Granting the variance request would be within the spirit of the Ordinance and result in substantial justice.

B. In granting a variance, the Board of Adjustment may impose such additional conditions if necessary and desirable in the public interest.

C. The applicant bears the burden of proof in establishing the facts justifying a variance.

D. Such findings of the Board of Adjustment, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Board of Adjustment meeting at which such variance is granted.

E. All requested variances from this Chapter shall be made in writing at least thirty (30) calendar days prior to the date on which consideration is to be given by the Board of Adjustment. Submittal shall be made to the Development Services Department.

F. The Board of Adjustment shall hold at least one (1) public hearing on each application:

Written notice of all public hearings on proposed variances shall be sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within two hundred feet (200') of any property affected thereby, within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail.

Notice of all public hearings on proposed variances shall also appear in the local newspaper of general circulation within not less than ten (10) days before such hearing is held.

G. Positive action by the Board of Adjustment shall be recorded in the County Clerk's Office.



## CITY COUNCIL AGENDA

Date: 12-20-2012

Subject: Agenda Item No. E.2  
**First Reading And Public Hearing Of An Ordinance Amending Chapter 12, Subdivision Ordinance, Article 12.12 Design Standards, Section 12.12.010(A)(7) Lot Arrangements Regarding Flag Lots; And To Section 12.12.019 Variances To Design Standards To Revise Variance Criteria. The Planning And Zoning Commission Voted 4-0 To Approve This Amendment.**

### Commentary:

As a result of recent variance requests regarding flag lots, staff is proposing revisions to Section 12.12.010 Lot Arrangements, specifically to Section 12.12.010(a)(7) regarding flag lot criteria. Based upon feedback from City Council, staff is proposing to allow the Development Services Director, or designee, to approve flag lots in certain situations.

In addition, staff proposes to amend the variance criteria established in Section 12.12.019 of the Subdivision Ordinance to more closely follow state law and documented case law.

Proposed amendments are provided below.

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### **Sec. 12.12.010 Lot arrangements**

#### (a) Lot size, width, etc.

##### (7) Flag lots are only allowed where:

(A) The proposed lot configuration is needed to abate an acute topographical condition or other unusual property accessibility constraint not created by the applicant;  
or

(B) The proposed lot is located within the RA Rural Agricultural District or the ES Estate Lot Residential District or for lots under two (2) acres within the city's ETJ; or

(C) The unusual adjacent property boundary configuration constrains the arrangement of an otherwise standard lot configuration.

(D) Where any of the above items are present, the ~~planning and zoning commission~~ Development Services Director or their designee, may allow the proposed flag lot configuration, provided the following conditions are met:

- (i) The proposed lot does not circumvent the normal platting of streets for public and emergency access;
- (ii) The proposed lot does not prevent the extensions of streets to adjacent property;
- (iii) The proposed lot width is not less than fifty (50) feet in width at its frontage connection with the adjacent public or approved private street; and
- (iv) The narrow or elongated part of the proposed lot 'pole' does not exceed one hundred (100) ft. in length, measured from the connecting street frontage to where the lot widens into a 'flag' shape to receive a suitable building area where a building setback line shall be established; nor shall more than two (2) adjacent neck lots be connected.

(E) Where any of the foregoing requirements are not met, ~~but the proposed lot configuration does not circumvent the normal platting of streets for public and emergency access and the proposed lot does not prevent the extensions of streets to adjacent property~~ or a variance request is denied by the Development Services Director or their designee, the Planning and Zoning Commission may authorize a variance from these regulations pursuant to [Section 12.12.019](#) of this Chapter.

Sec. 12.12.019 Variances for design standards

(a) The Planning and Zoning Commission may authorize grant a variance from these regulations if it finds that all of the following are met: ~~when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the planning and zoning commission shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings herein below required, the planning and zoning commission shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, and expected type and volume of traffic.~~

~~(b) No variance shall be granted unless the planning and zoning commission finds that all of the following are met:~~

(1) ~~That~~ There are special circumstances or conditions unique to the property affecting the land involved, such as lot size, shape, orientation, topography, or other physical features, that are not generally characteristic of other properties in the area such that the strict application at the provisions of this chapter would deprive the applicant of the reasonable use of his land; and

(2) Due to these special conditions, strict application of this Ordinance would deprive the applicant of reasonable use of the property and result in an undue hardship; and

(3) The undue hardship is not self-induced or created by the applicant, nor is it strictly pecuniary/financial; and

~~(42) That t~~The variance is necessary for the preservation and enjoyment of substantial property rights of the applicant; and

~~(53) That the g~~Granting of the variance will not be contrary to the public interest or detrimental to the public health, safety or welfare or injurious to other property or public facilities in the area (an area encompassing approximately a 200-foot radius); and

~~(64) That the g~~Granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this eChapter; and

(7) Granting of the variance would be within the spirit of the Ordinance and would result in substantial justice.

~~(5) Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship.~~

(b) In granting a variance, the Planning and Zoning Commission may impose such additional conditions if necessary and desirable in the public interest.

(c) Such findings of the pPlanning and zZoning eCommission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the pPlanning and zZoning eCommission meeting at which such variance is granted. ~~Variancees may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done.~~

(d) All requested variances from this chapter shall be made to the Development Services Department in writing at least thirty (30) working days prior to the date on which consideration is to be given by the pPlanning and zZoning eCommission. ~~Submittal shall be made to the planning department.~~

(e) The Planning and zZoning eCommission shall hold at least one public hearing on each application:

(1) Written notice of all public hearings on proposed variances shall be sent to all owners of property, or to the person rendering the same for city taxes, located within the area of application and within two hundred feet (200') of any property affected thereby, within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail.

(2) Notice of all public hearings on proposed variances shall also appear in the local newspaper of general circulation within not less than ten (10) days before such hearing is held.

(g) Positive action by the ~~p~~Planning and ~~z~~Zoning ~~e~~Commission ~~or city council~~ shall be recorded in the ~~e~~County ~~e~~Clerk's office.

Public Information Plan:

*November 7, 2012:* Notice of the Planning and Zoning Commission public hearing appears in the Cedar Park Leander Statesman

*November 20, 2012:* Planning and Zoning Commission Meeting and Public Hearing

*December 5, 2012:* Notice of the City Council public hearing appears in the Cedar Park Leander Statesman

*December 20, 2012:* Public Hearing and 1<sup>st</sup> Reading at City Council

**Director**

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City Manager's Remarks

**City Manager**

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Legal Certification

Approved as to form and content:

Yes

No **City Attorney**

Associated Information: Ordinance

ORDINANCE NO \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING CHAPTER 12, SUBDIVISION ORDINANCE, ARTICLE 12.12 DESIGN STANDARDS, SECTION 12.12.010(A)(7) LOT ARRANGEMENTS REGARDING FLAG LOTS AND SECTION 12.12.019 VARIANCES TO DESIGN STANDARDS TO REVISE VARIANCE CRITERIA; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

SECTION 1. That Chapter 12 Subdivision Ordinance of the Cedar Park Code of Ordinances be amended as provided hereto in Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 20<sup>th</sup> day of December, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2013, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Matthew Powell, Mayor

ATTEST:

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LeAnn M. Quinn, City Secretary

APPROVED AS TO FORM  
AND CONTENT:

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Charles W. Rowland, City Attorney

## EXHIBIT A

### Sec. 12.12.010 Lot arrangements

(a) Lot size, width, etc.

(7) Flag lots are only allowed where:

(A) The proposed lot configuration is needed to abate an acute topographical condition or other unusual property accessibility constraint not created by the applicant; or

(B) The proposed lot is located within the RA Rural Agricultural District or the ES Estate Lot Residential District or for lots under two (2) acres within the city's ETJ; or

(C) The unusual adjacent property boundary configuration constrains the arrangement of an otherwise standard lot configuration.

(D) Where any of the above items are present, the Development Services Director or their designee, may allow the proposed flag lot configuration, provided the following conditions are met:

(i) The proposed lot does not circumvent the normal platting of streets for public and emergency access;

(ii) The proposed lot does not prevent the extensions of streets to adjacent property;

(iii) The proposed lot width is not less than fifty (50) feet in width at its frontage connection with the adjacent public or approved private street; and

(iv) The narrow or elongated part of the proposed lot 'pole' does not exceed one hundred (100) ft. in length, measured from the connecting street frontage to where the lot widens into a 'flag' shape to receive a suitable building area where a building setback line shall be established; nor shall more than two (2) adjacent neck lots be connected.

(E) Where any of the foregoing requirements are not met, or a variance request is denied by the Development Services Director or their designee, the Planning and Zoning Commission may authorize a variance from these regulations pursuant to [Section 12.12.019](#) of this Chapter.

Sec. 12.12.019 Variances for design standards

(a) The Planning and Zoning Commission may grant a variance from these regulations if it finds that all of the following are met:

(1) There are special conditions unique to the property, such as lot size, shape, orientation, topography, or other physical features, that are not generally characteristic of other properties in the area; and

(2) Due to these special conditions, strict application of this Ordinance would deprive the applicant of reasonable use of the property and result in an undue hardship; and

(3) The undue hardship is not self-induced or created by the applicant, nor is it strictly pecuniary/financial; and

(4) The variance is necessary for the preservation and enjoyment of substantial property rights of the applicant; and

(5) Granting of the variance will not be contrary to the public interest or detrimental to the public health, safety or welfare; and

(6) Granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this Chapter; and

(7) Granting of the variance would be within the spirit of the Ordinance and would result in substantial justice.

(b) In granting a variance, the Planning and Zoning Commission may impose such additional conditions if necessary and desirable in the public interest.

(c) Such findings of the Planning and Zoning Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Planning and Zoning Commission meeting at which such variance is granted.

(d) All requested variances from this chapter shall be made to the Development Services Department in writing at least thirty (30) working days prior to the date on which consideration is to be given by the Planning and Zoning Commission.

(e) The Planning and Zoning Commission shall hold at least one public hearing on each application:

(1) Written notice of all public hearings on proposed variances shall be sent to all owners of property, or to the person rendering the same for city taxes, located within the area of application and within two hundred feet (200') of any property affected thereby, within not

less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail.

(2) Notice of all public hearings on proposed variances shall also appear in the local newspaper of general circulation within not less than ten (10) days before such hearing is held.

(g) Positive action by the Planning and Zoning Commission shall be recorded in the County Clerk's office.



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. E.3  
**First Reading And Public Hearing Of An Ordinance To Amend Chapter 14, Site Development, Article 14.07, Tree And Landscape Requirements, And Article 14.12, Definitions.**

**Commentary:**

Staff proposes the following revisions to the Cedar Park Code of Ordinances, Chapter 14, Site Development, Article 14.07, Tree and Landscape Requirements, and Article 14.12, Definitions, in order to: (a) effect a consistent process for preservation of protected trees and heritage trees, including final appeal to Planning and Zoning Commission consistent with other City ordinances; (b) clarify the requirements for approval, mitigation, and alternative compliance relating to protected trees and heritage trees; (c) increase penalties for non-compliance in accordance with state law, including enhanced mitigation requirements, civil penalty of \$1,000/violation, and a Class C Misdemeanor with a fine not to exceed \$500/violation; and (d) address matters of general housekeeping.

**Director**

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**Fiscal Impact**  
**Account No.:**

**Budget**  
**Budget/Expended:**

**Finance Director Review**

**Legal Certification**

Approved as to form and content:

Yes

No **City Attorney**

**Associated Information:**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING THE CEDAR PARK CODE OF ORDINANCES, CHAPTER 14, SITE DEVELOPMENT, ARTICLE 14.07, TREE AND LANDSCAPE REQUIREMENTS, SECTION 14.07.003, ADMINISTRATION, SECTION 14.07.015, ALTERNATIVE COMPLIANCE METHODS–NONRESIDENTIAL ONLY, SECTION 14.07.016, TREE REMOVAL–RESIDENTIAL AND NONRESIDENTIAL, SECTION 14.07.017, APPLICATION REQUIRED FOR PROPOSING REMOVAL OF PROTECTED TREES, SECTION 14.07.018, HERITAGE TREES, SECTION 14.07.019, PENALTIES AND ENFORCEMENT, SECTION 14.07.022, APPEALS, AND SECTION 14.07.023, PREFERRED PLANT LIST; AMENDING ARTICLE 14.12, DEFINITIONS, SECTION 14.12.002, GENERAL DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. The Cedar Park Code of Ordinances, Chapter 14, Site Development, Article 14.07, Tree & Landscape Requirements, Section 14.07.003, Administration, is hereby amended as set forth in the attached Exhibit A;

SECTION 2. The Cedar Park Code of Ordinances, Chapter 14, Site Development, Article 14.07, Tree & Landscape Requirements, Section 14.07.015, Alternative Compliance Methods-Nonresidential Only, is hereby amended as set forth in the attached Exhibit A;

SECTION 3. The Cedar Park Code of Ordinances, Chapter 14, Site Development, Article 14.07, Tree & Landscape Requirements, Section 14.07.016, Tree Removal-Residential and Nonresidential, is hereby amended as set forth in the attached Exhibit A;

SECTION 4. The Cedar Park Code of Ordinances, Chapter 14, Site Development, Article 14.07, Tree & Landscape Requirements, Section 14.07.017, Application Required for Proposing Removal of Protected Trees, is hereby amended as set forth in the attached Exhibit A;

SECTION 5. The Cedar Park Code of Ordinances, Chapter 14, Site Development, Article 14.07, Tree & Landscape Requirements, Section 14.07.018, Heritage Trees, is hereby amended as set forth in the attached Exhibit A;

SECTION 6. The Cedar Park Code of Ordinances, Chapter 14, Site Development, Article 14.07, Tree & Landscape Requirements, Section 14.07.019, Penalties and Enforcement, is hereby amended as set forth in the attached Exhibit A;

SECTION 7. The Cedar Park Code of Ordinances, Chapter 14, Site Development, Article 14.07, Tree & Landscape Requirements, Section 14.07.022, Appeals, is hereby amended as set forth in the attached Exhibit A;

SECTION 8. The Cedar Park Code of Ordinances, Chapter 14, Site Development, Article 14.07, Tree & Landscape Requirements, Section 14.07.023, Preferred Plant List, is hereby amended as set forth in the attached Exhibit A;

SECTION 9. The Cedar Park Code of Ordinances, Chapter 14, Site Development, Article 14.12, Definitions, Section 14.12.002, General Definitions, is hereby amended to revise the definitions of “*Heritage tree*,” “*Protected tree*,” and “*Prune*,” and to add the definition of “*Remove*,” as set forth in the attached Exhibit A;

SECTION 10. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 11. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 12. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 20<sup>th</sup> day of December, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 10<sup>th</sup> day of January, 2013, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

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Matthew Powell, Mayor

ATTEST:

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LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

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Charles W. Rowland, City Attorney

## ARTICLE 14.07 TREE & LANDSCAPE REQUIREMENTS

### **Sec. 14.07.003 Administration**

(a) Portions of this article governing required landscape area and ~~protected-preservation of~~ trees shall be implemented under the direction of the director of parks and recreation (urban forester) ~~or their designee, who-which~~ shall oversee the regulation of the care and removal of protected ~~and heritage~~ trees in the city ~~area and its extraterritorial jurisdiction~~, and shall enforce and administer the provisions of this article. No oversight or dereliction on the part of the enforcing personnel shall legalize, authorize and/or excuse the violation of any of the provisions of this article. See [article 14.11](#) compliance and enforcement of this chapter.

### **Sec. 14.07.015 Alternative compliance methods–nonresidential only**

(a) ~~If a unique, or site-specific problem exists with the site development plans which makes compliance with this article impractical or unwise, the applicant may request alternative compliance through submit an alternative landscape plan, which shall: to the urban forester for consideration. The alternative landscape plan should~~

~~(1) identify the provision(s) of this article with which the applicant is unable to comply; and~~

~~(2) provide alternative locations for landscaping that are practical, and that contain approximately the same area, type, and amount of landscaping and the same amount of landscaping materials required by the is section article, that are. The alternative landscaping should be located such that it the alternative landscaping will be visible to the public from the street view or other prominent location, and that are within the spirit and intent of this article.~~

~~(b) An application for alternative compliance can shall be submitted in writing to the urban forester for review in conjunction with a site development plan.~~

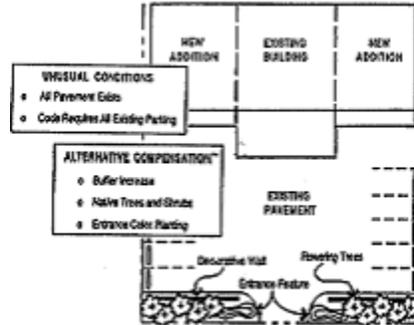
~~(c) Final approval of the alternative landscape plan or site development plan depicting protected trees or heritage trees shall constitute an approval for removal of the protected trees and heritage trees specifically identified therein for removal, provided that each such removal is specifically reviewed and approved by the urban forester. Requests for use of alternative landscaping schemes shall be considered only when one or more of the following conditions apply:~~

~~(1) The sites involve severe space limitations or unusually shaped parcels;~~

~~(2) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical;~~

(3) — Due to a change of use of an existing site, the required buffer yard is larger than can be provided; and

(4) — When safety conditions required an alternate scheme.



(b) — Approved alternative compliance proposals shall use plants from the preferred plant list. An application for alternative compliance shall be reviewed and evaluated in accordance with the criteria provided. Other proposed equivalents may be used if applicable, including preservation of natural vegetation, as approved by the urban forester or his/her designee.

<b>Alternative Compliance Equivalent Ratings—Deficiencies</b>		
-		-
<b>Landscape Area as a % of Street Yard</b>		<b>-Points</b>
-	<15%	-20
-	15%	-15
-	16%	-10
-	18%	-6
-	20%	-0
-	-	-
<b>Landscape Area for Each 12 Parking Spaces</b>		<b>-Points</b>
-	<60 sq. ft.	-10
-	60 sq. ft.	-5
-	90 sq. ft.	0
-	-	-
<b>Landscape Area for Each 12 Parking Spaces in Street Yard</b>		<b>-Points</b>

-	<60 sq. ft.	-5	
-	60 sq. ft.	0	
-	-	-	
<b>Landscape Islands, Medians, or Peninsula Placement</b>		<b>-Points</b>	
-	w/in 100' each space	-10	
-	w/in 75' each space	-5	
-	w/in 50' each space	0	
-	-	-	
<b>Trees Installed in Parking Landscape Areas</b>		<b>-Points</b>	
-	w/in 100' each space	-10	
-	w/in 75' each space	-5	
-	w/in 50' each space	0	
-	-	-	
<b>Buffer Yards</b>		<b>-Points</b>	
-	<50%	-10	
-	<75%	-5	
-	100%	0	
-	-	-	
<b>Trees:</b>		<b>+ Points</b>	
-	Percent of installed street yard trees (all must be from preferred plant list)	2" caliper	3" or greater caliper
-	10%	1 pts.	1 pts.
-	20%	2 pts.	4 pts.
-	40%	4 pts.	8 pts.
-	+ or <50%	5 pts.	10 pts.
-	-	-	-
<b>Buffer:</b>		<b>-</b>	
-	Buffer increased above minimum	+ Points	
-	10%	1 pt.	

-	20%	2 pts.
-	40%	4 pts.
-	50%	5 pts.
-		-
Special landscape features:		+ Points
-	* Arbors, gazebos, or shade seating areas for public benefit	+ 5 pts
-	* Approved rain water storage and irrigation distribution system	+ 5 pts.
-	-	-
Native plant credit:		+ Points
-	* All native plant materials	+ 5 pts.
-	-	-
Water conservation (for sites less than .5 acres)		+ Points
-	Automatic conventional spray type irrigation system for all landscape areas	+ 3 pts
-	Automatic water saving drip system for all landscaped areas	+ 4 pts.

**Sec. 14.07.016 ~~Tree removal residential and nonresidential~~**

**~~(a) Hazardous trees and storage of cut oak wood:~~**

~~(a+) The planting, preserving and or maintaining of trees, which are present a danger injurious and detrimental to the community, shall be deemed a public nuisance and are prohibited. Such trees shall include all trees, which are hazardous or may result in injury to person or property because of a defective or diseased condition (including but not limited to oak wilt), ~~or~~ trees made hazardous as a result of severe trenching near the trunk, during construction, making them unstable and liable to fall upon any sidewalk, street or building, trees damaged by a tornado, storm, flood, high winds, or other natural act of God, and diseased cut oak wood.~~

~~(2b) The planting, preserving and maintaining of trees which are contagiously diseased trees, or the storage of cut oak, unless first determined by an arborist or certified professional to be devoid of oak wilt or properly treated, shall be deemed a public nuisance and are prohibited.~~

~~(3)~~—The city shall have the right to examine trees, alive or dead, and logwood piles to determine whether they are contagiously diseased, including the gathering of samples for laboratory testing, as long it does not result in any damage to the tree.

**Sec. 14.07.017 ~~Application required for proposing r~~Preservation~~removal~~ of protected trees**

(a) General requirements.

(1) Except as otherwise provided in subsection (b) or in accordance with subsection (a)(2) of this section or section 14.07.015(b) of this article, it is unlawful to remove a protected tree without written approval of the urban forester.

(2) Preliminary plans and site development plans depicting any protected trees shall be submitted to the urban forester for evaluation and recommendation for administrative approval or, when required, submission to the planning and zoning commission. Final approval of the final plat or site plan constitutes an approval for removal of a protected tree, provided it is specifically identified on the plat or site plan as being removed with the development and provided that each such removal is specifically reviewed and approved by the urban forester.

(3) The location of all proposed buildings and improvements shall be oriented by the applicant, to the greatest extent in a manner which allows for the preservation of protected trees.

(4) In the case of new development, any mitigation or contribution required under this section shall be satisfied prior to issuance of a final certificate of occupancy or commencement of permanent utilities.

(5) All pruning must be performed by an International Society of Arboriculture (ISA) certified arborist, or under the direct supervision of an ISA certified arborist, and must follow the American National Standards Institute (ANSI) A300 standards.

(b) Exceptions. A protected tree may be removed without an application only if the protected tree is damaged by a natural disaster such as a tornado, storm, flood or other act of God, and presents an immediate hazard that endangers public health, welfare or safety, then no application shall be required for removal of only the hazardous portion of the tree, provided that the removal is effected in a timely manner so as to maintain the integrity and vigor of the tree and the owner preserves and forwards to the urban forester documentation of the damage, which shall include photographs of any damage.

(c) Application; requirements and review, approval expiration.

(1) Application for the removal of a protected tree located on public property or in any public street, alley, right-of-way, or easement shall be made by any city department or any public utility or political subdivision of the state with authority to

install utility lines or other public facilities in or above the property, street, alley, right-of-way or easement on which such tree is located, or by the owner of real property abutting upon the site of the tree or its crown.

(2) Application for the removal of a protected tree located on privately owned property shall be made by the owner of the property on which such tree is located, except that an appropriate city official may make application on behalf of the owner of the property on which the tree is located to remove a tree that constitutes a hazard to the safety of persons or property, or that is seriously diseased.

(3) The application shall be via the city's Protected Tree Removal Application Form, signed by the applicant or their authorized representative, and submitted to the urban forester.

(4) Upon receipt of a completed application for removal of a protected tree, the urban forester shall inspect the subject tree and shall approve or deny the request within a period of ten (10) working days. The urban forester shall promptly send written notice of such approval or denial to the applicant.

(5) The urban forester shall not approve a protected tree removal application unless such removal is within the spirit and intent of this article and:

(A) The city or the Texas Department of Transportation determines the protected tree is located in a sight triangle or clear zone of a public street;

(B) The urban forester determines the protected tree to be dead, dying, or diseased and either (i) it constitutes a hazard to life or property which cannot reasonably be mitigated without removal of the tree, or (ii) its restoration to sound condition is not practicable or its disease is reasonably transmittable and expected to endanger the health of other trees;

(C) The protected tree is located on or within twenty (20) feet of an area that will be used for a building, recreation area, roadway, public street, alley, or right-of-way, drainage right-of-way, public access easement, or utility easement;

(D) The protected tree would deprive the applicant of the reasonable use and enjoyment of their single-family residential property; or

(E) The protected tree would deny a governmental entity or political subdivision of this state reasonable use of public property for the achievement of its public purposes.

(6) If a protected tree removal is approved pursuant to the provisions of this subsection, the applicant must comply with all applicable provisions of this section, including mitigation.

(7) Approval for removal of a protected tree shall remain valid for the shorter of:

(A) The period stated on the urban forester's written approval issued pursuant to this section or on a final plat, site development plan, or alternative landscape plan approved pursuant to this article; or

(B) the minimum period allowable by law.

(d) Mitigation; on-site.

(1) Upon approval of protected tree removal application, the applicant shall, no later than thirty (30) days from the date of approval of the application, submit a mitigation plan showing the proposed type, location, and irrigation plan for the proposed replacement trees.

(2) The mitigation plan must provide for planting of replacement trees at a 1:1 ratio for each protected tree removed.

(3) No replacement trees shall be planted until the urban forester has reviewed and approved the mitigation plan, and the location and species of the replacement tree(s).

(4) Replacement trees shall comply with the preferred plant list of this article.

(5) Transplanting of protected trees. Protected trees can be transplanted to a suitable location on the same property or off-site, without the requirement of further mitigation, if the applicant complies with the generally accepted transplanting methods of the American National Standards Institute (ANSI A300 Standards) and the tree survives for a period of at least two (2) years.

(6) No mitigation required. The mitigation provisions of this section shall not be required under the following circumstances:

(A) For the removal of a protected tree located in a sight triangle or clear zone of a public street, as confirmed by the city or the Texas Department of Transportation;

(B) For the removal of any protected tree the urban forester determines to be dead, dying, or diseased and hazardous, unlikely to recover, or reasonably expected to endanger the health of other trees;

(C) For the removal of a protected tree that is located in dedicated public right-of-way or that would otherwise deny a governmental entity or political subdivision of this state reasonable use of public property for the achievement of its public purposes.

(e) Mitigation; off-site or cash in lieu. If the urban forester determines that mitigation for protected tree removal by replanting trees on-site is not feasible, e.g., planting capacity has been reached on-site, the urban forester may approve:

(1) planting the same number and type of replacement trees required under this subsection (h) in a city park or other designated area;

(2) payment of \$100 per diameter inch (at DBH) of protected tree removed into the tree fund or account for use by the city for installation and maintenance of trees in city parks and other city-owned properties; or

(3) Some reasonable combination of such off-site mitigation and payment.

(f) Preservation incentives. If removal of a protected tree is proposed due to efforts to comply with other provisions of this code, the applicant may request that the parks director, director of engineering, and director of planning, after consultation with the urban forester, consider the following preservation incentives in exchange for the nonremoval and preservation of the protected tree:

(1) Parking space reductions. Reduction in the minimum parking requirements as necessary to save and/or properly protect a protected tree.

(2) Sidewalks. Modification to sidewalks, their location and possibly the width and curb requirements as necessary to facilitate protecting a protected tree.

(3) Landscape credits. The actual tree canopy of a protected tree may be credited toward the requirements of section 14.07.011 of this article; however, any credits earned will not count towards replacement credits of any other protected tree in the event a subsequent protected tree removal application is approved for the same project.

(4) Parkland dedication credit. The parkland dedication requirement for a residential subdivision may be reduced up to five (5) dwelling units for each protected tree saved, provided that the protected tree saved is located on public parkland, private parkland, or open space.

(g) Protected tree protection during construction.

(1) Prior to the commencement of any development, a tree protection fence constructed of approved materials shall encompass the CRZ of any protected tree. Said tree protection fence must be maintained throughout the construction process.

(2) During construction, no materials including but not limited to excess soil, vehicles, equipment, liquids, trash, or construction debris may be placed inside of the tree protection fence, nor shall the tree protection fence be altered in any way so as to increase the encroachment of the construction.

(3) Excavation, grading, soil deposit, impervious covering, drainage and leveling within the CRZ of protected trees is prohibited unless approved by the urban forester. Any impervious cover proposed within the CRZ of a protected tree will be reviewed on a case by case basis by the urban forester upon field inspections and or plan reviews. In any case, generally no more than 25% of the CRZ of any protected tree can be covered with impervious cover. Any protective fencing being used around heritage trees may only be reduced while impervious cover activity is being done. The remainder of the protective fencing must stay intact for the duration of the project.

(4) Disposal or depositing of oil, gasoline, chemicals, paints, solvents or other materials is prohibited within the CRZ of protected trees.

(5) The attachment of wires, signs and ropes to any protected tree is prohibited.

(6) The location of utility service and irrigation lines inside the CRZ of protected trees is only allowed when approved by the urban forester. If boring is used to provide underground utility access, the minimum length of the bore shall be the width of the tree's mature canopy. The minimum depth of the bore shall be specified by the urban forester, but in no event be less than 24" below the natural grade existing prior to any development activity within the CRZ.

(7) Soil disturbance or other injurious and detrimental activity within the CRZ of protected trees is prohibited.

(8) At applicant's expense, an ISA certified arborist or their employee(s) shall be present whenever activities occur which will pose a potential threat to the health of the protected tree such as pruning, or whenever any work needs to be done within the CRZ of such tree.

(9) The applicant shall notify the urban forester whenever any damage or injury occurs to a protected tree during construction so that proper treatment may be administered.

(h) Violations; penalties.

(1) Any person intentionally, knowingly, or negligently causing damage to a protected tree shall be required to take such steps as may be required by the urban forester to assure the future vitality of the tree, including costs of chemical or other types of treatment and/or construction of protective barriers, or if the urban forester determines that the damaged protected tree is no longer reasonably sustainable, the person shall be required to replant replacement trees from the selection specified in the preferred plant list at a caliper ratio of 2:1 and shall pay a civil penalty in the amount of \$1,000 for each protected tree that was damaged.

(2) Any person who intentionally, knowingly, or negligently removes a protected tree in violation of this article shall be required to replant replacement trees from the selection specified in the preferred plant list at a caliper ratio of 2:1 and shall pay a civil penalty in the amount of \$1,000 for each protected tree that was removed.

(3) If the urban forester determines that the on-site mitigation required by this subsection (h) is not feasible, the urban forester may approve either:

(A) planting the same number and type of replacement trees required under this subsection (h) in a city park or other designated area;

(B) payment of \$200 per diameter inch (at DBH) of protected tree removed into the tree fund or account for use by the city for installation and maintenance of trees in city parks and other city-owned properties; or

(C) some reasonable combination of such off-site mitigation and payment.

(4) These penalties shall be in addition to the penalties in Section 14.07.019 of this article and any other remedies allowable by law.

~~(a) No person shall remove or cause the removal of any protected tree (see definitions section 14.12.001) without first securing an application approval from the urban forester, except as provided below:~~

~~(1) When any protected tree sustains damage in the form of a broken trunk, broken limbs, which creates a hazard to life or property, no application is required for only the removal of the damaged part or parts of the tree, provided that the removal is effected in a timely manner so as to maintain the integrity and vigor of the tree.~~

~~(2) Preliminary plans and site development plans depicting any protected trees shall be submitted to the urban forester for evaluation and recommendation for administrative approval or, when required, submission to the planning and zoning commission. Final approval of the final plat or site plan constitutes an approval for tree removal of a protected tree, provided it is specifically identified on the plat or site plan as being removed with the development and provided that each such removal is specifically reviewed and approved by the urban forester.~~

~~(b) Application for removal of protected trees.~~

~~(1) Application for the removal of a protected tree located on public property or in any public street, alley, right of way, or easement shall be made by any city department or any public utility or political subdivision of the state with authority to install utility lines or other public facilities in or above the property, street, alley, right of way or easement on which such tree is located, or by the owner of real property abutting upon the site of the tree or its crown.~~

~~(2) — Application for the removal of a protected tree located on privately owned property shall be made by the owner of the property on which such tree is located, except that an appropriate city official may make application on behalf of the owner of the property on which the tree is located to remove a tree that constitutes a hazard to the safety of persons or property, or that is seriously diseased.~~

~~(3) — No fee shall be required for an application to remove a dead, diseased, or hazardous tree.~~

~~(4) — Upon receipt of a complete application for a request to remove a protected tree, the urban forester shall promptly inspect the subject tree and shall approve or deny the request within a period of ten (10) working days. The city shall promptly send notification of such approval or denial to the applicant.~~

~~(5) — The urban forester shall not approve an application for the removal of a protected tree located on privately owned land unless the urban forester finds that the tree is located on or within twenty (20) feet of an area that will be used for a building, recreation area, roadway, drainage right-of-way, or utility easement, or that the tree is diseased or dead or that it is likely to endanger the public or an adjoining property owner.~~

~~(6) — Protected trees removed shall be replaced by tree varieties listed in the preferred plant list. Replacement trees on site shall be planted at a caliper ratio of 1:1 or, where it is not practical for the continued growth or vigor of the trees, cash in lieu to the city tree program may be used at an amount comparable to the cost of nursery stock required to replace the caliper amounts lost and the cost of installation on a per unit basis. Any such conditions must be met within twelve (12) months after removal of the protected tree. Failure to comply with these requirements shall be considered a violation of the code. In the case of new development, any such conditions shall be satisfied or fiscal security for the performance of such conditions shall be provided prior to issuance of certificate of occupancy and commencement of permanent utilities.~~

~~(7) — Removal of a protected tree located in public street right-of-way or in areas to be dedicated for public street right-of-way shall not require replacement trees or cash in lieu.~~

~~(8) — The urban forester shall approve an application for the removal of a protected tree in connection with construction, maintenance or repair of public facilities in or above a public street, alley, right of way, easement or other public land under one or more of the following conditions:~~

~~(A) — The location of the tree prevents the opening of reasonable and necessary vehicular traffic lanes in a street or alley;~~

~~(B) — The location of the tree prevents the construction of utility lines or drainage facilities which may not feasibly be rerouted;~~

~~(C) — The location of the tree prevents all reasonable access to the property; or~~

~~(D) — Denial of the application would deny a political subdivision of the state the reasonable use of public property for the achievement of its public purposes; provided that any approval under this article may be reviewed by the planning and zoning commission at its discretion.~~

~~(9) — Notwithstanding any of the foregoing provisions of this chapter, the urban forester shall approve an application for the removal of a protected tree under the following circumstances:~~

~~(A) — The urban forester determines that the tree constitutes a hazard to life or property which cannot reasonably be mitigated without removing the tree; or~~

~~(B) — The urban forester determines that the tree is dying, dead or diseased to the point that its restoration to sound condition is not practicable or that its disease can be expected to be transmitted to other trees and to endanger their health.~~

**Sec. 14.07.018 Heritage Preservation of heritage trees**

(a) General requirements.

~~(1) Except as otherwise provided in subsection (b) or in accordance with subsection (a)(2) of this section or section 14.07.015(b) of this article, it is unlawful to remove or prune a heritage tree without written approval of the urban forester. Except as otherwise provided in subsection (b), it is unlawful to remove or prune a heritage tree designated as such on a tree survey as required by section 14.07.014 of this Code without a heritage tree removal or pruning permit.~~

~~(2) All pruning must be performed by an International Society of Arboriculture (ISA) certified arborist, or under the direct supervision of an ISA certified arborist, and must follow the American National Standards Institute (ANSI) A300 standards.~~

~~(3) — The location of all proposed buildings and improvements shall be oriented by the applicant, to the greatest extent in a manner which allows for the preservation of heritage trees.~~  
~~(2) Preliminary plans and site development plans depicting any heritage trees shall be submitted to the urban forester for evaluation and recommendation for administrative approval or, when required, submission to the planning and zoning commission. Final approval of the final plat or site plan constitutes an approval for removal or pruning of a heritage tree, provided it is specifically identified on the plat or site plan as being removed with the development~~

and provided that each such removal is specifically reviewed and approved by the urban forester.

(3) The location of all proposed buildings and improvements shall be oriented by the applicant, to the greatest extent in a manner which allows for the preservation of heritage trees.

(4) In the case of new development, any mitigation or contribution required under this section shall be satisfied prior to issuance of a final certificate of occupancy or commencement of permanent utilities.

(25) All pruning must be performed by an International Society of Arboriculture (ISA) certified arborist, or under the direct supervision of an ISA certified arborist, and must follow the American National Standards Institute (ANSI) A300 standards.

~~(4) No heritage trees shall be removed or damaged unless specifically approved by the city council of the city.~~

(b) Exceptions. A heritage tree may be removed or pruned without an application only under the following circumstances:

~~(1) Natural disasters and other emergencies~~Hazardous condition. If a heritage tree is ~~determined to be causing a danger or to be in a hazardous condition due to~~damaged by a natural disaster such as a tornado, storm, flood or other act of God, and presents an immediate hazard that endangers public health, welfare or safety, then the requirements of this section may be waived as deemed necessary by the emergency management coordinator and assistant city manager, after consultation with the urban forester, with such consultation and determination to occur within one (1) calendar day of an applicant's requestno application shall be required for removal or pruning of only the hazardous portion of the tree, provided that the removal or pruning is effected in a timely manner so as to maintain the integrity and vigor of the tree and the owner preserves and forwards to the urban forester documentation of the damage, which shall include photographs of any damage.

~~(2) City, Ppublic utilities, and governmental entities.~~ Pruning the canopy of heritage trees may be carried out ~~by the city, -public utility, governmental entity, or political subdivision of this state~~ without ~~prior approval by the urban forester~~an application ; if performed by an International Society of Arboriculture (ISA) certified arborist, or under the direct supervision of an ISA certified arborist. ~~Heritage tree removal requests must be submitted to the city council for review and approval.~~

~~(3) Dead or diseased trees. If the urban forester determines, based on a site inspection, that a heritage tree is already dead, dying, or fatally diseased, the provisions of the mitigation requirements will not apply.~~

~~(4) Clear zone and sight triangles. Heritage trees located in the sight triangles of public streets are exempt from the requirements of this section.~~

(c) Heritage tree removal or pruning permit application; requirements and review, approval expiration.

~~(1) Applications for heritage tree removal or pruning permits shall be submitted to the urban forester.~~  
(1) Application for the removal or pruning of a heritage tree located on public property or in any public street, alley, right-of-way, or easement shall be made by any city department or any public utility or political subdivision of the state with authority to install utility lines or other public facilities in or above the property, street, alley, right-of-way or easement on which such tree is located, or by the owner of real property abutting upon the site of the tree or its crown.

(2) Application for the removal or pruning of a heritage tree located on privately owned property shall be made by the owner of the property on which such tree is located, except that an appropriate city official may make application on behalf of the owner of the property on which the tree is located to remove a tree that constitutes a hazard to the safety of persons or property, or that is seriously diseased.

(3) The application shall be via the city's Protected Tree Removal Application Form, signed by the applicant or their authorized representative, and submitted to the urban forester.

~~(4) The application shall be made by the owner of the property or the owner(s)'s authorized representative on which the heritage tree is located.~~

~~(3) Upon receipt of the completed application for heritage tree removal or pruning, the urban forester shall inspect the subject tree and shall set the matter for public hearing before the city council at the earliest possible regularly scheduled meeting of the city council for approval or denial in accordance with the provisions of this section.~~  
approve or deny the request within a period of ten (10) working days. The urban forester shall promptly send written notice of such approval or denial to the applicant.

(5) The urban forester shall not approve a heritage tree removal or pruning application unless such removal or pruning is within the spirit and intent of this article and:

(A) The city or the Texas Department of Transportation determines the heritage tree is located in a sight triangle or clear zone of a public street;

(B) The application seeks approval for pruning of thirty (30) percent or less of a heritage tree's viable crown;

(C) The urban forester determines the heritage tree to be dead, dying, or diseased and either (i) it constitutes a hazard to life or property which cannot reasonably be mitigated without removal or pruning of the tree, or (ii) its restoration to sound condition is not practicable or its disease is reasonably transmittable and expected to endanger the health of other trees;

(D) The heritage tree is located on or within twenty (20) feet of an area that will be used for a building, recreation area, roadway, public street, alley, or right-of-way, drainage right-of-way, public access easement, or utility easement;

(E) The heritage tree would deprive the applicant of the reasonable use and enjoyment of their single-family residential property; or

(F) The heritage tree would deny a governmental entity or political subdivision of this state reasonable use of public property for the achievement of its public purposes.

~~(46) If recommended for approval by the city council, a permit for removal or pruning will be issued for the heritage tree.~~ If a heritage tree removal application is approved or pruning permit is issued pursuant to the provisions of this subsection, the applicant must comply with all applicable provisions of this section, including mitigation.

(7) Approval for removal of a heritage tree shall remain valid for the shorter of:

(A) The period stated on the urban forester's written approval issued pursuant to this section or on a final plat, site development plan, or alternative landscape plan approved pursuant to this article; or

(B) the minimum period allowable by law<sup>(5)</sup>—Permits shall remain valid for the longer of:

~~(A) The period of validity of the permit or authorization that required compliance with this section; or~~

~~(B) 180 days for the issuance of the tree removal or pruning permit.~~

(d) Mitigation; on-site by tree replacement on site.

(1) ~~If the city council approves an application for a permit to remove a heritage tree, Upon approval of heritage tree removal application, then~~ the applicant shall, no later than thirty (30) days from the date of approval of the application, submit a mitigation plan showing the proposed type, location, and irrigation plan for the proposed replacement trees.

(2) The mitigation plan must ~~be a plan~~ provide for planting of replacement trees at a 3:1 ratio for each heritage tree removed, ~~or a plan for alternative landscaping, if approved by the urban forester.~~

(3) No replacement trees shall be planted until the urban forester has reviewed and approved the mitigation plan, and the location and species of the replacement tree(s).

(4) Replacement trees shall comply with the preferred plant list of this ~~code~~ article.

(5) Transplanting of heritage trees. Heritage trees can be transplanted to a suitable location on the same property or ~~off site~~ off-site, ~~and no replacement on site shall be required~~ without the requirement of further mitigation, if the applicant complies with the generally accepted transplanting methods of the American National Standards Institute (ANSI A300 Standards) and the tree survives for a period of at least two (2) years.

(6) No mitigation required. The mitigation provisions of this section shall not be required under the following circumstances:

(A) For the removal of a heritage tree located in a sight triangle or clear zone of a public street, as confirmed by the city or the Texas Department of Transportation;

(B) For the removal of any heritage tree the urban forester determines to be dead, dying, or diseased and hazardous, unlikely to recover, or reasonably expected to endanger the health of other trees;

(C) For pruning of thirty (30) percent or less of a heritage tree's viable crown;  
or

(D) For the removal of a heritage tree that is located in dedicated public right-of-way or that would otherwise deny a governmental entity or political subdivision of this state reasonable use of public property for the achievement of its public purposes.

(e) Mitigation; off-site or cash in lieu by payment or planting in a city park.

~~(1) When it is determined by~~ If the urban forester determines that mitigation for heritage tree removal by replanting trees ~~on site~~ on-site is not feasible, e.g., planting capacity has been reached

~~on-site~~on-site, an applicant may choose one of the following alternatives in lieu of replanting ~~on site~~on-site:

(1) planting the same number and type of replacement trees required under this subsection (h) in a city park or other designated area;

(2) payment of \$300 per diameter inch (at DBH) of heritage tree removed into the tree fund or account for use by the city for installation and maintenance of trees in city parks and other city-owned properties; or

(3) Some reasonable combination of such off-site mitigation and payment.

~~(A) Planting the same number of replacement trees in a city park as would otherwise be required on site in the locations approved by the urban forester; or~~

~~(B) Payment of \$200.00 per diameter inch of heritage tree removed into the tree fund or account for use by the city for the planting, pruning, irrigation, and other activities associated with trees in a city park or on other city-owned property.~~

~~(2) If an applicant demonstrates to the city council that removal of a heritage tree is the only feasible and appropriate alternative, and if the applicant chooses to mitigate by payment, the city council may, in its sole discretion, reduce the payment per diameter inch that would otherwise be due.~~

(f) Preservation incentives. If removal of a heritage tree is proposed due to efforts to comply with other provisions of this code, the applicant may request that the parks director, director of engineering, and director of planning, after consultation with the urban forester, consider the following preservation incentives in exchange for the nonremoval and preservation of the heritage tree:-

(1) Parking space reductions. ~~Any project shall be entitled to a r~~Reduction in the minimum parking requirements as ~~the parks director determines is~~ necessary to save and/or properly protect a heritage tree.

(2) Sidewalks. Modification to sidewalks, their location and possibly the width and curb requirements ~~shall be allowed as the director of engineering services determines is~~ necessary to facilitate protecting a heritage tree.

(3) Landscape credits. The actual tree canopy of a heritage tree ~~will~~may be ~~given as credited~~ toward the requirements of [section 14.07.011](#) of this article; however, any credits earned will not count towards replacement credits of any other heritage tree in the event a subsequent heritage tree removal ~~permit application was is~~ approved ~~by city council and/or the urban forester on~~for the same project.

(4) Parkland dedication credit. The parkland dedication requirement for a residential subdivision may be reduced ~~if a heritage tree is saved. The credit for parkland dedication will be up to~~ five (5) dwelling units ~~reduction in the number of units used to calculate the parkland dedication requirement~~ for each heritage tree saved, provided that the heritage tree saved is located on public parkland, private parkland, or open space.

(g) Heritage tree protection during construction.

(1) Prior to the commencement of any development, a tree protection fence constructed of approved materials shall encompass the CRZ of any heritage tree. Said tree protection fence must be maintained throughout the construction process.

(2) During construction, no materials including but not limited to excess soil, vehicles, equipment, liquids, trash, or construction debris may be placed inside of the tree protection fence, nor shall the tree protection fence be altered in any way so as to increase the encroachment of the construction.

(3) Excavation, grading, soil deposit, impervious covering, drainage and leveling within the CRZ of heritage trees is prohibited unless approved by the urban forester. Any impervious cover proposed within the CRZ of a heritage tree will be reviewed on a case by case basis by the urban forester upon field inspections and or plan reviews. In any case, generally no more than 25% of the CRZ of any heritage tree can be covered with impervious cover. Any protective fencing being used around heritage trees may only be reduced while impervious cover activity is being done. The remainder of the protective fencing must stay intact for the duration of the project.

(4) Disposal or depositing of oil, gasoline, chemicals, paints, solvents or other materials is prohibited within the CRZ of heritage trees.

(5) The attachment of wires, signs and ropes to any heritage tree is prohibited.

(6) The location of utility service and irrigation lines inside the CRZ of heritage trees is only allowed when approved by the urban forester. If boring is used to provide underground utility access, the minimum length of the bore shall be the width of the tree's mature canopy. The minimum depth of the bore shall be specified by the urban forester, but in no event be less than 24" below the natural grade existing prior to any development activity within the CRZ.

(7) Soil disturbance or other injurious and detrimental activity within the CRZ of heritage trees is prohibited.

(8) At applicant's expense, an ISA certified arborist or their employee(s) shall be present whenever activities occur which will pose a potential threat to the health of the heritage tree such as pruning, or whenever any work needs to be done within the CRZ of such tree.

(9) The applicant shall notify the urban forester ~~shall be notified~~ whenever any damage or injury occurs to a heritage tree during construction so that proper treatment may be administered.

(h) ~~Additional Violations; remed~~penalties.

(1) Any person intentionally, knowingly, or negligently causing damage, ~~accidentally or otherwise,~~ to a heritage tree shall be required to take such steps as may be required by the urban forester to assure the future vitality of the tree, including costs of chemical or other types of treatment and/or construction of protective barriers, or if the urban forester determines that the damaged ~~is so great that the~~ heritage tree is no longer reasonably sustainable, the person shall be required to replant replacement trees from the selection specified in the preferred plant list at a caliper ratio of 6:1 ~~comply with the mitigation provisions of this article and shall pay a civil penalty in the amount of \$1,000 for each heritage tree that was damaged, and, if the act is intentional, to pay a civil penalty in the amount of \$5,000.00 for each heritage tree that is damaged.~~

(2) Any person who intentionally, knowingly, or negligently removes a heritage tree, ~~accidentally or otherwise,~~ in violation of this article, shall be required to replant replacement trees from the selection specified in the preferred plant list at a caliper ratio of 6:1 ~~comply with the mitigation provisions of this article, and, if the act is intentional, to~~ and shall pay a civil penalty in the amount of ~~\$5~~1,000.00 for each heritage tree that ~~was~~ removed.

(3) If the urban forester determines that the on-site mitigation required by this subsection (h) is not feasible, the urban forester may approve either:

(A) planting the same number and type of replacement trees required under this subsection (h) in a city park or other designated area;

(B) payment of \$600 per diameter inch (at DBH) of heritage tree removed into the tree fund or account for use by the city for installation and maintenance of trees in city parks and other city-owned properties; or

(C) some reasonable combination of such off-site mitigation and payment.

~~(3)—(4)~~ (4) These ~~remedies penalties~~ shall be in addition to the ~~remed~~penalties in Section 14.07.019 of this article and any other remedies allowable by law.

**Sec. 14.07.019 Penalties and enforcement**

~~(a) Any person who cuts, damages, or removes any tree in violation of the terms of this article is responsible for restitution by replanting replacement trees from the selection specified in the preferred plant list, at a caliper ratio of 2:1 and shall also be required to pay double permit fees for the removal of such trees. If the number of replacement trees required exceeds the ability to~~

~~practically locate them on the site, cash in lieu to the tree program and at the same ratio of replacement cost including installation shall be required, in addition to the other applicable penalties.~~

~~(b)~~—Any person otherwise in violation of this article shall be subject to fine or restitution in accordance with the provisions of this article and [section 1.01.009](#) of this code. Notification of violations pertaining to this article shall be consistent with the Texas Government Code. Enforcement of this article shall be consistent with the provisions found in [section 1.01.009](#) of this code as well as other applicable rules, regulations, and standards consistent with the code. Each day of any violation to the requirements of this article shall be considered a separate offense.

### Sec. 14.07.022 Appeals

~~(a) — If a unique or site specific problem exists with the site development plans which makes compliance with this article impractical or unwise, the applicant may submit an alternative landscape plan to the urban forester for consideration. The alternative landscape plan should provide alternative locations for landscaping that are practical and that contain approximately the same area of landscaping and the same amount of landscaping materials required by the section. The alternative landscaping should be located such that it will be visible to the public from the street view or other prominent location.~~

~~(b)~~—If a landscape plan, alternative landscape plan, ~~or a~~ [protected tree removal application, or heritage tree removal or pruning application](#) is denied by the urban forester, the applicant may appeal the denial to the planning and zoning commission [in writing by no later than the tenth \(10<sup>th</sup>\) business day following the date of such denial.](#)

### Sec. 14.07.023 Preferred plant list

~~The following is a listing of plants that grow well in this area~~[The city’s preferred plant list shall include the City of Austin’s “Grow Green” plant list, the Lower Colorado River Authority’s plant list, and the following:](#)

(plants listed in italics are considered xeriscape or xeriscape plants)

Common Name	Botanical Name	Comments
<b>CANOPY TREE</b>		

<i>Pecan</i>	<i>Carya illinoensis</i>	<i>Deep tap root</i>
<i>Cedar Elm</i>	<i>Ulmus crassifolia</i>	<i>Disease resistant</i>
<i>Shumard Red Oak (other red oaks)</i>	<i>Quercus shumardii (etc.)</i>	<i>Red fall color</i>
<i>Live Oak</i>	<i>Quercus virginiana</i>	<i>Very hardy evergreen</i>
<i>Bur Oak and (other White Oaks)</i>	<i>Quercus macrocarpa (etc.)</i>	<i>Nice branch char.</i>
<i>Big Tooth Maple</i>	<i>Acer grandidentatum</i>	<i>Fall color</i>
<i>Chinese Pistachio (e)</i>	<i>Pistacia chenenesis</i>	<i>Fall color</i>
<i>Bradford Pear</i>	<i>Pryrus calleryana</i>	<i>Fall color</i>
<i>Ginkgo</i>	<i>Ginkgo biloba</i>	<i>Yellow fall color</i>
<i>Catalpa</i>	<i>Catalpa sp.</i>	<i>Flowers, slightly messy</i>
<b>Common Name</b>	<b>Botanical Name</b>	<b>Comments</b>
<i>Western Soapberry</i>	<i>Sapindus drummondii</i>	<i>Showy winter fruit, yellow fall color</i>
<i>Southern Magnolia</i>	<i>Magnolia grandiflora</i>	<i>Large evergreen, large white flowers</i>
<i>Bald Cypress</i>	<i>Taxodium species</i>	<i>Fernlike leaves, fall color</i>
<i>Montezuma Cypress</i>	<i>Taxodium species</i>	<i>Fernlike leaves, fall color</i>
<i>Texas Pichachio</i>	<i>Pistacia texensis</i>	<i>Evergreen in this area, new growth red</i>
<i>Texas Ash</i>	<i>Fraxinus texensis</i>	<i>Long-lived, fast growing</i>
<i>TexMex Sycamore</i>	<i>Plantus hybrid</i>	<i>Insect and disease resistant</i>
<b>ORNAMENTAL TREE</b>		
<i>Texas Persimmon</i>	<i>Diospyros texana</i>	<i>Smooth gray bark</i>
<i>Possumhaw Holly</i>	<i>Ilex decidua</i>	<i>Deciduous, red fruit in winter</i>
<i>Texas Redbud</i>	<i>Cercis canadensis texana</i>	<i>Long flowering in spring</i>
<i>Desert Willow</i>	<i>Chilopsis linearis</i>	<i>Drought tolerant, summer</i>

		<i>blooms</i>
<i>Yaupon</i>	<i>Ilex vomitoris</i>	<i>Very hardy, red berries</i>
<i>Vitex</i>	<i>Vitex Agnus-castus</i>	<i>Native, purple or white flower</i>
<i>Crape Myrtle</i>	<i>Lagerstroemia indica</i>	<i>Some die-back, flowers</i>
<i>Eve's Necklace</i>	<i>Sophora affinis</i>	<i>Fernlike foliage, winter fruit color</i>
<i>Japanese Black Pine</i>	<i>Pinus thunbergi</i>	<i>Great color, best of pines</i>
<i>Loquat</i>	<i>Eriobotrya japonica</i>	<i>Evergreen, fall fruit</i>
<i>Tx. Mountain Laurel</i>	<i>Sophora secundiflora</i>	<i>Fragrant purple flower</i>
<i>Mexican Plum</i>	<i>Prunus mexicana</i>	<i>White flowers</i>
<i>Mexican Buckeye</i>	<i>Ungnadia speciosa</i>	<i>Brilliant pink flowers in spring</i>
<i>Elderica Pine (Afghan)</i>	<i>Pinus elderica</i>	<i>30–80', suited to alkaline soils</i>
<b>SHRUBS</b>		
<i>Hollies (most varieties)</i>	<i>Ilex sp.</i>	<i>Durable, some have berries</i>
<i>Eleagnus</i>	<i>Eleagnus pungens</i>	<i>Large, gray, tolerates heat, drought</i>
<i>Dwarf Wax Myrtle</i>	<i>Myrica pulilla</i>	<i>Mass plantings, hedges</i>
<i>Evergreen Sumac</i>	<i>Rhus virens</i>	<i>Evergreen red fruit</i>
<i>Flame Leaf Sumac</i>	<i>Rhus lanceolata</i>	<i>Brilliant red foliage</i>
<i>Florida Jasmine</i>	<i>Jasminum floridum</i>	<i>Spring yellow blooms</i>
<i>Indian Hawthorn (all varieties)</i>	<i>Raphiolepis indica</i>	<i>Spring flower</i>
<i>Red Yucca</i>	<i>Hesperaloe parviflora</i>	<i>Coral flower spikes</i>
<i>Viburnum (all varieties)</i>	<i>Viburnum sp.</i>	<i>Dark green, spring flowers</i>
<i>Nandina Domestica</i>	<i>Nandina domestica</i>	<i>Winter color, red berries</i>
<i>Moonbay Nandina</i>	<i>Nandina moonbay</i>	<i>Compact, winter color</i>
<b>Common Name</b>	<b>Botanical Name</b>	<b>Comments</b>

<i>Gulf Stream Nandina</i>	<i>Nandina gulfstream</i>	<i>Winter color, fuller at base</i>
<i>Italian Jasmine</i>	<i>Jasminum humile</i>	<i>Flower small, bright yellow</i>
<i>Mexican Buckeye</i>	<i>Ungnadia speciosa</i>	<i>Hardy, spring pink flowers</i>
<i>Agarita</i>	<i>Berberis trifliata</i>	<i>Holly-like foliage, flowers, berries</i>
<i>Muhly grass</i>	<i>Muhlenbergia lindhemeri</i>	<i>Looks like small pampas grass</i>
<i>Pampas Grass</i>	<i>Cordateria Selloana</i>	<i>Fall flower</i>
<b>GROUND COVERS</b>		
<i>Holly Fern</i>	<i>Cyrtomium falcatum</i>	<i>Coarse texture, dark green</i>
<i>Rosemary</i>	<i>Rosmarinus officinalis</i>	<i>Coarse texture, dark green</i>
<i>Santolina (green and gray)</i>	<i>Santolina spp.</i>	<i>Will take extreme heat</i>
<i>Cherry Sage</i>	<i>Salvia Greggii</i>	<i>Nearly evergreen, long bloom season</i>
<i>Liriope</i>	<i>Liriope muscari</i>	<i>Hardy, blue flower</i>
<i>Mondo (monkey) Grass</i>	<i>Ophiopogon japonicus</i>	<i>Thin, dark leaves, hardy</i>
<i>Asian Jasmine</i>	<i>Trachelopermun asiaticum</i>	<i>Some die back</i>
<i>Trailing Vinca (periwinkle)</i>	<i>Vinca Major</i>	<i>Shade, flower</i>
<i>Ajuga (carpet bugle)</i>	<i>Ajuga reptans</i>	<i>Shade, part shade, purple flower</i>
<i>Star Jasmine</i>	<i>Trachaelopspermum jasminoides</i>	<i>Sun, white flower, can be vine</i>
<b>VINES</b>		
<i>Cross Vines</i>	<i>Bigonia capreolata</i>	<i>Bi-color flower</i>
<i>Carolina Jessamine</i>	<i>Gelsemium sempervirens</i>	<i>Yellow flower</i>
<i>Coral Honeysuckle</i>	<i>Lonicera sempervirens</i>	<i>Red flower</i>
<i>Pyracantha</i>	<i>Pyracantha sp.</i>	<i>Thorns, flowers, berries</i>

<i>Lady Banksia Rose</i>	<i>Rose Banksiae</i>	<i>Yellow flower, needs support</i>
Boston Ivy	Parthenocissus tricuspidate	Climbing, bright red in fall
<i>English Ivy</i>	<i>Hedera helix</i>	<i>Shade, self climbing, also groundcover</i>

**ARTICLE 14.12 DEFINITIONS**

**Sec. 14.12.001 General Definitions**

Heritage tree. Any of the following:

- (1) ~~Trees—A hardwood tree having a trunk of twenty-six (26) inches DBH or more that have a 26-inch diameter when measured at 4.5 feet above grade.; or~~
- (2) Any hardwood tree or cluster or stand of hardwood trees designated by resolution of the city council to be of historical value or of significant community benefit.

Protected tree. ~~Hardwood trees having measurements being equal to or greater than any of the following shall be defined as a protected tree~~ Any of the following:

- (1) A hardwood tree having a trunk of sixteen (16) inches ~~dbh—DBH~~ or more; ~~measured 4.5 feet above ground level;~~
- (2) A multitrunk hardwood tree having any single trunk of sixteen (16) inches DBH or more or an aggregate total trunk DBH adding to of thirty (30) inches or more (not counting trunks less than eight (8) inches in diameter at DBH); or
- (3) A cluster of hardwood trees within a ten (10)-foot radius circle having an aggregate total DBH of forty (40) inches or more (not counting trunks less than eight (8) inches in diameter at DBH).

Prune. Cutting away unwanted or damaged parts of a tree including no more than thirty (30) percent of its viable crown.

Remove. Total disposition of a tree, including complete or partial severance of the trunk or limbs and the pruning or cutting away of more than thirty (30) percent of a tree’s viable crown.

## **ARTICLE 14.07 TREE & LANDSCAPE REQUIREMENTS**

### **Sec. 14.07.003 Administration**

(a) Portions of this article governing required landscape area and preservation of trees shall be implemented under the direction of the director of parks and recreation (urban forester) or their designee, who shall oversee the regulation of the care and removal of protected and heritage trees in the city and its extraterritorial jurisdiction, and shall enforce and administer the provisions of this article. No oversight or dereliction on the part of the enforcing personnel shall legalize, authorize and/or excuse the violation of any of the provisions of this article. See [article 14.11](#) compliance and enforcement of this chapter.

### **Sec. 14.07.015 Alternative compliance methods–nonresidential only**

(a) If a unique, site-specific problem exists with the site development plans which makes compliance with this article impractical or unwise, the applicant may request alternative compliance through an alternative landscape plan, which shall:

(1) identify the provision(s) of this article with which the applicant is unable to comply; and

(2) provide alternative locations for landscaping that are practical, contain approximately the same area, type, and amount of landscaping materials required by this article, that are located such that the alternative landscaping will be visible to the public from the street view or other prominent location, and that are within the spirit and intent of this article.

(b) An application for alternative compliance shall be submitted in writing to the urban forester for review in conjunction with a site development plan.

(c) Final approval of the alternative landscape plan or site development plan depicting protected trees or heritage trees shall constitute an approval for removal of the protected trees and heritage trees specifically identified therein for removal, provided that each such removal is specifically reviewed and approved by the urban forester.

### **Sec. 14.07.016 Hazardous trees and storage of cut oak wood**

(a) The planting, preserving or maintaining of trees which present a danger to the community shall be deemed a public nuisance and are prohibited. Such trees shall include all trees, which are hazardous or may result in injury to person or property because of a defective or diseased condition (including but not limited to oak wilt), trees made hazardous as a result of severe trenching near the trunk, during construction, making them unstable and liable to fall upon any sidewalk, street or building, trees damaged by a tornado, storm, flood, high winds, or other natural act of God, and diseased cut oak wood.

(b) The city shall have the right to examine trees, alive or dead, and logwood piles to determine whether they are contagiously diseased, including the gathering of samples for laboratory testing, as long it does not result in any damage to the tree.

### **Sec. 14.07.017 Preservation of protected trees**

(a) General requirements.

(1) Except as otherwise provided in subsection (b) or in accordance with subsection (a)(2) of this section or section 14.07.015(b) of this article, it is unlawful to remove a protected tree without written approval of the urban forester.

(2) Preliminary plans and site development plans depicting any protected trees shall be submitted to the urban forester for evaluation and recommendation for administrative approval or, when required, submission to the planning and zoning commission. Final approval of the final plat or site plan constitutes an approval for removal of a protected tree, provided it is specifically identified on the plat or site plan as being removed with the development and provided that each such removal is specifically reviewed and approved by the urban forester.

(3) The location of all proposed buildings and improvements shall be oriented by the applicant, to the greatest extent in a manner which allows for the preservation of protected trees.

(4) In the case of new development, any mitigation or contribution required under this section shall be satisfied prior to issuance of a final certificate of occupancy or commencement of permanent utilities.

(5) All pruning must be performed by an International Society of Arboriculture (ISA) certified arborist, or under the direct supervision of an ISA certified arborist, and must follow the American National Standards Institute (ANSI) A300 standards.

(b) Exceptions. A protected tree may be removed without an application only if the protected tree is damaged by a natural disaster such as a tornado, storm, flood or other act of God, and presents an immediate hazard that endangers public health, welfare or safety, then no application shall be required for removal of only the hazardous portion of the tree, provided that the removal

is effected in a timely manner so as to maintain the integrity and vigor of the tree and the owner preserves and forwards to the urban forester documentation of the damage, which shall include photographs of any damage.

(c) Application; requirements and review, approval expiration.

(1) Application for the removal of a protected tree located on public property or in any public street, alley, right-of-way, or easement shall be made by any city department or any public utility or political subdivision of the state with authority to install utility lines or other public facilities in or above the property, street, alley, right-of-way or easement on which such tree is located, or by the owner of real property abutting upon the site of the tree or its crown.

(2) Application for the removal of a protected tree located on privately owned property shall be made by the owner of the property on which such tree is located, except that an appropriate city official may make application on behalf of the owner of the property on which the tree is located to remove a tree that constitutes a hazard to the safety of persons or property, or that is seriously diseased.

(3) The application shall be via the city's Protected Tree Removal Application Form, signed by the applicant or their authorized representative, and submitted to the urban forester.

(4) Upon receipt of a completed application for removal of a protected tree, the urban forester shall inspect the subject tree and shall approve or deny the request within a period of ten (10) working days. The urban forester shall promptly send written notice of such approval or denial to the applicant.

(5) The urban forester shall not approve a protected tree removal application unless such removal is within the spirit and intent of this article and:

(A) The city or the Texas Department of Transportation determines the protected tree is located in a sight triangle or clear zone of a public street;

(B) The urban forester determines the protected tree to be dead, dying, or diseased and either (i) it constitutes a hazard to life or property which cannot reasonably be mitigated without removal of the tree, or (ii) its restoration to sound condition is not practicable or its disease is reasonably transmittable and expected to endanger the health of other trees;

(C) The protected tree is located on or within twenty (20) feet of an area that will be used for a building, recreation area, roadway, public street, alley, or right-of-way, drainage right-of-way, public access easement, or utility easement;

(D) The protected tree would deprive the applicant of the reasonable use and enjoyment of their single-family residential property; or

(E) The protected tree would deny a governmental entity or political subdivision of this state reasonable use of public property for the achievement of its public purposes.

(6) If a protected tree removal is approved pursuant to the provisions of this subsection, the applicant must comply with all applicable provisions of this section, including mitigation.

(7) Approval for removal of a protected tree shall remain valid for the shorter of:

(A) The period stated on the urban forester's written approval issued pursuant to this section or on a final plat, site development plan, or alternative landscape plan approved pursuant to this article; or

(B) the minimum period allowable by law.

(d) Mitigation; on-site.

(1) Upon approval of protected tree removal application, the applicant shall, no later than thirty (30) days from the date of approval of the application, submit a mitigation plan showing the proposed type, location, and irrigation plan for the proposed replacement trees.

(2) The mitigation plan must provide for planting of replacement trees at a 1:1 ratio for each protected tree removed.

(3) No replacement trees shall be planted until the urban forester has reviewed and approved the mitigation plan, and the location and species of the replacement tree(s).

(4) Replacement trees shall comply with the preferred plant list of this article.

(5) Transplanting of protected trees. Protected trees can be transplanted to a suitable location on the same property or off-site, without the requirement of further mitigation, if the applicant complies with the generally accepted transplanting methods of the American National Standards Institute (ANSI A300 Standards) and the tree survives for a period of at least two (2) years.

(6) No mitigation required. The mitigation provisions of this section shall not be required under the following circumstances:

(A) For the removal of a protected tree located in a sight triangle or clear zone of a public street, as confirmed by the city or the Texas Department of Transportation;

(B) For the removal of any protected tree the urban forester determines to be dead, dying, or diseased and hazardous, unlikely to recover, or reasonably expected to endanger the health of other trees;

(C) For the removal of a protected tree that is located in dedicated public right-of-way or that would otherwise deny a governmental entity or political subdivision of this state reasonable use of public property for the achievement of its public purposes.

(e) Mitigation; off-site or cash in lieu. If the urban forester determines that mitigation for protected tree removal by replanting trees on-site is not feasible, e.g., planting capacity has been reached on-site, the urban forester may approve:

(1) planting the same number and type of replacement trees required under this subsection (h) in a city park or other designated area;

(2) payment of \$100 per diameter inch (at DBH) of protected tree removed into the tree fund or account for use by the city for installation and maintenance of trees in city parks and other city-owned properties; or

(3) Some reasonable combination of such off-site mitigation and payment.

(f) Preservation incentives. If removal of a protected tree is proposed due to efforts to comply with other provisions of this code, the applicant may request that the parks director, director of engineering, and director of planning, after consultation with the urban forester, consider the following preservation incentives in exchange for the nonremoval and preservation of the protected tree:

(1) Parking space reductions. Reduction in the minimum parking requirements as necessary to save and/or properly protect a protected tree.

(2) Sidewalks. Modification to sidewalks, their location and possibly the width and curb requirements as necessary to facilitate protecting a protected tree.

(3) Landscape credits. The actual tree canopy of a protected tree may be credited toward the requirements of [section 14.07.011](#) of this article; however, any credits earned will not count towards replacement credits of any other protected tree in the event a subsequent protected tree removal application is approved for the same project.

(4) Parkland dedication credit. The parkland dedication requirement for a residential subdivision may be reduced up to five (5) dwelling units for each protected tree saved, provided that the protected tree saved is located on public parkland, private parkland, or open space.

(g) Protected tree protection during construction.

(1) Prior to the commencement of any development, a tree protection fence constructed of approved materials shall encompass the CRZ of any protected tree. Said tree protection fence must be maintained throughout the construction process.

(2) During construction, no materials including but not limited to excess soil, vehicles, equipment, liquids, trash, or construction debris may be placed inside of the tree protection fence, nor shall the tree protection fence be altered in any way so as to increase the encroachment of the construction.

(3) Excavation, grading, soil deposit, impervious covering, drainage and leveling within the CRZ of protected trees is prohibited unless approved by the urban forester. Any impervious cover proposed within the CRZ of a protected tree will be reviewed on a case by case basis by the urban forester upon field inspections and or plan reviews. In any case, generally no more than 25% of the CRZ of any protected tree can be covered with impervious cover. Any protective fencing being used around heritage trees may only be reduced while impervious cover activity is being done. The remainder of the protective fencing must stay intact for the duration of the project.

(4) Disposal or depositing of oil, gasoline, chemicals, paints, solvents or other materials is prohibited within the CRZ of protected trees.

(5) The attachment of wires, signs and ropes to any protected tree is prohibited.

(6) The location of utility service and irrigation lines inside the CRZ of protected trees is only allowed when approved by the urban forester. If boring is used to provide underground utility access, the minimum length of the bore shall be the width of the tree's mature canopy. The minimum depth of the bore shall be specified by the urban forester, but in no event be less than 24" below the natural grade existing prior to any development activity within the CRZ.

(7) Soil disturbance or other injurious and detrimental activity within the CRZ of protected trees is prohibited.

(8) At applicant's expense, an ISA certified arborist or their employee(s) shall be present whenever activities occur which will pose a potential threat to the health of the protected tree such as pruning, or whenever any work needs to be done within the CRZ of such tree.

(9) The applicant shall notify the urban forester whenever any damage or injury occurs to a protected tree during construction so that proper treatment may be administered.

(h) Violations; penalties.

(1) Any person intentionally, knowingly, or negligently causing damage to a protected tree shall be required to take such steps as may be required by the urban forester to assure the future vitality of the tree, including costs of chemical or other types of treatment and/or construction of protective barriers, or if the urban forester determines that the damaged protected tree is no longer reasonably sustainable, the person shall be required to replant replacement trees from the selection specified in the preferred plant list at a caliper ratio of 2:1 and shall pay a civil penalty in the amount of \$1,000 for each protected tree that was damaged.

(2) Any person who intentionally, knowingly, or negligently removes a protected tree in violation of this article shall be required to replant replacement trees from the selection specified in the preferred plant list at a caliper ratio of 2:1 and shall pay a civil penalty in the amount of \$1,000 for each protected tree that was removed.

(3) If the urban forester determines that the on-site mitigation required by this subsection (h) is not feasible, the urban forester may approve either:

(A) planting the same number and type of replacement trees required under this subsection (h) in a city park or other designated area;

(B) payment of \$200 per diameter inch (at DBH) of protected tree removed into the tree fund or account for use by the city for installation and maintenance of trees in city parks and other city-owned properties; or

(C) some reasonable combination of such off-site mitigation and payment.

(4) These penalties shall be in addition to the penalties in [Section 14.07.019](#) of this article and any other remedies allowable by law.

## **Sec. 14.07.018 Preservation of heritage trees**

### (a) General requirements.

(1) Except as otherwise provided in subsection (b) or in accordance with subsection (a)(2) of this section or section 14.07.015(b) of this article, it is unlawful to remove or prune a heritage tree without written approval of the urban forester.

(2) Preliminary plans and site development plans depicting any heritage trees shall be submitted to the urban forester for evaluation and recommendation for administrative approval or, when required, submission to the planning and zoning commission. Final approval of the final plat or site plan constitutes an approval for removal or pruning of a heritage tree, provided it is specifically identified on the plat or site plan as being removed with the development and provided that each such removal is specifically reviewed and approved by the urban forester.

(3) The location of all proposed buildings and improvements shall be oriented by the applicant, to the greatest extent in a manner which allows for the preservation of heritage trees.

(4) In the case of new development, any mitigation or contribution required under this section shall be satisfied prior to issuance of a final certificate of occupancy or commencement of permanent utilities.

(5) All pruning must be performed by an International Society of Arboriculture (ISA) certified arborist, or under the direct supervision of an ISA certified arborist, and must follow the American National Standards Institute (ANSI) A300 standards.

(b) Exceptions. A heritage tree may be removed or pruned without an application only under the following circumstances:

(1) Hazardous condition. If a heritage tree is damaged by a natural disaster such as a tornado, storm, flood or other act of God, and presents an immediate hazard that endangers public health, welfare or safety, then no application shall be required for removal or pruning of only the hazardous portion of the tree, provided that the removal or pruning is effected in a timely manner so as to maintain the integrity and vigor of the tree and the owner preserves and forwards to the urban forester documentation of the damage, which shall include photographs of any damage.

(2) City, public utilities, and governmental entities. Pruning the canopy of heritage trees may be carried out by the city, public utility, governmental entity, or political subdivision of this state without an application if performed by an International Society of Arboriculture (ISA) certified arborist or under the direct supervision of an ISA certified arborist.

(c) Application; requirements and review, approval expiration.

(1) Application for the removal or pruning of a heritage tree located on public property or in any public street, alley, right-of-way, or easement shall be made by any city department or any public utility or political subdivision of the state with authority to install utility lines or other public facilities in or above the property, street, alley, right-of-way or easement on which such tree is located, or by the owner of real property abutting upon the site of the tree or its crown.

(2) Application for the removal or pruning of a heritage tree located on privately owned property shall be made by the owner of the property on which such tree is located, except that an appropriate city official may make application on behalf of the owner of the property on which the tree is located to remove a tree that constitutes a hazard to the safety of persons or property, or that is seriously diseased.

(3) The application shall be via the city's Protected Tree Removal Application Form, signed by the applicant or their authorized representative, and submitted to the urban forester.

(4) Upon receipt of a completed application for heritage tree removal or pruning, the urban forester shall inspect the subject tree and shall approve or deny the request within a period of ten (10) working days. The urban forester shall promptly send written notice of such approval or denial to the applicant.

(5) The urban forester shall not approve a heritage tree removal or pruning application unless such removal or pruning is within the spirit and intent of this article and:

(A) The city or the Texas Department of Transportation determines the heritage tree is located in a sight triangle or clear zone of a public street;

(B) The application seeks approval for pruning of thirty (30) percent or less of a heritage tree's viable crown;

(C) The urban forester determines the heritage tree to be dead, dying, or diseased and either (i) it constitutes a hazard to life or property which cannot reasonably be mitigated without removal or pruning of the tree, or (ii) its restoration to sound condition is not practicable or its disease is reasonably transmittable and expected to endanger the health of other trees;

(D) The heritage tree is located on or within twenty (20) feet of an area that will be used for a building, recreation area, roadway, public street, alley, or right-of-way, drainage right-of-way, public access easement, or utility easement;

(E) The heritage tree would deprive the applicant of the reasonable use and enjoyment of their single-family residential property; or

(F) The heritage tree would deny a governmental entity or political subdivision of this state reasonable use of public property for the achievement of its public purposes.

(6) If a heritage tree removal application is approved pursuant to the provisions of this subsection, the applicant must comply with all applicable provisions of this section, including mitigation.

(7) Approval for removal of a heritage tree shall remain valid for the shorter of:

(A) The period stated on the urban forester's written approval issued pursuant to this section or on a final plat, site development plan, or alternative landscape plan approved pursuant to this article; or

(B) the minimum period allowable by law.

(d) Mitigation; on-site.

(1) Upon approval of heritage tree removal application, the applicant shall, no later than thirty (30) days from the date of approval of the application, submit a mitigation plan showing the proposed type, location, and irrigation plan for the proposed replacement trees.

(2) The mitigation plan must provide for planting of replacement trees at a 3:1 ratio for each heritage tree removed.

(3) No replacement trees shall be planted until the urban forester has reviewed and approved the mitigation plan, and the location and species of the replacement tree(s).

(4) Replacement trees shall comply with the preferred plant list of this article.

(5) Transplanting of heritage trees. Heritage trees can be transplanted to a suitable location on the same property or off-site, without the requirement of further mitigation, if the applicant complies with the generally accepted transplanting methods of the American National Standards Institute (ANSI A300 Standards) and the tree survives for a period of at least two (2) years.

(6) No mitigation required. The mitigation provisions of this section shall not be required under the following circumstances:

(A) For the removal of a heritage tree located in a sight triangle or clear zone of a public street, as confirmed by the city or the Texas Department of Transportation;

(B) For the removal of any heritage tree the urban forester determines to be dead, dying, or diseased and hazardous, unlikely to recover, or reasonably expected to endanger the health of other trees;

(C) For pruning of thirty (30) percent or less of a heritage tree's viable crown;  
or

(D) For the removal of a heritage tree that is located in dedicated public right-of-way or that would otherwise deny a governmental entity or political subdivision of this state reasonable use of public property for the achievement of its public purposes.

(e) Mitigation; off-site or cash in lieu. If the urban forester determines that mitigation for heritage tree removal by replanting trees on-site is not feasible, e.g., planting capacity has been reached on-site, an applicant may choose one of the following alternatives in lieu of replanting on-site:

- (1) planting the same number and type of replacement trees required under this subsection (h) in a city park or other designated area;
- (2) payment of \$300 per diameter inch (at DBH) of heritage tree removed into the tree fund or account for use by the city for installation and maintenance of trees in city parks and other city-owned properties; or
- (3) Some reasonable combination of such off-site mitigation and payment.

(f) Preservation incentives. If removal of a heritage tree is proposed due to efforts to comply with other provisions of this code, the applicant may request that the parks director, director of engineering, and director of planning, after consultation with the urban forester, consider the following preservation incentives in exchange for the nonremoval and preservation of the heritage tree:

- (1) Parking space reductions. Reduction in the minimum parking requirements as necessary to save and/or properly protect a heritage tree.
  - (2) Sidewalks. Modification to sidewalks, their location and possibly the width and curb requirements as necessary to facilitate protecting a heritage tree.
  - (3) Landscape credits. The actual tree canopy of a heritage tree may be credited toward the requirements of [section 14.07.011](#) of this article; however, any credits earned will not count towards replacement credits of any other heritage tree in the event a subsequent heritage tree removal application is approved for the same project.
  - (4) Parkland dedication credit. The parkland dedication requirement for a residential subdivision may be reduced up to five (5) dwelling units for each heritage tree saved, provided that the heritage tree saved is located on public parkland, private parkland, or open space.
- (g) Heritage tree protection during construction.

- (1) Prior to the commencement of any development, a tree protection fence constructed of approved materials shall encompass the CRZ of any heritage tree. Said tree protection fence must be maintained throughout the construction process.
- (2) During construction, no materials including but not limited to excess soil, vehicles, equipment, liquids, trash, or construction debris may be placed inside of the tree protection fence, nor shall the tree protection fence be altered in any way so as to increase the encroachment of the construction.
- (3) Excavation, grading, soil deposit, impervious covering, drainage and leveling within the CRZ of heritage trees is prohibited unless approved by the urban forester. Any impervious cover proposed within the CRZ of a heritage tree will be reviewed on a case by case basis by the urban forester upon field inspections and or plan reviews.

In any case, generally no more than 25% of the CRZ of any heritage tree can be covered with impervious cover. Any protective fencing being used around heritage trees may only be reduced while impervious cover activity is being done. The remainder of the protective fencing must stay intact for the duration of the project.

(4) Disposal or depositing of oil, gasoline, chemicals, paints, solvents or other materials is prohibited within the CRZ of heritage trees.

(5) The attachment of wires, signs and ropes to any heritage tree is prohibited.

(6) The location of utility service and irrigation lines inside the CRZ of heritage trees is only allowed when approved by the urban forester. If boring is used to provide underground utility access, the minimum length of the bore shall be the width of the tree's mature canopy. The minimum depth of the bore shall be specified by the urban forester, but in no event be less than 24" below the natural grade existing prior to any development activity within the CRZ.

(7) Soil disturbance or other injurious and detrimental activity within the CRZ of heritage trees is prohibited.

(8) At applicant's expense, an ISA certified arborist or their employee(s) shall be present whenever activities occur which will pose a potential threat to the health of the heritage tree such as pruning, or whenever any work needs to be done within the CRZ of such tree.

(9) The applicant shall notify the urban forester whenever any damage or injury occurs to a heritage tree during construction so that proper treatment may be administered.

(h) Violations; penalties.

(1) Any person intentionally, knowingly, or negligently causing damage to a heritage tree shall be required to take such steps as may be required by the urban forester to assure the future vitality of the tree, including costs of chemical or other types of treatment and/or construction of protective barriers, or if the urban forester determines that the damaged heritage tree is no longer reasonably sustainable, the person shall be required to replant replacement trees from the selection specified in the preferred plant list at a caliper ratio of 6:1 and shall pay a civil penalty in the amount of \$1,000 for each heritage tree that was damaged.

(2) Any person who intentionally, knowingly, or negligently removes a heritage tree in violation of this article shall be required to replant replacement trees from the selection specified in the preferred plant list at a caliper ratio of 6:1 and shall pay a civil penalty in the amount of \$1,000 for each heritage tree that was removed.

(3) If the urban forester determines that the on-site mitigation required by this subsection (h) is not feasible, the urban forester may approve either:

(A) planting the same number and type of replacement trees required under this subsection (h) in a city park or other designated area;

(B) payment of \$600 per diameter inch (at DBH) of heritage tree removed into the tree fund or account for use by the city for installation and maintenance of trees in city parks and other city-owned properties; or

(C) some reasonable combination of such off-site mitigation and payment.

(4) These penalties shall be in addition to the penalties in [Section 14.07.019](#) of this article and any other remedies allowable by law.

**Sec. 14.07.019 Penalties and enforcement**

Any person otherwise in violation of this article shall be subject to fine or restitution in accordance with the provisions of this article and [section 1.01.009](#) of this code. Notification of violations pertaining to this article shall be consistent with the Texas Government Code. Enforcement of this article shall be consistent with the provisions found in [section 1.01.009](#) of this code as well as other applicable rules, regulations, and standards consistent with the code. Each day of any violation to the requirements of this article shall be considered a separate offense.

**Sec. 14.07.022 Appeals**

If a landscape plan, alternative landscape plan, protected tree removal application, or heritage tree removal or pruning application is denied by the urban forester, the applicant may appeal the denial to the planning and zoning commission in writing by no later than the tenth (10<sup>th</sup>) business day following the date of such denial.

**Sec. 14.07.023 Preferred plant list**

The city's preferred plant list shall include the City of Austin's "Grow Green" plant list, the Lower Colorado River Authority's plant list, and the following:

(plants listed in italics are considered xeriscape or xeriscape plants)

Common Name	Botanical Name	Comments

<b>CANOPY TREE</b>		
<i>Pecan</i>	<i>Carya illinoensis</i>	<i>Deep tap root</i>
<i>Cedar Elm</i>	<i>Ulmus crassifolia</i>	<i>Disease resistant</i>
<i>Shumard Red Oak (other red oaks)</i>	<i>Quercus shumardii (etc.)</i>	<i>Red fall color</i>
<i>Live Oak</i>	<i>Quercus virginiana</i>	<i>Very hardy evergreen</i>
<i>Bur Oak and (other White Oaks)</i>	<i>Quercus macrocarpa (etc.)</i>	<i>Nice branch char.</i>
<i>Big Tooth Maple</i>	<i>Acer grandidentatum</i>	<i>Fall color</i>
<i>Chinese Pistachio (e)</i>	<i>Pistacia chinensis</i>	<i>Fall color</i>
<i>Bradford Pear</i>	<i>Pyrus calleryana</i>	<i>Fall color</i>
<i>Ginkgo</i>	<i>Ginkgo biloba</i>	<i>Yellow fall color</i>
<i>Catalpa</i>	<i>Catalpa sp.</i>	<i>Flowers, slightly messy</i>
<b>Common Name</b>	<b>Botanical Name</b>	<b>Comments</b>
<i>Western Soapberry</i>	<i>Sapindus drummondii</i>	<i>Showy winter fruit, yellow fall color</i>
<i>Southern Magnolia</i>	<i>Magnolia grandiflora</i>	<i>Large evergreen, large white flowers</i>
<i>Bald Cypress</i>	<i>Taxodium species</i>	<i>Fernlike leaves, fall color</i>
<i>Montezuma Cypress</i>	<i>Taxodium species</i>	<i>Fernlike leaves, fall color</i>
<i>Texas Pichachio</i>	<i>Pistacia texensis</i>	<i>Evergreen in this area, new growth red</i>
<i>Texas Ash</i>	<i>Fraxinus texensis</i>	<i>Long-lived, fast growing</i>
<i>TexMex Sycamore</i>	<i>Plantus hybrid</i>	<i>Insect and disease resistant</i>
<b>ORNAMENTAL TREE</b>		
<i>Texas Persimmon</i>	<i>Diospyros texana</i>	<i>Smooth gray bark</i>
<i>Possumhaw Holly</i>	<i>Ilex decidua</i>	<i>Deciduous, red fruit in winter</i>

<i>Texas Redbud</i>	<i>Cercis canadensis texana</i>	<i>Long flowering in spring</i>
<i>Desert Willow</i>	<i>Chilopsis linearis</i>	<i>Drought tolerant, summer blooms</i>
<i>Yaupon</i>	<i>Ilex vomitoris</i>	<i>Very hardy, red berries</i>
<i>Vitex</i>	<i>Vitex Agnus-castus</i>	<i>Native, purple or white flower</i>
<i>Crape Myrtle</i>	<i>Lagerstroemia indica</i>	<i>Some die-back, flowers</i>
<i>Eve's Necklace</i>	<i>Sophora affinis</i>	<i>Fernlike foliage, winter fruit color</i>
<i>Japanese Black Pine</i>	<i>Pinus thunbergi</i>	<i>Great color, best of pines</i>
<i>Loquat</i>	<i>Eriobotrya japonica</i>	<i>Evergreen, fall fruit</i>
<i>Tx. Mountain Laurel</i>	<i>Sophora secundiflora</i>	<i>Fragrant purple flower</i>
<i>Mexican Plum</i>	<i>Prunus mexicana</i>	<i>White flowers</i>
<i>Mexican Buckeye</i>	<i>Ungnadia speciosa</i>	<i>Brilliant pink flowers in spring</i>
<i>Elderica Pine (Afghan)</i>	<i>Pinus elderica</i>	<i>30–80', suited to alkaline soils</i>
<b>SHRUBS</b>		
<i>Hollies (most varieties)</i>	<i>Ilex sp.</i>	<i>Durable, some have berries</i>
<i>Eleagnus</i>	<i>Eleagnus pungens</i>	<i>Large, gray, tolerates heat, drought</i>
<i>Dwarf Wax Myrtle</i>	<i>Myrica pulilla</i>	<i>Mass plantings, hedges</i>
<i>Evergreen Sumac</i>	<i>Rhus virens</i>	<i>Evergreen red fruit</i>
<i>Flame Leaf Sumac</i>	<i>Rhus lanceolata</i>	<i>Brilliant red foliage</i>
<i>Florida Jasmine</i>	<i>Jasminum floridum</i>	<i>Spring yellow blooms</i>
<i>Indian Hawthorn (all varieties)</i>	<i>Raphiolepis indica</i>	<i>Spring flower</i>
<i>Red Yucca</i>	<i>Hesperaloe parviflora</i>	<i>Coral flower spikes</i>
<i>Viburnum (all varieties)</i>	<i>Viburnum sp.</i>	<i>Dark green, spring flowers</i>
<i>Nandina Domestica</i>	<i>Nandina domestica</i>	<i>Winter color, red berries</i>
<i>Moonbay Nandina</i>	<i>Nandina moonbay</i>	<i>Compact, winter color</i>

<b>Common Name</b>	<b>Botanical Name</b>	<b>Comments</b>
<i>Gulf Stream Nandina</i>	<i>Nandina gulfstream</i>	<i>Winter color, fuller at base</i>
<i>Italian Jasmine</i>	<i>Jasminum humile</i>	<i>Flower small, bright yellow</i>
<i>Mexican Buckeye</i>	<i>Ungnadia speciosa</i>	<i>Hardy, spring pink flowers</i>
<i>Agarita</i>	<i>Berberis trifoliata</i>	<i>Holly-like foliage, flowers, berries</i>
<i>Muhly grass</i>	<i>Muhlenbergia lindheimeri</i>	<i>Looks like small pampas grass</i>
Pampas Grass	Cordateria Selloana	Fall flower
<b>GROUND COVERS</b>		
Holly Fern	Cyrtomium falcatum	Coarse texture, dark green
Rosemary	Rosmarinus officinalis	Coarse texture, dark green
<i>Santolina (green and gray)</i>	<i>Santolina spp.</i>	<i>Will take extreme heat</i>
<i>Cherry Sage</i>	<i>Salvia Greggii</i>	<i>Nearly evergreen, long bloom season</i>
<i>Liriope</i>	<i>Liriope muscari</i>	<i>Hardy, blue flower</i>
<i>Mondo (monkey) Grass</i>	<i>Ophiopogon japonicus</i>	<i>Thin, dark leaves, hardy</i>
<i>Asian Jasmine</i>	<i>Trachelopermun asiaticum</i>	<i>Some die back</i>
<i>Trailing Vinca (periwinkle)</i>	<i>Vinca Major</i>	<i>Shade, flower</i>
<i>Ajuga (carpet bugle)</i>	<i>Ajuga reptans</i>	<i>Shade, part shade, purple flower</i>
<i>Star Jasmine</i>	<i>Trachaelopspermum jasminoides</i>	<i>Sun, white flower, can be vine</i>
<b>VINES</b>		
<i>Cross Vines</i>	<i>Bigonia capreolata</i>	<i>Bi-color flower</i>
<i>Carolina Jessamine</i>	<i>Gelsemium sempervirens</i>	<i>Yellow flower</i>

<i>Coral Honeysuckle</i>	<i>Lonicera sempervirens</i>	<i>Red flower</i>
Pyracantha	Pyracantha sp.	Thorns, flowers, berries
<i>Lady Banksia Rose</i>	<i>Rose Banksiae</i>	<i>Yellow flower, needs support</i>
Boston Ivy	Parthenocissus tricuspidate	Climbing, bright red in fall
<i>English Ivy</i>	<i>Hedera helix</i>	<i>Shade, self climbing, also groundcover</i>

## **ARTICLE 14.12 DEFINITIONS**

### **Sec. 14.12.001 General Definitions**

Heritage tree. Any of the following:

- (1) A hardwood tree having a trunk of twenty-six (26) inches DBH or more; or
- (2) A hardwood tree or cluster or stand of hardwood trees designated by resolution of the city council to be of historical value or of significant community benefit.

Protected tree. Any of the following:

- (1) A hardwood tree having a trunk of sixteen (16) inches DBH or more;
- (2) A multitrunk hardwood tree having any single trunk of sixteen (16) inches DBH or more or an aggregate total trunk DBH of thirty (30) inches or more (not counting trunks less than eight (8) inches in diameter at DBH); or
- (3) A cluster of hardwood trees within a ten (10) foot radius circle having an aggregate total DBH of forty (40) inches or more (not counting trunks less than eight (8) inches in diameter at DBH).

Prune. Cutting away unwanted or damaged parts of a tree including no more than thirty (30) percent of its viable crown.

Remove. Total disposition of a tree, including complete or partial severance of the trunk or limbs and the pruning or cutting away of more than thirty (30) percent of a tree's viable crown.



## CITY COUNCIL AGENDA

Date: 12-20-2012

Subject: Agenda Item No. E.4  
**First Reading And Public Hearing Of An Ordinance Amending Chapter 12, Subdivision Ordinance, Section 12.12.004 Sidewalks, To Add A Provision For An Administrative Waiver Regarding Sidewalk Construction. The Planning And Zoning Commission Voted 4-0 To Approve This Amendment.**

### Commentary:

The following amendments are proposed to Chapter 12, Subdivision Ordinance, Section 12.12.004 Sidewalks, to establish an administrative waiver provision for the construction of sidewalks in “Ranchette-type” areas of the City. The amendments also include general language clarifications.

The proposed amendments are as follows:

#### Section 12.12.004 Sidewalks

~~(a) All sidewalks must be designed and constructed to meet the Texas Accessibility Standards administered by the state department of licensing and regulation and the Americans with Disabilities Act of 1990, as amended.~~

~~(b) Sidewalks shall be provided unless a specific variance is approved by the planning and zoning commission and shall be located on both sides of all streets within and immediately adjacent to a proposed development and shall be designed and constructed in accordance with the Texas Accessibility Standards administered by the Texas Department of Licensing and Regulation, Americans with Disabilities Act, Transportation Criteria Manual, Texas Accessibility Standards, and the City’s Zoning Ordinance, Transportation Master Plan , and Hike and Bike Trails Master Plan, as amended.~~

~~(b) The Director of Development Services or their designee may grant an administrative waiver for this sidewalk requirement if a rural subdivision comprised of three or fewer lots, or one single family home on a single-family zoned lot, meets all of the following criteria:~~

~~(1) The roadway adjacent to the proposed development is existing and was constructed without raised curb and gutter; and~~

~~(2) The existing roadway adjacent to the proposed development has no existing sidewalks on the lots on both sides of the proposed development along the same street frontage; and~~

(3) The proposed development has provided a minimum ten foot (10') wide pedestrian easement along the frontage of the existing roadway on the proposed lot for which the waiver is being requested.

(c) Any requested variance to the sidewalk requirements of this Section which is not eligible for a waiver by the Director of Development Services as described in (b) must be approved by the Planning and Zoning Commission in accordance with Section 12.12.019 Variances for Design Standards.

(d) When the delay of sidewalk construction is deemed appropriate due to future right-of-way improvements, escrow funds in lieu of the construction of sidewalks may be approved by the ~~public works~~ Engineering ~~d~~Department. Such funds shall be escrowed with the ~~e~~City prior to the filing of the subdivision plat with the appropriate county clerk's office. If the tract has already been platted and filed, then the funds must be escrowed prior to final approval of a site plan. The escrow amount shall be determined by the square foot cost of constructing such sidewalk, as estimated by the ~~e~~Engineering ~~d~~Department.

~~(c) Rural subdivisions. Sidewalks are required on one side of the street for all rural residential subdivisions comprised of five (5) lots or greater, for three (3) or fewer lots no sidewalks are required.~~

~~(d) The sidewalk construction specifications shall be in accordance with the transportation criteria manual, Texas Accessibility Standards, zoning ordinance, transportation master plan and the recreational trails system plan.~~

Public Information Plan:

- November 7, 2012:* Notice of the Planning and Zoning Commission public hearing appears in the Cedar Park Leander Statesman
- November 20, 2012:* Planning and Zoning Commission Meeting and Public Hearing
- December 5, 2012:* Notice of the City Council public hearing appears in the Cedar Park Leander Statesman
- December 20, 2012:* Public Hearing and 1<sup>st</sup> Reading at City Council

**Director**

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City Manager's Remarks

**City Manager**

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Legal Certification

Approved as to form and content:  Yes  No **City Attorney**

Associated Information: Ordinance

ORDINANCE NO \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING CHAPTER 12, SUBDIVISION ORDINANCE, SECTION 12.12.004 SIDEWALKS TO ADD A PROVISION FOR AN ADMINISTRATIVE WAIVER REGARDING SIDEWALK CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

SECTION 1. That Chapter 12 Subdivision Ordinance of the Cedar Park Code of Ordinances be amended as provided hereto in Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 20<sup>th</sup> day of December, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the \_\_\_\_ day of \_\_\_\_, 2013, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Matthew Powell, Mayor

ATTEST:

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LeAnn M. Quinn, City Secretary

APPROVED AS TO FORM  
AND CONTENT:

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Charles W. Rowland, City Attorney

## EXHIBIT A

### Section 12.12.004 Sidewalks

(a) Sidewalks shall be provided and located on both sides of all streets within and immediately adjacent to a proposed development and shall be designed and constructed in accordance with the Texas Accessibility Standards administered by the Texas Department of Licensing and Regulation, Americans with Disabilities Act, Transportation Criteria Manual, Texas Accessibility Standards, and the City's Zoning Ordinance, Transportation Master Plan , and Hike and Bike Trails Master Plan, as amended.

(b) The Director of Development Services or their designee may grant an administrative waiver for this sidewalk requirement if a rural subdivision comprised of three or fewer lots, or one single family home on a single-family zoned lot, meets all of the following criteria:

- (1) The roadway adjacent to the proposed development is existing and was constructed without raised curb and gutter; and
- (2) The existing roadway adjacent to the proposed development has no existing sidewalks on the lots on both sides of the proposed development along the same street frontage; and
- (3) The proposed development has provided a minimum ten foot (10') wide pedestrian easement along the frontage of the existing roadway on the proposed lot for which the waiver is being requested.

(c) Any requested variance to the sidewalk requirements of this Section which is not eligible for a waiver by the Director of Development Services as described in (b) must be approved by the Planning and Zoning Commission in accordance with Section 12.12.019 Variances for Design Standards.

(d) When the delay of sidewalk construction is deemed appropriate due to future right-of-way improvements, escrow funds in lieu of the construction of sidewalks may be approved by the Engineering Department. Such funds shall be escrowed with the City prior to the filing of the subdivision plat with the appropriate county clerk's office. If the tract has already been platted and filed, then the funds must be escrowed prior to final approval of a site plan. The escrow amount shall be determined by the square foot cost of constructing such sidewalk, as estimated by the Engineering Department.



## CITY COUNCIL AGENDA

Date: 12-20-2012

Subject: Agenda Item No. E.5  
**First Reading And Public Hearing Of An Ordinance Amending Appendix A, Article 2.00 Development Service Related Fees, Section 2.200 Of The City Of Cedar Park Code Of Ordinances To Amend Fees Assessed for New Commercial Project Building Plan Review Performed By City Staff.**

### Commentary:

Fees assessed for review of building projects are established by the City's Fee Schedule. The Schedule is adopted as Appendix A to the Cedar Park Code of Ordinances. Building permit related fees, including plan review assessments are contained in Section 2.200 of the Appendix.

The ordinance attached to this report amends the schedule as it relates to assessment of plan review fees. Historically, architectural plan review of new commercial projects has been outsourced to a third-party agency – primarily the International Code Conference (ICC).

Plan review fees for outsourced reviews are assessed based on a standardized ICC formula and are paid to the reviewing agency.

The plan reviewer position authorized as part of the City's FY 2013 budget will allow the City to perform in-house review of projects that have previously been outsourced. The proposed fee schedule amendment will allow in-house reviews of these projects to be assessed at the standardized ICC rate.

For the development/construction community, the amendment will be cost neutral. It does not change the rate at which review fees are assessed. It simply allows the City to capture fees for work performed in-house.

A table comparing the existing and amended schedules is attached to the Associated Information section of this report. While the amended table is noticeably longer and more detailed than its existing counterpart, it is because the amended schedule spells out rather than simply referencing the ICC assessment formula.

### Fiscal Impact

Fund:

Department:

Amount:

### Associated Information:

Present Fee Schedule		Amended Schedule	
Sec. 2.200 Building Inspection Fees		Sec. 2.200 Building Inspection Fees	
(f) Building Plan Review		(f) Building Plan Review	
(2) Commercial		(2) Commercial	
(A) New Commercial	\$100 for up to 20Ksq.ft. \$25/each add'l 10Ksq.ft.	(A) Lease space build/out remodel	\$35 each
(B) Lease space build-out/remodel	\$35 each	<u>(B) Building Construction 3<sup>rd</sup> party review service</u>	<u>Paid directly to 3<sup>rd</sup> party service (Not to exceed current ICC plan review fees plus \$100 base fee)</u>
(C) Plan review service (ICC review)	Paid directly to ICC (plus \$100 base fee)	<u>(C) New Building Construction: In-house structural Review</u>	Valuation* < \$3,000,000 = valuation X .0012  Valuation* \$3,000,000 - \$6,000,000 = valuation = \$3,600 for 1 <sup>st</sup> \$3,000,000 valuation plus amount in excess of \$3,000,000 X .0005  Valuation* ≥ \$6,000,001 = \$5,100 for 1 <sup>st</sup> \$6,000,001 valuation plus amount in excess of \$6,000,001 valuation X .00035.
		<u>(D) New Building Construction: In-house Mechanical Code review</u>	<u>25% of Building Review Fee</u>
		<u>(E) New Building Construction: In-house Electrical Code review</u>	<u>25% of Building Review Fee</u>

Present Fee Schedule Continued		Amended Schedule Continued	
		<u>(F) New Building Construction: In-house Plumbing Code review</u>	<u>25% of Building Review Fee</u>
		<u>(G) New Building Construction: In-house Energy Conservation Code review</u>	<u>25% of Building Review Fee</u>
		<u>(H) New Building Construction: In-house shell building review</u>	<u>60% of total plan review fee as calculated under C through G above</u>
			<u>*Valuation to be calculated using the most current ICC Building Valuation Table as published on <a href="http://www.iccsafe.org">www.iccsafe.org</a>.</u>

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING APPENDIX A, ARTICLE 2.000 (DEVELOPMENT SERVICE RELATED FEES) SECTION 2.200 BUILDING INSPECTION FEES OF THE CODE OF ORDINANCES OF THE CITY OF CEDAR PARK, TEXAS, PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A REPEALER CLAUSE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. Section 2.200 Building Inspection Fees, of the City of Cedar Park Code of Ordinances, Appendix A, Article 2.000, Development Service Related Fees is hereby amended as follows:

Sec. 2.200 Building Inspection Fees

(2) Commercial

- |   |  |
|---|--|
| (A) <u>New Commercial Lease space build-out/remodel</u>   | <del>\$100 for up to 20K sq.ft. + \$20/each add'l 10K sq.ft.</del> <u>\$35 each</u>  |
| (B) <u>Lease space build-out/remodel New building construction, 3<sup>rd</sup> party review service</u> | <del>\$35 each</del> <u>Paid directly to 3<sup>rd</sup> party service (not to exceed ICC plan review fees plus \$100 base fee)</u>   |
| (C) <u>Plan review service (ICC review) New building construction: In-house structural review</u>       | <u>Paid directly to ICC (plus \$100 base fee)</u><br><u>Valuation* &lt; \$3,000,000 = valuation X .0012</u><br><br><u>Valuation* \$3,000,000 - \$6,000,000 = \$3,600 for 1<sup>st</sup> \$3,000,000 valuation plus amount in excess of \$3,000,000 X .0005</u><br><br><u>Valuation* &gt; \$6,000,001 = \$5,1000 for 1<sup>st</sup> \$6,000,001 valuation plus amount in excess of \$6,000,001 X .00035</u> |
| (D) <u>New building construction: In-house Mechanical Code review</u>                                   | <u>25% of building review fee</u>  |
| (E) <u>New building construction: In-house Electrical Code review</u>                                   | <u>25% of building review fee</u>  |

- (F) New building construction: In-house Plumbing Code review 25% of building review fee
- (G) New building construction: In-house Energy Conservation Code review 25% of building review fee
- (H) New building construction: In-house shell building review 60% of total plan review fee as calculated under C through G above

\*Valuation to be calculated using the most current ICC Building Valuation Table as published on [www.iccsafe.org](http://www.iccsafe.org).

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and the at public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 20th day of December, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

ATTEST:

\_\_\_\_\_  
Matthew Powell, Mayor

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
Charles W. Rowland, City Attorney



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. E.6  
**First Reading And Public Hearing Of An Ordinance Granting A Franchise Agreement To Texas Gas Service Company, A Division Of ONEOK, Inc.**

**Commentary:**

Texas Gas Service Company's (formerly Southern Union Gas Company) original Franchise Agreement with the City was entered into twenty-five (25) years ago and will expire January 31, 2013.

Texas Gas Service Company serves approximately seven hundred (700) residents of the City of Cedar Park. The new Franchise Agreement is for ten (10) years with a franchise fee to the City of five percent (5%), which is comparable to the City of Austin. All the protections requested by the Engineering Department are included in the Agreement and accepted by Texas Gas Service Company without modification. The terms and conditions negotiated by the Legal Department meet the City's needs in all respects. A fully executed Agreement by Texas Gas Service Company is being mailed on Monday, December 17, 2012.

It is recommended that after three public hearings that the Franchise Ordinance be adopted.

**City Attorney**

---

**Fiscal Impact**

**Account No.:**

5% Annual Revenue to City

**Budget**

**Budget/Expended:**

**Finance Director Review**

**Legal Certification**

Approved as to form and content:

Yes       No **City Attorney**

**Associated Information:**

Attached Franchise Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, GRANTING A FRANCHISE AGREEMENT TO TEXAS GAS SERVICE COMPANY, A DIVISION OF ONEOK, INC. TO USE STREETS, ALLEYS, THOROUGHFARES AND OTHER PUBLIC WAYS TO OPERATE AND MAINTAIN A NATURAL GAS DISTRIBUTION SYSTEM IN THE CITY OF CEDAR PARK, WILLIAMSON COUNTY, TEXAS; PROVIDING FOR REGULATIONS FOR THE CONDUCT OF THE SYSTEM BY TEXAS GAS SERVICE COMPANY; REPEALING THE PRESENT FRANCHISE ORDINANCE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. Grant of Franchise

A. Subject to the terms and conditions of this Franchise Ordinance, the right, privilege and franchise is hereby granted to Texas Gas Service Company, a division of ONEOK, Inc., and to its successors, lessees and assigns (hereinafter “**Company**”), to have, own, acquire, install, construct, reconstruct, operate, maintain, use, and extend a system of mains, pipelines, conduits, valves, feeders, regulator stations, laterals, service lines, measuring devices, and all other necessary plants, attachments, land, structures, facilities and appurtenances (hereinafter the “**System**”) for the purpose of selling, storing, supplying, conveying, transmitting, distributing, and/or transporting natural gas, including the equivalent substitutes, for all other lawful purposes in, through, upon, under, and along the present and future streets, avenues, alleys, bridges, sidewalks, parks, easements, highways, water lines, wastewater lines, storm sewer lines and any other public places including any streams, water courses or water ways (hereinafter collectively referred to as “**public ways**”) within the city limits of the City of Cedar Park, Williamson County, Texas (the “**City**”), and including any territory that the City may hereafter annex, acquire or purchase; and to distribute, sell, store, supply, transport, carry and/or convey natural gas through Company’s System in the City to other cities, towns, communities and areas outside the City and to inhabitants thereof, for the full term of this Franchise Ordinance. The Franchise Ordinance shall in no way affect or impair the present or future rights, obligations, or remedies of the City or Company under the Gas Utility Regulatory Act, as amended.

B. For purposes of this Franchise Ordinance, “**Transport Gas**” or “**Transported Gas**” shall mean gas owned or controlled by a user or its designee (i.e., gas that is purchased or otherwise acquired by a user from someone other than Company) and delivered by such user or its designee to Company at a point on Company’s distribution system, such point of delivery to be defined by Company, and carried, delivered or transported through Company’s System at a point of redelivery in the City by Company to the user for a fee. The terms and conditions of the transportation arrangement, including but not limited to the point(s) of delivery, point(s) of redelivery, measurement and location of title transfer, shall be as set forth in the contract entered into between Company and the transportation customer and/or Company’s transportation tariffs on file with the Railroad Commission of Texas or other appropriate regulatory authority.

## SECTION 2. Location of Facilities and Use of Public Ways

A. The mainlines and service pipes of the Company shall be laid in alleys, streets, and avenues, and other public ways, and when in streets and avenues, shall be laid parallel with the curb line thereof, or in such locations as shall be most practical, provided, however, that in no case shall any main be laid less than 30 inches below the established street grade, or if not within a street right-of-way at least 30 inches below the grade of the nearest street, without permission of the City Engineer.

B. The Company is hereby authorized, licensed and empowered to do all things reasonably necessary and appropriate to be done in performing the duties, obligations and privileges granted by this Franchise Ordinance, provided the same do not conflict with existing infrastructure in the public ways. However, the Company agrees to give the City reasonable advance notice of the dates, location and nature of all work to be performed on the Company's facilities or System within the public ways or rights of way by the submission of a right of way use permit application to the Engineering Department. A permit must be issued by the Engineering Department prior to construction. As soon as the Company is aware of an emergency it shall notify the City's Director of Engineering and the City's Director of Field Operations.

C. Except in the case of an emergency, within the City's full purpose jurisdiction, when the Company desires to lay any new mains hereunder, and before commencing its new construction work, it shall submit to the City Engineer, or other proper authority, a map or plan showing the streets, avenues, alleys, water lines, wastewater lines, storm sewer lines and other public places and the locations thereon wherein it proposes to construct such new pipes and mains. The City Engineer, or other proper authority, shall by written notice, either issue or deny the right of way use permit to Company within a reasonable period of time (not to exceed ten (10) calendar days) of submission of required information by Company. Approval by the City Engineer, or other proper authority, shall constitute a permit to the Company for the opening of the streets, avenues, alleys and other public places shown on the map or plan, and for the new construction or laying of the new mains and pipes by the Company (the "**Permit**") as shown on the plan. In the event that the Permit is denied, the City Engineer, or other proper authority, shall advise Company of the reasons for the denial and all necessary steps to secure approval of the permit. Company shall have the right to immediately appeal the issuance of the Permit to the City Manager, and if not determined within five (5) calendar days by the City Manager the Company may appeal to the City Council and be heard at a public meeting held in compliance with applicable law. If the Council fails to act on the appeal within twenty-one (21) days, the appeal will be deemed to be denied unless agreed otherwise in writing by the Company and the City. Appeal of any decision made by the City Council shall be made to the District Court of Williamson County, Texas, and an appeal from any decision of the District Court shall be as in all other civil actions. It shall be necessary for Company to secure a permit, without a fee, for the laying of service pipes from the mainline pipes of the Company to its customers through the City right of way. This Section 2B shall also apply to all other facilities and equipment of the Company to be constructed or installed on public property within the City's full purpose jurisdiction; provided that Company shall not construct, install or erect any facilities or equipment above ground on any such public property without specific written permission of the City Engineer, or other proper public authority.

D. In the refilling of all openings made by the Company, it shall restore the City public rights-of-way to a condition equal to or better than the original condition, and when the Company shall

open any ground in the City rights-of-way, the Company shall open no more space nor keep the space open any longer than is reasonably necessary to properly execute the work for which such space shall have been opened. The Company shall at all times display and keep the necessary danger signals and barricades around all excavations and obstructions, and shall keep sufficient space in good condition for the travel of automobiles, trucks, and other motor vehicles, on at least one side of all excavations and obstructions. The Company shall comply with all applicable City ordinances, rules and regulations for the repair of cuts and excavations, as are applicable to all other franchisees of the City.

E. The Company shall not install any pipe, line or facility within any park or recreational land, and shall not install any above ground facility on City property, without specific written permission. The Company may petition the Council for permission to cross park lands, and any such permission shall be in the sole discretion of the Council.

F. When the Company is required by City to remove or relocate its mains, laterals, and other facilities to accommodate construction of streets, alleys, water lines, wastewater lines or storm sewer lines by City, and Company is eligible under federal, state, county, local or other programs for reimbursement of costs and expenses incurred by Company as a result of such removal or relocation, and such reimbursement is required to be handled through City, Company costs and expenses shall be included in any application by City for reimbursement, if Company submits its cost and expense documentation to City prior to the filing of the application. City shall provide reasonable notice to Company of the deadline for Company to submit documentation of the costs and expenses of such relocation to City. If the Company is required by City to remove or relocate its mains, laterals, or other facilities for any reason other than the construction of streets and alleys by City, Company shall be entitled to reimbursement from City or others of the cost and expense of such removal or relocation. When Company is required to remove or relocate its mains, laterals or other facilities to accommodate construction of streets, alleys, water lines, wastewater lines or storm sewer lines by City without reimbursement from City or other governmental entities, Company shall have the right to seek a surcharge to recover relocation costs pursuant to Section 104.112 et al, of the Texas Utilities Code.

### SECTION 3. Effect of Other Ordinances and Agreements

Except as provided in Section 11, Company, its successors, lessees or assigns, shall at all times be subject to any Ordinances now in existence, or which may hereafter be passed, not inconsistent herewith. No fee or other charges of any kind shall be imposed upon Company, or upon any consumer of gas, for the breaking or opening of any streets or other public ways or for the laying, construction, or maintenance of mainlines, service pipes or other facilities therein except as provided for hereunder. Notwithstanding anything herein to the contrary, Company agrees that it shall be liable and pay for any and all damages to City property, utilities, right of way and all costs and expenses reasonable and necessary for the adequate and appropriate repair, replacement and installation to such. Nothing in this Franchise Ordinance shall be construed in such manner as to in any way abridge the right of the City to pass the necessary police ordinances for the protection of the citizens of the City and their property, and the property of Company.

### SECTION 4. Damage to City Properties

Company shall use reasonable efforts to avoid permanent damage to any street, avenue, alley, lane, bridge, stream, watercourse, park, water line, wastewater line, storm sewer line or public place.

Company and City shall exercise reasonable efforts to ensure that any future installations of utilities in City public ways by Company, City or other utility providers are reasonable, necessary and appropriate as to time and place.

#### **SECTION 5. Company's Rules of Service**

Company, and its successors and assigns, shall have the right to adopt and enforce such reasonable Rules of Service as it deems necessary for the extension of its facilities, the sale of its natural gas and the prudent conduct of business, provided that such rules are not inconsistent with law or this Franchise Ordinance. Company shall supply natural gas and provide regulated services at the rates and under the terms and conditions specified by such rules, its tariffs filed with the City and as provided herein.

#### **SECTION 6. Indemnification**

Company shall indemnify, save and hold harmless the City for any and all claims for damages, actual, consequential, punitive, costs of court, costs of administrative proceedings, mediation and arbitration, for which the City shall or might become liable to the extent caused by any negligent act or omission of Company, its agents or contractors in the construction, operation and maintenance of the System; provided, however, that in the event of such claim or claims being prosecuted against the City, Company shall have the right to defend against the same, and to settle or discharge same in such manner as it may see fit with reasonable consent from City. The City shall give prompt written notice to Company of the presentation or prosecution of such claims. Nothing herein shall prevent City from engaging the services of its own attorney at its own cost and expense.

#### **SECTION 7. Assignment**

Company herein is expressly given the power and privilege to sell, transfer or assign this Franchise Ordinance, or any part of this Franchise Ordinance, to any person, entity or corporation.

#### **SECTION 8. Franchise Fees**

A. As full consideration for the rights and privileges conferred by this Franchise Ordinance, the waiver of those fees waived by this Franchise Ordinance, and as a charge for the use of the streets, alleys and public ways, Company shall collect from its customers and pay to the City a sum of money, known as the "**Franchise Fee**", equal to the sum of the following: (1) five percent (5%) of Company's actual Gross Receipts from Gas Sales (as defined herein) to Company's gas sales customers located in the City; plus (2) five percent (5%) of Company's actual Gross Receipts from Gas Transportation (as defined herein) to Company's gas transportation customers with re-delivery points located in the City; plus (3) five percent (5%) of Company's actual Gross Receipts from Utility Regulated Service Charges. When the Company pays the Franchise Fee to the City each January and July, the Company shall file a statement with the City showing its Gross Receipts from Gas Sales, Gas Transportation delivered in the City and Utility Regulated Service Charges in the City, including the calculation of the Franchise Fee for the subject time period.

B. Subject to the other provisions herein, “**Gross Receipts**” shall be and include: (1) the Company's total receipts from its gas sales to its customers located within the corporate limits of the City; (2) Gross Receipts from Gas Transportation which shall be defined as the Company's total receipts from its transportation of third party gas for re-delivery to customers with re-delivery points located within the corporate limits of the City, consisting of receipts from cost of service; provided that Company's Gross Receipts from Gas Sales and Gross Receipts from Gas Transportation subject to the Franchise Fee shall specifically exclude, without limitation: (1) receipts from non-regulated miscellaneous service charges (e.g. charges for appliance light-ups, returned checks, etc.); (2) receipts from gas sales or gas transportation services to customers located at delivery points outside the corporate limits of the City; (3) receipts from gas consumed or transported by Company for its own use; (4) bad debt or uncollected accounts; (5) receipts collected for gas utility taxes; (6) receipts for any taxes, assessments, charges or fees of any kind charged by a governmental entity and collected by Company from the customer by a pass through charge on the gas bill, other than Franchise Fees and gross receipts taxes; (7) receipts for construction advances or contributions in aid of construction; (8) receipts for maintenance of appliances, machinery or equipment; (9) receipts for compensation for damage to Company's property; (10) receipts from sales of materials, appliances or equipment, and (11) receipts from any non-regulated utility or non-regulated services or products.

C. “**Utility Regulated Service Charges**” are charges for services (but not for natural gas sales or transportation services) that (a) Company provides to its customers located within the corporate limits of the City and (b) which are or may, from time to time, become subject to the rate regulation of the applicable regulatory authority. Such Utility Regulated Service Charges shall include receipts of Company from its customers in the City for connections, disconnections and meter tests. Such Utility Regulated Service Charges shall not include receipts of Company from its customers in the City for appliance sales, appliance light-ups, maintenance of customer equipment or facilities and any other receipts that are not legally subject to the rate regulation of the applicable regulatory authority. Gas delivered within the City for or on behalf of an affiliate of the Company, and gas purchased from an affiliate of the Company and delivered within the City, shall be deemed to be sold and delivered by the Company, and the value paid for such gas by the customer shall be subject to the franchise fee.

D. Company shall collect from its customers and pay the City under the terms of this Franchise Ordinance, the franchise fee and gross receipts above provided based upon meters read on or after the effective date of this Franchise Ordinance. During the term of this Franchise Ordinance, Company shall collect from its customers and pay the City in January and July for the preceding six months, not including January and July. Company shall include with the Franchise Fee payment a statement showing its Gross Receipts from Gas Sales, Gas Transportation in the City and Utility Regulated Service Charges in the City, including the calculation of the Franchise Fee for the subject time period.

E. It is expressly agreed that the Franchise Fee payments shall be in lieu of any payments for the right to use the public rights-of-way of the City, including expressly the charge permitted to be levied by V.T.C.A. Tax Code §§ 182.021-182.026 and 182.081- 182.082, or any successor statute permitting such a charge, however designated. The Franchise Fee shall be in lieu of and accepted as payment of all of Company's obligations to pay all other franchise, license, easement or occupation taxes, levies, exactions, fees, rentals, street-cut fees, inspection fees, permit fees, franchise fees, easement taxes, or charges of any kind whatsoever which may be levied or attempted to be levied in

general by the City for the use of City's rights -of -way, with the sole exception of sales taxes, ad valorem taxes and special assessments which are made without reference to or dependence upon Company's franchise or occupancy of the streets and public right of way, e.g. special assessment paving liens. It is specifically provided however that this subsection shall not release, waive or apply to the imposition of any fine, penalty or charge arising and imposed as a result of the violation of a rule, regulations, ordinance or the terms and conditions imposed by this ordinance.

F. It is expressly agreed by the City and the Company that the Franchise Fees defined in this Franchise Ordinance are reasonable, and are reasonable and necessary operating expense of Company and shall be fully recovered by Company by collection from its customers in the City, whether asserted retroactively or prospectively, by revising its rate schedules, assessing an additional charge to the monthly bills of its customers within the City, adding an additional charge to the Company's purchased gas adjustment clause for the City or in any legal manner determined in Company's discretion. The City agrees that it will take an affirmative position supporting 100% recovery of Franchise Fees by Company in any regulatory proceeding before a federal or state agency, including appeals, in which recovery of Company's Franchise Fees is an issue.

G. The City may, upon reasonable prior written notice and during reasonable business hours, inspect and review the books and records of Company to verify the amount of Franchise Fees due. It is understood and agreed that such representative may be an independent agent, assigned by the City to conduct the inspection of Company's books and records for the reconciliation of Franchise Fee payments to determine the accuracy thereof.

H. The rights, privileges, and franchises granted by this Franchise Ordinance are not to be considered exclusive, and City hereby expressly reserves the right to grant, at any time as it may see fit, like privileges, rights, and franchises to any other person or corporation for the purpose of furnishing gas in the City. In the event any entity providing gas sales or gas transportation service to customers within the City (other than Company) is not legally required to pay the same or an equivalent Franchise Fee as required to be collected and paid by Company in this Franchise Ordinance, then with respect to gas sales or transportation service to those specific customers, Company's Franchise Fee obligation resulting from sales or transportation service to those specific customers may be automatically reduced by Company to a level equivalent to the amount the City legally requires to be paid by such other entity.

I. Consistent with Section 8(A), the City shall be paid a franchise fee once with respect to the same gas sold and/or transported to delivery points within the City; provided that such fee shall include five percent (5%) of the actual cost of the gas and the transportation charges and all other related charges. Should the City receive or be entitled to receive from any other company, firm, corporation or person a franchise fee or similar street rental fee payment from the transportation and/or sale of the same or equivalent gas, the aggregate amount which the City has received or is entitled to receive with respect to the same or equivalent gas transported and/or sold by Company shall be deducted from, and reported with, the Franchise Fee payment to be made to the City by Company hereunder. Among other things, this section is intended to apply to gas purchased by Company for resale to its customers within the City and to Transport Gas redelivered by Company within the City. Upon request of Company, the City agrees to provide Company, within a reasonable time of its receipt, with written notice or other fee transportation transported or setting forth the amounts of any such franchise fee received for the use of

its streets for the sale of gas in the City that is ultimately delivered through Company's system in the City.

J. Unless expressly set forth herein, or otherwise provided by law, by accepting this Franchise Ordinance, Company does not agree to be responsible for the payment of franchise fees other than as expressly set forth herein or owed to the City by any other entity, corporation or firm.

**SECTION 9. Annexations by City**

The City shall notify Company in writing of the annexation of any new territory into its city limits by providing the legal description, maps and any other relevant information such as the GPS/GIS information that highlight the newly annexed territory. Upon receipt of written notice of annexation from the City, Company shall have ninety (90) days to begin collecting and paying the Franchise Fee for any revenues received from Company's customers residing in the newly annexed territories. City shall assist Company in determining and classifying exemptions from Franchise Fees for Company's Customers, including providing or requiring written confirmation of the customer's claimed exemption.

**SECTION 10. Dispute Resolution**

Resolution of any dispute arising under this Franchise Ordinance between the City and the Company, or any of its affiliates (collectively the "Parties, or individually a Party") shall first be attempted by submitting the dispute to mediation. The dispute shall be submitted to mediation upon the written demand of either party. The mediation shall be held in Williamson County, Texas at the location designated by the party demanding the mediation. The mediator shall be selected by agreement within twenty (20) calendar days from the date the demand for mediation is received by the other party. If an agreement cannot be reached on a mediator within the time period stated herein, each party shall submit the name of a mediator and the selection will be made by chance drawing. The party not making the demand for mediation shall make the blind draw from the names submitted in the presence of the other party. Thereafter, the mediation shall be held at the selected designation within thirty (30) calendar days. Mediation of any dispute shall be a condition precedent to filing a lawsuit, except that nothing herein shall preclude a party from seeking a mandatory or prohibitive injunction, or equitable relief from any court of competent jurisdiction to enforce or maintain the status quo pending mediation of any dispute.

**SECTION 11. Conflicting Ordinances**

To the extent that all or any part of any other existing ordinance shall conflict with any provision of this Franchise Ordinance, this ordinance shall prevail upon passage, adoption, and acceptance of this Ordinance.

**SECTION 12. Effective Date and Term**

This Franchise Ordinance shall take effect and be in full force from and after its final passage and approval by the City Council of the City of Cedar Park and the acceptance hereof in writing by Company as herein provided. This Franchise Ordinance shall continue and remain in full force and effect for a period of ten (10) years from the effective date.

**SECTION 13. Acceptance by Company**

Company shall, within sixty (60) days from the approval of this Franchise Ordinance signed by the Mayor, file in the office of the City Clerk its consent to and written acceptance of provisions and conditions of this Franchise Ordinance.

SECTION 14. That it is officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time; place and purpose of said meetings were given all as required by law.

READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 20<sup>th</sup> day of December, 2012, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND READING by the City Council of Cedar Park at a regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2013, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON THIRD AND FINAL READING by the City Council of Cedar Park at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

\_\_\_\_\_  
Matthew Powell, Mayor

ATTEST:

\_\_\_\_\_  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
Charles W. Rowland, City Attorney

The above and forgoing Franchise Ordinance and the grants, franchise, powers, rights and privileges thereto were accepted by Texas Gas Service Company on and as of the date thereunder, \_\_\_\_\_, 20\_\_.

**TEXAS GAS SERVICE COMPANY**  
A division of ONEOK, Inc.

By: \_\_\_\_\_  
\_\_\_\_\_  
Regional Vice President

**STATE OF TEXAS** §  
§  
**COUNTY OF** \_\_\_\_\_ §

BEFORE ME, the undersigned authority, on this day personally appeared, \_\_\_\_\_ REGIONAL VICE PRESIDENT of Texas Gas Service Company, a division of ONEOK, Inc., an Oklahoma corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity herein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. F.0  
**Discussion And Possible Action:**

**Commentary:**



## **CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. F.1

### **Consideration Of The 83rd Legislative Session As It Impacts The City's Adopted 2013 Legislative Agenda.**

#### **Commentary:**

The City Council Legislative Subcommittee (Mayor Matt Powell, Councilmember Mitch Fuller, and Councilmember Don Tracy) met with Hillco Partners to discuss the draft 2013 Legislative Agenda for the 83<sup>rd</sup> Texas Legislative Session. Attached is the final draft of the item for Council's review and consideration.



**2013 Legislative Agenda**  
**83<sup>rd</sup> Texas Legislative Session**

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# **GENERAL LEGISLATIVE POLICY**

## ***PRESERVE THE CITY'S STRATEGIC GOALS AND INTERESTS***

### **STATEMENT OF PRESERVATION**

As a general policy, the City of Cedar Park seeks to preserve its current authority to govern the city, its citizens, and its property. The City will oppose any legislation viewed as detrimental to the City's strategic goals; that is contrary to the health, safety, and welfare of its citizens; that mandates increased costs or loss of revenues; or that would diminish the fundamental authority of the City.

## ***SUPPORT LEGISLATION THAT ADVANCES THE CITY'S STRATEGIC GOALS AND INTERESTS***

### **STATEMENT OF SUPPORT**

Likewise, the City supports any legislation viewed as advancing the City's strategic goals; that improves the health, safety, and welfare of its citizens; that responsibly increases revenues; or that advances the City's authority to conduct the public's business.

## ***FORM COALITIONS WITH PARTIES THAT SHARE COMMON GOALS AND INTERESTS WITH THE CITY***

### **FORM COALITIONS**

The City will form strategic partnerships with cities, political subdivisions, and private sector entities that share common goals with the City of Cedar Park. Additionally, the City will work in coordination with organizations such as the Texas Municipal League when their adopted positions are in line with the legislative objectives and goals of the City. The formation of strategic partnerships and coordinated efforts is intended to provide the City with a stronger presence in the legislative process.

# **PRIORITY LEGISLATIVE AGENDA**

## **1. *PRESERVE LOCAL BUDGETING AUTHORITY AND REVENUE SOURCES***

Oppose legislation that would unduly restrict the ability of the City to set its own budget or raise the necessary revenue to provide essential services to City residents and businesses.

Oppose legislation which removes local control over revenue availability or over the appraisal system currently in place in Texas.

### **ISSUES**

During the last several Texas Legislative Sessions, proposals have been set forth that would severely limit the ability of cities to set their budgets or raise adequate revenues to carry out their fundamental functions. For example, numerous proposals to “cap” local revenues and property appraisals have been filed in the Texas Legislature. Municipal officials in the City of Cedar Park are sensitive to the tax burden faced by citizens and businesses and are accountable to the local electorate for the decisions they make. However, they are also mindful that it takes a great deal of flexibility with the local budget to meet the unique demands for services while at the same time preserving the high standards the community has come to expect.

Another issue in previous sessions has been “truth in taxation” legislation. This legislation deals with a municipality’s notice to taxpayers of its intent to lower, maintain at the same level, or raise local property taxes.

Finally, the legislature often considers proposals that would impose unfunded mandates, would increase municipal costs in other ways, or would reduce municipal revenue. Any of these actions make it more difficult for the City to budget responsibly.

### **PROBLEM – APPRAISAL CAPS AND REVENUE CAPS**

Appraisal and revenue caps undermine the ability of local officials to meet the individual needs and circumstances of their cities. Additionally, one-size-fits-all “caps” violate the fundamental principle of local control. Citizens and businesses have numerous opportunities to provide input to the City of Cedar Park’s budget and tax-rate-setting processes. Most importantly, the citizens of the City get to voice their approval or disapproval of our budgeting performance and tax rates at every City election.

Unfortunately, extremely low appraisal and revenue caps can produce numerous problems. For instance, appraisal caps shift all inequitable tax burden to businesses and new homeowners. This inequitable shift can produce serious long-term negative consequences for the local economy. Revenue caps, on the other hand, require the City to cut services or

take on more debt to fund local projects and services. These types of “caps” are particularly harmful to a city like the City of Cedar Park because they prevent the City from adequately dealing with the infrastructure needs brought on by population growth.

It is inappropriate for the State of Texas to expect local governments to provide numerous public services with no funding from the State, while at the same time unduly restricting the ability of local governments to raise the necessary levels of revenue to provide the required services.

### **SOLUTION**

If revenue caps are going to be applied to local governments, they should be applied uniformly to the state budget as well. In short, the same rules should apply to all levels of government. The State could also supplement local government funding as other states have done and as the State of Texas does through its school finance plan.

### **PROBLEM – TRUTH IN TAXATION**

Texas legislators continue to feel local governments do not communicate effectively with their constituents about proposed tax increases. They claim local governments use “appraisal creep” to allow them to raise property taxes without the public fully understanding that taxes are being raised. They are proposing a more simplified notice be furnished to taxpayers.

### **SOLUTION**

The City supports being transparent in its finances. The City will monitor this legislation. As long as additional expense is not imposed on local governments, most cities feel a notice change or simplification is acceptable.

Support legislation that promotes an accurate understanding of the local budgeting and tax-rate-setting process by citizens.

Support legislation that accurately notifies and explains to taxpayers the actual impacts of the effective tax rate while deleting parts of the notification and adoption process that cause confusion and are inconsistent with the goal of providing a transparent budget and tax-rate-setting process.

Oppose truth-in-taxation measures that would result in a revenue cap.

### **PROBLEM – UNFUNDED MANDATES/REDUCTIONS IN REVENUE**

The legislature routinely considers legislation that would require cities to take an action yet would provide no revenue for fulfilling the requirement. An example of these unfunded mandates is a proposal, regularly considered by the legislature, to expand employee health coverage. Similarly, lawmakers have increased the fees that cities must pay for various

permits issued by the state. While the City receives very little revenue from the state, what is received is often a target. For example, in 2011 the legislature reduced the City's share of the mixed beverage tax.

## **SOLUTION**

Oppose unfunded mandates.

Oppose the imposition of new or increased state fees on the City.

Oppose any reduction in municipal revenue.

Oppose a reduction in franchise fee caps.

### **2. *ENSURE THE CITY CONTINTUES TO HAVE ADEQUATE WATER SUPPLIES FOR ITS CITIZENS AND ECONOMIC DEVELOPMENT PURPOSES***

Oppose legislation that would negatively impact the ability of the City to use contracted water supplies from Lake Travis.

Oppose legislation that would adversely impact the ability of the City to carry out current and future water projects.

Support legislation that provides additional state funding for water infrastructure projects.

Support legislation that promotes the implementation and funding of the State Water Plan as adopted by the Texas Water Development Board.

Support legislation that ensures the City can continue to provide affordable and high quality water and wastewater services.

### **3. *SUPPORT PRIORITY FUNDING FOR LOCAL TRANSPORTATION PROJECTS AND STREAMLINED PROCESSES FOR TxDOT INVOLVEMENT WITH TRANSPORTATION PROJECTS AND ADDITIONAL LOCAL FLEXIBILITY TO ADMINISTER FEDERAL/STATE FUNDED PROJECTS***

Oppose legislation that would mandate the City's participation in a regional transportation system.

Support expedited funding by Texas Department of Transportation for priority local transportation projects.

Support legislation or legislative activities that would result in streamlined processes for projects that require TxDOT involvement.

Support legislation that would provide cities with additional flexibility to administer projects that are funded with primarily local funding but administered by TxDOT.

Support efforts by City to successfully complete the expansion of SH 1431.

Support legislation which will limit or stop diversion of gasoline tax monies.

Support legislation or rule-making which changes TxDOT signage policies on state highways through Cedar Park.

**4. *SUPPORT THE CONTINUED ABILITY OF CITIES TO ENGAGE IN ECONOMIC DEVELOPMENT PROGRAMS THAT EXPAND THE LOCAL TAX BASE AND CREATE JOBS.***

Oppose legislation which would erode current authority to participate in local economic development projects, or which would subject such authority to state oversight.

Support legislation which provides local governments with the ability to expand local economic development efforts.

Support continued appropriations for the Texas Enterprise Fund and the Texas Emerging Technology Fund.

**5. *PRESERVE LOCAL CONTROL OF LAND USE PLANNING AND ZONING***

Oppose legislation that will erode local land use authority by restricting the ability of cities to zone or re-zone properties or in any other way.

Support legislation that preserves local land use authority.

**ISSUE**

Over the past few legislative sessions various proposals have been introduced to restrict the ability of cities to enforce their traditional land use controls. Specifically, legislation that requires cities to compensate landowners when a zoning classification changes (often referred to as a “downzoning”) has come dangerously close to becoming the law. Under these proposals cities would have to compensate landowners, even if the proposed zoning changes did not interfere with the current or intended use of the property. In addition to compensating landowners for zoning changes, proposals have been considered that would require compensation for numerous types of city regulations. For example, previously proposed legislation would have required cities to compensate landowners if they restricted the ability of patrons to smoke on premises or limited the time of day that alcohol could be served. All of these types of local restrictions have been debated under the theory of “regulatory takings.”

Additional legislative proposals would have prevented cities from ever changing the zoning classification of a property if any type of basic permit or site plan had been filed with *any* governmental entity. Since 1999 the Texas Legislature has continually expanded the “permit vesting” statute to include different aspects of city land use authority. The expansion of the “permit vesting” statute is beginning to interfere with the ability of cities to impose orderly, efficient, and comprehensive land use and development plans for their communities.

### **PROBLEM**

Restricting the ability of cities to properly regulate land uses ultimately prevents them from being able to respond to the needs and demands of their citizens. For example, land use controls are used to keep undesirable businesses from locating in neighborhood type settings. Additionally, one of the main reasons people live in cities is to have the protection of a regulated land use system. In short, when a home or business locates in a particular city it does so in part to ensure that an incompatible structure will not be placed next to the property. Current law establishes a balance between the rights of a landowner to develop property and the rights of existing homeowners to enjoy their homes and preserve their property values. That balance must be maintained.

Beyond that, it is important that decisions regarding zoning, platting, subdivisions, and other land use matters be made at the local level by elected officials who are closest to the people. Statewide legislation that dictates a “one-size-fits-all” approach to land use decisions could leave the City’s homeowners defenseless against undesirable development.

### **SOLUTION**

The ability of large cities to manage growth and development is based on the Texas Constitution’s home rule provisions. Cities are allowed to amend charters and pass ordinances as long as they do not conflict with the constitution or general laws enacted by the state legislature. The bottom line means that each home rule city can make its own decisions about what planning tools and techniques are most appropriate to its situation unless those tools have been proscribed by the Texas legislature. The State should be very cautious in imposing solutions that are only applicable to individual situations because of the vast differences between cities in this large state.

Oppose any legislation which increases the authority of counties to regulate land use.

## OTHER LEGISLATIVE ACTION ITEMS

**1. MONITOR LEGISLATION DEALING WITH CITY COLLECTIVE BARGAINING AND MEET-AND-CONFER**

Oppose any expansion of collective bargaining or meet-and-confer within Texas cities.

**2. SEEK SOLUTION TO MISALLOCATED SALES TAX PROBLEM**

Support legislation which shortens the look-back period and extends the payback period when a city is required to repay misallocated sales tax revenue in an amount that threatens the City's budget.

Support legislation to require the business remitter of sales tax to the Comptroller to provide accurate submissions or face sanctions.

**3. MONITOR LEGISLATION DEALING WITH EMERGENCY SERVICE DISTRICTS**

Support legislation which addresses problems cities are currently experiencing with emergency service districts in their ETJs.

Support legislation which maintains or expands the current funding mechanisms used by ESDs.

Support a constitutional amendment to raise or eliminate the tax cap on ESDs.

Support legislation which allows cities to remove areas of their ETJ from an ESD where the City is able and willing to provide fire and/or first responder services within their ETJ.

**4. MONITOR LEGISLATION DEALING WITH THE BANNING OF ARTIFICIAL HALLUCINOGENS**

Support legislation that would allow a state agency to expand the list of prohibited substances as necessary.

Support legislation that would prohibit the sale or possession of artificial hallucinogens not approved by the Food and Drug Administration.

**5. MONITOR LEGISLATION DEALING WITH THE CITY'S BONDING AUTHORITY**

Support legislation which allows cities to bundle bond proposals in the same manner allowed for school district bond proposals.

Oppose legislation that would limit the City's bonding authority.

**6. MONITOR LEGISLATION REQUIRING THE CITY TO GENERATE REVENUE**

Oppose any legislation that would require the City to generate any revenue for the State through the imposition of fines, fees, taxes, or any other revenue source.

**7. MONITOR INITIATIVES RELATING TO DEDICATED FUNDS**

Support the use of dedicated funds as intended, particularly for 9-1-1 or other public safety purposes.

**8. MONITOR LEGISLATION DEALING WITH CONCEALED HANDGUN LICENSING**

Support legislation which would allow concealed handgun licensees to carry handguns anywhere on a college campus.

Support legislation for open carry of handguns in Texas.

**9. MONITOR LEGISLATION RELATING TO MASS TRANSIT OR PUBLIC TRANSPORTATION**

Oppose legislation that would impose mandates or erode current authority.

**10. SEEK AUTHORITY TO UNDERTAKE SPECIFIC ANNEXATIONS**

Seek Introduction and Passage of legislation that would allow a voluntary, limited purpose annexation of the Twin Creeks MUD (WCIDs 1F and 1G) and the Bella Vista MUD in a way that is beneficial to the City.

**11. MONITOR LEGISLATION RELATING TO SALAMANDERS**

Support legislation that would ask the U.S. Congress to oppose the listing of the Jollyville Plateau salamander as endangered by the U.S. Fish and Wildlife Service.

**12. SUPPORT LEGISLATION RELATING TO TEXTING AND DRIVING BANS**

**13. SUPPORT LEGISLATION PROVIDING FOR DEREGULATION OF ELECTRIC PROVIDERS**

Support legislation that ends the monopoly of electric service to Cedar Park residents and businesses by a rural provider.

## **GOALS OF LEGISLATIVE ACTIVITIES**

The fundamental goal of all City of Cedar Park legislative activities is to produce positive outcomes for the citizens of the City of Cedar Park as a whole. Numerous proposals in the Texas Legislature have the potential to seriously impact the ability of the City to carry out its overall mission. By taking a proactive role in monitoring and commenting on proposals in the Texas Legislature, we are working to ensure that the citizens of the City of Cedar Park can continue to enjoy the quality of life they have come to expect and deserve.

DRAFT



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. F.2  
**Review On The Capital Area Council Of Governments ("CAPCOG") General Assembly Meeting. (Tracy)**

**Commentary:**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. F.3  
**Consideration For The Dissolution Of The Ranch At Cypress Creek Annexation Sub-Committee.**

**Commentary:**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. F.4  
**Consideration For The Dissolution Of The Veteran Memorial Sub-Committee.**

**Commentary:**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. F.5  
**Consideration Of Appointments To The Cedar Park Comprehensive Plan Advisory Committee.**

**Commentary:**

James Maness and Mo Jahadi were appointed to the committee at the October 25, 2012 Council Meeting.



## CITY COUNCIL AGENDA

Date: 12-20-2012

Subject: Agenda Item No. F.6  
**Consideration Of Appointment To Place Three On The Cedar Park Economic Development Corporation ("4A"). (Mayor Powell)**

### Commentary:

	Term Expires	Date Appointed	Reappointment Dates
<b>Place 1</b> <b>Steven Foster</b>	1.31.14	06/09/05	03/13/08 7.26.12
<b>Place 2</b> <b>Kerry Watson</b>	1.31.13 Unexpired Term	11/18/10	
<b>Place 3</b> <b>VACANT</b>	1.31.15 Unexpired Term		
<b>Place 4</b> <b>Robert Ingraham</b>	1.31.15	7.26.12	
<b>Place 5</b> <b>Lyle Grimes</b>	1.31.14 Unexpired Term	7.26.12	



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. F.7  
**Consideration Of Appointment To Place Four On The Planning And Zoning Commission.**  
 (Moore)

**Commentary:**

	Term Expires	Date Appointed	Reappointment Dates
<b>Place 1</b>	<b>7.31.13</b>	7.26.12	
<b>Scott Rogers</b>	<b>Unexpired Term</b>		
<b>Place 2</b>	<b>7.31.14</b>	5.13.10	12.9.10
<b>Thomas Balestiere</b>			8.23.12
<b>Place 3</b>	<b>7.31.13</b>	4.26.12	
<b>Michael Dion</b>		<i>unexpired term</i>	
<b>Place 4</b>	<b>7.31.14</b>		
<b>VACANT</b>			
<b>Place 5</b>	<b>7.31.13</b>	7.23.09	10.6.11
<b>Nicholas Kauffman</b>			
<b>Place 6</b>	<b>7.31.14</b>	9.8.11	7.28.12
<b>Holly Hogue</b>			
<b>Place 7</b>	<b>7.31.13</b>	11.13.12	
<b>Kelly Brent</b>	<b>unexpired term</b>		



## CITY COUNCIL AGENDA

Date: 12-20-2012

Subject: Agenda Item No. F.8  
**Consideration To Appoint Councilmember Lux To Place Six On The Tax Increment Reinvestment Zone #1.**

### Commentary:

	Term Expires	Date <i>Appointed</i>	Reappointment Dates
<b>Place 1</b> <b>Matt Powell</b> Chair	1.31.14	6.14.12	
<b>Place 2</b> <b>Mitch Fuller</b>	1.31.13	9.10.09	1.27.11
<b>Place 3</b> <b>Stephen Thomas</b>	1.31.14	6.14.12	
<b>Place 4</b> <b>Lowell Moore</b>	1.31.13	9.10.09	1.27.11
<b>Place 5</b> <b>VACANT</b>	1.31.14		
<b>Place 6</b> <b>VACANT</b> <b>(Jon Lux)</b>	1.31.13		
<b>Place 7</b> <b>Don Tracy</b>	1.31.14	6.5.10	1.27.11



**CITY COUNCIL AGENDA**  
Date: 12-20-2012

Subject: Agenda Item No. G.0  
**Executive Session**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. G.1

**Section 551.071 (1)(A) And (2) Consultation With Attorney Concerning Legal Matters Covered By The Texas Disciplinary Rules Of Professional Conduct Of The State Bar Of Texas.**

**a. Legal Issues Concerning Fire Service Agreements For Emergency Service District 12.**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. H.0  
**Reconvene into Open Meeting and consider action, if any, on items discussed in Executive Session**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. H.1  
**Mayor And Council Closing Comments.**



**CITY COUNCIL AGENDA**

Date: 12-20-2012

Subject: Agenda Item No. H.2  
**Adjournment.**