LAKEWOOD VILLAGE TOWN HALL
100 HIGHRIDGE DRIVE
LAKEWOOD VILLAGE, TEXAS

TOWN COUNCIL MEETING
JANUARY 10, 2019 7:00 P.M.

REGULAR SESSION – AGENDA

Call to Order and Announce a Quorum is Present

A. PLEDGE TO THE FLAG:

B. VISITOR/CITIZENS FORUM: At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. The council may not comment or deliberate such statements during this period, except as authorized by Section 551.042, Texas Government Code.

C. PUBLIC HEARING: A public hearing is scheduled on the proposed amendments to the Zoning Ordinance to provide an opportunity for citizen comment. The Town Council may adopt the proposed Zoning Ordinance with or without amendment by ordinance on one (1) reading.

D. REGULAR AGENDA:

1. Consideration of Variance Request for 655 Woodcrest (Asbell)
2. Consideration of Republic Services Contract (Asbell)
3. Consideration of Outdoor Lighting Ordinance (Reed)
4. Consideration of Capital Improvements (Vargus)
5. Discussion of Municipal Development District Financials (Vargus)
6. Discussion Water Well Status (Vargus)
7. Discussion of Concrete Roads (Vargus)
8. Discussion of Municipal Court of Record (Vargus)
9. Discussion of Nuisance Ordinance (Vargus)
10. Discussion of Zoning Ordinance (Vargus)
11. Discussion of Financial Report (Shields)
12. Minutes of December 13, 2018 Council Meeting (Asbell)

E. EXECUTIVE SESSION: (1) § 551.071(2), Texas Government Code to wit: consultation with Town Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter to receive legal advice. (2) § 551.072 Texas Government Code to wit: deliberations about real property; (3) § 551.087 Texas Government Code to wit: Economic Development Negotiations; and (4) § 551.076 Texas Government Code to wit: deliberations about Security Devices;

F. RECONVENE: Reconvene into regular session and consideration of action, if any, on items discussed in executive session

G. REPORTS: Reports about items of community interest. No formal action may be taken on these items at this meeting.

H. ADJOURNMENT

I do hereby certify that the above notice of meeting was posted on the designated place for official notice at 5:00 p.m. on Monday, January 7, 2019.

Linda Asbell

Linda Asbell, TRMC, CMC, Town Secretary

The Town Council reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development), 418.183 (Homeland Security)

This facility is wheelchair accessible and accessible parking spaces are available. Please contact the Town Secretary's office at 972-294-5555 or FAX 972-292-0812 for further information.

One or more board members of the LAKEWOOD VILLAGE MUNICIPAL DEVELOPMENT DISTRICT may attend this meeting. No action will be taken by the MDD board.

VARIANCE REQUEST

BUILDING DEPARTMENT

100 Highridge Drive
Lakewood Village, TX 75068
(972) 294-5555 Office (972) 292-0812 Fax
linda@lakewoodvillagetx.us

REVISED: 10/09/2014

APPLICANT / OWNER

Applicant Name Kenneth Graham Construction	Address 655 Woodcrest
Day Time Telephone 469-233-5720	
Email Kenny@kennethgrahamllc.com	
Owner Name Same as Applicant? ☐ Yes Chris & Brittany Bissonnette	Address 655 Woodcrest
Day Time Telephone 216-832-0264	Lakewood Village, Tx
Email brittany.bissonnette4@gmail.com	

PROPERTY

Address or General Location

655 Woodcrest

Legal Description (If Platted)

Lot 3 Block R Lakewood Village 3rd Section

Lot Size ☐ Square Feet OR ☐ Acres	Zoning Classification SF

Existing Use of Land and/or Building(s)

Vacant/Raw

REQUESTED VARIANCE

Variance to Section(s) of the Ordinance

Current Ordinance Requirement(s)

26' 6" offset on house
7' offset on flatwork/drive

Requested Variance(s)

26' 3" offset on house per plot plan
3' offset on flatwork/drive per plot plan

VARIANCE REQUEST

100 Highridge Drive
Lakewood Village, TX 75068
(972) 294-5555 Office (972) 292-0812 Fax
linda@lakewoodvillagetx.us

BUILDING DEPARTMENT

REVISED: 10/09/2014

SUBMITTAL REQUIREMENTS

If the applicant is not the owner, a letter signed and dated by the owner certifying their ownership of the property and the authorizing the applicant to represent the person, organization, or business that owns the property.

If not platted, a metes and bounds legal description of the property.

A written statement documenting the reason for the variance(s), including evidence that the request complies with the following criteria as required for approval of a variance.

1) A unique physical condition exists within or adjacent to the subject tract or structure(s) located thereon which distinguishes it from other similarly situated, and which creates an exceptional hardship, difficulty, or inequity that would result from literal enforcement of the ordinance;

2) The condition or characteristic noted above is not caused by an action of the property owner, occupant, or applicant;

3) The variance is the minimum amount necessary to allow a reasonable use of the property;

4) The sole reason for the variance is not a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship;

5) The variance will not adversely affect public health or safety, and will not substantially or permanently interfere with the appropriate use of adjacent conforming property in the same district; and,

6) The variance will not alter the essential character of the zoning district within which the subject property is located, and is in harmony with the intent and purposes of the zoning ordinance.

Site plan, submitted on drawing sheet size 11” X 17”, showing:

1) Scale and north arrow;
2) Location of site with respect to streets and adjacent properties;
3) Property lines and dimensions;
4) Location and dimensions of buildings;
5) Building setback distances from property lines;
6) Location, dimensions, and surface type of off-street parking spaces and loading areas; and
7) Any other proposed features of the site which are applicable to the requested variance.

NOTICE

To the best of my knowledge, this application and associated documents are complete and correct, and it is understood that I or another representative should be present at all public meetings concerning this application.

Applicant Signature	Date
	1/7/19

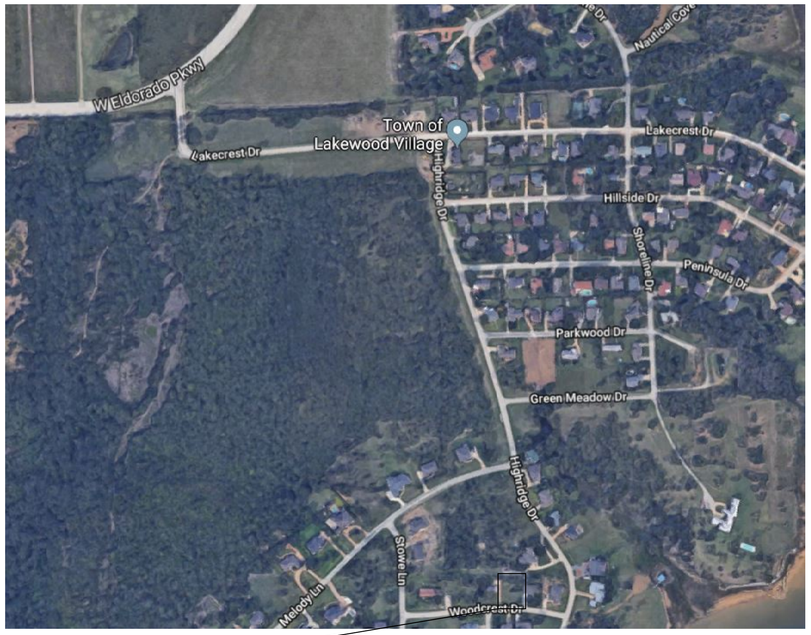
VARIANCE REQUEST

BUILDING DEPARTMENT

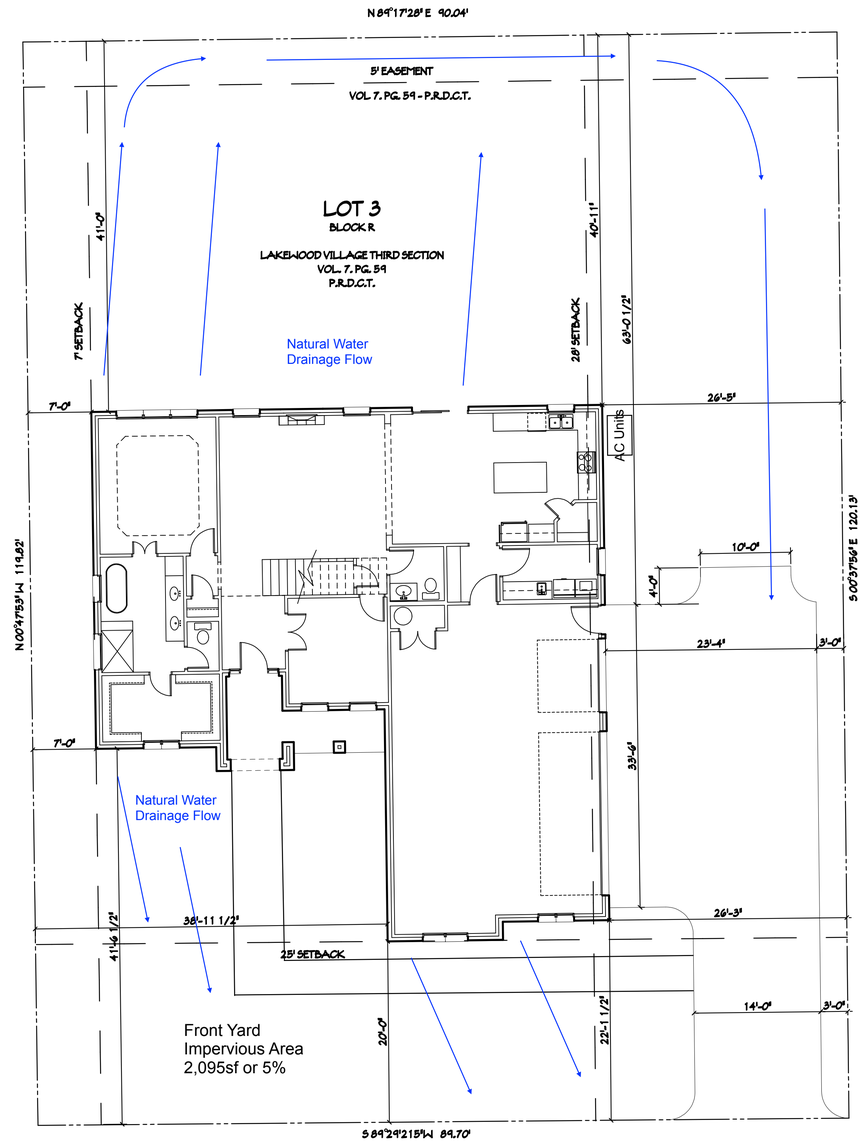
100 Highridge Drive
Lakewood Village, TX 75068
(972) 294-5555 Office (972) 292-0812 Fax
linda@lakewoodvillagetx.us

REVISED: 10/09/2014

TOWN USE ONLY	
Received By	Receipt Number
Date Submitted	Case Number
Date Notices Mailed	Date Notice Published
Town Council Meeting Date	
Decision	
Conditions	



PROJECT LOCATION



WOODCREST DRIVE

SITE PLAN
SCALE: 1/8"=1'-0"

DRAWINGS FOR:

BISSONNETTE RESIDENCE

LAKEWOOD VILLAGE , TEXAS

BARXDESIGN
Marianne Reed - Designer
903-624-0296 www.barxidesign.com

DATE:12/26/2018
SITE PLAN

A0

MUNICIPAL MATERIALS MANAGEMENT AGREEMENT

This Municipal Materials Management Agreement (the "**Agreement**") is made and entered into this 1st day of January, 2020 (the "**Effective Date**"), by and between the Town of Lakewood Village ("**Town**"), and Allied Waste Systems, Inc. d/b/a Republic Services of Lewisville, a Delaware corporation ("**Company**").

RECITALS

WHEREAS, Town desires that Company provide Services as defined herein for the Location Types as set forth in this Agreement and Company desires to do so, all in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Agreement, the parties agree as follows:

TERMS AND CONDITIONS

1. Sole and Exclusive Franchise. Company is hereby granted the sole and exclusive franchise, license, and privilege to provide for the collection and disposal or recycling, if applicable, of all conforming Waste Material (as defined in Exhibit A) for the following types of locations ("**Location Types**") within the territorial jurisdiction of the Town (the "**Services**"):

Location Types

x	Residential Units		Large Commercial Units
	Small Commercial Units	x	Industrial - Permanent Units
x	Municipal Facilities	x	Industrial - Temporary Units

2. Newly Developed Areas. If the Town develops new areas (of the same Location Types as designated above) within the Town's territorial jurisdiction during the Term of this Agreement, such areas shall automatically be subject to this Agreement. The Town shall provide Company with written notification of such newly developed areas, and within thirty (30) days after receipt of such notification, Company shall provide the Services as set forth in this Agreement in such newly developed area(s). If the Town annexes any new areas that it wishes for Company to provide the Services, the Parties shall negotiate a mutually acceptable amendment to this Agreement adding such annexed areas to the scope of the Services and setting forth the rates that will apply for the Services in such area(s).

3. Scope of Services. Company shall furnish all equipment, trucks, personnel, labor, and all other items necessary to perform the Services. The Services shall not include the collection, disposal, or recycling of any Excluded Waste or Waste Material located at any Location Type not designated above, or any Waste Material/Service Types not designated in Exhibit A.

4. Out of Scope Services May Be Contracted for Directly with Customers. Company may provide collection and disposal or recycling service within the territorial jurisdiction of the Town for any Waste Material and/or Location Types that are outside the scope of this Agreement pursuant such terms and conditions as may be mutually agreed upon by Company and such Customers. Such services and agreements are outside the scope of this Agreement, and this Agreement does not require such Customers to use Company for such services, but they may do so at their discretion. The Town agrees that Company may use any information received from the Town in marketing all of its available

services to the residents and Customers located within the Town, whether included in the scope of this Agreement or not.

5. Exhibits. All Exhibits attached this Agreement are an integral part of the Agreement and are incorporated herein.

Exhibit A General Specifications for Services

Exhibit B Pricing

6. Term. This Agreement begins on the Effective Date and expires five (5) years thereafter (the "**Term**"), unless otherwise terminated in accordance with the terms of this Agreement. The parties may, upon mutual agreement, renew the Term of this Agreement for one (1) additional five-year period.

7. Rates for Services; Rate Adjustments; Additional Fees and Costs.

7.1 Rates for Services. The rates for all Services shall be as shown on Exhibit B, subject to the rate adjustments and additional fees and costs as set forth herein.

7.2 Cost Adjustments. Upon approval by the Town Council, with such approval not unreasonably withheld, conditioned or delayed, the Company may increase the rates for Services as a result of increases in costs actually incurred by Company due to (a) changes in local, state, or federal rules, ordinances or regulations; (b) changes in taxes, fees or other governmental charges (other than income or real property taxes); (c) uncontrollable prolonged operational changes (i.e., a major bridge closure); (d) increased fuel costs; and (e) changes in costs due to a Force Majeure Event. Any of the foregoing cost adjustments shall be retroactive to the date of approval by Town Council.

7.3 Franchise Fee. The Town shall determine a residential franchise fee, which fee shall be passed through to the Customer. For residential customers billed by the town the fee shall be retained by the Town. The company shall charge industrial roll-off customers a sixteen percent franchise fee. Franchise fees charged to customers by the Company shall be remitted to the Town quarterly along with a report which shows services provided by address, and dates of service. The Town shall have the ability to permit a customer with an approved building permit to make payment in lieu of franchise fees when circumstances prevent the customer from placing a roll-off container on the property identified in the building permit in a safe manner.

7.4 Additional Terms for Recycling Services

(a) Rates. The rates for Recycling Services shall consist of a Monthly Collection Charge, plus the Recycling Processing Charge. The "Recycling Processing Charge" is derived by subtracting Republic's Processing Rate and Residual Costs from its Commodity Sales. The Recycling Processing Charge is subject to the Annual Recycling Adjustment (defined below).

Monthly Collection Charge + Recycling Processing Charge (Commodity Sales – Processing Rate – Residual Costs)

"Commodity Sales" means the average amount Company receives per 12-month period on the sale of Recyclable Materials processed at the facility receiving the Town's Recyclable Material. "Processing Rate" means the current rate Company charges to process Recyclable Materials. "Residual Cost" means the average amount it costs Company per 12-month period to transport and dispose of the non-recyclable, residual material pulled out of the collected stream of Recyclable Materials received at Company's processing facility.

Commented [1]: What are "out of scope services"? All services should be subject to the franchise fee.

Commented [2]: Services that are not covered by this agreement; for example, services to small commercial units or services collecting special waste.

Commented [3]: This section provides for how the recycling processing fee is calculated.

(b) Annual Recycling Adjustment. On each anniversary of the Effective Date of this Agreement, Company shall evaluate, and adjust if needed, the Recycling Processing Charge based on any changes in Commodity Sales, Processing Rates and/or Residual Costs ("**Annual Recycling Adjustment**"). The Recycling Processing Charge over the most recent twelve-month period shall be compared to the last identified Recycling Processing Charge to determine any change. A reduction in Recycling Processing Charge shall result in a decreased price for the Recycling Services for the twelve months after the effective date of the Annual Recycling Adjustment. An increase in Recycling Processing Charge shall result in an increased price for the Recycling Services for the twelve months after the effective date of the Annual Recycling Adjustment. Should unforeseen circumstances cause at least a 20% change in Company's Recycling Processing Charge, both parties agree to implement a mid-year adjustment to the Recycling Processing Charge. In the event of any Recycling Adjustment, the Town shall have sole discretion to make a lump sum payment to Company (or receive a lump sum credit) or to pass the Recycling Adjustment through to the rate payers in the Town.

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8. Invoicing; Payment; Service Suspension; Audits.

8.1 Invoicing the Town. The Town shall invoice and collect from all Residential Units and Municipal Facilities Customers for Services provided by Company pursuant to this Agreement. The Town shall report to Company (a) by the 5th of each month the total number of addresses subject to this Agreement and that have been billed for Services by the Town and (b) on a quarterly basis, parcel data and a list of addresses billed for the Services by the Town. Company shall invoice the Town for the number of addresses that were billed by the Town within fifteen (15) days of receiving the Town's address count each month, and the Town shall pay Company's invoices.

8.2 Invoicing the Customer Directly. Company shall invoice each individual Customer for all Industrial Permanent Units and Industrial Temporary Units Services rendered to such Customer under this Agreement within fifteen (15) days following the end of the month, and the Customer shall pay Company's invoices.

8.3 Payment. The Town or Customer, as applicable, shall pay each of Company's invoices within thirty (30) days of receipt Company's invoice. Payments may be made by check or ACH only; no purchasing cards or credit cards will be accepted. If Company is invoicing the Town, Town shall pay Company's invoices in full irrespective of whether or not the Town collects from the Customers for such Service. Payments not made on or before their due date may be subject to late fees of one and one-half percent (1.5%) per month (or the maximum allowed by law, if less). If the Town or Customer, as applicable, withholds payment of a portion or entire invoice and it is later determined that a portion or all of such withheld amount is owed to Company, such amount shall be subject to the late fees provided herein from the original due date until paid.

8.4 Service Suspension.

8.4.1 Unpaid Invoices. If any amount due from the Town is not paid within sixty (60) days after the date of Company's invoice, Company may suspend Services until the Town has paid its outstanding balance in full and/or terminate this Agreement. If Company suspends Service, the Town shall pay a service interruption fee in an amount determined by Company in its discretion up to the maximum amount allowed by Applicable Law. If any amount due to Company from an individual Customer is not paid within sixty (60) days after the date of Company's invoice, Company may suspend that Customer's Services until the Customer has paid its outstanding balance in full. If Company suspends Service, the Customer shall pay a service interruption fee in an

amount determined by Company in its discretion up to the maximum amount allowed by Applicable Law.

8.4.2 Suspension at Direction of Town. If the Town wishes to suspend or discontinue Services to a Customer for any reason, the Town shall send Company a written notice (email is acceptable as long as its receipt is acknowledged by Company) identifying the Customer's address and the date the Services should be suspended or discontinued. In the event of Service suspension, the Town shall provide additional email notification to Company if/when it wishes to reactivate the suspended Services. Upon receipt of a notice of reactivation, Company shall resume the Services on the next regularly scheduled collection day. The Town shall indemnify, defend, and hold Company harmless from any claims, suits, damages, liabilities or expenses (including but not limited to expenses of investigation and attorneys' fees) resulting from the suspension of discontinuation of any Services at the direction of the Town.

8.5 Audits.

8.5.1 Audit of Town Billings. With respect to any Services in which the Company's billing is dependent upon the Town's reporting of the number of addresses subject to this Agreement, the Town shall perform an audit at least once each year to confirm that all addresses receiving Services under this Agreement are actually being billed by the Town and that the Town's reporting on such addresses is accurate. The Town shall share all findings and documentation with respect to such audits with Company.

8.5.2 Audit of Company Records. The Town may request and be provided with an opportunity to audit any relevant and non-confidential records of Company that support the calculations of charges invoiced to the Town under this Agreement within the ninety (90) day period before the audit request. Such audits shall be at the Town's cost and expense ~~paid for by the Town and shall be~~ conducted under mutually acceptable terms at Company's premises in a manner that minimizes any interruption in the daily activities at such premises.

Commented [5]: The Town should be responsible for any costs of performing an audit.

9. Termination. If either party breaches any material provision of this Agreement and such breach is not substantially cured within thirty (30) days after receipt of written notice from the non-breaching party specifying such breach in reasonable detail, the non-breaching party may terminate this Agreement by giving thirty (30) days' written notice of termination to the breaching party. However, if the breach cannot be substantially cured within thirty (30) days, the Agreement may not be terminated if a cure is commenced within the cure period and for as long thereafter as a cure is diligently pursued. Upon termination, the Town shall pay Company only such charges and fees for the Services performed on or before the termination effective date and Company shall collect its equipment, and Company shall have no further obligation to perform any Services under this Agreement.

10. Compliance with Laws. Company warrants that the Services will be performed in a good, safe and workmanlike manner, and in compliance with all applicable federal, state, provincial and local laws, rules, regulations, and permit conditions relating to the Services, including without limitation any applicable requirements relating to protection of human health, safety, or the environment ("**Applicable Law**"). In the event any provision of this Agreement conflicts with an existing ordinance of the Town, this Agreement shall control and Company shall not be fined, punished, or otherwise sanctioned under such ordinance. Company reserves the right to decline to perform Services, which, in its judgment, it cannot perform in a lawful manner or without risk of harm to human health, safety or the environment.

11. Title. Title to Waste Material shall pass to Company when loaded into Company's collection vehicle or otherwise received by Company. Title to and liability for any Excluded Waste shall at no time pass to Company.

12. Excluded Waste. If Excluded Waste is discovered before it is collected by Company, Company may refuse to collect the entire Waste Container that contains the Excluded Waste. In such situations, Company shall contact the Town and the Town shall promptly undertake appropriate action to ensure that such Excluded Waste is removed and properly disposed of by the depositor or generator of the Excluded Waste. In the event Excluded Waste is present but not discovered until after it has been collected by Company, Company may, in its sole discretion, remove, transport, and dispose of such Excluded Waste at a facility authorized to accept such Excluded Waste in accordance with Applicable Law and charge the depositor or generator of such Excluded Waste for all direct and indirect costs incurred due to the removal, remediation, handling, transportation, delivery, and disposal of such Excluded Waste. The Town shall provide all reasonable assistance to Company to conduct an investigation to determine the identity of the depositor or generator of the Excluded Waste and to collect the costs incurred by Company in connection with such Excluded Waste. Subject to the Town's providing all such reasonable assistance to Company, Company shall release Town from any liability for any such costs incurred by Company in connection with such Excluded Waste, except to the extent that such Excluded Waste is determined to be attributed to the Town.

13. Specifications for all Recyclable Materials. Recyclable Materials shall comply with any and all specifications provided by Company in order to meet quality thresholds for commodity markets and be free of contamination. To the extent any type of Recyclable Material received within the Town limits is rejected by the recycling facility or is not of the intended quality or grade, Section 12 above will apply with such material being treated as Excluded Waste.~~Company will notify the Town and the Town shall pay any damages, costs, and penalties incurred by Company due to such rejection or lesser quality or grade, to include transportation and disposal costs for the residual material.~~ If market conditions develop that limit or inhibit Company from selling some or all of the Recyclable Materials, Company may (i) suspend or discontinue any or all Recycling services, or (ii) dispose of the Recyclable Materials in a landfill and request an update to the Town's rates accordingly, which the Town will approve with such approval not unreasonably withheld, conditioned, or delayed.

14. Equipment; Access. Any equipment that Company furnishes or uses to perform the Services under this Agreement shall remain Company's property. The Town shall be liable for all loss or damage to such equipment, except for normal wear and tear, or loss or damage resulting from Company's handling of the equipment. Town and Customers shall use the equipment only for its proper and intended purpose and shall not overload (by weight or volume), move, or alter the equipment. The Town shall fully reimburse Company for any and all claims resulting from personal injuries or death, or the loss of or damage to property (including the equipment) arising out of the use, operation, or possession of the equipment by the Town~~ or the Customers~~. If the equipment and/or Waste Material is not accessible so that the regularly scheduled pick-up cannot be made, such Waste Material will not be collected until the next regularly scheduled pick-up, unless the Customer calls Company and requests an extra pick-up, in which case an extra service charge will apply. Company shall not be responsible for any damages to any property or equipment located adjacent to the collection receptacles, nor to any pavement, curbing, or other driving surfaces resulting from Company's providing the Services under this Agreement, except to the extent caused by the Company's negligence or acts of willful misconduct.

15. Risk Allocation. Except as otherwise specifically set forth herein, each party shall be responsible for any and all claims for personal injuries or death, or the loss of or damage to property, only to the extent caused by that party's negligence or acts of willful misconduct or those of its employees, contractors, subcontractors, or agents.

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Commented [TA8]: Please clarify

16. Insurance. During the Term of this Agreement, Company shall maintain in force, at its expense, insurance coverage with minimum limits as follows:

Workers' Compensation

Coverage A	Statutory
Coverage B - Employers Liability	$1,000,000 each Bodily Injury by Accident $1,000,000 policy limit Bodily Injury by Disease $1,000,000 each occurrence Bodily Injury by Disease

Automobile Liability

Bodily Injury/Property Damage	$3,000,000
Combined – Single Limit	Coverage is to apply to all owned, non-owned, hired and leased vehicles (including trailers).
Pollution Liability Endorsement	MCS-90 endorsement for pollution liability coverage

Commercial General Liability

Bodily Injury/Property Damage	$2,500,000 each occurrence
Combined – Single Limit	$5,000,000 general aggregate

All such insurance policies will be primary without the right of contribution from any other insurance coverage maintained by Town. All policies required herein shall be written by insurance carriers with a rating of A.M. Bests of at least "A-" and a financial size category of at least VII. Upon Town's request, Company shall furnish Town with a certificate of insurance evidencing that such coverage is in effect. Such certificate will also provide for thirty (30) days prior written notice of cancellation to the Town, show the Town as an additional insured under the Automobile and General Liability policies, and contain waivers of subrogation in favor of the Town (excluding Worker's Compensation policy) except with respect to the sole negligence or willful misconduct of Town.

17. Force Majeure. Except for Town's obligation to pay amounts due to Company, any failure or delay in performance under this Agreement due to contingencies beyond a party's reasonable control, including, but not limited to, strikes, riots, terrorist acts, compliance with Applicable Laws or governmental orders, fires, bad weather and acts of God ("**Force Majeure Event**"), shall not constitute a breach of this Agreement, but shall entitle the affected party to be relieved of performance at the current pricing levels under this Agreement during the term of such event and for a reasonable time thereafter. The collection or disposal of any increased volume resulting from a flood, hurricane or similar or different Act of God over which Company has no control, shall not be included as part of Company's service under this Agreement. In the event of increased volume due to a Force Majeure Event, Company and the Town shall negotiate the additional payment to be made to Company. Further, the Town shall grant Company variances in routes and schedules as deemed necessary by Company to accommodate collection of the increased volume of Waste Materials.

18. Non-Discrimination. Company shall not discriminate against any person because of race, sex, age, creed, color, religion or national origin in its performance of Services under this Agreement.

19. Licenses and Taxes. Company shall obtain all licenses and permits (other than the license and permit granted by this Agreement) and promptly pay all taxes required by the Town and by the State.

20. No Guarantees or Liquidated Damages. Unless specifically provided herein, Company provides no guarantees or warranties with respect to the Services. No liquidated damages or penalties may be assessed against Company by Town.

21. Miscellaneous. (a) This Agreement represents the entire agreement between the Parties and supersedes all prior agreements, whether written or verbal, that may exist for the same Services. (b) Company shall have no confidentiality obligation with respect to any Waste Materials. (c) Neither party shall assign this Agreement in its entirety without the other party's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Company may assign this Agreement without the Town's consent to its parent company or any of its subsidiaries, to any person or entity that purchases any operations from Company or as a collateral assignment to any lender to Company. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their permitted successors and assigns. (d) Company may provide any of the Services covered by this Agreement through any of its affiliates or subcontractors, provided that Company shall remain responsible for the performance of all such services and obligations in accordance with this Agreement. (e) No intellectual property rights in any of Company's IP are granted to Town under this Agreement. (f) All provisions of the Agreement shall be strictly complied with and conformed to by the Parties, and this Agreement shall not be modified or amended except by written agreement duly executed by the undersigned parties. (g) If any provision of this Agreement is declared invalid or unenforceable, it shall be modified so as to be valid and enforceable but so as most nearly to retain the intent of the Parties. If such modification is not possible, such provision shall be severed from this Agreement. In either case, the validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected thereby. (h) Failure or delay by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. (i) If any litigation is commenced under this Agreement, the successful party shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses, and court or other costs incurred in such litigation or proceeding. (j) This Agreement shall be interpreted and governed by the laws of the State where the Services are performed. (k) Customer and Company agree that electronic signatures are valid and effective, and that an electronically stored copy of this Agreement constitutes proof of the signature and contents of this Agreement, as though it were an original.

IN WITNESS HEREOF, the parties have entered into this Agreement as of the date first written above.

TOWN OF LAKEWOOD VILLAGE	ALLIED WASTE SYSTEMS, INC. D/B/A REPUBLIC SERVICES OF LEWISVILLE
By:_____	By:_____
Name:_____	Name:_____
Title:_____	Title:_____
Date:_____	Date:_____

EXHIBIT A

GENERAL SPECIFICATIONS FOR SERVICES

1. WASTE MATERIAL/SERVICE TYPES. The following Waste Material/Service Types shall be considered in scope during the Term of this Agreement:

x Solid Waste	x Yard / Bulky Waste
x Recyclable Material	x Construction Debris

2. DEFINITIONS

2.1 Bags – Plastic sacks designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed 35 lbs.

2.2 Bin – Metal receptacle designed to be lifted and emptied mechanically for use primarily at selected Municipal Facilities and Large Commercial or Industrial Units.

2.3 Bulky Waste – Stoves, refrigerators (with all CFC and other refrigerants removed), water tanks, washing machines, furniture and other similar items, and, materials other than Construction Debris, Large Dead Animals, Hazardous Waste or Stable Matter with weights or volumes greater than those allowed for Bins or Containers, as the case may be. Bulky Waste shall not include any Excluded Waste.

2.4 Brush – Tree, shrub and brush trimmings or newspapers and magazines. Brush shall not include any Excluded Waste.

2.5 Container for Garbage, Rubbish & Yard Waste Collection – A receptacle with the capacities designated on the exhibits hereto that is designed for the purpose of curbside collection of Garbage, Rubbish and Yard Waste and is constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight-fitting lid. The mouth of a container shall have a diameter greater than equal to that of the base. The weight of a container and its contents shall not exceed 35 lbs.

2.6 Container for Recycling – A receptacle with the capacities designated on the exhibits hereto that is designed for the purpose of curbside collection of Recyclable Materials and is constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight-fitting lid. The mouth of a container shall have a diameter greater than equal to that of the base. The weight of a container and its contents shall not exceed 35 lbs.

2.7 Construction Debris – Waste building materials resulting from construction, remodeling, repair or demolition operations at a Residential Unit, Municipal Facility, or Large Commercial or Industrial Unit.

2.8 Customer – An operator or occupant of a Residential Unit, Industrial Permanent Unit, Industrial Temporary Unit, or a Municipal Facility who generates Garbage, Rubbish, Yard Waste or Recyclable Materials.

2.9 Disposal Site – A Waste Material depository designated by Company, including but not limited to sanitary landfills, transfer stations, incinerators, recycling facilities and waste processing/separation centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals to receive for processing or final disposal of Waste Material and Small Dead Animals.

2.10 Excluded Waste – Excluded Waste is all Bulky Waste (except as otherwise provided in this Agreement), Large Commercial and Industrial Refuse, Construction Debris, Large Dead Animals, Institutional Solid Waste, Hazardous Waste, Offal Waste, Stable Matter, Vegetable Waste, and Special Waste.

2.11 Garbage – Any and all Small Dead Animals; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of Excluded Waste.

2.12 Hazardous Waste – A form of Excluded Waste and is defined as any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or listed or characteristic Hazardous Waste as defined by federal, state, provincial or local law or any otherwise regulated waste. Hazardous Waste shall include, but not be limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and including future amendments thereto, and any other applicable federal, state or local laws or regulations.

2.13 Industrial Permanent Unit – A premise or location requiring Large Commercial and Industrial Refuse collection for a continuous term from a Bin (i.e., a compactor).

2.14 Industrial Temporary Unit – A premise or location requiring Large Commercial and Industrial Refuse collection on only a temporary basis from a Bin (i.e., a 20, 30 or 40 yard roll-off container). The collection time period is limited to a specific event or a short-term project.

2.15 Institutional Solid Waste – Solid waste originating from education, health care and research facilities such as schools, hospitals, nursing homes, laboratories and other similar establishments.

2.16 Large Commercial and Industrial Refuse – All Bulky Waste, Construction Debris, Garbage, Rubbish and Stable Matter generated at a Large Commercial or Industrial Unit.

2.17 Large Commercial or Industrial Unit – All premises, locations or entities, public or private, requiring Garbage and Rubbish collection within the corporate limits of Town that are not classified as a Residential Unit or Municipal Facility. Metal or plastic container 2 yards or larger.

2.18 Large Dead Animals – Animals or portions thereof equal to or greater than ten pounds (10 lbs.) in weight that have expired from any cause, except those slaughtered or killed for human use.

2.19 Multi-Family – The term multi-family shall refer to all residential dwelling units of more than one (1) unit considered to be condominiums, apartment houses or grouped housing.

2.20 Municipal Facilities – Means only those specific municipal locations agreed to by the parties.

2.21 Offal Waste – Waste animal (land or marine) matter from establishments such as butcher shops, slaughterhouses, food processing and packing plants, rendering plants and fertilizer plants.

2.22 Recycling – The collection of Recyclable Materials pursuant to this Agreement, including any delivery of, Recyclable Materials called for by this Agreement.

2.23 Recyclable Materials – The following items are classified as Recyclable Materials under this Agreement:

(a) Glass – Clean unbroken glass containers, bottles/jars.

(b) Cans – Clean aluminum, tin/steel containers.

(c) Newspaper – Clean, dry, unsoiled newspaper.

(d) Plastic – PETE & HDPE containers (milk jugs & soft drink containers)

2.24 Residential Unit – A dwelling within the corporate limits of the Town occupied by a person or group of persons comprising not more than four families. A Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of four or less contiguous or separate single-family dwelling units, shall be treated as a Residential Unit, except that each single-family dwelling within any such Residential Unit shall be billed separately as a Residential Unit. (For purposes of this Agreement, a Residential Unit shall include a Small Commercial Unit).

2.25 Rubbish – All waste wood, wood chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of Excluded Waste.

2.26 Small Commercial Unit - a small commercial business whose Garbage and Rubbish is placed in not more than three (3) thirty-two (32) gallon containers per collection day, including but not limited to, offices, stores, service stations, restaurants, amusement centers, schools, churches, etc. located within the boundaries of the Town.

2.27 Small Dead Animals – Animals or portions thereof less than ten pounds (10 lbs.) in weight that have expired from any cause, except those slaughtered or killed for human use.

2.28 Solid Waste – Useless, unwanted or discarded materials with insufficient liquid content to be free-flowing, that result from domestic, industrial, commercial, agricultural, governmental and community operations which require proper storage, collection, transportation and disposal to prevent environmental pollution inimical to public health, safety and welfare. Solid Waste does not include sewage, earth or material used to fill land in accordance with construction codes, mining residues, slag, dissolved or suspended solids in industrial waste water effluents which are not acceptable for disposal in sanitary sewage treatment system or any material included in the definition of Excluded Waste.

2.29 Special Waste – Any nonhazardous solid waste which, because of its physical characteristics, chemical make-up, or biological nature requires either special handling, disposal procedures including liquids for solidification at the landfill, documentation, and/or regulatory authorization, or poses an unusual threat to human health, equipment, property, or the environment. Special Waste includes, but is not limited to:

(a) Waste generated by an industrial process or a pollution control process;

(b) Waste which may contain residue and debris from the cleanup of spilled petroleum, chemical or commercial products or wastes, or contaminated residuals;

(c) Waste which is nonhazardous as a result of proper treatment pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 ("RCRA");

(d) Waste from the cleanup of a facility which generates, stores, treats, recycles or disposes of chemical substances, commercial products or wastes;

(e) Waste which may contain free liquids and requires liquid waste solidification;

(f) Containers that once contained hazardous substances, chemicals, or insecticides so long as such containers are "empty" as defined by RCRA;

(g) Asbestos containing or asbestos bearing material that has been properly secured under existing Applicable Law;

(h) Waste containing regulated polychlorinated biphenyls (PCBs) as defined in the Toxic Substances Control Act (TSCA);

(i) Waste containing naturally occurring radioactive material (NORM) and/or technologically-enhanced NORM (TENORM); and

(j) Municipal or commercial solid waste that may have come into contact with any of the foregoing.

2.30 Stable Matter – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

2.31 Waste Container – A Container for Garbage, Rubbish and Yard Waste or a Container for Recycling.

2.32 Waste Material – All nonhazardous, Solid Waste (including Garbage, Rubbish, Yard Waste and Recyclable Materials) generated at Residential Units and Municipal Facilities that is not excluded by this Agreement. Waste Material shall not include any Excluded Waste.

2.33 Vegetable Waste – Putrescible solid waste resulting from the processing of plants for food by commercial establishments such as canneries. This definition does not include waste products resulting from the preparation and consumption of food in places such as cafeterias and restaurants.

2.34 Yard Waste – Grass, leaves, flowers, stalks, stems, tree trimmings, branches, and tree trunks. For yard waste collection services, grass, pine needles, leaves, flowers, stalks, stems, and small tree trimmings (less than two (2) feet in length and less than two (2) inches in diameter) shall be in a container, bag or box the weight of which shall not exceed thirty-five (35) pounds. Larger tree trimmings shall be laid neatly in piles at curbside. The maximum weight of any item placed out for yard waste collection shall be thirty-five (35) pounds. Branches in excess of two (2) feet in length may, but are not required to be, in a container, bag or box. Company shall be obligated to collect no more than one container (or their equivalent) per month from each Residential Unit. Any collections needed by a Residential Unit in excess of such amount must be individually contracted by the Residential Unit Customer with Company under terms, prices and documents acceptable to both the Residential Unit Customer and Company.

3. COLLECTION OPERATIONS – GENERAL PROVISIONS

3.1 Location of Containers, Bags and Bundles for Collection. Each Container, Bag and Bundle shall be placed at curbside for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled Town roadways. Containers, Bags and Bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, Containers, Bags and Bundles shall be placed as close as practicable to an access point for the collection vehicle. Company may decline to collect any

Container, Bag or Bundle not so placed or any Waste Material not in a Container, Bag or Bundle as specified in the applicable Exhibit hereto.

3.2 Hours of Operation. Collection of Waste Material shall not start before 5:00 A.M. or continue after 8:00 P.M. Exceptions to collection hours shall be effected only upon the mutual agreement of the Town and Company, or when Company reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

3.3 Routes of Collection. Collection routes shall be established by the Company. Company shall submit the Residential Unit and Municipal Facilities collection routes to the Town at least two (2) weeks in advance of the commencement date for such route collection activity. The Company may from time to time make changes in routes or days of collection affecting Residential Units or Municipal Facilities, provided such changes in routes or days of collection are submitted to the Town at least two (2) weeks in advance of the commencement date for such changes. Town shall promptly give written or published notice to the affected Residential Units.

3.4 Holidays. The following shall be holidays for purposes of this Agreement: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Company may suspend collection service on any of these holidays, but such decision in no manner relieves Company of its obligation to provide collection services for Solid Waste at least once per week and Recycling Services every other week.

3.5 Complaints. All service-related complaints must be made directly to the Company and shall be given prompt and courteous attention. In the case of alleged missed scheduled collections, the Company shall investigate and, if such allegations are verified, shall arrange for the collection of Waste Material not collected within one business day after the complaint is received.

3.6 Collection Equipment. The Company shall provide an adequate number of vehicles meeting standards and inspection requirements as set forth by the laws of the State for regular municipal waste collection services. For Waste Material collection, all vehicles and other equipment shall be kept in good repair and appearance at all times. Each vehicle shall have clearly visible on each side the identity and telephone number of the Company.

3.7 Disposal. All Waste Material, other than Recyclable Material, collected within the Town under this Agreement shall be deposited at any Disposal Site, selected by the Company, properly authorized by the State.

3.8 Delivery. All Recyclable Material collected for delivery and sale by the Company shall be hauled to a processing facility selected by the Company. The charge for processing shall be included in the rates set forth in Exhibit B, subject to rate adjustments as provided in the Agreement.

3.9 Customer Education. The Town shall notify all Customers at Residential Units about set-up, service-related inquiries, complaint procedures, rates, regulations, and day(s) for scheduled Waste Material and Recyclable Material collections.

3.10 Litter or Spillage. The Company shall not litter premises in the process of making collections, but Company shall not be required to collect any Waste Material that has not been placed in approved containers. During hauling, all Waste Material shall be contained, tied or enclosed so that leaking, spillage or blowing is minimized. In the event of spillage by the Company, the Company shall be required to clean up the litter caused by the spillage.

3.11 Bulk & Brush Waste Collection. The Company shall collect Bulky & Brush Waste on a quarterly basis, pursuant to a schedule mutually agreed to by the Company and Town.

3.12 Sludge Hauls. The Town shall contact the Company's customer service representative to request a sludge haul. The Company shall collect the sludge within seventy-two (72) hours of the sludge haul request made pursuant to this Section 3.12. If the Company does not collect the sludge within such 72-hour time period, the Town will only be responsible to pay half (1/2) of the "Bio Solid Waste Removal Services" on Exhibit B.

EXHIBIT B

PRICING

RATE SCHEDULE
EFFECTIVE January 1, 2020

		Year 1	Year 2	Year 3	Year 4	Year 5
RESIDENTIAL		**$ 20.50**	**$ 20.50**	**$ 22.04**	**$ 22.04**	**$ 23.69**
Solid Waste: 2 Carts one time per week -	**Blue Cart**					
Recycle: 1 Cart every other week -	**Green Cart**					
Brush & Bulk Quarterly February, May, August, & November						
Extra Trash Cart		**$ 7.28**				
Landfill Use Charge for Residents		**$ 8.20**				
Bio Solid Waste Removal Service		**$ 730.00**				
Clean Up - Four 30yd containers 2 x per year						

Commented [9]: Flat fee?

INDUSTRIAL

Haul Rate	$510.00
Rental / Daily	$6.25
Delivery Charge	$133.50

* 8 ton limit on haul rate. Any additional tons over 8 will be charged at current landfill rates.

**All rates are subject to adjustment as provided for in the Agreement.

DRAFT

OUTDOOR LIGHTING ORDINANCE

TOWN OF LAKEWOOD VILLAGE, TEXAS

As Adopted by Ordinance No.XX-XX

Date

Town of Lakewood Village

Ordinance xx-xx

AN ORDINANCE OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, REGULATING OUTDOOR LIGHTING FIXTURES; PRESCRIBING PENALITIES FOR VIOLATIONS OF THE PROVISIONS OF THE ORDINANCE, PROVIDING SAVINGS AND REPEALER CLAUSE; SEVERABILITY CLAUSE; PROPER NOTICE AND MEETING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council desires to create a new Outdoor Lighting Ordinance that provides for safe and attractive lighting of private and public property within its town limits; and

WHEREAS, the Town of Lakewood Village may have new residential developments in the future and the Town Council believes that a consistent and definitive outdoor lighting ordinance will enhance the unique character of the Town; and

WHEREAS, the Town of Lakewood Village is adjacent to the Lake Lewisville wildlife conservation area maintained by the United States and seeks to help protect the natural habitat that depends on the natural cycle of day and night for survival; and

WHEREAS, the Town Council seeks to preserve and protect the night-time environment and the heritage of dark skies through responsible outdoor lighting; and

WHEREAS, the Town Council seeks to prevent light pollution, including glare, sky glow, light trespass, obtrusive light and energy waste that will protect the health and welfare of the Town's residents, reduce lighting expenses and prevent lighting that would be offensive to neighboring properties; and

WHEREAS, the Town Council desires to maintain the value of the Town's scenic and natural resources which are key to the Town's quality of life; and

WHEREAS, the Town Council desires to promote sound environmental policies which benefit the Town's residents and serve as a positive example for surrounding municipalities.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS:

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

Section 1. Definitions

For the purposes of this ordinance, terms used shall be defined as follows:

Adaptive Controls - Devices such as timers, motion sensors and light-sensitive switches used to actively regulate the emission of light from light fixtures.

Applicant - A property owner, tenant or duly authorized agent or representative of the property owner who submits an application for approval required by this ordinance.

Area Lighting - Light fixtures located on public or private property that are designed to light spaces including but not limited to parks, parking lots and nature areas.

ANSI - The American National Standards Institute is a private, non-profit organization that administers and coordinates the U.S. voluntary standards and conformity assessment system.

Barn Light - Commonly referred to as a dusk-to-dawn light and is generally unshielded and used in rural applications.

Bulb - A light-emitting device or a structure containing a light source that includes but is not limited to a lamp; also referred to as a "lamp".

Correlated Color Temperature (CCT) - A specification of the color appearance of the light emitted by a lamp, relating its color to the color of light from a reference source when heated to a particular temperature, measured kelvins (K).

Curfew - A period of time at night during which lighting must be significantly dimmed in output or extinguished in accordance with an expected decrease in human presence.

Existing Light Fixtures - Those outdoor light fixtures already installed on the date this ordinance is effective.

Exterior Lighting - Temporary or permanent lighting that is installed, located and used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors and intended to light something outside are considered exterior lighting.

Fixture - An outdoor lighting assembly containing one (1) or more lamps including any lenses, reflectors and shields designed to direct the light in a defined manner.

Floodlight - A light fixture having a wide beam.

Fully Shielded Fixture – A light source screened and its light directed in such a way that none is emitted above the horizontal plane passing through its lowest light-emitting part.

Glare - Lighting entering the eye directly from luminaries or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

Holiday Lighting - Temporary outdoor lighting decorations installed to celebrate a holiday.

IES - The Illuminating Engineering Society (formerly IESNA) is a recognized authority on lighting best practices and standards; a professional society of lighting engineers, including those from manufacturing companies, and others professionally involved in lighting.

IDA - International Dark-Sky Association.

Illuminated Sign **-** Any informational or advertising sign that is illuminated by either internal or external means.

Initial Lamp Lumens - The number of lumens of light emitted by a lamp when new and not counting any depreciation of output due to the age of the lamp. This information can be found in manufacturer data sheets.

LED - Light emitting diode.

Light Fixture - The assembly that holds or contains a lamp or bulb and includes elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing and the attachment parts.

Light Pollution - Any and all nuisances caused by the adverse effect of manmade light, including, but not limited to, glare, light trespass, sky glow, visual clutter and energy waste, due to excessive or unnecessary artificial light that unnecessarily diminishes the night sky.

Light Trespass - Unwanted light falling on public or private property from any location external to that property; generally caused by a light on a property that shines on the property of others.

Lumen - A unit of measure that identifies the amount of light emitted per second into a solid angle of one steradian from a uniform source of one candela.

Luminance - Light that reaches a surface and other objects; the density of luminous flux incident on a surface measured in lux or foot-candles.

Luminaire **-** The complete lighting unit (fixture) consisting of a lamp, or lamps and ballasts, together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps and to connect the lamps to the power supply.

Lumens Per Acre - The total number of initial lumens produced by unshielded lamps utilized in outdoor lighting on a property by the number of acres.

Major Addition **–** An addition/enlargement of 25% or more of the building's gross square footage either with a single construction project or cumulative series of construction projects after enactment of this ordinance. Definition also includes replacement of 25% or more of installed outdoor lighting.

Nit - A unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter. A nit is a common unit of luminance in both the outdoor lighting and outdoor advertising industries.

Non Conforming - A structure and outdoor lighting that was installed before the effective date of this ordinance and does not conform to the standards imposed by this ordinance.

Opaque - Material that does not transmit light from the internal illumination source. The color of such opaque backgrounds is not restricted.

Outdoor Lighting - Night-time illumination of an outside area or object by any man-made device that is located outdoors and produces light.

Parapet - A barrier which is an extension of the wall at the edge of a roof, terrace, balcony, walkway or other structure.

Partially Shielded - A fixture shielded in such a manner that no more than 10% of the light emitted directly from the lamp or indirectly from the fixture is projected at an angle above the horizontal.

Private Outdoor Lighting - Light fixtures located on property owned or controlled by individual persons or families.

Public Outdoor Lighting - Light fixtures located on property owned, or controlled by the Town or other governmental entity or entities, including but not limited to streets, highways, alleys, easements, parking lots, parks, playing fields, schools and institutions of higher learning.

Property Line - The edges of the legally-defined extent of a property.

Recessed - When a light is built into a structure or portion of a structure such that the light is fully shielded and no part of the light extends or protrudes beyond the undersides of a structure or portion of a structure.

Replacement Lighting - Lighting installed specifically to replace existing lighting that is sufficiently broken beyond repair.

Sag-lens/Drop-lens - Clear or prismatic refracting lens that extends below the lowest opaque portion of a light fixture.

Searchlight - Any light fixture having a narrow beam intended to be seen in the sky by an observer on the ground.

Sky Glow - The brightening of the nighttime sky caused by the scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Sky glow is caused by light directed or reflected upwards or sideways and reduces one's ability to view the night sky.

Spotlight - A narrow strong beam of light that can be directed to illuminate a small area.

Street Lighting - Lighting provided for major, collector and local town roads, as well as sidewalks and bikeways, where pedestrians and cyclists are generally present.

Temporary Outdoor Lighting - Lighting installed and operated for periods not to exceed 60 days, completely removed and not operated again for at least 30 days.

Up Lighting - The most commonly used technique to illuminate structures or parts of structures, trees, walls, waterfalls, fountains and other outdoor objects above the horizontal plane. Light fixtures are ground-mounted and directed upwards, away from the viewer to prevent glare.

Unshielded - Any fixture which, as designed or installed, emits all or part of the light above the lowest part of the light fixture.

Wall Pack - A type of floodlight mounted on the wall of a building or other structure.

Watt **-** The unit used to measure the electrical power consumption (not the light output of a lamp.

Section 2. General

A. All new and replacement private and public outdoor lighting installed after the date of effect of this ordinance shall comply with its provisions.

B. The town shall change and install all new public outdoor lighting within the city rights of way and on city owned property to meet the requirements of this ordinance when luminaries expire.

C. New public outdoor lighting, including street lighting, shall make use of timers, dimmers, motion sensors and other adaptive controls and shall be substantially dimmed or extinguished by 12 A.M., unless public safety concerns demand otherwise.

D. All outdoor lighting installed on private properties that is affixed to a construction project for which a building permit is required shall conform to the standards established by this ordinance.

E. The Town Council may amend this ordinance from time to time as local conditions change and as changes occur in the recommendations of nationally recognized organizations, such Illuminating Engineering Society (IES) and the International Dark-Sky Association (IDA).

F. Nothing in this ordinance shall be construed as limiting the right of any person or entity to pursue legal action against any other person or entity under any applicable law, including the doctrine of light trespass as a form of private nuisance.

G. *Attachment A* includes examples of unacceptable/not compliant and acceptable/ compliant outdoor lighting fixtures.

Section 3. Existing Light Fixtures

A. All public and private outdoor lighting fixtures shall be brought into compliance within ten (10) years of the effective date of this ordinance. The town will assist property owners and/or occupants to correct any nonconforming lighting through consulting with the owner.

B. If more than 50% of the total appraised value of a structure (as determined from the records of the county's appraisal district) has been destroyed, the structure's existing light fixtures must be removed and shall only be replaced with fixtures that meet outlined standards herein.

C. All existing private outdoor lighting located on a property that is part of a building permit for a major addition/enlargement of 25% or more of the building gross square footage either with a single construction project or cumulative series of construction projects is required to be brought into conformance with this ordinance before final inspection or issuance of a certificate of occupancy. The applicant shall have a maximum of 180 days from the date of the permit issuance to bring the lighting into conformance.

D. A nonconforming structure shall be deemed abandoned if the structure remains vacant for a continuous period of six (6) months. In that instance, the structure's existing outdoor lighting must be removed and may only be replaced in conformity with the standards of this ordinance.

Section 4. General Outdoor Lighting

A. Lighting at public and private outdoor sports/recreational facilities, including but not limited to playing fields, arenas, tennis courts, play grounds, tracks and swimming pools, shall be shielded such that no light-emitting part of fixtures is visible from any other property and shall provide levels of luminance consistent with IES "Recommended Practice for Sports and Recreational Area Lighting," (IES RP-6-01) or current successor recommendations. Sports lighting shall furthermore cease upon conclusion of scheduled events or 12A.M. (whichever occurs first).

B. Strobe lights on communication towers and other lights for aerial navigation that are required by the Federal Aviation Administration (FAA) during daytime hours are permitted. Other required night navigational lights shall not be brighter than the minimum required by the FAA.

C. Outdoor lighting fixtures using lamps or bulbs, regardless of the number of bulbs and level of initial lamp lumens, shall not exceed 3,000 kelvins and meet the following:

Initial Lamp Lumens	Shielding Requirements
>1,500	Fully
<1,500	None

D. All existing and/or new private and public outdoor lighting shall not cause light trespass and shall protect properties from glare and excessive lighting. Outdoor lighting fixtures shall be sufficiently shielded and aimed such that spillage of light onto adjacent properties is minimized and glare from the light emitting and/or reflecting parts of a luminaire is not visible from an adjacent property.

E. Sag-lens, drop-lens and mercury vapor fixtures are prohibited.

F. Searchlights, beacons, laser source and other high-intensity fixtures are prohibited. Additionally, except as otherwise allowed, any lighting that is flashing, blinking, rotating, chasing or rapidly changing in color or intensity is also prohibited.

G. The installation of any barn light fixture for use as outdoor lighting is prohibited unless the fixture includes a full opaque reflector instead of the standard translucent lens.

H. Outdoor up lighting is prohibited, except in cases where the fixture is shielded by a roof overhang or similar structural shield that will not cause light to extend beyond the structural shield.

I. Up lighting and down lighting of flagpoles on public or private property is permitted:

1. Flagpoles illuminated from below are limited to a height of 25 feet above ground level and shall be illuminated with a single spot-type fixture whose maximum initial output is 52 lumens per foot of height, measured from the light fixture to the top of the flagpole. The maximum output shall be 1,300 lumens and 3,000 kelvins. The fixture shall be mounted perpendicular to the flag pole and the light outputs shall point straight up at the flag.

2. Flagpoles illuminated from above shall utilize a single light fixture, not to exceed 800 initial lamp lumens and 3,000 kelvins, attached to the top of the flagpole.

3. If the flag of the United State of America is displayed during the hours of darkness it should be illuminated as recommended in the United States Flag Code (36 U.S.C. Paragraphs 173, 174).

Section 5. <u>Outdoor Signs</u>

A. The luminous/illuminated surface of individual outdoor sign shall not exceed 200 square feet (18.6 square meters).

B. Outdoor signs may be unlighted, lighted externally, lighted internally or backlit. All sign lighting must be designed and shielded in such a manner that the light source is not visible beyond the property boundaries where the sign is located. Lighting for signs must be directed such that only the sign face is illuminated. All lighted signs must have stationary and constant lighting.

1. Externally Illuminated Signs

a. In addition to meeting requirements in Section 3, lighting must be aimed and shielded so that light is directed only onto the sign face and does not trespass onto adjacent streets, roads, properties or into the night sky.
b. Lighting must be mounted at the top of the sign.

2. Internally Illuminated Signs-Lighting Is Visible On Both Sides of Sign:

a. Only sign copy areas and logos may be illuminated.
b. Signs shall use semi-opaque materials for sign copy such that the light emanating from the sign is diffused. Transparent or clear materials are not allowed for sign copy. Non copy portions of the sign (e.g., background and graphics) shall be made of completely opaque material.

3. Backlit Illuminated Signs-Only One Side of Sign Lit:
a. Signs shall be designed such that the light source is not visible.

b. Signs shall be designed such that harsh, direct illumination does not emanate from the sign. Rather, the backlighting shall only allow indirect illumination to emanate from the sign. For example, signs that create a "halo" effect around sign copy are allowed.
c. Signs shall be constructed with a non white background and utilize opaque letters and symbols such that the light emanating from the sign is diffused.

C. Digital Electronic Message Signs with intermittent, scrolling or flashing illumination are permitted only at town administration buildings and educational facilities and are subject to the following:

1. Any changes to the face or copy of the sign must have a minimum of eight (8) second interval between changes.

2. Between the hours of 12 A.M. - 6 A.M. except for time and temperature:
a. There shall be no changes to the face or copy of the sign; and
b. The background must be darker than the text.

3. LED/electronic message displays are subject to the following:
a. Between the hours of 12 A.M. - 6 A.M. signs shall not exceed the maximum illumination level of 100 nits as measured under conditions of a full white display.
b. Signs shall be equipped with photo cell sensors that are factory locked to adjust the sign to an appropriate light level during daylight hours and dim the sign at night to the required nit level as stated previously.
c. The electronic message portion of the sign shall not have a white background.
d. Signs shall include timers that automatically turn off the digital display.

Section 6. <u>Public Right of Way (Street) Lighting</u>

A. All residential streetlights shall be fully shielded fixtures of approved historical design, and shall be limited to 1,125 lumens and non residential streetlights to 1,500 lumens unless otherwise specified by the IES "American National Standard Practice for Roadway and Street Lighting" (IES RP-8-14) guidelines.

B. Adaptive controls shall be utilized that automatically extinguish street lighting, when sufficient daylight is available using a control device or system such as photoelectric switch or equivalent functions from a programmable lighting controller.

C. All area lighting, parking area lighting, and lighting of recreational facilities shall be level mounted and fully-shielded. Allowable luminance values from IES recommended practices shall be utilized.

D. Freestanding luminaries shall be no higher that twenty-five feet (25') above the stand/pole base, except fixtures used for playing fields shall be exempt from height

restrictions. Building mounted luminaries shall be attached only to walls and the top of the fixture shall not exceed the height of the parapet or roof, whichever is greater.

Section 7. <u>Requirements for New Outdoor Lighting Facilities</u>

A. New public outdoor lighting facilities shall adhere to the following requirements:

1. All town-owned outdoor lighting including street lighting shall employ fully-shielded fixtures in order to limit light trespass.

2. When new town-owned buildings and other facilities are constructed, or new town right-of-way are established, the installation of new outdoor lighting fixtures shall be allowed only when (a) specific need related to a hazardous nighttime situation is identified by the town, or (b) lighting is deemed necessary as a matter of ensuring the town's public health, safety and welfare.

3. When existing town-owned buildings, other facilities and town right-of-way are modified by physical alterations and/or by a change of use, the installation of new outdoor lighting fixtures beyond existing installations shall be allowed only when (a) a specified need related to a hazardous nighttime situation is identified by the town, or (b) lighting is deemed necessary as a matter of ensuring public health, safety and welfare, as is in the best interest of the town.

4. In the event of the establishment of any new residential subdivision where street right-of-ways will be dedicated to the town, the town shall not allow the installation of street lights, except in the case of replacing existing nonconforming street lights. However, in cases where it is determined that street lighting is deemed necessary in public right-of-ways for the health, safety or welfare of pedestrians, bicyclists and/or motorists, the installation of street lighting shall be permitted. All street lighting shall be (a) fully shielded, (b) meet correlated color temperature requirements, (c) make use of appropriate adaptive controls, and (d) be subject to curfews as directed by the Town Council. A street lighting plan specifying the number and approximate location of street lights and style of fixture shall be included in the final plat and approved by the Town Council.

Section 8. <u>Levels of Luminance Required or Permitted at Specific Facilities</u>

A. For locations and facilities not specified herein, the Town Council shall set acceptable levels of luminance based of IES guidelines.

B. The total unshielded outdoor light output (excluding governmental owned streetlights used for illumination of public rights-of-way and outdoor recreation facilities) of any developed residential property shall not exceed 10,000 lumens per acre.

C. The total unshielded outdoor light output (excluding governmental owned streetlights used for illumination of public rights-of-way and outdoor recreation facilities) of any developed public or private non residential property shall not exceed 25,000 lumens per acre.

D. Outdoor multi-directional aerial sports (baseball, basketball, football and soccer) shall not exceed 100,000 net lumens per acre including any shielded lighting. Such lighting shall make appropriate use of adaptive controls when possible.

Section 9. <u>Outdoor Lighting Projects</u>

A. All subdivision and building permit applications shall include an outdoor lighting plan which includes the following information:

1. Location, type, height, color temperature, lumens output, shielding planned and amount of all proposed and existing fixtures. The applicant shall provide enough information to verify that lighting conforms to this ordinance.
2. Manufacturer's specification sheets for illustrations, such as contained in a manufacturer's catalog cuts for all existing and proposed light fixtures.
3. A table showing the amount of proposed outdoor lights by fixture, wattage, lumens and lamp type.

B. A building official and/or administrator shall review the lighting plan taking into account the factors above and shall approve or reject the plan within 30 days of submission, returning it to the applicant with an explanation for the decision. The applicant shall not undertake the outdoor lighting project until the lighting plan is approved. If required, additional information may be requested.

C. Upon receipt of residential building permit applications, the town shall provide the homebuilder/applicant with educational materials about this ordinance. The town's submission of educational materials shall be prima facie evidence that the applicant has received notification of the provisions of this ordinance.

D. Verification that a residential or non residential project has complied with the provisions of this ordinance shall occur during the final electrical inspection by the town building inspector.

E. In the event work is not being performed in accordance with this ordinance, the building inspector shall issue a stop-work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.

F. Variance requests shall be submitted to the Town Council for approval/ disapproval by simple majority vote. In considering requests for variance the Major and Town Council shall consider the following criteria:

1. The degree to which compliance will cause undue hardship for the applicant; and

2. The degree to which the requested variance will result in a non-compliant fixture; and

3. The amount of time the requested variance will be in effect before the fixture comes into compliance; and

4. The degree to which approval of the variance would set a precedent for other such requests; and

5. The effect the variance might have on efforts by the town to attain and/or retain recognition such as a Dark Sky Community or other similar designation.

Note: Applicants requesting a variance must demonstrate under hardship caused by unique circumstances of the property making it impossible to literally comply with the standards of this ordinance. Financial concerns do not comprise a hardship under this ordinance.

Section 10. Exceptions

A. Temporary outdoor holiday lighting decorations shall be permitted from November 15 to January 15. Temporary outdoor holiday lighting decorations for other holidays shall also be permitted for a seven day period before a holiday and shall be removed within one week after the holiday. Such lighting shall be minimized after 12 A.M.

B. Lighting required by local, state or federal law; for example, motor vehicles.

C. Temporary emergency lighting needed during activities of law enforcement, fire and other emergency services.

D. Lighting employed during emergency repairs of roads and utilities may be unshielded provided the lights are positioned so they do not shine in the eyes of passing drivers.

E. Temporary lighting required to save life or property from imminent peril.

F. Outdoor lighting for which light is produced directly by the combustion of fossil fuels.

Section 11. Enforcement and Penalties

A. ***Enforcement*** - The town shall have the power to administer and enforce the provisions of this ordinance as may be required by governing law. Any person or entity violating any provision of this ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations.

B. ***Resolution*** – If, after investigation, town officials find that any provision of this ordinance is being violated, notice shall be given by hand delivery or certified mail, return receipt requested, of such violation to the owner and/or the occupant of such premises, demanding that the violation be abated within thirty (30) days of the date of hand delivery or of the date of mailing of the notice. Town officials shall be available to assist in working with the violator to correct such violation. If the violation is not abated within the thirty (30) day period, town officials may institute actions and proceedings, either legal or equitable, to enjoin, restrain or abate any violations of the ordinance and to collect the penalties for such violations.

C. ***Public Nuisance*** - Any violation of this ordinance that results in light trespass or an unreasonable interference with the common and usual use of neighboring property is

hereby declared to be a public nuisance, which is prohibited. It is an offense for a person to emit light onto the property of another unreasonably interfering with the neighboring property owner's use and enjoyment of their property.

D. ***Penalty***- It shall be an offense for a person/entity to fail to comply with the standards set forth in this ordinance within 30 days after notice is mailed to them. Any person violating any provision of this ordinance shall, upon conviction, be fined a sum not exceeding one hundred dollars ($100.00), except as may be otherwise expressly provided by state law. Each day that a provision of this ordinance is violated shall constitute a separate offense. An offense under this ordinance is a Class C misdemeanor.

E. ***Civil Remedies***-Nothing in this ordinance shall be construed as a waiver of the town's right to bring a civil action to enforce the provisions of this ordinance and to seek remedies as allowed by law and equity, including, but not limited to the following:

1. Injunctive relief to prevent specific conduct that violates this ordinance or to require specific conduct that is necessary for compliance with this ordinance;
2. Notification, intervals, follow-up and enforcement of violations shall follow established procedures utilized for other code violations.
3. A civil penalty up to five hundred dollars ($500.00) for each day a violation occurs, when it is shown that the defendant was actually notified of the provisions of this ordinance and after receiving notice committed acts in violation of this ordinance or failed to take action necessary for compliance with this ordinance; and other relief as directed by a court with jurisdiction over the matter.

Section 12. Savings / Repealing Clause

All ordinances or parts of ordinances that are in conflict with the provisions of this ordinance, and the same are hereby repealed and all other ordinances of the town not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 13. Severability

A. Unconstitutional or Invalid Section

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

B. Independent Sections

The town hereby declares that it would have this ordinance, and each section, subsection, clause or phrase thereof irrespective of any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

Section 14. Proper Notice and Meeting

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

Section 15. Effective Date

This ordinance shall become effective from and after its date of passage and publication as provided by law.

ADOPTED AND APPROVED by the Town Council of Lakewood Village, Texas this ___day of _____, _____.

_____

Dr. Mark E. Vargus
Mayor

ATTEST:

_____

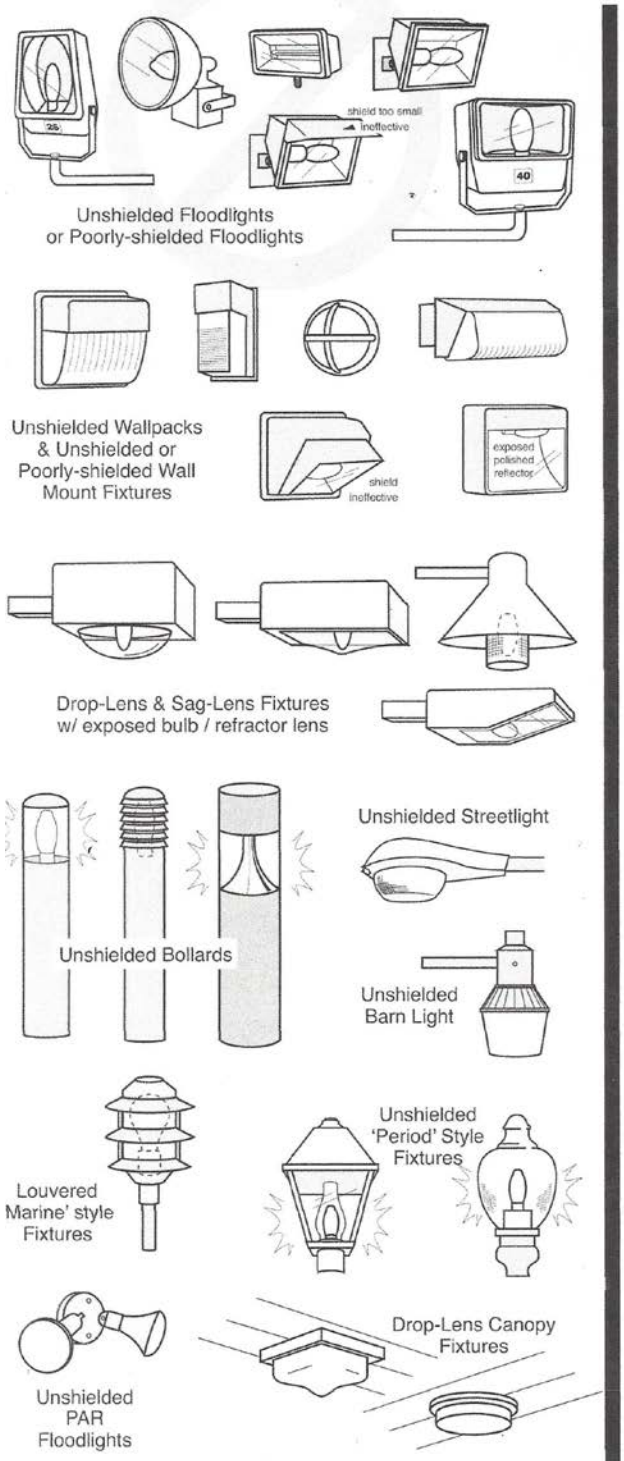
Linda Asbell, TRMC, CMC
Town Secretary

Attachment A

Examples of Acceptable & Unacceptable Lighting Fixtures

Unacceptable/Not Compliant

Fixtures that produce glare and light trespass



Acceptable/Compliant

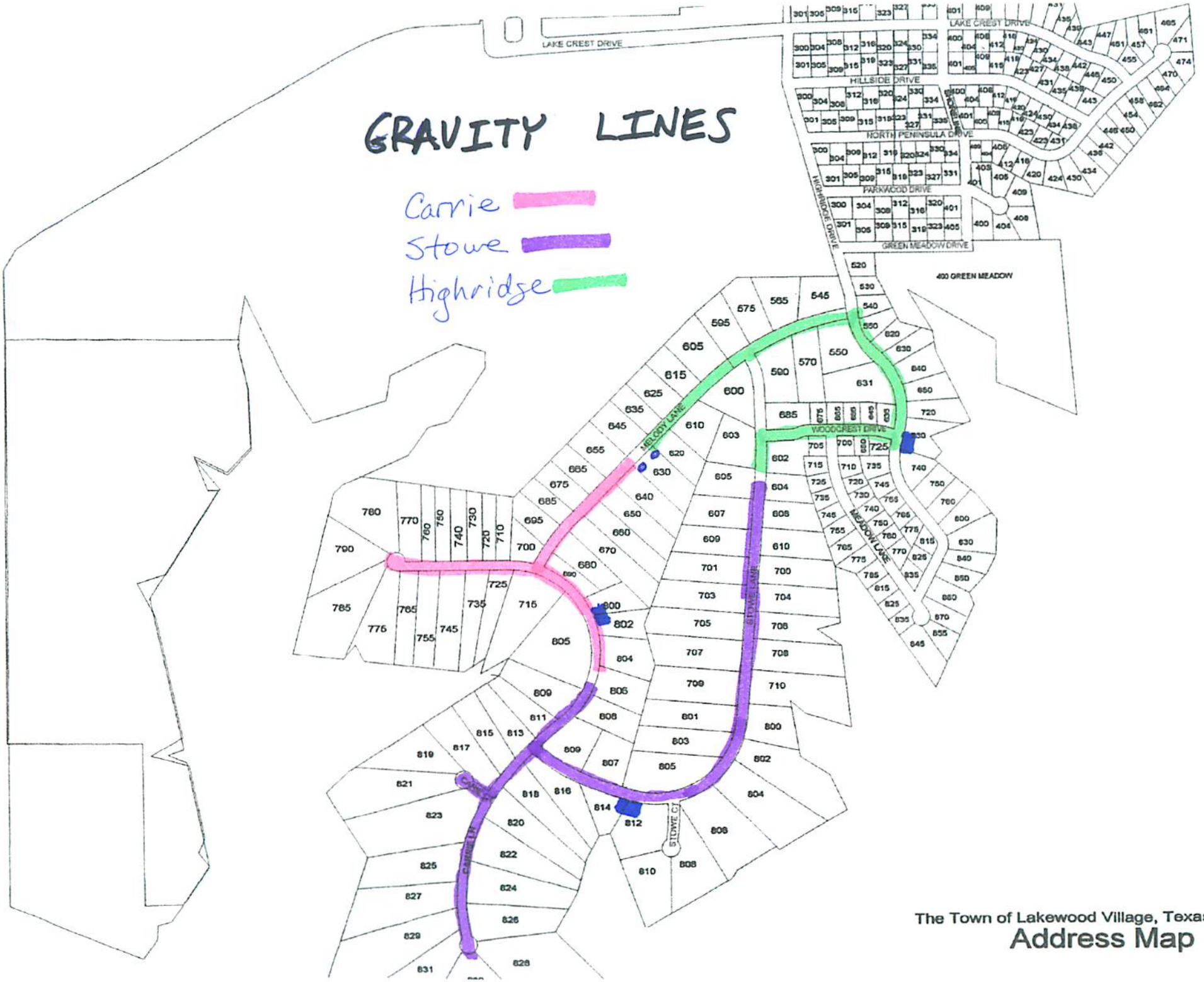
Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night

©Bob Crelin • BobCrelin.com

Sewer System

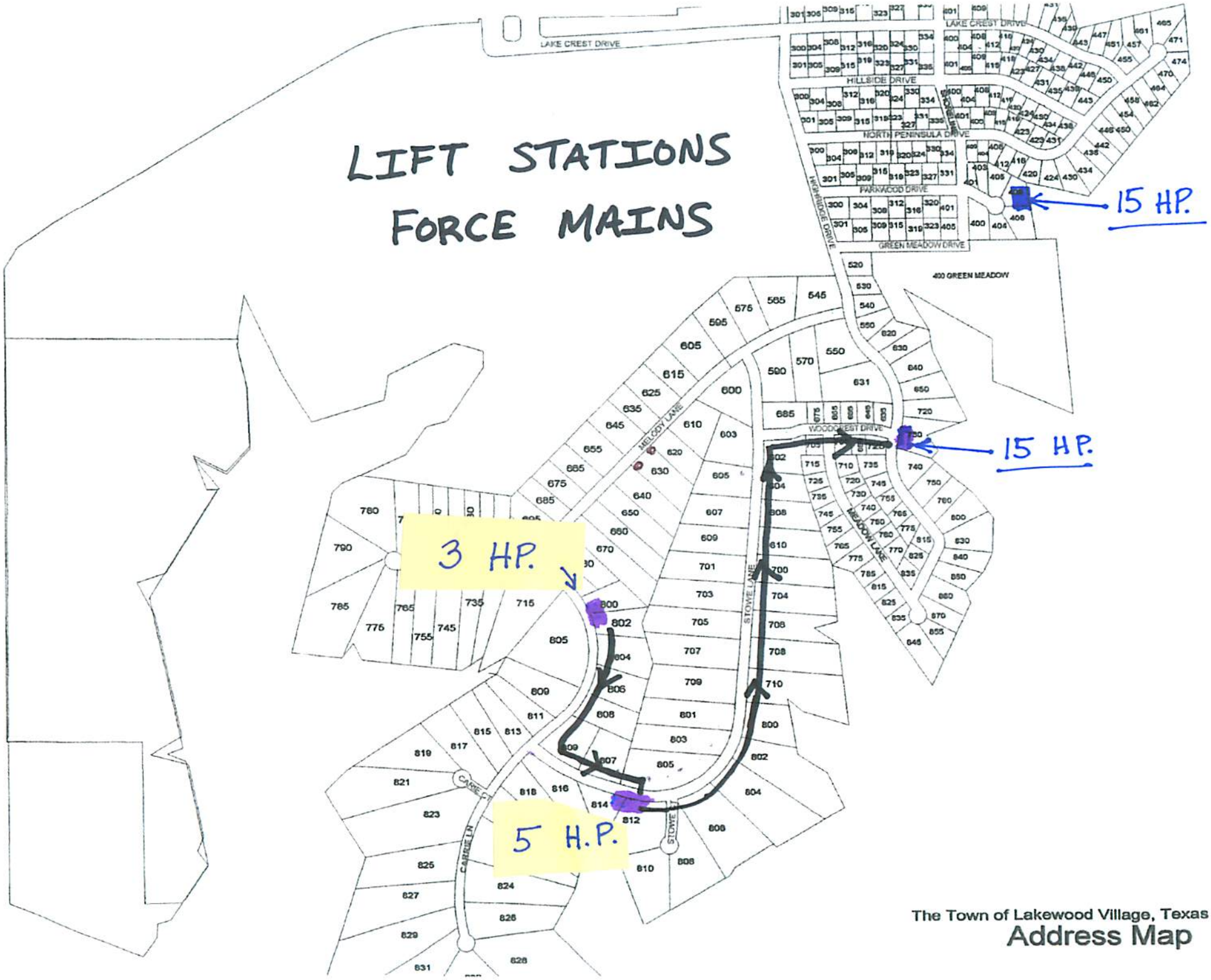
Maps:

Sewer Gravity Lines,
Lift Stations,
Force Mains



The Town of Lakewood Village, Texas
Address Map

LIFT STATIONS
FORCE MAINS



The Town of Lakewood Village, Texas
Address Map

LITTLE ELM SERVICES INC.
3082 TURTLE POND
LITTLE ELM, TX 75068
(214)695-3506
lesplumbing02@aol.com

ESTIMATE

ADDRESS
Town Of Lakewood Village
100 Highridge Dr.
Lakewood Village, Tx. 75068

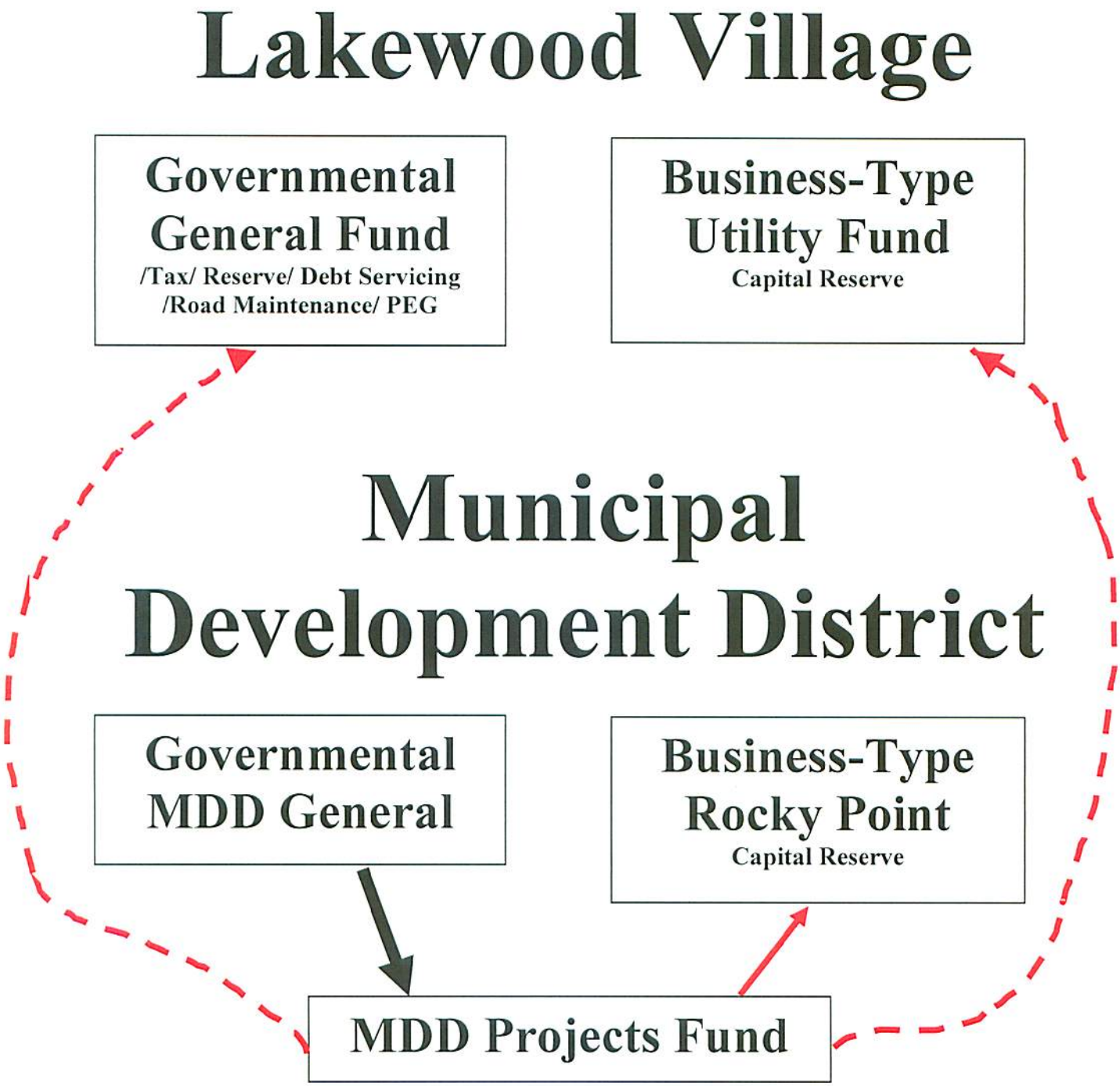
ESTIMATE # 1028
DATE 01/08/2019

ACTIVITY	QTY	RATE	AMOUNT
14 Plumbing Install a underground sewer pressure line from lift station on Carrie lane to manhole on Melody. Purpose for proposed relocation is to relieve pressure on Stowe lift station. Approximately 1600 feet from Lift station to manhole.	1,300	20.00	26,000.00
03 Excavation Eight driveway crossing require boring to install pressure sewer line. Option for outside boring contractor.	8	1,200.00	9,600.00
03 Excavation Purchase a boring machine and include boring in price of installation. Approximately $12,000.00.This machine will bore from 2"-8" hole.	1	0.00	0.00

TOTAL **$35,600.00**

Accepted By

Accepted Date


Lakewood Village
Governmental General Fund
/Tax/ Reserve/ Debt Servicing /Road Maintenance/ PEG
Business-Type Utility Fund
Capital Reserve
Municipal Development District
Governmental MDD General
Business-Type Rocky Point
Capital Reserve
MDD Projects Fund

TOWN OF LAKEWOOD VILLAGE

Statement of Revenues, Expenditures and Changes in Fund Balances
Governmental Funds
For the Fiscal Year Ended September 30, 2018

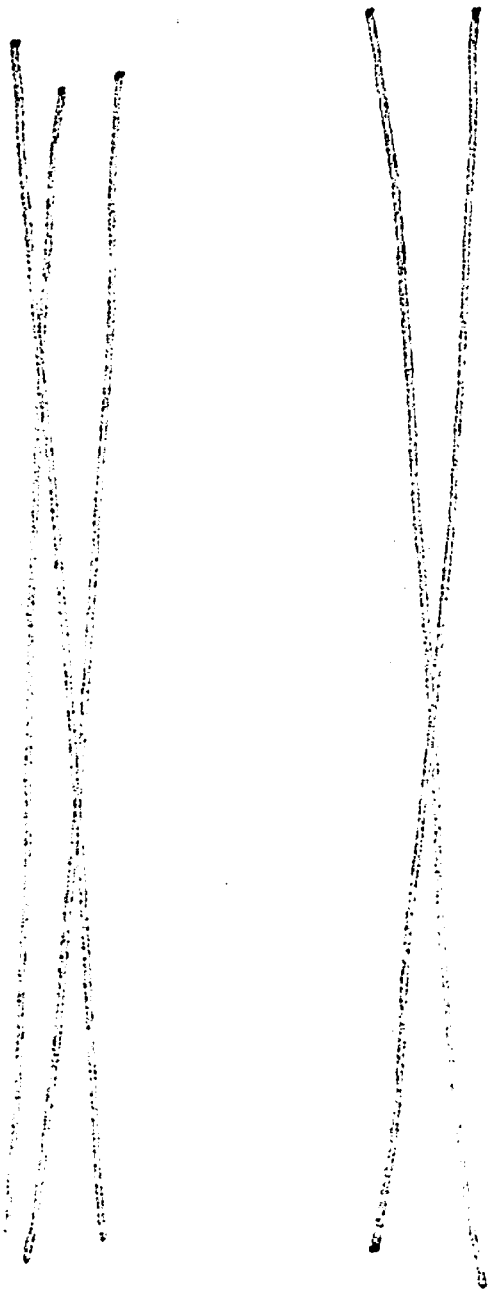
	General Funds	Municipal Development District	Total Governmental Funds
REVENUES			
Taxes			
Property	$ 287,788		287,788
Franchise	35,518		35,518
Sales	31,327	23,677	55,004
Fines and forfeitures	7,478		7,478
Licenses and permits	37,435		37,435
Fees and service charges	12,381		12,381
Interest	2,254	149	2,403
Miscellaneous	4,486	300	4,786
Total revenues	418,667	24,126	442,793
EXPENDITURES			
General government	200,458		200,458
Public safety	27,100		27,100
Public works	30,988		30,988
Capital outlay	14,261		14,261
Debt service:			
Principal	154,000		154,000
Interest and fiscal charges	21,910		21,910
Total expenditures	448,717		448,717
Excess/(deficiency) of revenues over expenditures	(30,050)	24,126	(5,924)
OTHER FINANCING SOURCES AND USES			
Transfers (to)/from other funds	43,631	(15,759)	27,872
Total other financing sources	43,631	(15,759)	27,872
Net change in fund balances	13,581	8,367	21,948
Fund balance, beginning	199,827	9,620	209,447
Fund balance, ending	$ 213,408	17,987	231,395

The notes to the financial statements are an integral part of this statement.

TOWN OF LAKEWOOD VILLAGE
Statement of Net Position
Proprietary Funds
September 30, 2018

	Business-Type Activities		
	LWV Utility Fund	Rocky Point Utility Fund	Totals
ASSETS			
Current assets:			
Cash and cash equivalents - unrestricted	$ 53,2[illegible]4	8,360	61,6[illegible]4
Cash and cash equivalents - restricted	41,3[illegible]0	2,600	43,9[illegible]0
Accounts receivable (net of allowance for uncollectibles)	6,[illegible]89	1,223	8,[illegible]12
Total current assets	101,[illegible]53	12,183	113,[illegible]36
Noncurrent assets:			
Capital assets:			
Land	57,[illegible]53	15,922	73,[illegible]75
Equipment	5,[illegible]24		5,[illegible]24
Water systems and improvements	1,5[illegible]1,728	101,748	1,623,476
Sanitation systems and improvements	1,4[illegible]8,718		1,498,718
Buildings and improvements	[illegible]1,281	3,533	2[illegible],814
Less: Accumulated depreciation	(1,4[illegible],696)	(13,760)	(1,[illegible],456)
Total noncurrent assets	1,69[illegible],408	107,443	1,[illegible],851
Total assets	$ 1,79[illegible],761	119,626	1,9[illegible],387
LIABILITIES			
Current liabilities:			
Customer deposits	$ 41,[illegible]00	2,600	[illegible]3,9[illegible]0
Other payables	5,[illegible]55	129	[illegible]5,3[illegible]4
Total current liabilities	46,[illegible]55	2,729	[illegible]9,2[illegible]4
Total liabilities	46,[illegible]55	2,729	[illegible]9,284
NET POSITION			
Invested in capital assets, net of related debt	1,[illegible]91,4[illegible]8	107,443	1,798,[illegible]
Unrestricted	54,79[illegible]8	9,454	64,[illegible]
Total net position	$ 1,746,20[illegible]	116,897	1,863,[illegible]

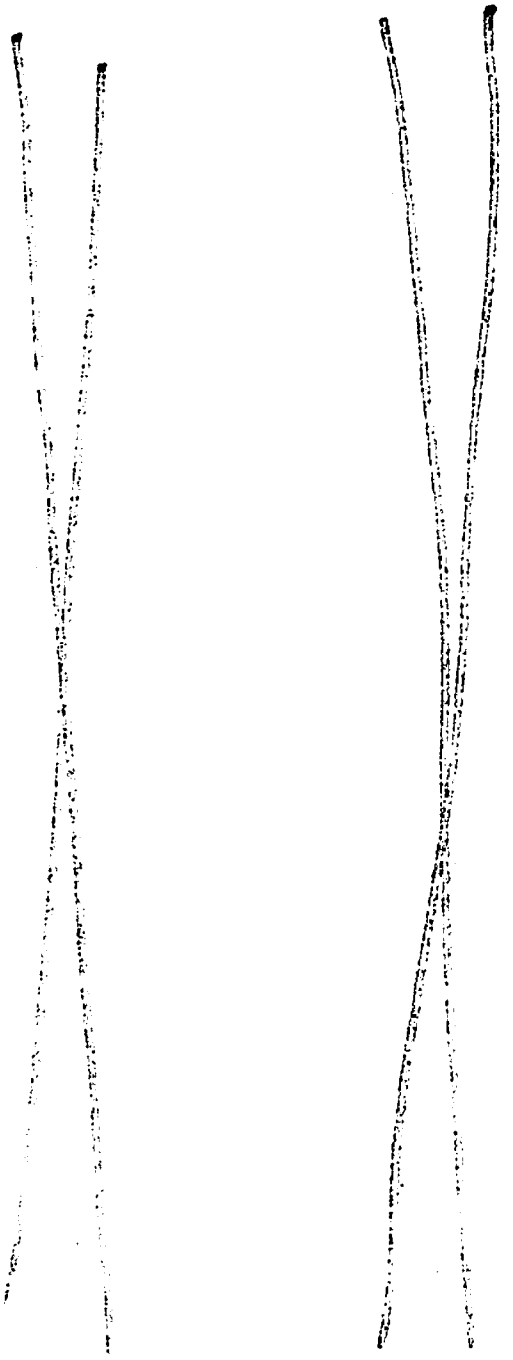
The notes to the financial statements are an integral part of this statement.



TOWN OF LAKEWOOD VILLAGE
Statement of Revenues, Expenses and Changes in Fund Net Position
Proprietary Funds
September 30, 2018

	Business-Type Activities		
	LWV Utility Fund	Rocky Point Utility Fund	Totals
OPERATING REVENUES			
Water	$ 151,946	16,814	168,760
Sewer	107,790		107,790
Sanitation	47,213		47,213
Fees and services	17,248	494	17,742
Other income	4,503	5,830	10,333
Total operating revenues	328,700	23,138	351,838
OPERATING EXPENSES			
Contract services	45,300	2,400	47,700
Administrative	84,116	4,023	88,139
Repairs and maintenance	61,062	4,905	65,967
Miscellaneous	1,787	570	2,357
Garbage collections	41,240		41,240
Depreciation	87,744	2,832	90,576
Total operating expenses	323,249	14,730	342,979
Operating income (loss)	5,451	8,408	8,859
NONOPERATING REVENUES (EXPENSES)			
Gain/loss on disposition of capital assets	(1,430)		(1,430)
Insurance proceeds	11,783		11,783
Interest revenue	800	64	864
Total nonoperating revenues (expenses)	10,153	64	10,217
Income (loss) before transfers	10,604	8,472	19,076
Transfers (to)/from other funds	(16,172)	8,300	(27,872)
Change in net position	(5,568)	16,772	(8,796)
Net position - beginning	1,771,772	100,125	1,871,897
Net position - ending	$ 1,746,204	116,897	1,863,101

The notes to the financial statements are an integral part of this statement.



TOWN OF LAKEWOOD VILLAGE
Statement of Cash Flows
Proprietary Funds
For the Fiscal Year Ended September 30, 2018

	Business-Type Activities		
	LWV Utility Fund	Rocky Point Utility Fund	Totals
Cash flows from operating activities:			
Cash received from customers and users	$ 343,987	22,900	366,887
Cash payments to suppliers	(250,068)	(11,898)	(261,966)
Net cash provided by operating activities	93,919	11,002	104,921
Cash flows from capital and related financing activities:			
Acquisition/disposition of capital assets	(51,911)	(12,500)	(64,411)
Net cash used by capital and related financing activities	(51,911)	(12,500)	(64,411)
Cash flows from noncapital financing activities:			
Transfer in/(out)	(36,172)	8,300	(27,872)
Net cash used by noncapital financing activities	(36,172)	8,300	(27,872)
Cash flows from investing activities:			
Interest on deposits and investments	300	64	364
Net cash provided by investing activities	300	64	364
Net increase in cash and cash equivalents	15,989	6,866	
Cash and cash equivalents - beginning	78,575	4,094	82,669
Cash and cash equivalents - ending	$ 94,564	10,960	105,524
Reconciliation of Net Income to Net Cash Provided (Used) by Operating Activities			
Operating income	$ 451	8,408	8,859
Adjustments to reconcile net income to net cash provided by operating activities			
Depreciation	87,744	2,832	90,576
(Increase)/decrease in accounts receivable	4,683	(338)	4,345
(Increase)/decrease in other receivables	9,604		9,604
Increase/(decrease) in customer deposits	100	100	100
Increase/(decrease) in other payables	(9,563)		(9,563)
Total adjustments	93,468	2,594	96,062
Net cash provided by operating activities	$ 93,919	11,002	104,921

The notes to the financial statements are an integral part of this statement.

Municipal Development District
Cash Position as of Dec 31, 2018

Governmental

MDD General Fund	**$ 20,135**
Projects Fund	**$ 22**

Business - Type

Rocky Point Water Company	**$ 1,388**
Capital Reserve	**$ 11,588**

TOTAL CASH $ 33,133

Roadway Design Manual

Texas Department of Transportation

Revised April 2018

Table 2-12: Clear Zones

Location	Functional Classification	Design Speed (mph)	Avg. Daily Traffic	Clear Zone Width (ft)[3,4,5]	
-	-	-	-	Minimum	Desirable
Rural	Freeways	All	All	30 (16 for ramps)	
Rural	Arterial	All	0 - 750 750 - 1500 >1500	10 16 30	16 30 --
Rural	Collector	≥ 50	All	Use above rural arterial criteria.	
Rural	Collector	≤ 45	All	10	--
Rural	Local	All	All	10	--
Suburban	All	All	<8,000	10[6]	10[6]
Suburban	All	All	8,000 - 12,000	10[6]	20[6]
Suburban	All	All	12,000 - 16,000	10[6]	25[6]
Suburban	All	All	>16,000	20[6]	30[6]
Urban	Freeways	All	All	30 (16 for ramps)	
Urban	All (Curbed)	≥ 50	All	Use above suburban criteria insofar as available border width permits.	
Urban	All (Curbed)	≤ 45	All	4 from curb face	6
Urban	All (Uncurbed)	≥ 50	All	Use above suburban criteria.	
Urban	All (Uncurbed)	≤ 45	All	10	--

[1] Because of the need for specific placement to assist traffic operations, devices such as traffic signal supports, railroad signal/warning device supports, and controller cabinets are excluded from clear zone requirements. However, these devices should be located as far from the travel lanes as practical. Other non-breakaway devices should be located outside the prescribed clear zone or these devices should be protected with barrier.

[2] Average ADT over project life, i.e., 0.5 (present ADT plus future ADT). Use total ADT on two-way roadways and directional ADT on one-way roadways.

[3] Without barrier or other safety treatment of appurtenances.

[4] Measured from edge of travel lane for all cut sections and for all fill sections where side slopes are 1V:4H or flatter. Where fill slopes are steeper than 1V:4H it is desirable to provide a 10 ft area free of obstacles beyond the toe of slope.

[5] Desirable, rather than minimum, values should be used where feasible.

[6] Purchase of 5 ft or less of additional right-of-way strictly for satisfying clear zone provisions is not required.

NOTE: Online users can view the metric version of this table in PDF format.

The clear zone values shown in Table 2-12 are measured from the edge of travel lane. These are appropriate design values for all cut sections (see "Drainage Facility Placement"), for cross sectional design of ditches within the clear zone area) and for all fill sections with side slopes 1V:4H or flatter. It should be noted that, while a 1V:4H slope is acceptable, that a 1V:6H or flatter slope is preferred for both errant vehicle performance and slope maintainability. For fill slopes steeper than 1V:4H, errant vehicles have a reduced chance of recovery and the lateral extent of each roadside encroachment increases. It is therefore preferable to provide an obstacle-free area of 10 ft[3.0m] beyond the toe of steep side slopes even when this area is outside the clear zone.

TOWN OF LAKEWOOD VILLAGE

MUNICIPAL COURT OF RECORD
ORDINANCE 18-05

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, ESTABLISHING A MUNICIPAL COURT OF RECORD IN THE TOWN OF LAKEWOOD VILLAGE; PROVIDING FOR JURISDICTION; PROVIDING FOR THE APPOINTMENT OF A MUNICIPAL JUDGE AND ALTERNATE JUDGES; PROVIDING FOR THE APPOINTMENT OF A COURT CLERK, ESTABLISHING POWERS AND DUTIES OF THE COURT AND ITS PERSONNEL; PROVIDING A REPEALER; PROVIDING A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE.

WHEREAS, Texas Government Code Section 30.0003 authorizes the governing body of a municipality to create a municipal court of record; and,

WHEREAS, The Town Council of the Town of Lakewood Village seeks to provide for the enforcement of its municipal ordinances through a Municipal Court of Record; and,

WHEREAS, the Town Council hereby determines that the creation of a municipal court of record is necessary to provide a more efficient disposition of cases arising in the Town of Lakewood Village; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, THAT:

Section 1: Findings

The findings set forth above and established in Exhibit A are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2: Repeal

Ordinance 02-01 is hereby repealed in its entirety. All ordinances, and resolutions, in conflict herewith are repealed to the extent of such conflict.

Section 3: Severability

A. Unconstitutional or Invalid Section

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

B. Independent Sections

The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

Section 4: Estoppel / Waiver

The failure of the Town to enforce any term or condition of this Ordinance shall not constitute a waiver or estoppel or any subsequent violation of this Ordinance.

Section 5: Effective Date

The amendments to this Ordinance shall become effective from and after its date of passage and publication as provided by law.

PASSED AND APPROVED by the Town Council of the Town of Lakewood Village, Texas this the XX day of _____, 2019

_____
Dr. Mark E. Vargus
MAYOR

ATTESTED:

_____
Linda Asbell, TRMC, CMC
Town Secretary

Exhibit A

MUNICIPAL COURT

OF RECORD

Adopted: _____ xxth, 2019

SECTIONS:

1. MUNICIPAL COURT ABOLISHED

The municipal court established pursuant to the general law is abolished in the manner prescribed thereby and all pending cases transferred to said Lakewood Village Municipal Court of Record which shall assume jurisdiction thereof.

2. MUNICIPAL COURT OF RECORD ESTABLISHED:

There is created a unified court of record ("court") which shall be known as the Municipal Court of Record in the Town of Lakewood Village, Texas and is hereby established pursuant to Texas Government Code Chapter 30, Subchapter A, and the terms set forth therein are hereby adopted governing the operation of the court.

3. JURISDICTION

3.1. All cases pending in the municipal court of and from the effective date of this ordinance shall be processed and adjudicated by the municipal court of record, regardless of the date of offense.

3.2. The court has concurrent jurisdiction with a justice court in any precinct in which the municipality is located in criminal cases that arise within the territorial limits of the town and are punishable only by fine.

3.3. The Municipal Court has jurisdiction over criminal cases arising under ordinances authorized by Sections 215.072, 217.042, 341.903, and 551.002, Local Government Code.

3.4. The Municipal Court shall have jurisdiction in all criminal cases arising under this code and any ordinances of the Town in which the punishment is by fine only, and where the maximum fine for the offense charged does not exceed $2000, and where the offense charged arose within the corporate limits of the town (or outside of the corporate limits but within an area over which the town has jurisdiction and control under the laws of the state).

3.5. The municipal court of record shall have civil jurisdiction for the purpose of enforcing the town's ordinances enacted under Subchapter A, Chapter 214, Local Government Code; Subchapter E, Chapter 683, Transportation Code; concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Local Government Code, within the town's territorial limits and property owned by the town located in the town's extraterritorial jurisdiction for the purpose of enforcing health and safety or nuisance abatement ordinances; and authority to issue (a) search warrants for the purpose of investigating health and safety or nuisance abatement ordinance violations, and (b) seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

4. MUNICIPAL JUDGE

4.1. The municipal judge shall have all the powers and authority granted by state law, and the ordinances of Lakewood Village and shall perform all the duties as prescribed by the laws of the State of Texas, and the ordinances of Lakewood Village.

4.2. The office of the judge of the municipal court shall be filled by appointment by the town council. The person appointed to the office of the judge of the municipal court shall be the presiding judge of the municipal court of record of the Town of Lakewood Village.

4.2.1. The municipal judge shall serve a four (4) year term of office and:

4.2.2. be a resident of the State of Texas;

4.2.3. be a citizen of the United States;

4.2.4. be a licensed attorney in good standing with the State Bar of Texas; and

4.2.5. have two or more years of experience in the practice of law in the State of Texas.

4.3. Compensation for the office of municipal judge shall be set from time to time by the Town Council. The salary will not be based directly or indirectly on fines, fees, or costs collected by the court.

4.4. The town council shall from time to time appoint such qualified individuals as may be necessary to serve in the office of the judge of the municipal court if the presiding judge is unavailable, unable, or unwilling to serve. The town council shall set the compensation of the alternate or temporary judge or judges and the length of term of said judge(s).

4.5. Appointment of Assistant or Additional Judges: The Town Council may appoint such assistant judges as may be necessary to perform the duties of the Judge of the Municipal Court; or a temporary judge to act for the Judge in the case of his temporary absence or disability; and such assistant, additional or temporary judges shall receive such compensation as may be set by the Council.

4.6. If more than one municipal judge is appointed to serve, the town council shall appoint one of the judges as the presiding judge. The presiding judge shall:

4.6.1. maintain a central docket for cases filed within the territorial limits of Lakewood Village over which the municipal court of record has jurisdiction;

4.6.2. provide for the distribution of cases from the central docket to the individual municipal judges to equalize the distribution of business in the court;

4.6.3. request the jurors needed for cases that are set for trial by jury;

4.6.4. temporarily assign judges or substitute judges to exchange benches and to act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the court; and

4.6.5. supervise and control the operation and clerical functions of the administrative department of each court, including the court's personnel, during the proceedings of the court.

5. CLERK OF THE COURT, OTHER COURT PERSONNEL;

5.1. The Town Secretary shall serve as the clerk of the municipal court of record. The clerk shall perform duties in accordance with state law and town ordinances.

5.2. During proceedings of the court, the clerk and other court personnel shall serve at the direction of the judge of the municipal court. At all other times, other court personnel shall serve at the direction of the town secretary.

5.3. The court clerk shall acquire and maintain a seal in conformance with state law for the Lakewood Village Municipal Court of Record.

5.4. The court clerk shall supervise the selection of persons for jury service in the municipal court of record.

5.5. The court clerk may appoint one or more deputy clerks who; when acting in such capacity, shall have the same authority as the clerk of the municipal court.

6. COURT REPORTER

6.1. The Municipal Court Clerk may appoint a court reporter who must meet the qualifications provided by law for official court reporters. The court reporter may use written notes, transcribing equipment, video or audio recording equipment, or a combination of those methods to record the proceedings of the Court. The court reporter is not required to record testimony in any case unless the Judge or one of the parties requests a record in writing, and files the request with the Court before trial.

6.2. The court reporter is not required to be present during the proceedings of the municipal court of record provided that the proceedings that are required to be recorded are recorded by a good quality electronic recording device. The recording shall be kept and stored for a 20 day period beginning the day after the last day of the proceeding, trial or denial of motion for a new trial, whichever occurs last. If the case is appealed, the court reporter shall prepare the reporter's record.

7. MUNICIPAL PROSECUTOR

The duly appointed Town Attorney, or deputy Town Attorney, shall serve as prosecutor in the Municipal Court.

8. COURT COSTS AND FEES

8.1. Court costs shall be assessed pursuant to and in compliance with the state statutes.

8.2. All costs and fines imposed by the Municipal Court shall be paid into the treasury for the use and benefit of the town.

8.3. In cases where a defendant requests a jury trial and is subsequently found guilty, the judgment, at the discretion of the Judge, may include the costs of the jury fees not in excess of that provided by statute.

8.4. In the event a case is appealed from the Municipal Court, the defendant shall pay the following costs in an amount established in the Lakewood Village Fee Ordinance:

8.4.1. preparation of the Clerk's record; the preparation fee does not include the fee for an actual transcription of the proceedings.

8.4.2. preparation of the reporter's record, and the fee for an actual transcription of the proceedings.

8.4.3. fees for dismissal of noncompliance traffic fines such as no driver's license on person; expired inspection stickers; expired registration, and the like shall be $10 or, if the applicable statute so provides, the sum of $20.

8.4.4. The time payment fee shall be $25.

9. APPEALS

9.1. A defendant has the right of appeal from a judgment or conviction in the Lakewood Village Municipal Court of Record. The State has the right to an appeal as provided by Article 44.01, Texas Code of Criminal Procedure, as amended. The County Courts at Law of Denton County, Texas have jurisdiction of appeals from the Lakewood Village municipal court of record.

9.2. The appellate court shall determine each appeal from the court on the basis of the errors that are set forth in the appellant's motion and that are presented in the clerk's record and reporter's record, if any, prepared from the proceedings leading to the appeal. An appeal from the court shall not be by trial de novo.

9.3. To perfect an appeal, the defendant must file a motion for new trial not later than ten (10) days after the date on which the judgment and sentence are rendered. The motion must be in writing and must be filed with the clerk of the court. The motion constitutes the assignment of error on appeal. A ground or an error not set forth in the motion is waived. If the court does not act on the motion before the expiration of thirty (30) days after it is filed with the clerk, the motion is overruled by operation of law.

9.4. After an order overruling a motion for new trial, the defendant shall give written notice of appeal and pay a fee for the preparation of the clerk's record not later than ten (10) days after the date on which the motion is overruled. The court shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant.

9.5. The appellant shall pay for any reporter's record containing a transcription of the proceedings unless the court finds, after a hearing in response to an affidavit by the defendant, that the defendant is unable to pay or provide security for the reporter's record. If the court so finds, the court shall order the reporter to prepare the record without charge to the defendant. Before the recorded proceedings are transcribed, the defendant shall, unless found by the court to be unable to pay for the reporter's record, post a cash deposit with the municipal court for the estimated cost of the record. The cash deposit shall be based on an estimate provided by the court reporter or the length of proceedings as indicated by the electronic record the proceedings, if any, the cost of the court reporter, typing, and other incidental services. If the cash deposit exceeds the actual cost of the reporter's record, the court reporter shall refund the difference to the defendant. If the cash deposit is insufficient to cover the actual cost of the transcription, the defendant must pay the additional amount before the transcription may be submitted. If a case is reversed on appeal, the court will refund to the defendant any amounts paid for the reporter's record.

9.6. The record on appeal must substantially conform to the provisions relating to the preparation of a record on appeal in the Texas Rules of Appellate Procedure and the Texas Code of Criminal Procedure, as amended.

End of Exhibit A

Adoption and Summary of Amendments

Ordinance Number	Date	Summary
19-05	Xxxxxx xx, 2019	• Original Adoption • Repealed 02-01

MEMORANDUM

TO: Town Council
CC: Linda Asbell
FROM: Dr. Mark E. Vargus, Mayor
DATE: January 7, 2019
RE: Nuisance Ordinance 16-10

Over time, our nuisance ordinance has been modified many times. In the long-ago past, the Council would lump into the ordinance anything that they wanted to discourage. I think that most of the issues have now been included in other comprehensive ordinances. I am not sure that we need the current ordinance based on my analysis (below):

"Nuisance"		**Ordinance**
Parking in the front and side yards	→	Junked Car 18-06; Section 4.
Barking Dogs	→	Animal Control 16-03; Section 5.
Tall weeds and grass, Outdoor storage, and bulk trash	→	*Property Maintenance Code* ***Forthcoming***
. Burning of construction waste	→	*IRC or Builder Handbook* ***Proposed***
Noise	→	Noise Ordinance 19-XX ***Under attorney review***

I look forward to your comments;

TOWN OF LAKEWOOD VILLAGE N
ORDINANCE 16-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS PROVIDING FOR PUBLIC NUISANCES, COMMUNITY APPEARANCE TO PROTECT PROPERTY VALUES, QUALITY OF LIFE AND PUBLIC HEALTH AND SAFETY, AND TO PROVIDE FOR THE CONTROL OF OPEN BURNING; PROVIDING FOR DEFINITIONS; PROVIDING FOR OWNER'S DUTY TO MAINTAIN PROPERTY BY KEEPING PROPERTY FREE AND CLEAR OF NUISANCES INCLUDING WEEDS, BRUSH AND UNSIGHTLY MATTER; DUTY TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE; PROVIDING FOR ENFORCEMENT; PROVIDING FOR NOTICE OF VIOLATION; PROVIDING FOR TOWN ABATEMENT; PROVIDING FOR ADMINISTRATIVE FEES; PROVIDING FOR OFFENSES, PENALTIES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE REPEALER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lakewood Village, Texas is a Type A General Law Municipality located in Denton County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town Council of Lakewood Village, Texas in order to provide for the general health and welfare of the citizens of this Town is permitted to enact certain rules and regulations; and

WHEREAS, the Town Council of the Town of Lakewood Village, Texas adopts the Texas Health and Safety Code, Chapter 342, Subchapter A, as amended and supplemented by the terms of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, THAT:

Section 1: Findings

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein. Exhibit "A" herein is for all purposes fully incorporated and set forth herein.

Section 2: Repeal

Nuisance/Burning Ordinance 12-08 is hereby repealed in its entirety. This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of said Ordinances except those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and those that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided, however, that any complaint, action, claim or lawsuit that has been initiated or has arisen under or pursuant to any of the Ordinances or sections thereof that have been specifically repealed on the date of the adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance or section thereof and for that purpose the Ordinance or section thereof shall remain in full force and effect.

Section 3: Penalty Clause

1. After any required notice to the owner, the failure or refusal to comply with any demand for compliance within the applicable time period shall be deemed as maintaining a public nuisance and the Mayor, Mayor Pro-Tem, Town Administrator/Town Secretary, or the Town Council designee may issue a citation in municipal court and/or file a lien upon and against such real property to include all costs, Town administrative fees, filing fees, charges and expenses. Any owner, as defined herein, violating any of the provisions of this ordinance, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed $2000.00 for each offense. Each day a violation of any provision of this ordinance shall continue, it shall constitute a separate offense.

2. The property owner's failure to comply with this ordinance may result in the Town securing a lien against the property. In this event, the Town will file with the County Clerk a statement of the expenses incurred in correcting the condition of the property. The Town shall have a privileged lien on the property, second only to tax liens and liens for street improvements, together with ten percent (10%) on the delinquent amount from the date such payment was due.

Section 4: Severability

The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance

or application thereof to any person or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the Town Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5: Savings Clause

All rights and remedies of the Town of Lakewood Village are expressly saved as to any and all violations of the provisions of any Ordinances affecting and which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 6: Estoppel / Waiver

The failure of the Town to enforce any term or condition of this Ordinance shall not constitute a waiver or estoppel or any subsequent violation of this Ordinance.

Section 7: Effective Date

This Ordinance shall be in full force and effect from and after its date of passage and publication as provided by law.

PASSED AND APPROVED by the Town Council of the Town of Lakewood Village, Texas this the 8th day of September, 2016.

_____
Dr. Mark Vargus
Mayor

ATTEST:

_____
Linda Asbell, TRMC
Town Secretary

Exhibit A

DUTY TO MAINTAIN PROPERTY

NUISANCE AND BURNING REGULATIONS

Adopted: August 11, 2016

2.1 <u>DEFINITIONS</u>

"Builder/Developer/Contractor" shall mean any person(s), firm, corporation or other entity that has been hired by an owner, as defined herein, to perform any new construction, remodel or repair of said property within the corporate limits of the Town of Lakewood Village. If the owner is also the builder/developer/contractor, as defined herein, then the owner is held to the limitations of a builder/developer/contractor as specified in this ordinance.

"Bulk Trash" shall mean any rubbish/brush as defined herein and other large or bulky items approved for collection as "bulk trash" on the designated day as set forth within the contract between the Town of Lakewood Village and the Town's Solid Waste Collection provider.

"Nuisance" shall mean whatsoever is dangerous to human life or health, whatsoever renders the ground, the water, the air or the food a hazard or injurious to human life or health or that is offensive to the senses or that is detrimental to the public health is hereby declared to be a nuisance.

"Owner" shall mean any person(s) or entities owning, claiming, occupying or having supervision or control of any lot, tract, parcel of land, occupied or unoccupied, improved or unimproved, within the corporate limits of the Town of Lakewood Village.

"Rubbish/brush" shall mean lawn trimmings, tree trimmings, trash, debris, rubble, concrete, cement, stone, excess or useless fragments of construction materials, or other miscellaneous useless waste or rejected matter.

"Town" shall mean The Town of Lakewood Village

"Weeds/Vegetation" shall mean vegetation, including grass, that because of its height is objectionable, unsightly or unsanitary, but excluding shrubs, bushes, trees, cultivated flowers, and cultivated crops.

SECTION 2
DUTY TO MAINTAIN PROPERTY

2.1 It shall be unlawful for any owner to allow a nuisance of weeds/vegetation, as defined in Section 1 herein, to grow to a height greater than 12 inches upon any real property within one hundred fifty (150) feet of any property line which abuts a Town street right-of-way and within 50 feet from any part of a habitable dwelling.

2.2 Any builder/developer/contractor is strictly prohibited from burning any materials within the Town of Lakewood Village including, but not limited to, any rubbish/brush, as defined in Section 1 herein. Burning of any materials shall be prohibited on any construction site.

2.3 Also, it shall be unlawful for any builder/developer/contractor to allow a nuisance of rubbish/brush to accumulate or be present upon any real property within the Town of Lakewood Village, unless such nuisance of rubbish/brush is in a covered container designed for such purposes.

2.4 It shall be unlawful for any owner to allow a nuisance of rubbish/brush, as defined in Section 1 herein, to accumulate or be present upon any real property within the Town in excess of ten days.

2.5 It shall be the duty of any owner to maintain their property in a reasonable neat and orderly fashion. Therefore,

2.5.a Outside storage of auto parts, appliances, lawnmowers, bicycles, building materials and motorcycles, or any items that fall within the definition of "nuisance" as defined in Section 1 herein, is strictly prohibited.

2.5.b Exterior paint, trim, gutters, down spouts, garage doors, windows, masonry and siding shall be maintained in such a manner so as to be consistent with surrounding homes. In general, an owner shall maintain their property in such a manner as necessary to provide a pleasing appearance to their surrounding neighbors.

2.5.c If a building permit is current, it is reasonable to temporarily store, in outside view, such building materials as needed to complete the permitted construction.

2.5.d Placement of bulk trash for collection in excess of ten (10) days prior to date of collection as established by Solid Waste Collection contract is strictly prohibited.

2.5.e Violation of this section is subject to notice and penalties as described herein.

SECTION 3
RESPONSIBILITY FOR ENFORCEMENT

Enforcement of this Ordinance shall be the responsibility of the proper State and Denton County authorities; the Mayor, Mayor Pro-Tem and Town Administrator/Town Secretary; and/or any person(s) duly appointed by the Town Council.

SECTION 4
NOTICE OF VIOLATION

In the event that any owner fails to comply with the provisions of this ordinance, an authorized person or entity pursuant to Section 3, the Town shall give ten (10) days' notice in writing to such owner, or by certified mail, return receipt requested addressed to such owner at their last known mailing address, demanding compliance with this ordinance. Additionally, pursuant to the Texas Health and Safety Code, Section 342.006, this is the only notice that will be given for the next twelve (12) months. If, within the next twelve (12) months, the same violation(s) occurs

again, the Town, without notice, may take the appropriate actions to bring the property into compliance and assess its expenses as provided by Section 5 herein.

SECTION 5
ABATEMENT BY TOWN

5.1 If an owner fails or refuses to comply with the Town's demand for compliance with of this Ordinance within ten (10) days of the notice provided pursuant to Section 4 herein, the Town may do such work or cause the work to be done to bring the real property into compliance with this ordinance.

5.2. The expense incurred in correcting any condition of a property in violation of this ordinance shall be paid by the Town and charged to the owner of such property. A statement of the cost incurred by the Town shall be mailed to the owner. Such statement shall be paid by the owner within 30 days of the date of the mailing thereof. In the event that the statement has not been paid within the 30-day period, the Town has the right to exhaust any and all remedies available under this Ordinance and state law.

SECTION 6
ADMINISTRATIVE FEE

In addition to collecting the costs and expenses incurred for correcting any violation(s) involving abatement by the Town, the Town shall charge the minimum of $100.00 not to exceed a maximum of $500.00 per occurrence, which sum is hereby found to be the cost to the Town of administering the terms of this ordinance.

SECTION 7
OFFENSES, PENALTIES, AND LIENS

7.1 After any required notice to the owner, the failure or refusal to comply with any demand for compliance within the applicable time period shall be deemed as maintaining a public nuisance and the Mayor, Mayor Pro-Tem, Town Administrator/Town Secretary, or the Town Council designee may issue a citation in municipal court and/or file a lien upon and against such real property to include all costs, Town administrative fees, filing fees, charges and expenses. Any owner, as defined herein, violating any of the provisions of this ordinance, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be

subject to a fine not to exceed $2000.00 for each offense. Each day a violation of any provision of this ordinance shall continue, it shall constitute a separate offense.

7.2 The property owner's failure to comply with this ordinance may result in the Town securing a lien against the property. In this event, the Town will file with the County Clerk a statement of the expenses incurred in correcting the condition of the property. The Town shall have a privileged lien on the property, second only to tax liens and liens for street improvements, together with ten percent (10%) on the delinquent amount from the date such payment was due.

End of Exhibit A

ADOPTION AND SUMMARY OF AMENDMENTS

Ordinance Number	Date	Summary
00-04A	June 05/2000	• Original Adoption
05-011		• Repealed for historical purposes (never officially took effect)
09-12	Sept. 24, 2009	• Clarified burning restrictions, Repealed
12-08	June 14, 2012	• Clarified areas required to be mowed, Repealed
16-10	Sept 8, 2016	• Introduced time frame for bulk trash to be placed for pick-up

TOWN OF LAKEWOOD VILLAGE
ZONING ORDINANCE 189-xx14-04

AN ORDINANCE ADOPTING A COMPREHENSIVE ZONING ORDINANCE FOR THE TOWN OF LAKEWOOD VILLAGE, TEXAS; ESTABLISHING ZONING DISTRICTS, REGULATING AND RESTRICTING THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR RESIDENTIAL AND OTHER PURPOSES, THE DENSITY OF POPULATION, THE ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, REPAIR AND USE OF BUILDINGS STRUCTURES AND LAND WITHIN SUCH DISTRICTS, INCLUDING THE HEIGHT, NUMBER OF STORIES, SIZE AND APPEARANCE OF BUILDINGS AND OTHER STRUCTURES: REGULATING LANDSCAPING AND THE SIZE OF YARDS AND OTHER OPEN SPACES; PROVIDING PARKING REQUIREMENTS; PROVIDING FOR THE REGULATION OF NONCONFORMING USES AND FOR THE AMORTIZATION THEREOF; ADOPTING AN OFFICIAL ZONING MAP; PROVIDING FOR THE ISSUANCE OF CERTIFICATES OF OCCUPANCY AND BUILDING PERMITS; DEFINING CERTAIN WORDS AND PROVIDING FOR THE INTERPRETATION OF THE ORDINANCE; PROVIDING FOR AMENDMENTS AND CHANGES PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES AND REPEALING ORDINANCE NO. 13-09 AS AMENDED; PROVIDING A SEVERABILITY CLAUSE; PRESCRIBING PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THE ORDINANCE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHERAS, pursuant to Chapter 211 of the Local Government Code, the Town of Lakewood Village ("Town") has the authority to adopt a Comprehensive Zoning Ordinance and map regulating the location and use of buildings, structures, and land for business, industry, residence and other purposes; and

WHEREAS, the zoning regulations and districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the Town; and

WHEREAS, the zoning regulations and districts have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to ensure adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements; and

WHEREAS, the zoning districts have been created with fair and reasonable consideration, among other things, for the character of each particular section and its peculiar suitability for particular uses; and thereby conserve the value of land and buildings in each particular section; and with a view of insuring the harmonious and appropriate use of all property and to prohibit the inharmonious and inappropriate use of all property and thereby promote the general good and welfare of the public; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, THAT:

Section 1: Findings

The findings set forth above are incorporated as if fully set forth herein.

Section 2: Adoption

The Comprehensive Zoning Ordinance attached hereto as Exhibit A is hereby adopted as the zoning ordinance for the Town.

Section 3: Repeal

Zoning Ordinance 14-04~~13-09, Zoning Section 6-99-04 and Comprehensive Zoning 99-03 are~~is hereby repealed in its~~their~~ entirety.

Section 4: Penalty Clause

A. Violation

A person who knowingly violates any provision of this chapter is guilty of separate offenses for each day during which the violation is continued. Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this ordinance.

B. Fine

Each offense is punishable by a fine of not more than two-thousand ($2,000) nor less than two-hundred ($200). The minimum fine established in this paragraph shall be doubled for the second conviction of the same offense within any 24-month period and tripled for the third and subsequent convictions of the same offense within any 24-month period. At no time shall the minimum fine exceed the maximum fine established in this paragraph.

Section 5: Legal Rights

The penal provision imposed under this Zoning Ordinance shall not preclude the Town of Lakewood Village from filing suit to enjoin the violation. The Town of Lakewood Village retains all legal rights and remedies available to it pursuant to local, state, and federal law.

Section 6: Severability

A. Unconstitutional or Invalid Section

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

B. Independent Sections

The Town hereby declares that it would have passed this Zoning Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

Section 7: Estoppel / Waiver

The failure of the Town to enforce any term or condition of this Ordinance shall not constitute a waiver or estoppel or any subsequent violation of this Ordinance.

Section 8: Effective Date

This Ordinance shall become effective from and after its date of passage as provided by law.

PASSED AND APPROVED by the Town Council of the Town of Lakewood Village, Texas this the 12th day of June, 2014.

Dr. Mark E. VargusMike Schnittker
Mayor

ATTEST:

Linda Asbell, TRMC, CMC
Town Secretary

APPROVED AS TO FORM:

W. Andrew Messer
Town Attorney

EXHIBIT A

ZONING ORDINANCE

First Public Hearing: ~~May 08, 2014~~

Second Public Hearing: ~~May 22, 2014~~

Third Pubic Hearing: ~~June 12, 2014~~

Adopted: ~~June 12, 2014~~

TABLE OF CONTENTS

SECTION 1: GENERAL PROVISIONS

1.1. ZONING DISTRICT MAP

1.1.1. Zoning Districts Shown on the Zoning District Map

The boundaries of zoning districts set out herein are delineated upon a Zoning District Map of the Town, adopted as part of this ordinance as fully as if the same were set forth herein detail.

1.1.2. Official Zoning District Map

A. Official Zoning District Map Filing

One original of the Zoning District Map shall be filed in the office of the Director and labeled as Ordinance Number 18-xx~~14-04~~. This copy shall be the "Official Zoning District Map" and shall bear the signature of the Mayor and attestation of the Town Secretary.

B. Official Zoning District Map Management

1. The Official Zoning District Map shall not be changed in any manner except as amended by the Town Council as provided herein.
2. In case of any question, the Official Zoning District Map, together with amending ordinances, shall be controlling.

C. Zoning Map Reproductions

1. Reproductions for informational purposes may be made of the Official Zoning District Map.

1.2. ZONING DISTRICT BOUNDARIES

1.2.1. District Boundary Interpretation Rules

The district boundary lines shown on the Official Zoning District Map are usually along streets, alleys, property Lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning District Map, the following rules shall apply:

A. Centerlines

Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerline.

B. Platted Lot Lines

Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Town Limits

Boundaries indicated as approximately following City limits shall be construed as following city limits.

D. Shore Lines

Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerline of streams, lakes, or other bodies of water shall be construed to follow such centerline, and in the event of change in the centerline, shall be construed to move with such centerline.

E. Parallel to or Extensions of Features

Boundaries indicated as a parallel to or extensions of features indicated in Subsections (A) through (D) above shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.

F. Vacated Public Way

Whenever any street, alley, or other public way is vacated by official action of the Town Council, the vacated area shall be rezoned according to Amendments to the Zoning Ordinance.

G. Boundary as Condition of Zoning Approval

The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street, unless as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street.

H. Zoning Ambiguity

Where physical features on the ground conflict with information shown on the Official Zoning District Map, or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of subsections (A) through (G), the property shall be considered as classified, Single Family, District 5, in the same manner as provided for newly annexed territory and the issuance of a building permit and the determination of permanent zoning shall be in accordance with the provisions provided in section 6.1 ZONING UPON ANNEXATION for temporarily zoned areas.

1.3. COMPLIANCE REQUIRED / INTERPRETATION / RULES OF CONSTRUCTION

1.3.1. Compliance Required

A. Applicability

Compliance with the Zoning Ordinance shall apply to all land, buildings, structures or appurtenances located within the Town which are hereafter:

1. Occupied,
2. Used,
3. Erected,
4. Altered,
5. Removed,
6. Placed,
7. Demolished, or
8. Converted

B. Compliance with Zoning District

The land, buildings, structures or appurtenances described in section 1.3.1.A Applicability shall be in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided or subject to penalties as established by ordinance.

1.3.2. Interpretation

A. Restrictiveness

Where the regulations imposed herein are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards are the requirements that shall govern. Notwithstanding the foregoing, the Town may, but is not required to, seek enforcement of a more restrictive regulation imposed by a person or entity other than the Town.

B. Abrogation

The provisions of these regulations are not intended to abrogate any easement, covenant or other private agreement, provided that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement, the requirements of these regulations shall govern.

C. Error Correction

In the event that any property or Zoning District set forth on the Zoning District Map as provided in section 1.1 ZONING DISTRICT MAP of this ordinance is misnamed, designated incorrectly, the boundaries are incorrect or the property is omitted, in part or in whole, the Zoning District map may be amended and/or supplemented according to the following:

1. Applicants

The property owner of said tract or Town staff may submit an application to the Town Council to initiate the error correction process.

2. Process

The error correction shall be processed as a zoning map or text amendment according to section 6.5 AMENDMENTS TO THE ZONING ORDINANCE / DISTRICTS AND ADMINISTRATIVE PROCEDURES.

D. Building Inspector Authority to Interpret the Zoning Ordinance

1. Unless specified within in a section, the Building Inspector shall have the authority to interpret and enforce the Zoning Ordinance.
2. A person aggrieved by the Building Inspector's interpretation may appeal the interpretation to the Town Council pursuant to 6.14 APPEALS AND THE APPEAL PROCESS.

1.3.3. Rules of Construction

The language set forth in these regulations shall be interpreted in accordance with the following rules of construction.

A. Number

The words in the singular shall include the plural and words in the plural shall include the singular;

B. Tense

The present tense includes the past and future tenses and the future the present;

C. Mandatory and Permissive Language

The word "shall" and "must" are mandatory while the word "may" is permissive;

D. Gender Terms

The masculine gender includes the feminine and neuter;

E. Parentheses

Any word appearing in parentheses directly after a word herein defined shall be construed in the same sense as that word;

F. Conflicts

If there is an expressed conflict:

1) The text of this ordinance controls over the charts or any other graphic display in this ordinance; and

2) The use regulations control over the district regulations in this ordinance.

1.4. NONCONFORMING USES AND STRUCTURES

1.4.1. Intent of Provisions

A. Existence of Nonconformities

1. The purpose of this section is to establish provisions for the allowance and potential alteration of uses, lots and/or structures which do not conform to currently applicable standards or regulations, but which were in conformance with standards in place at the time of their inception, and have been rendered nonconforming due to a change in the applicable standards and regulations.

   a. Nonconformities occur in three (3) general categories, or combinations thereof.

      1. Land may be used in a nonconforming manner.
      2. A lot can be nonconforming as to lot area or dimension requirement.
      3. A structure can be nonconforming as to setback, height, lot area, or dimension requirement.

2. It is the declared intent that nonconforming uses and structures eventually be eliminated and be required to comply with the regulations of the Zoning Ordinance, having due regard for the

property rights of the person affected, the public welfare, and the character of the surrounding area.

B. Limit Incompatibility

It is further the intent that nonconforming uses shall not be:

1. Enlarged upon,
2. Expanded or extended, or
3. Used as a basis for adding other structures or uses prohibited elsewhere in the same district.

C. Incompatible Uses

Notwithstanding anything to the contrary, nonconforming uses are hereby declared incompatible with the permitted uses in the districts involved.

1.4.2. Establishment of Legal Nonconforming Status

A. Existence

For purposes of interpretation of this subsection, any uses, structures and/or lots which in whole or part are not in conformance with current zoning standards shall be considered as follows.

1. Legal Nonconforming

Those uses, structures or lots which in whole or part are not in conformance with current regulations, but were legally established at a prior date at which time they were in conformance with applicable standards. Such uses, structures or lots may be maintained or potentially altered subject to the provisions of this subsection.

2. Illegal

Those uses, structures or lots which in whole or part are not in conformance with current regulations and were not in conformance with applicable standards at the time of their inception shall not be considered nonconforming, but shall be considered illegal uses, structures, or lots and shall not be approved for any alteration or expansion, and shall undertake necessary remedial measures to reach conformance with current standards, or be discontinued.

B. Time of Adoption

Any use, platted lot, and/or structure which is lawful at the time of the adoption of any amendment to this ordinance but by such amendment is placed in a district wherein such use, platted lot, and/or structure is not otherwise permitted shall be deemed legal nonconforming.

C. Annexation

A use, platted lot and/or structure that was lawfully commenced and in existence at the time of annexation to the Town and has since been in regular and continuous use shall be deemed legal nonconforming.

1.4.3. Burden of Demonstration

The burden of establishing that any use, structure or land is nonconforming as defined in this subsection shall be borne by the owner or proponent of such legal nonconforming use, structure or land.

1.4.4. Continuing Lawful Use of Property and Existence of Structures

A. Abandonment of Nonconforming Use

If a nonconforming use on a particular parcel of land shall cease operations for a period of more than six (6) months, then such nonconforming use shall be presumed to be permanently abandoned. Unless the Town Council determines, upon evidence presented by the owner that the nonconforming use or structure was not abandoned, or unless the Town Council reinstates the nonconforming rights pursuant to section 6.10 REINSTATEMENT OF NONCONFORMING RIGHTS of this Ordinance, such a use shall not be instituted or continued on that parcel or other parcel in any district which does not permit the discontinued use. For the purpose of this paragraph, to "cease operations" shall mean to intentionally terminate operations of the nonconforming use. Any nonconforming use which does not involve a permanent type of structure or operation and which is moved from the premises shall be considered to have been abandoned.

B. Reinstatement of Nonconforming Use Rights

An owner and/or operator of a nonconforming use that has been deemed permanently abandoned pursuant to 1.4.1.A may request that the nonconforming rights to the use be reinstated pursuant to section 6.10 REINSTATEMENT OF NONCONFORMING RIGHTS of this Ordinance.

C. Prohibited Expansion or Reoccupation

A nonconforming use or structure shall not be expanded, reoccupied with another nonconforming use, or increased as of the effective date of this ordinance except as provided in 1.4.6 Expansion of Nonconforming Uses and Structures.

D. Single Family Residential Use

1. Conforming single family residential uses on platted lots approved prior to June 12, 2014, which may now be nonconforming due to stricter standards, shall be deemed in conformance with this ordinance as long as the use of the lot is allowed in the respective district.
2. Only the lot size, depth, setbacks and width shall be allowed to be less than the regulations prescribed in the zoning district in which it is located. All other regulations of this ordinance shall be met, or the lot shall be considered nonconforming.

E. Existing Platted Lots are Conforming Lots

Any existing vacant lot platted prior to June 12, 2014, which was legally conforming, shall be deemed a conforming lot.

1.4.5. Changing Uses and Nonconforming Rights

A. Nonconforming Use to Conforming Use

Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not be changed back to a nonconforming use.

B. Nonconforming Use to Another Nonconforming Use

A nonconforming use may not be changed to another nonconforming use.

C. Conforming Use in a Nonconforming Structure

Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by the process outlined in 1.4.6 Expansion of Nonconforming Uses and Structures.

1.4.6. Expansion of Nonconforming Uses and Structures

An expansion of a nonconforming use or structure is allowed in accordance with the following.

A. Nonconforming Use Expansion in Existing Building

A nonconforming use located within a building may be extended throughout the existing building, provided.

1. No structural alteration, except as provided in 1.4.1.E may be made on or in the building except those required by law to preserve such building in a structurally sound condition.
2. The number of dwelling units or rooms in a nonconforming residential use shall not be increased so as to exceed the number of dwelling units or rooms existing at the time said use became a nonconforming use.

B. Nonconforming Use Prohibited from Expansion beyond Existing Building

Nonconforming use within a building shall not be extended to occupy any land outside the building.

C. Off-Street Loading and Parking

Nonconforming use of land or building shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the land became a nonconforming use, except to provide off-street loading or off-street parking space.

D. Residential Lot Exemption

The minimum residential lot areas for the various zoning districts shall be in accordance with their respective districts except that a lot having less area than herein required which was an official "lot of record" prior to June 12, 2014, may be used for a single family dwelling.

E. Expansion of Nonconforming Buildings with Conforming Uses

Buildings or structures which do not conform to the area regulations or development standards in this ordinance but where the uses are deemed conforming shall not increase the gross floor area greater than ten (10) percent from the date when the building became nonconforming.

F. Reuse of Abandoned or Vacant Buildings by Conforming Uses Allowed

Buildings or structures which have been vacant or abandoned for more than six (6) months and do not meet the current area regulations or development standards shall be allowed to be re-occupied by a conforming use.

1.4.7. Restoration of Nonconforming Structures

A. Total Destruction

If a nonconforming structure is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this Ordinance.

B. Partial Destruction

In the case of partial destruction of a nonconforming structure not exceeding fifty-one (51) percent of its total appraised value as determined by the Appraisal District, reconstruction will be permitted, but the existing square footage or function of the nonconforming structure cannot be expanded.

1.4.8. Movement of Nonconforming Structures

A. Relocation of a Nonconforming Structure within a Platted Lot

Nonconforming structures may be relocated within the same platted lot.

B. Compliance

Nonconforming structures shall comply with all setback and screening requirements.

1.4.9. Completion of Structures

Nothing herein contained shall require any change in the plans, construction, or designated use of the following.

A. Approved Building

A building or structure for which a building permit has been issued or a Site Plan approved prior to June 12, 2014.

B. Building in the Approval Process

A building or structure for which a complete application for a building permit was accepted by the Building Inspector on or before the effective date of these regulations, provided however, that such building permit shall comply with all applicable ordinances in effect on the date such application was filed.

SECTION 2: ZONING DISTRICTS

2.1. ZONING DISTRICTS ESTABLISHED

The Town is hereby divided into the following zoning districts. The use, height and regulations are set out herein apply to each district. The districts established herein shall be known as the following:

Table 2.1: Zoning Districts Table

Document Section	District ID	District Name
Residential Zoning Districts		
2.3.1	1	Single Family Residential – District 1
2.3.2	2N / 2S	Single Family Residential – District 2N / 2S
2.3.3	3	Single Family Residential – District 3
2.3.4	4	Single Family Residential – District 4
2.3.5	5	Single Family Residential – District 5
2.3.6	6	Single Family Residential – District 6
Commercial Zoning Districts		
		None
Special Zoning Districts		
6.12	PD	Planned Development
6.13	SUP	Special Use Permit

2.2. EQUIVALENCY TABLE

The following table will identify zoning districts adopted in previous Ordinances and the District which now applies in this Ordinance to those Districts.

Table 2.2: Zoning Equivalency Table

Prior to Ordinance 14-04	Ordinance 14-04
Section 1	Single Family Residential – District 1
Section 2 Block H Lots 1-6, Block J Lots 1-12, Block K lots 1-11 & Block L Lots 1-5	Single Family Residential – District 2N
Section 2 Block L Lots 6-13, Block M Lots 1-7 & Block B Lots 38-43	Single Family Residential – District 2S
Section 3 Block N Lots 27-33, Block P Lots 1-18 & Block R Lots 1-4	Single Family Residential – District 3
Section 3 Block N Lots 1-26	
Section 3 Block M Lots 8-14	
Section 4	Single Family Residential – District 4
Section 5 - Single Story Residence Block A Lots 1-22, Block B Lots 1-4, Block C Lots 1-4, Block D Lots 1-12 & Block F Lots 3-16	Single Family Residential – District 5
Section 5 - Two Story Residence Block A Lots 1-34, Block B Lots 1-4, Block C Lots 1-16, Block D Lots 1-13, Block E Lots 1-20 & Block F Lots 3-16	
Section 5 - Single Story Block A Lots 23-34, Block C Lots 5-16, Block D Lot 13, Block E Lot 1-20 & Block F Lot 1-2	
Section 6 Single Story Residence	Single Family Residential – District 6
Section 6 Two Story Residence	

2.3. RESIDENTIAL ZONING DISTRICTS

2.3.1. Single Family Residential – District 1

A. General Purpose and Description

District 1 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of seven thousand five hundred (7,500 ft^2) square feet.

B. Permitted Uses

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

C. Area Regulations

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

2.3.2. Single Family Residential – District 2N / 2S

A. General Purpose and Description

District 2 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of nine thousand five hundred (9,500 ft^2) square feet.

B. Permitted Uses

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

C. Area Regulations

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

2.3.3. Single Family Residential – District 3

A. General Purpose and Description

District 3 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of ten thousand (10,000 ft^2) square feet.

B. Permitted Uses

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

C. Area Regulations

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

2.3.4. Single Family Residential – District 4

A. General Purpose and Description

District 4 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of forty-three thousand five hundred sixty (43,560 ft^2) square feet.

B. Permitted Uses

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

C. Area Regulations

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

D. Other Regulations

The use of an alley to provide secondary access to rear or side yards of multiple properties is prohibited.

2.3.5. Single Family Residential – District 5

A. General Purpose and Description

District 5 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of forty-three thousand five hundred sixty (43,560 ft^2) square feet.

B. Permitted Uses

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

C. Area Regulations

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

2.3.6. Single Family Residential – District 6

A. General Purpose and Description

District 6 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of forty-three thousand five hundred sixty (43,560 ft^2) square feet.

B. Permitted Uses

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

C. Area Regulations

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

D. Other Regulations

The use of an alley to provide secondary access to rear or side yards of multiple properties is prohibited.

2.4. DEVELOPMENT STANDARDS

2.4.1. Purpose

The purpose of this section is to establish area regulations and development standards for each zoning district.

2.4.2. Establishment of Area Regulations and Standards

Reference Table 2.4: Residential Districts Development Standards Table.

2.4.3. Additional Area Regulations and Standards

Additional area regulations and standards may apply to specific zoning districts and may be found within the other sections of this Zoning Ordinance.

2.4.4. Maximum Impervious Surface

The cumulative area of any driveway plus any impermeable surface area located between the front property line and any front building wall shall not exceed fifty (50) percent coverage or twenty-five (25) percent coverage for corner lots.~~of the area between the front property line and any front building wall.~~

2.4.5. Landscape Requirements – New Construction

A. Single Family Districts

Landscaping is required for all new construction.

Table 2.3: Single Family Planting Requirements

Lot Size (ft^2)	Number of Trees	Number of Shrubs
7,500 → 33,000	2	10
> 33,001	3	15

1. Ground cover shall be planted in the front, side and rear yards of all residential lots. Ground cover includes, but is not limited to: grasses, mulched planter beds, and hardscape;
2. The required trees and shrubs shall be planted in the front yard. Existing trees may be counted toward the minimum requirement. Refer to Table 2.3: Single Family Planting Requirements.
3. All landscaping required above shall be planted prior to issuance of the certificate of occupancy or final inspection for the dwelling.
4. Artificial plants or turf are expressly prohibited.

B. Recommended Tree and Shrub Size

Trees should be a minimum of three (3) inch caliper in size and shrubs should be a minimum of three (3) gallon in size.

2.4.6. Irrigation System – New Construction

A. Single Family Districts

Irrigation shall be required for all trees and shrubs in areas between the front building face and the street and the on corner lots, for all trees and shrubs in areas between the front building face and the street and the side building face and the street.

B. Recommended Irrigation Method

Trees and shrubs should be irrigated by bubbler irrigation lines. Other landscaping may be irrigated by spray irrigation. Separate valves should be provided to turn off the spray irrigation lines during periods of drought or water conversation. All valves should be controlled by an automatic watering system designed for watering for a specified amount of time at a specified time of day.

2.4.7. Garages

A. Single Family

Each single family lot shall have a minimum of two (2) enclosed garage parking spaces.

B. Front Facing

Front or street facing garages shall be prohibited.

C. Minimum Size

There shall be a minimum garage size on all new construction of twenty-five (25) feet in width and twenty-two (22) feet in depth.

D. Exceptions

1. Where the configuration of the lot is such that conformity with this provision of this ordinance would create a hardship, the Town Council may allow a variance for the lot in question. The variance is only applicable to the submitted site plan and shall be null and void if a new site plan is submitted.
2. Corner lots in Districts 1, 2N, 2S and 3 shall be permitted a front facing garage such that the front of the house and the front of the garage are not facing the same street.

2.4.8. Driveways

All new building construction shall have a concrete paved driveway.

A. Size

There shall be two (2) parking spaces provided behind the front property line only for the purpose of allowing on-site stacking or maneuvering to the enclosed spaces.

1. Driveways shall be a minimum of ten (10) feet wide in districts zoned less than one acre.
2. Driveways shall be a minimum of twelve (12) feet wide in districts zoned greater than or equal to one acre.

B. Enhanced Pavement

Driveways and entryway sidewalks may incorporate a decorative paving technique:

1. Exposed aggregate;
2. Stamped or patterned concrete; or
3. Brick or pave stone inlays.

The following enhancements are prohibited;

1. Painting;
2. Staining; or
3. The use of ready-mix pigments.

C. Enclosed Parking and Stacking Spaces

1. Districts with required enclosed parking and stacking spaces shall be a minimum of nine (9) feet wide and twenty (20) feet long.
2. Required enclosed parking and stacking spaces shall remain clear of any encroachments.

D. Circular Driveways

Circular driveways shall be designed to accommodate any required parking behind the front building line.

E. Encroachment into Setbacks

Refer to Section 4.3.4 Side Yard Set Back.

Table 2.4: Residential Districts Development Standards Table

Development Standards	1	2N	2S	3	4	5	6
Setbacks							
Minimum Front Yard	20 ft	20 ft	20 ft	20 ft	30 ft	30 ft	30 ft
Minimum Side Yard – Dwelling or Accessory Structure	7 ft	7 ft	7 ft	7 ft	12 ft	12 ft	12 ft
Minimum Rear Yard – Dwelling or Accessory Structure	--	--	--	--	20 ft	--	20 ft
Minimum Side Yard – Pool and/or Spa	10 ft	10 ft	10 ft	10 ft	12 ft	12 ft	12 ft
Minimum Rear Yard – Pool and/or Spa	10 ft	10 ft	10 ft	10 ft	20 ft	10 ft	20 ft
Lot Dimensions							
Minimum Area	7,500 ft^2	9,500 ft^2	9,500 ft^2	10,000 ft^2	43,560 ft^2	43,560 ft^2	43,560 ft^2
Minimum Width	60 ft	70 ft	70 ft	70 ft	90 ft	90 ft	90 ft
Dwelling – Non Waterfront Lots							
Minimum Dwelling Area – Single Story	1,000 ft^2	1,200 ft^2	1,800 ft2	1,200 ft^2	1,800 ft^2	2,400 ft^2	2,400 ft^2
Minimum Ground Floor Dwelling Area – Two Story	1,000 ft^2	1,200 ft^2	1,800 ft2	1,200 ft^2	1,800 ft^2	3,000 ft^2	3,000 ft^2
Maximum Height / Stories	2.5	2.5	2.5	2.5	2.5	2.5	2.5
Dwelling – Waterfront Lots							
Minimum Dwelling Area – Single Story	2,000 ft^2	--	--	1,800 ft^2	1,800 ft^2	3,000 ft^2	3,000 ft^2
Minimum Ground Floor Dwelling Area – Two Story	2,000 ft^2	--	--	1,800 ft^2	1,800 ft^2	3,000 ft^2	3,000 ft^2
Maximum Height / Stories	2.5	--	--	2.5	2.5	2.5	2.5
Dwelling – All							
Minimum Elevation (above mean sea level)	540 ft						
Roofing Material	Wooden Shingles Prohibited						

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SECTION 3: LAND USES

3.1. USE OF LAND AND BUILDINGS

3.1.1. Uses Permitted by District

The use of land or buildings shall be in accordance with those listed in the following 3.2 Use Table. No land or building shall hereafter be used and no building or structure erected, altered, or converted other than for those uses specified in the zoning district in which it is located.

3.1.2. Classification of New and Unlisted uses

It is recognized that new types of land use will develop and forms of land use not presently anticipated may seek to locate in the Town. If the Building Inspector is unable to classify the use under one of the existing listed uses, then the Town Council shall interpret and initiate a zoning text amendment pursuant to the procedures set forth in this ordinance.

3.2. USE TABLE

Base Zoning District Legend		Base						Special	
P	Indicates Permitted Use	1	2N / 2S	3	4	5	6	PD - Planned Development	SUP - Special Use Permit
	Indicates Prohibited Use								
S	Indicates Specific Use Permit Required								
C	Indicates Conditional Use								
Special Zoning District Legend									
	Indicates Regulation by District								
Use Type									
	Residential Uses								
	Garage Apartment	P	P	P	P	P	P		
	Guest House	P	P	P	P	P	P		
	Single Family Residence	P	P	P	P	P	P		
	Non Residential Uses								
	Accessory Structure	C	C	C	C	C	C		
	Child-Care: Home	C	C	C	C	C	C		
	Electrical Sub Station	S	S	S	S	S	S		
	Home Occupation	C	C	C	C	C	C		
	Homebuilder Marketing Center	C	C	C	C	C	C		
	Municipal Uses Operated by the Town	P	P	P	P	P	P		
	Parks or Open Space	P	P	P	P	P	P		
	Telephone Exchange	S	S	S	S	S	S		

3.2.1. Conditional Development Standards

A use is permitted in the zoning district as indicated in the Use Table; section 3.2 USE TABLE, if the following conditional development standards or limitations are met.

A. Accessory Structure

Refer to section 4.2.4 Detached Garage and Accessory Building – New Construction.

B. Child-care: Home

Permitted by right as home occupation in the designated zoning districts and is subject to the regulations of Home Occupation.

C. Home Occupation

A home occupation, in districts where allowed, shall meet the following standards to maintain the residential character of the neighborhood while providing opportunities for home-based businesses.

1. Home occupations shall not produce any alteration or change in the exterior appearance of the residence which is inconsistent with the typical appearance of a residential dwelling.

   a. No external evidence of the occupation shall be detectable at any lot line, including but not limited to advertising, signs, smoke, dust, noise, fumes, glare, vibration, or electrical disturbance beyond the property line;

   b. No exterior storage of material, equipment, vehicles, and/or supplies used in conjunction with the home occupation;

   c. No storage of hazardous materials for business purpose shall be allowed on the premises;

   d. The home occupation shall not have a separate entrance;

   e. Proprietor shall provide adequate off-street parking for business related vehicles;

   f. A maximum of one (1) commercial vehicle, capacity one (1) ton or less, may be used or parked on the property in connection with the home occupation. The commercial vehicle shall not be parked on the street;

   g. The home occupation shall not require regular or frequent deliveries by large delivery trucks or vehicles in excess of one and one-half (1½) tons. This shall not be construed to prohibit deliveries by commercial package delivery companies;

   h. The home occupation shall not display advertising signs or other visual or audio devices which call attention to the business use;

   i. Merchandise shall not be offered or displayed for sale on the premises. Sales incidental to a service shall be allowed; and orders previously made via the telephone, internet, or at a sales party may be filled on the premises; and

j. No traffic shall be generated by a home occupation in greater volumes than normally expected in a residential neighborhood, and any need for parking must be accommodated within the off-street parking provided for the residence (i.e. the driveway or garage) and along the street frontage of the lot.

k. The home occupation shall be clearly incidental and secondary to the use of the premises for residential purposes.

l. The home occupation shall employ no more than two (2) individuals who are not an occupant of the residence. This shall not include the coordination or supervision of employees who do not regularly visit the house for purposes related to the business.

m. The home occupation shall not offer a ready inventory of any commodity for sale.

n. The home occupation shall not accept clients or customers before 7:00 a.m. or after 9:00 p.m. This limitation of hours of operation shall not apply to allowed childcare home occupations. Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. for outdoor activities.

o. Outdoor activities are not allowed, unless the activities are screened from neighboring property and public rights-of-way.

2. Uses allowed as home occupations shall include the following:

a. Office of an accountant, architect, attorney, engineer, realtor, minister, rabbi, clergyman, or similar profession.

b. Office of a salesman or manufacturer's representative, provided that no retail or wholesale transactions or provision of services may be personally and physically made on premises;

c. Author, artist, sculptor;

d. Dressmaker, seamstress, tailor, milliner;

e. Music/dance teacher, tutoring, or similar instruction;

~~f.~~ Swimming lessons or water safety instruction~~;~~

g. Home crafts, such as weaving, model making, etc.;

h. Repair shop for small electrical appliances, cameras, watches, or other small items, provided that the items can be carried by one person with no special equipment, and provided that no internal combustion engine repair is allowed;

i. Child-Care: Licensed Child-Care Home, Child-Care: Listed Family Home, or Child Care: Registered Child-Care Home. Homes with six (6) or more children shall be prohibited.

j. Barbershop, beauty salon, or manicure studio, provided that no more than one (1) customer is served at any one time;

k. Internet based businesses; and

l. Food Production Operations that produce non-potentially hazardous food. Examples of non-potentially hazardous foods include, bread, rolls, biscuits, sweet breads, muffins, cakes, pastries, cookies, fruit pies, jams, jellies, dry herbs and dry herb mixes.

3. Uses prohibited as home occupations shall include the following:

a. Animal hospital, commercial stable, kennel;

b. Boardinghouse or rooming house;

c. Restaurant or on premise food/beverage consumption of any kind;

d. Automobile, boat, or trailer repair, small engine or motorcycle repair, large appliance repair, repair of any items with internal combustion engines, or other repair shops;

e. Cabinetry, metal work, or welding shop;

f. Office for doctor, dentist, veterinarian, or other medical-related profession;

g. On-premise retail or wholesale sale of any kind, except home craft items produce entirely on premises;

h. Commercial clothing laundering or cleaning;

i. Mortuary or funeral home;

j. Trailer, vehicle, tool, or equipment rental;

k. Antique, gift, or specialty shop;

l. Any use defined by the building code as assembly, factory/industrial, hazardous, institutional, or mercantile occupancy; and

4. Determination of a Home Occupation Use not Specifically Listed:

a. The Director shall determine whether a proposed use not specifically listed is appropriate as a home occupation. The Director shall evaluate the proposed home occupation in terms of its impact on neighboring property, its similarity to other allowed and prohibited uses, and its conformance with the regulations herein.

5. Appeal of the Director's Home Occupation Determination:

b. If the applicant disagrees with the determination of the Director, the applicant may appeal to the Town Council.

c. Any home occupation that was legally in existence as of the effective date of this Ordinance and that is not in full conformity with these provisions shall be deemed a legal nonconforming use.

D. Homebuilder Marketing Center

1. Shall be used only to market homes/lots in the development where it is located when located in a residential zoning district.

2. The use must be removed when all homes/lots in the development have been sold.

SECTION 4: SITE DEVELOPMENT REQUIREMENTS

4.1. SCREENING STANDARDS

4.1.1. Scope

Standards set forth in this section establish the required screening.

A. Applicability

The standards and criteria contained in this section are the minimum standards.

B. Exceptions

All plats with an approved Site Plan and/or Landscape Plan prior to June 12, 2014 shall be considered legal nonconforming.

4.1.2. Thoroughfare Standards

A. Applicability

Regulations are prescribed for the location and type of screening devices to be used when required in zoning districts or in this section.

B. Screening Wall Materials

A screening wall or fence required under the provisions of this section, under a Specific Use Permit, a Planned Development District, or other requirement shall be constructed of clay-fired brick or stone masonry units.

1. All wall or fence openings within a required screening element shall be equipped with gates equal in height and screening characteristics to the wall or fence;
2. Split-face concrete masonry units, or pre-cast panels are prohibited.

C. Screening Wall Finishing on Both Sides

1. All masonry screening walls shall be equally finished on both sides of the wall;
2. The style, color, and material of the wall must be consistent within the development.

D. Screening Installation and Maintenance

1. All required walls, fencing, and other screening materials must be installed and completed prior to final acceptance of the project;
2. The property owner shall maintain all screening fences, walls, and landscaping;
3. Repairs to existing walls will be permitted with the addition of galvanized metal supports being added to the area being repaired.

E. Access Management

1. Screening walls shall have adequate breaks to allow pedestrian and bicycle traffic to access parks and public paths.
2. Screening walls shall be designed so as not to create a barrier between residential districts.

4.1.3. Thoroughfare Screening / Buffer Areas

A. Living Screen

1. Adjacent Property

   a. Side and/or rear yards of Single Family land that are adjacent to nonresidential or a thoroughfare;

2. Landscape Buffer

   Thirty (30) foot minimum width as measured from property line to edge of street.

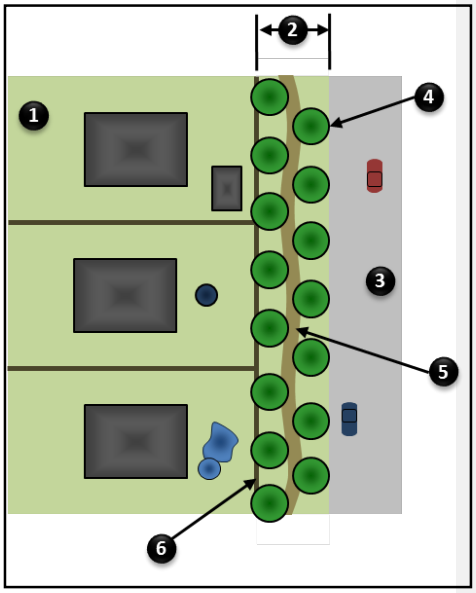
3. Pavement

   Parking or other impervious surface; may drain to Water Resource Zone in buffer.

4. Trees

   Two rows, large evergreen trees;

   Minimum six (6) feet in height at planting and create a solid screen. Spacing shall be determined based on species and approved by a licensed Landscape Architect.



5. Pedestrian Path

   Minimum six (6) feet in width; surface may be impervious or natural. Natural surfaces must be pre-approved by the Town and included in the Landscape Plan.

6. Private Fence

   Fencing material must be of the same type and style for the entire length of screen. Maintenance of the fence will be the responsibility of the homeowner upon acceptance of the development by the Town.

4.1.4. Screening for Refuse (Trash) and Recycling Storage Container – New Construction

A. Single Family

1. Refuse and recycling receptacles shall be located to minimize their visibility from public streets.
2. Screening enclosures shall be visually and aesthetically compatible with the overall project;

4.1.5. Screening for Utilities, Mechanical, and Service Facilities – New Construction

A. Applicability

The standards and criteria contained in this section are the minimum standards.

B. Finish of Accessory Elements

Exposed conduit, ladders, utility boxes, and drain spouts shall be painted to match the color of the building or an accent color.

C. Ground-Mounted and Roof-Mounted Mechanical Equipment Screening

1. All mechanical equipment shall be screened from street view.
2. If a parapet does not accomplish this screening, a screening wall equal to the height of the equipment shall be provided.
3. Buildings adjacent to single family zoned property or property that is designated as single family on the Future Land Use Plan shall provide a screening wall equal to the height of the equipment on all sides that face the residential property.
4. In all cases, screening shall be compatible with building materials.

D. Pool/Spa Equipment Screening

1. All Pool and/or Spa equipment shall be screened from street view.
2. The Lakewood Village Fence Ordinance, as amended, shall apply to the screening requirements.

4.1.6. Screening for Propane Tanks – New Construction

A. Above Ground

1. Propane tank(s) shall be screened from street view.
2. The Lakewood Village Fence Ordinance, as amended, shall apply to the screening requirements.

4.2. ACCESSORY STRUCTURE STANDARDS

4.2.1. Accessory Structure Use in Residential Districts

An accessory building is a subordinate or incidental building, detached from the main building without separate kitchen facilities, not used for commercial purposes and not rented. A Garage Apartment and a Guest House may include kitchen facilities, but shall not be used for commercial purposes and shall not be rented.

4.2.2. Garage Apartment or Guest House

A single Garage Apartment or single Guest House shall be allowed as an incidental use on the same lot or tract as the main dwelling unit and shall not be leased or rented.

A. Location

1. A Garage Apartment shall be constructed attached to a garage, either above or adjacent to the garage.

B. Building Permit Requirement

A Garage Apartment or Guest House may be constructed only after the issuance of a building permit.

C. Independent Sale and Sublet Prohibited

A Garage Apartment or Guest House may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be sublet.

D. Setbacks

Setback requirements shall be the same as for the main structure.

4.2.3. Area Regulations for Accessory Structure in Residential Districts

An accessory structure is prohibited in any easement.

A. Single Family Residential Districts

Accessory structure yard requirements shall be the same as the main structure unless otherwise specified in the zoning district or approved by the Town on a Preliminary Site Plan.

4.2.4. Detached Garage and Accessory Building – New Construction

A. Greater than 250 Square Feet

The exterior facades of a detached garage or other accessory building (excluding greenhouses) ~~or structure~~ greater than two hundred fifty (250) square feet shall be subject to the same exterior construction material(s) as the main building or structure.

B. Less Than or Equal to 250 Square Feet

Metal or wood may be used as an exterior construction material for an accessory building or structure up to two hundred fifty (250) square feet.

C. Building Permits

1. Required for buildings greater than two hundred fifty (250) square feet.
2. Not required for buildings less than or equal to two hundred fifty (250) square feet. A permit may be required for flatwork, electrical, plumbing, etc.

4.2.5. Carports

A. New Structures

The construction of a carport shall be prohibited.

B. Existing Structures

Dwellings with carports constructed prior to June 12, 2014 and are not in compliance with the above regulations shall be deemed a nonconforming use.

4.3. SUPPLEMENTARY REGULATIONS

4.3.1. Residential Lot Regulations

A. Minimum Residential Lot Area and Exceptions

The minimum lot area for the various zoning districts shall be in accordance with the individual districts except that a lot having less area than herein required which was an official "lot of record" prior to the adoption of this Zoning Ordinance, June 12, 2014, may be used for a single

family dwelling and no lot existing at the time of passage of this Zoning Ordinance shall be reduced in area below the minimum requirements set forth in the respective district.

B. Location of Dwellings and Buildings

1. One Main Building for Single Family Use

Only one main building for single family use, with permitted accessory buildings, may be located upon a lot or unplatted tract.

2. Access

Every means of access shall have a minimum lot width of forty (40) feet at the property line.

4.3.2. Repetition of Residential Unit Design

A. Applicability Zoning Districts

The regulations of this section shall apply to all Single Family districts.

B. Repetition of Floor Plan and Elevation

A minimum of nine (9) platted residential lots must be skipped on the same side and six (6) skipped on the opposite side of a street before rebuilding the same single family residential unit with an identical (or nearly identical) street elevation design. The same floor plan shall not be repeated on neighboring, side by side lots, or directly across the street.

4.3.3. Front Yard Setback

A. Corner Lots

On corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless shown specifically otherwise on a Final Plat, according to 4.3.1 Residential Lot Regulations.

B. Approved Plats with Established Building Line

The required front yard setback shall comply with the building line so established by such Zoning Ordinance or plat, where a building line has been established by a plat or by ordinance prior to June 12, 2014, and such line required is a greater or lesser front yard setback than prescribed by this Zoning Ordinance for the district in which the building line is located.

C. Front Yard Measurements and Considerations

Refer to 8.4.1 Front Yard Measurement for illustration.

1. The front yard shall be measured from the property line to the front face of the building, covered porch, covered terrace or attached accessory building.
2. Eaves and roof extensions or a porch without posts or columns may project into the required front yard setback for a distance not to exceed four (4) feet.

D. Minimum Front Yard Setback Reduction and Average Setback

Refer to 8.4.2 Staggered Front Yard Setbacks for illustration.

1. The minimum front yard setback requirements may be reduced by a maximum of five (5) feet for all single family lots provided that at least fifty (50) percent of the structures on a given block are set back an additional five (5) feet from the original setback.
2. The average setback along the block shall equal the original setback requirement.
3. The purpose of this average setback is to encourage a variety of front yard setbacks along a street.
4. In no case shall the average front yard setback be less than the minimum established in Table 2.4: Residential Districts Development Standards Table.

E. Future Right-of-Way Line

Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front or side yard shall be measured from the future right-of-way line.

4.3.4. Side Yard Setbacks

A. Corner Lot Side Yard Setbacks

Refer to 8.4.5 Corner Lot Setbacks for illustration.

1. On a corner lot used for single family dwellings, both street exposures shall be treated as a front yard.

B. Open and Unobstructed Side Yards

1. Every part of a required side yard shall be open and unobstructed from the ground upward except for gardening materials and portable accessory buildings as permitted herein and the ordinary projections of window sills, cornices, and other architectural features not to exceed twelve (12) inches into the required side yard, and roof eaves projecting not to exceed four (4) feet into the required side yard.

2. Air conditioning compressors, pool machinery and equipment, and similar appurtenances are permitted in the side yard, but shall be located a minimum of four (4) feet from the property line.

3. The driveway to the main dwelling garage may be constructed in the side setback to the following extent:

4. 1. For zoning districts with 7 ft setbacks, the driveway may extend up to four~~five~~ feet into the setback area (must stay at least three~~two~~ feet from the property line).

~~2.~~5. 2. For zoning districts with 12 ft setbacks, the driveway may extend up to seven feet into the setback area (must stay at least 5 feet from the property line)

C. Garage Door Side Yard Setback

1. The face (meaning garage door) of a garage that faces a side yard (a swing-in garage) must be setback a minimum of twenty-five ~~eight~~ (25~~8~~) feet from the side property line.

4.3.5. Wind Energy Conversion Systems

The construction of a wind energy conversion system shall be prohibited.

4.3.6. Special Height Regulations

A. Use Height Exceptions

Water stand pipes and tanks, church steeples, domes, spires, free-standing flag poles~~flags~~, scenic loft, public and private school buildings, municipal structures, and public/semi-public institutional buildings may be erected to exceed two and one half (2.5) stories with an approved Site Plan and Special Use Permit.

4.3.7. Modular (Industrialized) Home

A. Permitted Zoning Districts

A modular home is permitted in single family zoning districts.

B. Requirements

The following requirements shall be met for modular homes.

1. The modular home meets or exceeds all building code requirements that apply to other dwelling units concerning on-site construction;
2. The modular home conforms to all applicable zoning standards for the respective zoning district;
3. The modular home is affixed to an approved permanent foundation system;
4. The Building Inspector is so notified in writing for the purpose of establishing procedures for the inspection, issuing of building permits, and compliance with the Texas Manufactured Housing Standards Act (Article 1221fV.T.C.S.);
5. The modular home is placed on an approved platted lot;
6. Per the Texas Occupations Code §1202.253, Modular (Industrialized) homes shall:
   a. Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for each county in which the properties are located;
   b. Have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located; and
   c. Comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings;
7. For the purpose of this section, "value" means the taxable value of the industrialized housing and the lot after installation of the housing.

4.3.8. Exterior Construction of ~~Main~~ Buildings

A. Single Family - Siding

1. The exterior facades of a main building ~~or structure~~, excluding glass windows and doors shall be constructed of eighty (80) percent masonry on all new construction. ~~for any structure two hundred fifty (250) square feet or greater in size~~. Cementitious fiber board shall not be considered masonry. Cementitious fiber board may be used to replace existing siding on existing structures. Cementitious fiber board may also be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, or other architectural features approved by the Director.

B. Single Family – Roof Pitch

All roof pitches shall have a minimum rise of ~~four~~ six (~~6~~4) inches over twelve (12) inches of run. For two story houses, roofs over entryways may be reduced to two (2) over twelve (12) pitch with the approval of the director.

C. Accessory Structures

Accessory structures greater than two hundred fifty (250) square feet~~sq ft~~ must meet the eighty (80) percent masonry requirement and must be of the same general materials and to the greatest extent possible match the appearance of the main dwelling.

4.3.9. Propane Tanks

A. Front Yard

Placement of an above ground propane tank(s) in the front yard is prohibited.

B. Side and Rear Setbacks

Placement of propane tank(s), above ground or buried, shall meet the side and rear yard setbacks.

SECTION 5: REVIEW BODIES

5.1. TOWN COUNCIL

5.1.1. Town Council Authority for Amendments to this Zoning Ordinance

The Town Council may from time to time amend, supplement or change by ordinance the text of this Zoning Ordinance on its own initiative or upon petition for a text amendment.

5.1.2. Town Council Authority for Deciding Applications and Appeals

In accordance with Chapter 211 of the Texas Local Government Code, the Town Council shall make the final decision on applications and appeals. In addition, for any other applications not otherwise delegated to another body or Town official by Town Ordinance, the Town Council shall make the final decision.

5.1.3. Judicial Review

The Town Council's decision is final unless appealed to district court within ten (10) days after the Council's decision is flied in the Office of the Town Secretary. Such appeal must be made in accordance with Chapter 211 of the Texas Local Government Code. The Council's decision is filed in the Office of the Town Secretary when the Council votes and makes its decision in open session.

SECTION 6: DEVELOPMENT REVIEW PROCEDURES

All territory annexed to the Town shall be classified as Single Family Residential – District 5. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure set forth in section 6.5 Amendments to the Zoning Ordinance / Districts and Administrative Procedures of this Zoning Ordinance.

6.1. ZONING UPON ANNEXATION

6.1.1. Rules of Newly Annexed Territory Classified as Single Family Residential – District 5

All land or territory annexed by the Town shall be initially zoned as Single Family Residential – District 5. Permanent zoning shall be placed on the land as soon as is practicable.

A. Building Permit or Certificate of Occupancy Required

Except as provided in Chapter 43 of the Texas Local Government Code, no person shall erect, construct, proceed or continue with the erection or construction of any building or structure or cause the same to be done in any newly annexed territory to the Town without first applying for and obtaining a Building Permit or Certificate of Occupancy from the Town.

B. Limited Permits within Newly Annexed Land

No permit for the construction of a building or use of land shall be issued by the Town other than a permit which will allow the construction of a building or use permitted in District 5, unless and until such territory has been classified in a zoning district other than District 5, by the Town Council in the manner prescribed by law except as provided in 6.1.1.C.

C. Application for Building Permit or Certificate of Occupancy with Newly Annexed Land

A building permit shall be approved if the applicant shows the following:

a. The use was already legally operating on the date the annexation proceedings were initiated for the property; or

b. The use was not already operating on the effective date of annexation, but was planned for the property before the 90th day before the effective date of annexation, and:

1. One or more licenses, certificates, permits, approvals, or other form of authorization by a governmental entity were required by law for the planned land use; and

2. A completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted. For the purpose of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant. For the purposes of this section, the date the annexation proceedings were instituted means the date the Town Council approves the ordinance annexing the property.

2. If a use described in 6.1.1.C does not comply with the zoning for the property, such uses shall be allowed to continue as a nonconforming use. Notwithstanding any provision contained

herein, the Town may terminate a nonconforming use pursuant to Section 43.002(c) of the Texas Local Government Code even if it existed or was planned prior to the institution of annexation proceedings.

3. The property owner has a right to appeal the Town's decision, if an appeal is submitted to the Director in writing within ten (10) calendar days after the Town Council voted and made their determination in open session. After receiving and reviewing the appeal application, the Town Council, with affirmative votes by three fourths of the alderman of Town Council, may authorize the issuance of a Building Permit or Certificate of Occupancy or may disapprove the application pending permanent zoning.

6.2. PLATTING PROPERTY NOT ZONED

6.2.1. Zoning Required for Platting

The Town Council shall not approve any plat of any subdivision within the Town Limits until the area covered by the proposed plat shall have been zoned by the Town Council as described in section 6.1.

6.2.2. Annexation Proceedings Postpones Platting Approvals

The Town Council may conditionally approve any plat or any subdivision within any area where a petition or ordinance for annexation is pending until such annexation shall have been approved by ordinance of the Town Council.

6.2.3. Subdivision Ordinance Platting Requirements

Refer to the Subdivision Ordinance for platting requirements within the Town limits and its extraterritorial jurisdiction.

6.2.4. Simultaneous Zoning and Annexation

Zoning and annexation requests may be simultaneously considered. The Town Council must adopt the annexation ordinance prior to adopting an ordinance for permanent zoning.

6.3. CREATION OF BUILDING SITE

6.3.1. Conditions Required for Building Site, Tract, or Lot Creation

No permit for construction of a building or buildings upon any tract or plat shall be issued until a building site, building tract, or building lot has been created by compliance with one of the following conditions:

A. Approved Plat of Record

The lot or tract is part of a plat of record, properly approved by the Town Council, and filed in the Plat Records of Denton County, Texas.

B. Annexation

The plat, tract, or lot faces upon a dedicated street and was separately owned prior to annexation to the Town, in which event a building permit for only one main building conforming to all the

requirements of this Ordinance may be issued on each such original separately owned parcel without first complying with section 6.3.1.A Approved Plat of Record.

C. Approved Site Plan

The plat or tract is all or part of a Site Plan officially approved by the Town Council, and compliance has been made with provisions and improvements approved on such Site Plan for all utility and drainage easements, dedication of streets, alleys and other public improvements required to meet the standards established for the platting of land.

6.3.2. Building Permit Issuance Requires a Plat of Record

A plat of record shall be created prior to the issuance of a Building Permit. (See Subdivision Ordinance)

6.4. SITE PLAN REQUIREMENTS

6.4.1. Applicability

The Site Plan review process shall apply to all residential development.

6.4.2. Exemptions

Temporary field construction offices/staging areas as permitted by the Town are exempted from the requirements of section 6.4 Site Plan Requirements.

6.4.3. Submission of Applications

A. Coordinating Official

Applications for approval of plans required by section 6.4 Site Plan Requirements must be submitted to the Director.

B. Other Regulations for Applications

Applications are also governed by section 6.6 Vesting and Application Requirements.

6.4.4. Fees, Forms and Procedures

A. Schedule of Fees

The Town Council shall establish a schedule of fees relating to the Site Plan approval process.

B. Delinquent Taxes

No Site Plan shall be approved for properties with delinquent Town taxes.

C. Procedures, Forms and Standards

The Director shall establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for Preliminary Site Plans and Site Plans.

6.4.5. Preliminary Site Plan

A. Preliminary Site Plan General

A Preliminary Site Plan is the first plan in the Site Plan approval process. A Preliminary Site Plan is less detailed and specific than a Final Site Plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. A checklist of all required information to be depicted on a Preliminary Site Plan shall be maintained by the Building Inspector. The purpose of the plan is to:

1. Ensure compliance with applicable development regulations and previously approved, valid plans affecting development of the property;
2. Provide satisfactory vehicular and pedestrian connectivity to adjoining developments and within the site;
3. Promote the long term viability of multi-parcel developments by providing visibility of internal tracts;
4. Determine the preliminary design of drainage facilities and utilities; and
5. Promote the health, safety and welfare of the public.

B. Preliminary Site Plan Applicability

1. Prerequisite for a Site Plan

   Except as provided in section 6.4.6 Site Plan, an approved, valid Preliminary Site Plan shall be required prior to the consideration of a Site Plan for development of property set forth in 6.4.6 Site Plan.

2. Area Scope

   a. A Preliminary Site Plan must include all contiguous property of common ownership, except that approved platted lots that are not part of the intended development may be shown for informational purposes only.

   b. Property which has been subdivided by metes and bounds, regardless of ownership, shall be included in the Preliminary Site Plan; since the subdivision of land was not conducted in accordance with the Subdivision Ordinance.

3. A Site Plan may be submitted in lieu of a Preliminary Site Plan.

C. Preliminary Site Plan Application Procedure and Requirements

1. Preliminary Site Plan Pre-Application

   a. Before preparing a Preliminary Site Plan, it is recommended that the applicant meet with an authorized representative of the Town to allow the applicant to learn the general procedures for approval, and to review the general plan of the proposed development, but the development/project shall not be discussed in sufficient detail to provide the Town with fair notice of the project.

   b. No applications for a permit may be submitted to or accepted for filing with representatives of the Town during the meeting.

2. Preliminary Site Plan General Application

   The property owner shall file an application for the approval of a Preliminary Site Plan. This application shall include the information listed on the Town's Preliminary Site Plan Application Form and Checklist, which shall be created and maintained by the Director.

3. Preliminary Site Plan Details for Tracts Containing Five (5) Acres or Less

Existing or proposed tracts which contain five (5) or fewer acres shall depict a greater level of detail than tracts in excess of five (5) acres. A checklist of the required information shall be maintained by the Director.

4. Preliminary Site Plan Additional Requirements

In addition to meeting the requirements for Preliminary Site Plan approval, the following supplemental information may be necessary (such applications and plans shall be accepted for filing, however, prior to approval of the Preliminary Site Plan, and failure to submit such applications prior to approval of the Preliminary Site Plan shall be grounds for denial or rejection of the Preliminary Site Plan):

a. Preliminary Plat, if applicable,
b. Preliminary Utility Plans,
c. Traffic Impact Analysis, if required,
d. Traffic Circulation Study, if required,
e. Landscape Plan,
f. Flood Study, if required.

5. Preliminary Site Plan Standards of Approval

The Town Council may approve, conditionally approve, table or deny a Preliminary Site Plan based on:

a. Conformance with the Comprehensive Plan and adopted design guidelines;

b. Compliance with the Zoning Ordinance and other applicable regulations and previously approved, valid plans for the property;

c. Impact on the site's natural resources (i.e., floodplain, drainage, trees, topography, etc.) but excluding fence rows;

d. Effect on adjacent and area property and land use;

e. Safety and efficiency of vehicular and pedestrian circulation, traffic control and congestion mitigation;

f. Safety and convenience of off-street parking and loading facilities;

g. Access for firefighting and emergency equipment to buildings;

h. Use of landscaping and screening to shield light, noise, movement or activities from adjacent properties, and to complement the design and location of buildings and parking; and

i. The location, size and configuration of usable open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

6. Preliminary Site Plan Effect

a. Town approval of a Preliminary Site Plan shall constitute authorization by the Town for the owner(s) to submit an application for Site Plan approval for development of the entire site or a portion thereof provided that the Site Plan substantially conforms to the Preliminary Site Plan and any conditions attached to its approval.

b. Except where authorized by ordinance, a Preliminary Site Plan may not be used to approve an exception to development regulations.

c. Where an approved Preliminary Site Plan conflicts with an adopted regulation and no variance or exception is expressly approved, the regulation shall apply.

7. Preliminary Site Plan Lapse

a. The approval of a Preliminary Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Preliminary Site Plan shall expire unless the applicant demonstrates to the Town Council that progress has been made toward completion of the project for which the Preliminary Site Plan was approved or that a Site Plan has been approved.

b. An expired Preliminary Site Plan approval is null and void and the project shall be considered dormant.

c. If the progress towards completion is only for a portion of the property, the Preliminary Site Plan for the remaining property shall expire.

d. Any new Preliminary Site Plan submitted for review and approval shall be subject to the then-existing regulations at the time of submittal.

8. For appeals, see 6.14 APPEALS AND THE APPEAL PROCESS.

6.4.6. Site Plan

A. Site Plan General Information

A Site Plan is the final plan required in the Site Plan approval process. The Site Plan is a detailed plan of the public and private improvements to be constructed. The purpose of the plan is to:

1. Ensure compliance with applicable development regulations and previously approved, valid plans affecting development of the property;
2. Coordinate and document the design of public and private improvements to be constructed;
3. Coordinate the subdivision of land, including the granting of easements, rights-of-way, development agreements and provision of surety;
4. Promote the health, safety and welfare of the public; and
5. Identify and address environmental concerns (i.e., floodplain, drainage, trees, topography, etc.).

B. Site Plan Applicability

1. Prerequisite for the Approval of Any Construction Plan and Permit:

An approved, valid Site Plan shall be required prior to the approval of any construction plan and permit for and development of the following.

a. Residential development having more than two dwelling units, including attached single family housing, townhomes and condominiums;

2. Exempted Development

The following types of development are exempted from the requirements of this 6.4.6 Site Plan

a. Agricultural buildings; and

b. Temporary field construction offices / staging areas as permitted by the Building Inspection Division.

C. Site Plan Application Procedure and Requirements

1. Site Plan Pre-Application

   a. Before preparing a Site Plan, the applicant may meet with Town staff and/or a Town Official to allow the applicant to learn the general procedures for approval and to review the concept of the proposed development, if desired by applicant.

   b. No application for a permit may be submitted to or accepted for filing with the Town staff or Town official during the meeting.

2. Site Plan General Application

   The property owner shall file an application for the approval of a Site Plan. This application shall include the information listed on the Town's Site Plan Application Form and Checklist, which shall be created and maintained by the Director.

3. Site Plan Additional Requirements

   The following plans shall be submitted with a Site Plan application and approval is necessary prior to final authorization for development:

   a. Final Plat or Replat,
   b. Engineering plans,
   c. Traffic Impact Analysis, if applicable,
   d. Landscape plans, if applicable
   e. Flood Study, if required, or
   f. Other approvals as required by ordinance or resolution.

4. Site Plan Standards of Approval

   a. Approval Criteria

      1. Conformance with the Comprehensive Plan and adopted design guidelines.

      2. Compliance with the Zoning Ordinance and other applicable regulations and previously approved, valid plans for the property.

      3. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.

      4. The width, grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.

      5. The use of landscaping and screening to provide adequate buffers to shield light, noise, movement or activities from adjacent properties when necessary, and to complement the design and location of buildings and be integrated into the overall site design.

      6. The location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

      7. Protection and conservation of soils from erosion by wind or water or from excavation or grading.

      8. Protection and conservation of water courses and areas subject to flooding.

      9. The adequacy of streets, water, drainage, sewerage facilities, garbage disposal and other utilities necessary for essential services to residents and occupants.

10. The Town shall not take action on a Site Plan for property where Town taxes are delinquent.

5. Site Plan Effect

a. Approval of a Site Plan is the Town's authorization to apply for approval of building permits and to receive approval of engineering plans.

b. During the time the Site Plan remains valid the Town shall not apply any additional requirements concerning building placement, streets, drives, parking, landscaping or screening.

c. Site Plan approval is separate and distinct from other permits and approvals as may be required by the Town and other regulatory agencies.

d. Approval of a Site Plan shall not affect other applicable regulations concerning development and land use.

e. Except where authorized by ordinance, a Site Plan may not be used to approve a variance to development regulations.

f. Where an approved plan conflicts with an adopted regulation and no variance is expressly approved, the regulation shall apply.

6. Site Plan Lapse

a. Applications filed on or after September 1, 2005

1. For applications filed on or after September 1, 2005, the approval of a Site Plan shall be effective for a period of two (2) years from the date of filing of the application with the Town at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Town Council that progress has been made towards completion of the project for which the Site Plan was approved.

2. Submission and receipt of approval of engineering plans and building permits prior to expiration of the Site Plan shall be evidence of progress towards completion.

3. However, if engineering plans and permits have been approved only for a portion of the property or if the progress towards completion is only for a portion of the property and/or improvements, the Site Plan for the remaining property and/or improvements, together with any Preliminary Site Plan for the property, shall expire.

b. Expired Site Plans

1. For all expired Site Plans, the applicant shall be required to submit a new Site Plan and if required, a new Preliminary Site Plan, for review and approval by the Town Council subject to the then existing regulations.

2. Site Plan approval shall not expire upon completion of the improvements shown on the plan. Permits must remain valid during the construction process.

3. Subsequent additional development, site modifications and redevelopment shall be permitted in accordance with 6.4.8 Additional Development and Redevelopment and shall be considered a new project subject to the then existing ordinances, laws and regulations of the Town.

7. For appeals, see section 6.14 Appeals and the Appeal Process.

6.4.7. Revocation of Site Plan Approval

The Town Council may revoke approval of a Preliminary Site Plan or Site Plan if it determines that the conditions of the approval have not been met or if the plan contains, or is based upon, incorrect information or if it is determined that it was obtained using fraud or deceit.

6.4.8. Additional Development and Redevelopment

A. Additional Development, Site Modifications, or Redevelopment

Following the completion of improvements shown on an approved Site Plan, additional development, site modifications, or redevelopment of the site shall be permitted subject to the approval of a revised Site Plan, which shall be considered a new project and shall require submittal of a revised Site Plan and the approval of the Town Council under the regulations, requirements and procedures then in effect.

B. Minor Expansions and Redevelopment

Minor expansions and redevelopment may be approved by the Director under the terms of 6.4.7 Revocation of Site Plan Approval.

6.4.9. Design Standards and Specifications

A. Incorporation of Design Standards and Specifications

In addition to the requirements of this Ordinance, site plans are required to meet the standards contained in the following regulations:

1. Subdivision Ordinance;
2. Fire Code;
3. Engineering Design Standards and Construction Details;
4. Any design standards and specifications approved by the Town Council following the enactment of this provision; and
5. Building and/or Residential Code;
6. Other technical codes adopted by the Town.

6.5. AMENDMENTS TO THE ZONING ORDINANCE / DISTRICTS AND ADMINISTRATIVE PROCEDURES

6.5.1. Authority to Amend Ordinance

A. Authority

The Town Council may from time to time, after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning District Map. All amendments shall require an affirmative vote by three fourths of all alderman of the governing body.

B. Changes or Amendments

1. Any zoning district boundary amendment (also referred to as a zoning map amendment) may be requested for consideration by the:

   a. Town Council

b. The owner of the real property (or the authorized representative of an owner of the real property).

C. Zoning Amendment Application Submittal

1. Each applicant for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall submit a zoning application to the Town which shall be accompanied by payment of the appropriate fee as established by the Town.
2. Applications must be complete for acceptance.

D. Additional Considerations

1. Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner or by the Town Council on its own motion when it finds that public benefit will be derived from consideration of such matter.
2. In the event the ownership stated on an application and that shown on the Town records is different, the applicant shall submit written proof of ownership.
3. The advertisement of a zoning change or application for a Specific Use Permit shall be initiated by staff upon receipt of applicant's written response to staff's recommendation. The response shall indicate whether the applicant agrees or disagrees with the staff recommendation. When the applicant disagrees with any portion of the recommendation, the applicant shall cite the reasons for the disagreement.

E. Zoning Application Details

1. To ensure the submission of adequate information, the Director is hereby empowered to maintain and distribute a list of specific requirements for zoning applications and update or modify such requirements as deemed necessary.
2. Upon periodic review, the Director shall have the authority to update such requirements for zoning application details.

6.5.2. Zoning Amendments Process, Public Hearing and Notice

Chapter 211 of the Texas Local Government Code, as amended, shall apply when considering amendments to this Zoning Ordinance.

6.5.3. Failure to Appear before the Town Council

The Town Council may deny a zoning application if the applicant or representative fails to appear at one (1) or more hearings before the Town Council.

6.5.4. Town Council Consideration

A. Town Council Consideration and Action

Town Council, after the public hearing is closed, may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the application.

B. Town Council Vote Required for Protested Amendments

1. Documented Protest Requirements
   a. Documented Protest Filing

Protests against proposed amendments shall be filed at least seven (7) calendar days before the date of the public hearing.

b. Documented Protest Participant Requirements

1. Interior Protester: The owners, duly signed and acknowledged, of twenty (20) percent or more of the land area included within a proposed amendment boundary may participate in a documented protest for a specific case.
2. Exterior Protester: The owners, duly signed and acknowledged, of twenty (20) percent or more of the land area within a two hundred (200) foot radius of the exterior boundary of the area included in a proposed amendment may participate in a documented protest for a specific case.

2. Documented Protest Effect

If a documented protest against a proposed amendment, supplement, or change to a zoning regulation or boundary has been filed with the Director, then such amendments shall not become effective except by the affirmative vote by three-fourths of all alderman of the governing body.

C. Final Approval and Ordinance Adoption

1. Approval of any zoning change or amendment by the Town Council at the scheduled public hearing shall constitute instruction to Town staff to prepare an appropriate ordinance for final formal passage at a subsequent time.
2. If finally approved by the required number of votes, the ordinance shall be executed by the Mayor.
3. The Ordinance shall become effective from and after its adoption and publication as required by law.

6.6. VESTING AND APPLICATION REQUIREMENTS

6.6.1. Zoning Applications

A. Complete Applications Required

No zoning application shall be accepted for filing or process unless such request is accompanied by a complete application and all documents required by and prepared in accordance with the requirements of the Zoning Ordinance and any other applicable ordinance and it is filed with the Director.

B. Denial of Zoning Applications

1. The acceptance or processing by any Town official of a zoning application prior to the time a complete application is submitted hereby is deemed to be null and void and, upon discovery, shall be ground for denial or revocation of such application.
2. A typographical error shall not constitute an incomplete application.

6.6.2. Incomplete Application Procedures

A. Period of Time for Determining Incomplete Application

On or before the tenth (10th) calendar day after an application for a permit is filed with the Director, the Town shall determine if an application is complete.

B. Determination of Incomplete Applications

If the application for a permit does not contain all information required by an ordinance, law or regulation governing the application for permit, then it shall be considered incomplete.

C. Town Shall Provide Notice of Incomplete Applications

1. Written Notice of Delivery Methods

The Town shall provide written notice of the failure to the applicant by any one of the following methods:

a. Mail,
b. Email,
c. Facsimile,
d. Delivery service.

2. Written Notice Contents

The Town shall specify within the written notice the following:

a. The documents and information necessary to make the application complete.

b. The date by which the documents and information must be received.

c. The date the application for a permit will expire if all of the requested documents and information are not received by the Town.

D. Expiration of Incomplete Applications

1. If notice of an incomplete application is sent to the applicant, then the application for a permit shall expire on the forty-fifth (45th) calendar day after the date the application for a permit was filed if the application for a permit is not made complete by the applicant.

2. Any filing fee paid may be retained by the Town for reviewing the application for a permit for completeness.

3. Thereafter a new application for a permit, including but not limited to the filing fee, is required if the applicant wishes it to be considered.

4. The Town may send written notice to the applicant that the application for permit has expired, but it is not required to do so and failure of the Town to send notice that a permit has expired, shall not prevent the permit from expiring.

5. Failure to provide requested items within the timeframe will result in the case file being closed on the forty-sixth (46th) calendar day after date of application for a permit was filed. A new case with all fees may be required on all subsequent applications.

6.6.3. Filed Applications

A. Applications Received

The application for permit shall be considered filed on the date that it is received by the Town.

6.6.4. No accrual of Vested Rights from Specific Applications

No rights derived from Chapter 245 of the Texas Local Government Code, as amended, shall accrue from an application for a permit that expires, from an application for a permit that is denied or from an application that does not provide fair notice.

6.7. DORMANT DEVELOPMENT PROJECTS / EXPIRED PROJECTS

6.7.1. Expiration Date for Project and Permits File on or After September 1, 2005

A. Projects

For projects commenced on or after September 1, 2005 by the filing of an application for a permit, the project shall expire on the fifth (5th) anniversary of the date the first application for a permit that was approved by the Town was filed if there is not progress towards completion.

1. Following expiration of a project, any new applications for permits submitted for a project shall be subject to the then existing regulations.

B. Permits

Applications for a permit filed on or after September 1, 2005 for which the application does not expire pursuant to 6.6.2 Incomplete Application Procedures or for which the permit is subsequently approved, the application for a permit and/or the permit shale expire two (2) years from the date the application for a permit was filed if there is no progress towards completion.

6.7.2. Expiration Date for Permits Filed before September 1, 2005

A. Expiration Date Specified

Applications for permits and projects filed with the Town before September 1, 2005 shall be valid for the period of time specified in the ordinances that existed on the date the application for permit was filed.

B. No Expiration Date Specified

If the approved application did not have an expiration date, then the permit shall be valid for eighteen (18) months beginning on the date the application for permit was filed.

6.7.3. Progress towards Completion Defined

A. Progress to completion means that:

1. The approved application did not have an expiration date; and any one or more of the following had occurred:
   a. An application for a Final Plat or plan was properly filed in accordance with Town ordinances, and said Final Plat or plan has not expired.
   b. A good-faith attempt was made to file an application for a permit required to begin or continue towards completion of the development.
   c. Costs were incurred for developing the project, including, without limitation, costs associated with development (but not including the cost of land acquisition) in the aggregate amount of

five (5) percent of the most recent appraised value of the real property on which the project is located.

d. Fiscal security was posted with the Town, or other regulatory agency, to ensure performance of obligations required by Town ordinances and/or regulatory agencies.

e. Utility connection fees or impact fees for the project were paid to the appropriate authority or regulatory agency.

6.8. VARIANCE PROCEDURES

6.8.1. Purpose and Applicability

A. Cases for which a Variance may be Granted

The Town Council may authorize, in specific cases, a variance from the terms of a zoning ordinance for the following:

1. Height;
2. Yard;
3. Lot Area;
4. Exterior structure; or
5. Off-street parking

B. Variance Criteria

A variance may be granted only if the Town Council finds that:

1. The requested variance is not contrary to the public interest; and
2. The requested variance does not violate the intent of the Zoning Ordinance, as amended; and
3. The requested variance allows the spirit of the Zoning Ordinance to be observed and substantial justice done; and
4. The requested variance is consistent with the adopted Comprehensive Plan; and
5. The requested variance would not cause injury to or restrict development on any other parcel of land; and
6. The requested variance is not needed merely to promote economic gain or to prevent economic loss; and
7. A literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. An unnecessary hardship only exists when a variance is needed to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
8. The unnecessary hardship is not self-created or personal to the owner of the parcel of land.

C. Variance Limitations

1. Completed Action Required Before a Variance

An application or request for a variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which a Preliminary Site Plan, Site Plan, Preliminary Plat or

Final Plat, when required by the Zoning Ordinance or the Subdivision Ordinance for any parcel of property or portion thereof, has not been finally acted upon by the Town Council.

2. Exhausted all Other Options

The administrative procedures and requirements of the Zoning Ordinance, and any amendments thereto, with regard to Town Council consideration and action, on Preliminary Site Plans, Site Plans, Preliminary Plats, and Final Plats, must be exhausted prior to requesting a variance.

D. Public Hearing Required

1. The Town Council shall hold a public hearing for each variance applicant and shall provide the notice and public hearing required by this ordinance.
2. At the public hearing, the Town Council shall consider public comments and shall approve, approve with conditions or deny the variance application.

E. Application Form and Fee

A completed application form with payment in full is required prior to scheduling a public hearing. A site plan shall be provided at the time the application is submitted.

F. Approval

After receiving and reviewing the variance application, the Town Council, with affirmative votes by three-fourths of the alderman of Town Council, may authorize the variance.

G. Expiration

A variance granted by the Town Council shall expire:

1. If construction of the project described in the application for variance has not commenced within one (1) year from the date the variance is granted; or
2. If construction of the project described in the application for variance has commenced within one (1) year, but has not been completed within two (2) years from the date of the granting of the variance.

H. Appeal

The Town Council's decision is final unless appealed to district court within ten (10) days after the Council's decision is flied in the Office of the Town Secretary. Such appeal must be made in accordance with Chapter 211 of the Texas Local Government Code. The Council's decision is filed in the Office of the Town Secretary when the Council votes and makes its decision in open session.

6.9. SPECIAL EXCEPTION FOR BUILDING INSPECTOR ERROR

6.9.1. Special Exception Criteria

The Town Council may issue a special exception to grant nonconforming status for a structure that did not conform to this Ordinance when it was constructed or established, if the Town Council finds:

A. The nonconformity was clearly and specifically shown in plans and specifications duly submitted to obtain a Town permit;

B. Before the work was done, neither the owner, the designer, the surveyor, the contractor nor any other person assisting with the work knew about the nonconformity;

C. The nonconformity was clearly covered by the Town permit (the same permit for which the plans and specifications were submitted), and the permit was otherwise regularly issued;

D. After learning of the nonconformity, the owner promptly conferred with the administrative official and voluntarily halted any further nonconforming work;

E. The item will cause no health or safety hazard and no significant impact upon another person or property; and

F. The item can be brought into conformity with this Ordinance within the time period specified in the special exception, at a modest or reasonable cost.

G. Exception: Bringing the item into conformity need not be required if the Town Council finds that the impact of the item on other persons or properties is either nil or extremely small.

6.9.2. Time to Comply; Conditions

No such special exception is effective unless it specifies a time period within which the item must be brought into conformity with this Ordinance (if required). Nonconforming status granted for a specified time period is lost when the specified time period expires or if ownership is sooner transferred (unless the new owner acknowledges both the special exception and the date the time period expires, by written instrument filed with the Director before the transfer). Any special exception issued under this section may contain conditions designed to:

A. Reduce nonconformity;
B. Mitigate (or compensate for) the effects of nonconformity;
C. Achieve conformity sooner than the specified time period; or
D. Any combination of the foregoing.

6.10. REINSTATEMENT OF NONCONFORMING RIGHTS

A. Loss of Nonconforming Rights Status

If the Director determines that a nonconforming use has been permanently abandoned under 1.4.1.A Abandonment of Nonconforming Use and has lost its nonconforming rights, the use shall not be instituted on that parcel or other parcel in any district which does not permit the abandoned use.

B. Notice to Owner and/or Operator Required

Notice of this determination shall be made in writing to the owner and/or operator of the abandoned nonconforming use.

C. Application for Nonconforming Rights Reinstatement

1. The owner and/or operator of the abandoned nonconforming use may submit a written application to the Town Council to have the nonconforming rights reinstated.

2. Written application for reinstatement of nonconforming rights must be made within ten (10) business days after the Director issues the written notice of determination that a use has been permanently abandoned.

D. Town Council Decision

The Town Council may reinstate nonconforming rights only if the Town Council finds there was clear intent not to abandon the use even though the use was discontinued for six (6) months or more.

6.11. LANDSCAPE PLAN REVIEW

6.11.1. Process

A. Landscape Plan Approval

1. The provisions of this section shall be administered and enforced by the Director.
2. The required landscape documents shall be submitted for review with the Preliminary Site Plan and Site Plan required in this Ordinance.
3. Permits for building, paving, utilities, or construction shall not be issued prior to an approval and construction release of required landscape documents by the Town, unless approved by the Director.
4. An approved Landscape Plan shall expire at the same time that the approved Site Plan with which it was submitted expires.

6.11.2. Review Criteria

A. Objectives

The following criteria shall be used to evaluate proposed Landscape Plans.

1. The landscape design should have proportion, balance, unity, variety of species, and a variety of color throughout the seasons.
2. Landscape designs should define spaces including entrance areas, pedestrian paths, vehicular avenues, parking areas, sitting areas, etc.
3. As an architectural feature, landscape designs should visually soften the mass of the buildings, parking areas, and other structures.
4. Indigenous landscape materials should be selected whenever feasible.
5. Landscaping should:

   a. Reduce the reliance on irrigation, thus conserving the public water supply.
   b. Minimize erosion;
   c. Shade seating, walking and outdoor activity areas;
   d. Provide a barrier between vehicles and pedestrians;
   e. Diminish the intrusion of headlights and other glare;
   f. Provide a natural habitat for birds and other wildlife;
   g. Shield buildings from winter wind and summer sun thereby conserving energy; and
   h. Enhance overall character and ecological function of the site through and restoration of native vegetation, and eradication of invasive species.

6.12. PLANNED DEVELOPMENT APPLICATION AND REVIEW

6.12.1. Planned Development (PD) Requirements

A. Modified Development Requirements

Development requirements for each PD District shall be set forth in the amending Ordinance granting the PD District and shall include, but may not be limited to standards listed in the following documents:

1. Zoning Ordinance;
2. Subdivision Ordinance;
3. Engineering Design Standards and Construction Details;
4. Sign Ordinance; and
5. Other requirements as the Town Council may deem appropriate.

B. Reference Base Zoning District

When referencing a base zoning district, the PD ordinance will not have to provide any of the references listed in 6.12.1.A.

C. Deviations from Base Zoning

1. All applications to the Town for PD zoning shall list all requested standards differing from the normal requirements set forth throughout this Ordinance and related Town development requirements.
2. All applications without this list will be considered incomplete.
3. The list shall be provided in the form of a comparison table that lists all current standards and the corresponding proposed standards for the PD District.
4. The applicant shall provide written justification for the PD request and associated standards, including a statement of impact on public health, safety, and welfare.

D. PD Application Materials Submitted

An applicant for a PD District shall submit all materials required by this Zoning Ordinance.

1. The Director shall send written notice, within ten (10) calendar days after the date the application is filed, to any applicant that has submitted incomplete materials stating the remaining documents or other information needed to make the application complete.
2. The application for a PD District shall expire on the forty-fifth (45th) calendar day after the date the application was filed if the applicant fails to submit the remaining documents or other information needed to make the application complete on or before such forty-fifth (45th) calendar day.

E. PD District Map (Zoning Exhibit "A")

The PD District Map shall display all lands within PD in the Town.

1. The Director shall establish all dimensional requirements for PD District Maps.

F. Development Schedule

A development schedule may be requested by Director or the Town Council at any time during the PD request process.

G. Conformity

The PD District standards shall conform to all other sections of this Ordinance unless specifically excluded or modified in the granting ordinance.

H. Minimum Net Acreage

The minimum net acreage for a PD request shall be fifteen (15) acres unless a specific finding is made by the Town Council that the establishment of the district is required to implement the Comprehensive Plan, a strategic focus area, a special project, or any other purpose.

6.12.2. Appropriate Plans and Standards for a PD (Zoning Exhibit "B" and "C")

In establishing a PD District in accordance with this section, the Town Council shall approve and file as part of the amending ordinance appropriate plans and standards for each PD District, with shall be attached as Zoning Exhibit "B" to the PD ordinance.

A. Proposed Standards

Zoning Exhibit "B" shall outline the list of proposed standards for the PD.

B. Different Standards for Different Tracts

If different standards will be applied to different tracts within the PD, then separate regulations for each tract shall be specified.

C. Additional Requirements (Zoning Exhibit "C")

1. If the proposed PD is amending uses only, nothing additional is required unless supplemental information is necessary to clarify the request.
2. If the proposed PD amends any other standards, a zoning exhibit of the proposed PD will be required (which shall be attached as Zoning Exhibit "C" to the PD ordinance), unless otherwise determined by the Director.
3. Zoning Exhibit "C" shall facilitate understanding of the request during the review and public hearing process, and will serve as a guide for future development within the PD District.
4. If required, the Zoning Exhibit "C" shall reflect the overall layout of the entire development and the Director shall maintain a list of required details.
5. If the PD is nonresidential and/or mixed use in nature, the Zoning Exhibit "C" shall also include but not be limited to building dimensions and location, structure height, used, parking specifications, floor area ratio and lot coverage, open space specifications, drainage features, landscaping and trees, floodplain/riparian details, and architectural style or elevations for illustrative purposes.
6. The Town may require further written documentation that describes and explains the Exhibit "C" layout.

7. The Exhibit "C" shall in no way vest rights for the property that are outside the regulations of the Zoning Ordinance and other applicable Town ordinances, as they currently exist or shall be amended.

6.13. SPECIFIC USE PERMIT (SUP) APPLICATION AND REVIEW

6.13.1. Specific Uses Permit Regulations and Procedures

A. Compatibility Considerations

The Town Council in considering any request for Specific Use Permit shall only approve such request after it has determined that the use or uses allowed will not be detrimental to adjacent properties or to the Town as a whole.

The Director or the Town Council may require from the applicant any plans, information, operational data, and expert evaluation concerning the location, function, and characteristics of the proposed use or buildings.

The Town council when establishing a Specific Use Permit shall establish conditions and regulations, in addition to those of the base zoning district, necessary to protect the health, safety, morals, and general welfare of the neighborhood and/or the Town. In addition, the use shall be in general conformance with the Comprehensive Plan and general objectives of the Town. These conditions may include but are not limited to:

1. Paving of streets and sidewalks
2. Means of ingress and egress to public streets,
3. Provisions for drainage,
4. Adequate off-street parking,
5. Protective screening and landscaping,,
6. Area or security lighting,
7. The locations and heights of structures,
8. Architectural compatibility of buildings,
9. Intensity of the use, and
10. Adequate traffic circulation required to contain all stacking activity on the site.

B. Imposed Conditions for Approval

1. In granting a Specific Use Permit, the Town Council may impose conditions which shall be complied with by the owner or grantee before a certificate of occupancy may be issued for use of the building on such property pursuant to such Specific Use Permit and such conditions precedent to the granting of the certificate of occupancy.
2. Any special conditions shall be set forth in writing in the ordinance granting the SUP.

C. Compliance Mandatory with Written Requirements

No Specific Use Permit shall be granted unless the applicant, owner and grantee of the Specific Use Permit shall be willing to accept and agree to be bound by and comply with the written requirements of the Specific Use Permit, as attached to the Preliminary Site Plan drawing(s) and approved by the Town Council.

D. Timing

1. If required, a building permit shall be applied for and secured with six (6) months from the time of granting the Specific Use Permit, provide however, that the Town Council may authorize an extension and the Town Council may review the Site Plan for continued validity.
2. If the Site Plan is determined invalid, the property owner(s) must submit a new or revised Site Plan for approval prior to any construction or application for building permit for the area designated for the Specific Use Permit.

E. Enlargement, Modifications, or Structure Alternation

1. A building, premise, or land used under a Specific Use Permit may be enlarged, modified, structurally altered, or otherwise changed provided the changes do not:
   a. Increase the height of structures, including antenna support structures;
   b. Increase building square footage from its size at the time the original Specific Use Permit was granted by greater than ten (10) percent;
   c. Reduce the distance between a building or noise-generating activity on the property and an adjacent, off-site residential use. This provision shall not apply should the property and the residential use be separated by a major thoroughfare depicted on the Town Thoroughfare Plan; or
   d. Reduce the amount of open space as indicated on the previously approved zoning exhibit.
2. All other enlargements, modifications, structural alterations, or changes shall require the approval of a new Specific Use Permit.

F. Zoning Map

1. When the Town Council authorizes granting of a Specific Use Permit, the Zoning Map shall be amended according to its legend to indicate that the affected area has conditional and limited uses, and said amendment is to indicate the appropriate zoning district for the approved use and prefixed by an "S" designation.
2. Specific Use Permits granted shall be indicated by numerical designation on the Zoning District Map.
3. Section 8.3 Specific Use Permits of this Ordinance shall list by the numerical designate each SUP and the conditions approved.
4. Specific Use Permits are issued to the property.

G. Amend, Change, or Rescind a Specific Use Permit

Upon holding a properly notified public hearing, the Town Council may amend, change, or rescind a Specific Use Permit if:

1. There is a violation of any of the provisions of this ordinance or any ordinance of the Town that occurs on the property for which the Specific Use Permit is granted;
2. The building, premise, or land use under a Specific Use Permit is enlarged, modified, structurally altered, or otherwise significantly changed without approval of a separate Specific Use Permit for such enlargement, modification, structural alteration, or change;
3. Violation of any provision of the terms or conditions of a Specific Use Permit;

4. Ad valorem taxes of the property are delinquent by more than six (6) months;
5. The Specific Use Permit was obtained by fraud or with deception; or
6. The advertisement of a zoning change or Specific Use Permit shall be initiated by staff upon receipt of applicants' written response to staff's recommendation. The response shall indicate whether the applicant agrees or disagrees with the staff recommendation. Where the applicant disagrees with any portion of the recommendation, the applicant shall cite the reasons for the disagreement.

6.14. APPEALS AND THE APPEAL PROCESS

6.14.1. Appeal of a Temporary Building Decision

A. The applicant may challenge a decision by the Building Inspector by appealing, in writing, to the Town Council within fourteen (14) calendar days of a decision of the Building Inspector.

1. The Town Council's decision is final.

6.14.2. Appeal of an Administrative Decision

A. The Town Council may hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance or Section 211.007, Texas Local Government Code as it exists or may be amended.

B. In exercising the Town Council's authority herein, the Town Council may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the Council has the same authority as the administrative official.

6.14.3. Appeal of a Preliminary Site Plan

A. The applicant may appeal the decision of the Building Inspector regarding a Preliminary Site Plan by submitting a written notice of appeal to the Town.

1. The applicant must submit in writing a notice of appeal no later than fourteen (14) calendar days from the date of such decision.
2. The Town Council shall consider the appeal at a public meeting no later than forty-five (45) calendar days after the date on which the notice of appeal is submitted to the Town.
3. The Town Council may affirm, modify, or reverse the decision.
4. The Town Council's decision is final.

6.14.4. Appeal of a Site Plan

A. The applicant may appeal the decision of the Building Inspector regarding a Site Plan by submitting a written notice of appeal to the Town.

1. The applicant must submit in writing a notice of appeal no later than fourteen (14) calendar days from the date of such decision.
2. The Town Council shall consider the appeal at a public meeting no later than forty-five (45) calendar days after the date on which the notice of appeal is submitted to the Town.

3. The Town Council may affirm, modify, or reverse the decision.
4. The Town Council's decision is final.

6.14.5. Appeal of a Revised Preliminary Site Plan or Revised Site Plan

A. An applicant may appeal the denial of a revised Preliminary Site Plan or Site Plan to the Town Council in accordance with 6.14.3 Appeal of a Preliminary Site Plan or 6.14.4 Appeal of a Site Plan.

6.14.6. Appeal of a Minor PD Amendment Decision

A. An applicant may appeal the denial of a minor amendment to the Town Council in accordance 6.14.4 Appeal of a Site Plan.

6.14.7. Judicial Review

The Town Council's decision is final unless appealed to district court within ten (10) days after the Council's decision is flied in the Office of the Town Secretary. Such appeal must be made in accordance with Chapter 211 of the Texas Local Government Code. The Council's decision is filed in the Office of the Town Secretary when the Council votes and makes its decision in open session.

SECTION 7: DEFINITIONS

7.1. GENERAL

Terms which are used in this Ordinance and are not specifically defined shall be given their ordinary meaning, unless the context requires or suggests otherwise. In the case of ambiguity or uncertainty concerning the meaning of a particular term, whether or not defined, the Town staff shall have the authority to assign an interpretation which is consistent with the intent and purpose of this Ordinance, or an interpretation which is consistent with previous usage or interpretation.

7.2. WORDS AND TERMS DEFINED

Accessory Structure: structures which are incidental to, and located on the same lot as, a principle building(s) including but not limited to, trash enclosures, sign structures, fences, walls, wind-powered systems and similar structures.

Alley: a right of way which provides secondary access to multiple properties, generally in the rear of the property and used for the purpose of service access and not intended for general travel.

Block: property designated on an officially recorded map existing within well-defined and fixed boundaries within a subdivision and usually being an area surrounded by streets or other features such as parks, railroad rights-of-way or municipal boundary lines which make it a unit.

Boarding House: a house providing food and lodging for paying guests.

Building: a structure for the support or shelter of any use or occupancy.

Building Area: the total square feet of floor area in a building measured to the outside faces of exterior walls or to the omitted wall lines, whichever produces the larger area.

Building Line: means a line established, in general, parallel to a property line, over which no part of a building shall project, except as otherwise provided in this Ordinance.

Building Inspector: the officer or other designated authority charged with the administration and enforcement of this Code.

Carport: a covered structure used to offer limited protection to vehicles, primarily cars, from the elements. The structure can either be free standing or attached to a wall.

Certificate of Occupancy: a certificate issued by the Town after final inspection and upon a finding that the building, structure and/or development comply with all provisions of the applicable Town codes, permits, and requirements and approved plans.

Council: the Town Council for the Town of Lakewood Village.

Corner Lot: any lot that has two or more streets along two or more of its adjacent lot lines.

Director: the Mayor or his/her designee.

District: a zone or zoning district within which the use of land and structure and the location, height, and bulk of structures are governed by this title.

Dwelling Area: the area devoted to the living area in a residence or dwelling and is exclusive of porches, enclosed or open breezeways or other non-living space.

Family: an individual or two or more persons related by blood, marriage or adoption; or a group of not more than five persons, excluding servants, who need not be related by blood or marriage, living in a dwelling unit.

Floor Area: the same as Building Area.

Front Yard: that portion of a lot abutting the street and the front building line.

Garage: part of a home, or an associated building, designed or used for storing a vehicle or vehicles.

Garage Apartment: a dwelling unit erected in conjunction with a garage when the main structure is an owner occupied detached dwelling unit.

Gardening Materials: raised beds, stakes and tripods, open lattice or trellis for growing fruits and vegetables.

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Glare: direct light emitted from a light source, which is sufficient to cause annoyance, discomfort, or temporary loss of visual performance and visibility.

Greenhouse: a building with a roof and sides made of glass or other transparent material, used for growing plants that need warmth and protection.

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Guest House: an accessory building used to house guests of the owner(s) of the main residential structure, and which is never rented or offered for rent.

Hazardous or High Risk Use: any use which in the determination of the Building Inspector or Director, presents a health or safety hazard due to excessive smoke, dust or odors, toxic fumes, noise, vibration, or danger of fire, explosion or radiation and involving materials meeting the "Degree of Hazard – 4" criteria of the Uniform Fire Code.

Height: the vertical distance measured from grade to the highest point of the structure.

Irrigation System: An automatic watering system designed for watering landscaping and landscaped areas for a specified amount of time at a specified time of day. Irrigation systems are typically used to conserve water and time. All irrigation systems shall be equipped with an approved backflow prevention device to protect the water supply (if connected to the Town of Lakewood Village water supply).

Lot: a designated parcel, tract, or area of land established by a plat and to be used, developed or built upon as a unit.

Lot Area: the total square feet of area within the lot lines of a lot, excluding any street right-of-ways. (43,560 ft^2 = 1 acre)

Lot Depth: the length of a line connecting the mid-point of the front and rear lot lines.

Lot Line: a property line that divides one lot from another lot or from a public or private street or any other public space.

Lot of Record: a lot that exists as shown or described on a plat or deed in the records of the local registry of deeds.

Lot Width: the length of a line, drawn perpendicular to the lot depth line at its point of intersection with the front yard line, connecting the side property lines.

Main Building: a building devoted to the principle use of the lot on which it is situated. In any residential district, a dwelling shall be deemed to be the main building on the lot which it is situated.

Masonry Construction:

A. Primary Materials

Unless otherwise provided for in this Ordinance, exterior construction materials are fired brick, natural and manufactured stone, granite, marble, architectural concrete block, and 3-step stucco process for all structures.

B. Other Materials

Other exterior construction materials for nonresidential structures are tilt wall concrete panels and sealed and painted concrete block.

Mobile Home: a transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, which became effective in 1975.

Modular Homes: a HUD-Code Manufactured home as defined in the Texas Manufactured Housing Standards Act, as amended.

Nonconforming Use: a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.

Nonconforming Structure: a structure that does not conform to the design regulations of this ordinance and the zoning district in which it is located, but was lawfully erected under the regulations in force at the beginning of operation and has been a continued use since that time.

Occupancy: the purpose for which a building or land is used.

Open Space: any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public use or enjoyment or for the private use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Planned Development (PD): any development planned from its inception and is typically constructed in a previously undeveloped area.

Platted Lot Line: a lot line that has been recorded with the official recording agency.

Public Street: any street in the Town of Lakewood Village that is not private.

Rear Yard: that portion of a lot between the rear lot line and the rear building line.

Scenic Loft: an elevated area for viewing located on a lot greater than two (2) acres and a part of a dwelling greater than five thousand (5,000) square feet of conditioned space and shall not be used as a bedroom and shall not have a bathroom.

Side Yard: that portion of a lot line between the side lot lines and the side building lines.

Single Family: a land use term referring to an individual, freestanding, unattached dwelling unit.

Special Use Permit (SUP): allows a specific exception to the zoning regulations from a list of acceptable exceptions for a particular parcel of land in a district of a particular zoning character.

Story: that portion of a building between any two successive floors or between the top floor and the ceiling above it.

Street Line: the right-of-way of a street.

Structure: that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Tree: a plant having a permanently woody main stem or trunk, ordinarily growing to a considerable height, and usually developing branches at some distance from the ground.

Variance: an adjustment in the application of the specific regulations of this title to a particular piece of property, which property, because of special circumstances uniquely applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone, and which adjustment remedies disparity in privileges.

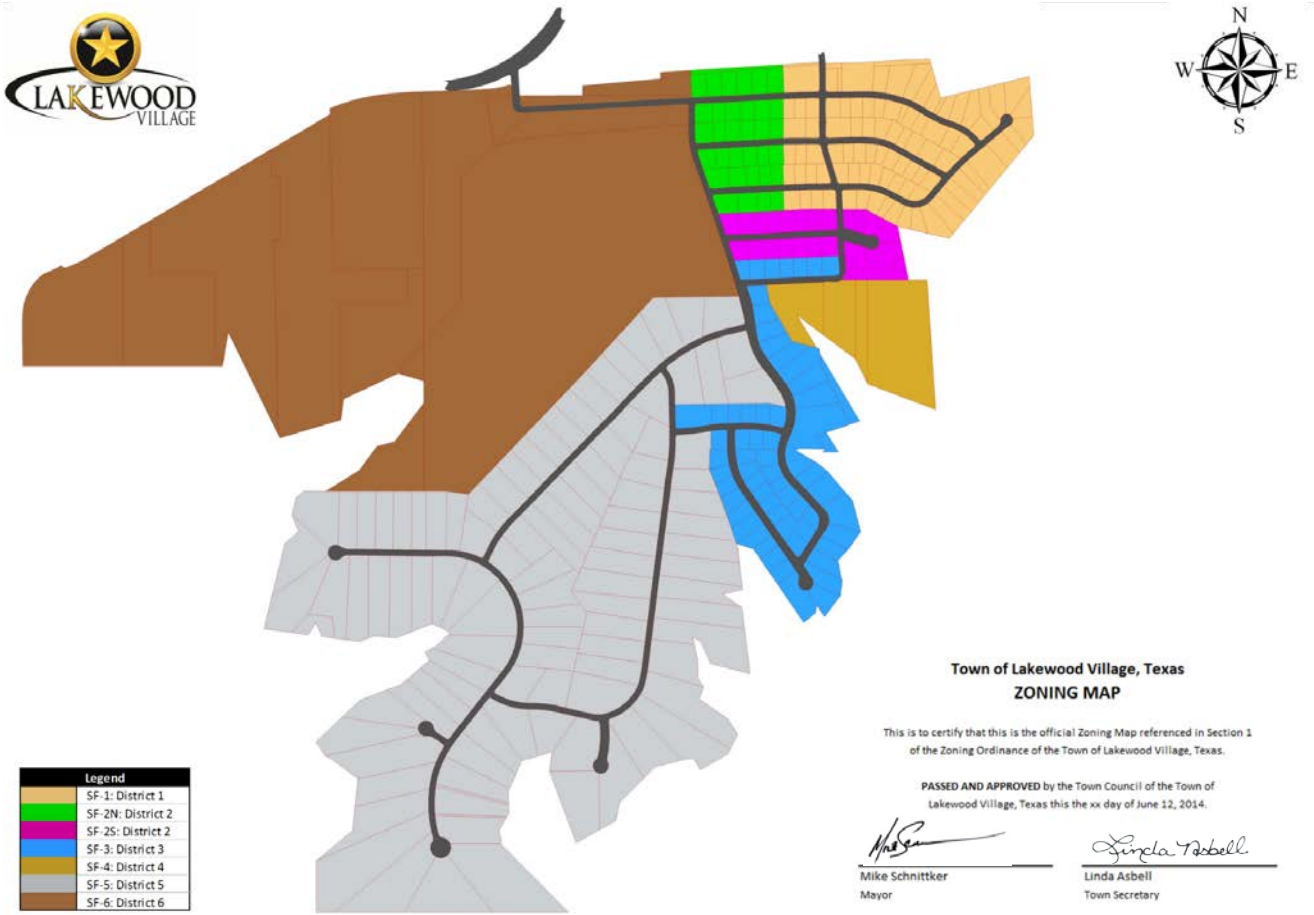
Yard: that portion of a lot which is required to be unoccupied and unobstructed from the ground to the sky, except as otherwise provided in this Ordinance.

Wind-Powered Systems: windmills and/or wind turbines used to convert energy of the wind into electricity using rotating blades and are incidental to, and located on the same lot as the principle building(s).

Zoning District Map: the official map upon which the zoning districts of the city are delineated.

SECTION 8: APPENDIX

8.1. DISTRICT MAP



8.2. PLANNED DEVELOPMENTS

The Director shall maintain and update a list of all Planned Developments that shall be adopted in reference to this ordinance.

PD- #		
Application Date: xxx		
Location: xxx		
Acreage: xxx		
Districts: xxx		
Exhibits: xxx		

8.3. SPECIFIC USE PERMITS

The Director shall maintain and update a list of all Specific User Permits that shall be adopted in reference to this ordinance.

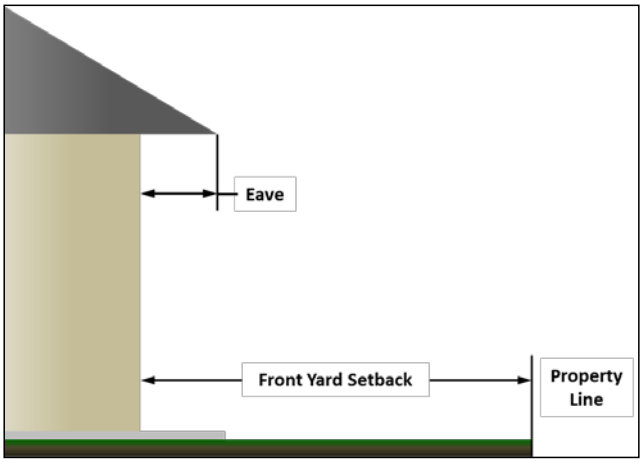
SUP- #		
Adoption Date: xxx		
Location: xxx		
Base Zoning: xxx		

8.4. ILLUSTRATIONS

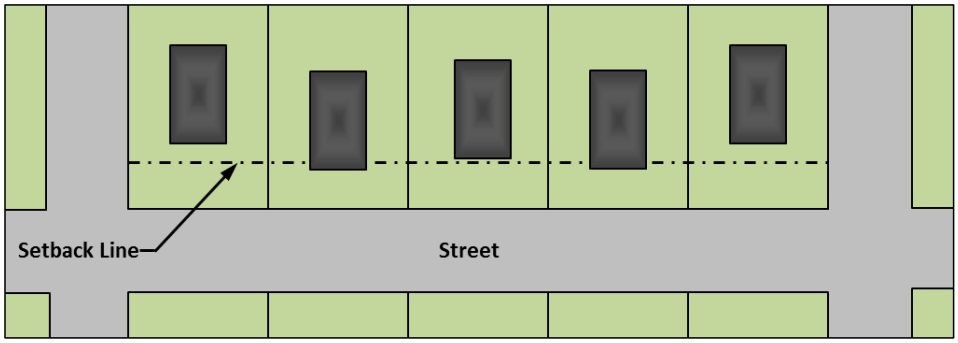
The following illustrations are intended to be used as reference in this Zoning Ordinance.

8.4.1. Front Yard Measurement

Refer to Table 2.4: Residential Districts Development Standards Table for setback requirements.

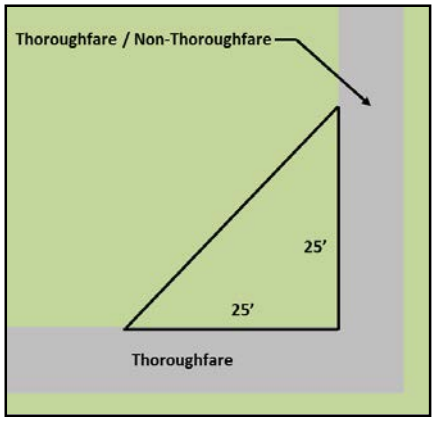


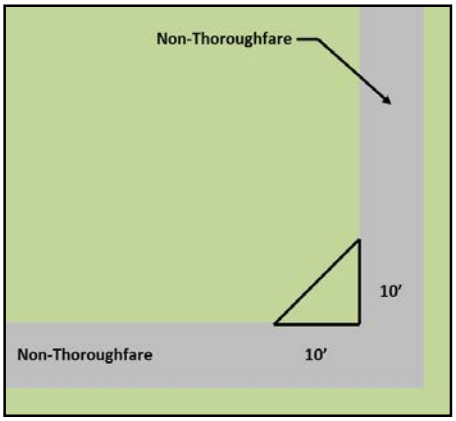
8.4.2. Staggered Front Yard Setbacks



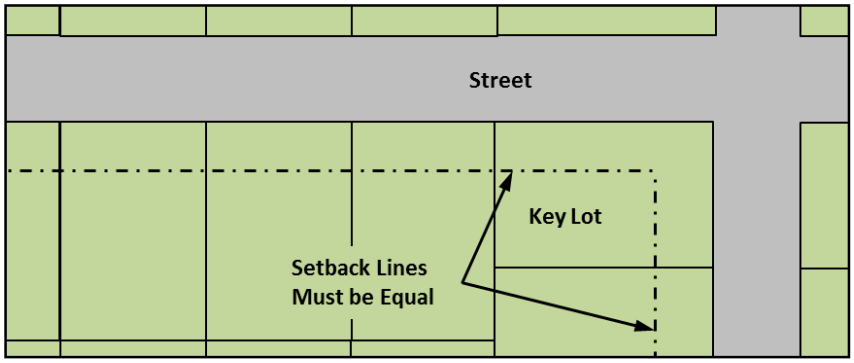
8.4.3. Corner Visual Clearance

Major Thoroughfares	Non-Thoroughfares

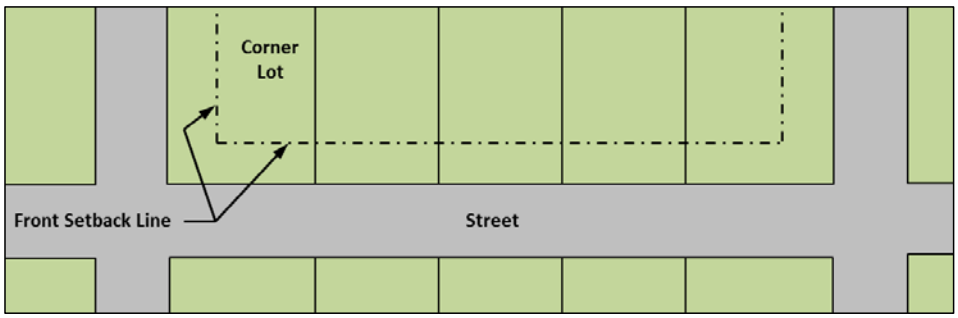




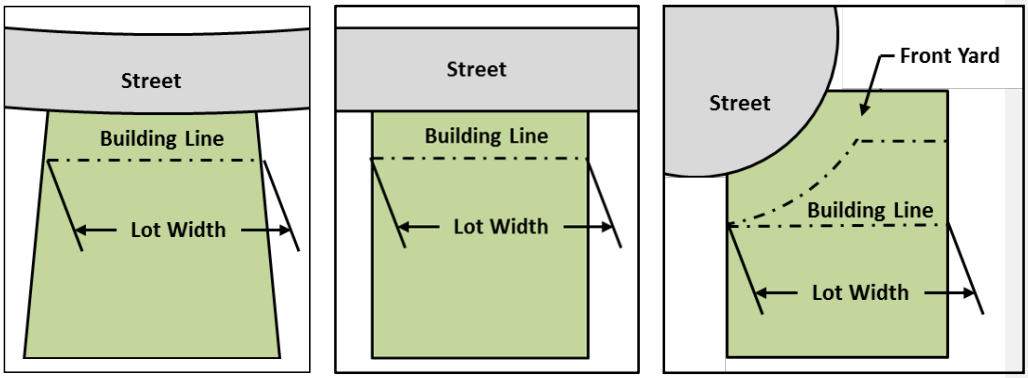
8.4.4. Key Lot Setbacks



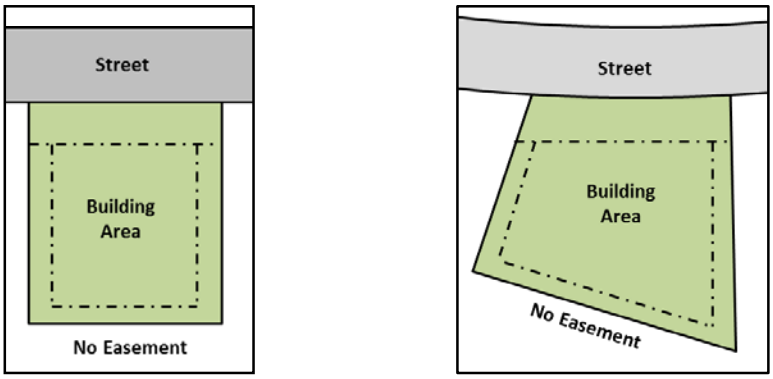
8.4.5. Corner Lot Setbacks



8.4.6. Measurements – Lot Width

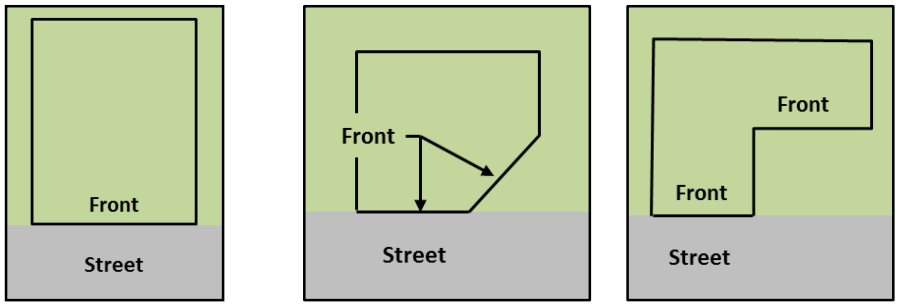


8.4.7. Measurements – Side and Rear Setbacks

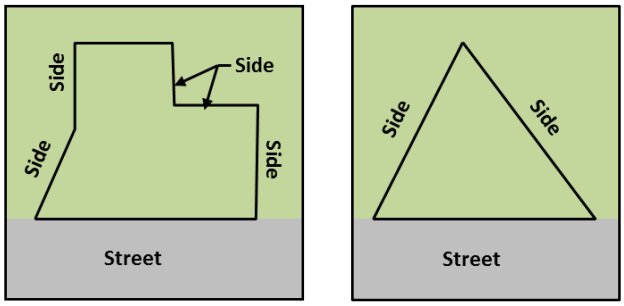


8.4.8. Measurements – Yards

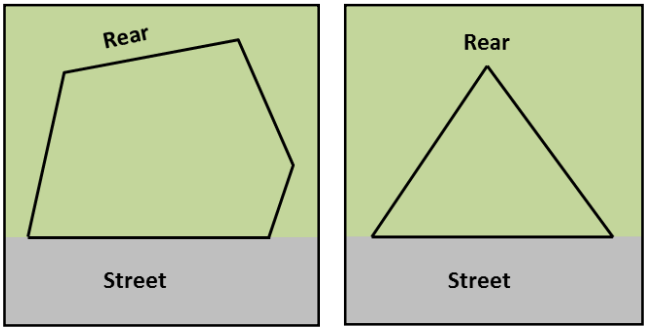
Front Lot Lines



Side Lot Lines



Rear Lot Lines



End of Exhibit A

Adoption and Summary of Amendments

Ordinance Number	Date	Summary
18-xx		• 2.4.4 Added max coverage for corner lots • 2.4.8.E Added section • 4.3.4.C •
14-04	June 12, 2014	• Updated layout and reorganized • Discontinued use of term "section" to define zoning districts. Replaced with type and term district; single family district, multi-family district, etc. • Updated defined terms • Defined requirements for planned developments and special use districts. • Defined zoning requirements for each district; lot size, building size, etc. • Clarified requirements for accessory buildings; size, placement, etc. • Updated zoning review procedures and review bodies. • Added expiration and defined application process and requirements for completeness of applications. • Added landscape, screening and lighting requirements.
13-09	July 1, 2013	REPEALED

LAKEWOOD VILLAGE TOWN COUNCIL

COUNCIL MEETING

DECEMBER 13, 2018

Council Members:

Dr. Mark Vargus, Mayor
Ed Reed – Mayor Pro-Tem
Clint Bushong
Elizabeth Shields
Darrell West
Serena Lepley

Town Staff:
Linda Asbell, TRMC, CMC – Town Secretary - Absent

REGULAR SESSION - 7:00 P.M.
With a quorum of the Council Members present, Mayor Vargus called the Regular Meeting of the Town Council to order at 7:00 p.m. on Thursday, December 13, 2018, in the Council Chambers of the Lakewood Village Town Hall, 100 Highridge Drive, Lakewood Village, Texas.

PLEDGE TO THE FLAG: **(Agenda Item A)**

Mayor Vargus led the Pledge of Allegiance

VISITOR/CITIZENS FORUM: **(Agenda Item B)**

No one requested to speak

PUBLIC HEARING: ZONING **(Agenda Item C)**

No one requested to speak

REGULAR AGENDA: **(Agenda Item D)**

Consideration of Audit of 2017-2018 Fiscal Year, Nabors CPA Services (Vargus) **(Agenda Item D.1)**

Mr. Nabors presented the audit findings.

MOTION: Upon a motion made by Councilman West and seconded by Councilwoman Shields, council voted five (5) "ayes," no (0) "nays" to accept the audit as presented. *The motion carried.*

Consideration of Outdoor Lighting Ordinance (Reed) **(Agenda Item D.2)**

There was some discussion. Mayor Pro-Tem Reed will present this ordinance for consideration at a future meeting.

Consideration of Gold Cart Ordinance (West) **(Agenda Item D.3)**

MOTION: Upon a motion made by Councilwoman Lepley and seconded by Councilwoman Shields, council voted five (5) "ayes," no (0) "nays" to approve the ordinance as presented. *The motion carried.*

Discussion of Playground Repairs (Lepley) **(Agenda Item D.4)**

There was some discussion.

Discussion of Short-Term Rentals (Vargus) **(Agenda Item D.5)**

There was some discussion.

Discussion of Nuisance Ordinance (Vargus) **(Agenda Item D.6)**

There was some discussion.

Discussion of Water and Sewer Line Improvements (Vargus) **(Agenda Item D.7)**

There was some discussion.

Discussion of Concrete Roads (Vargus) **(Agenda Item D.8)**

There was some discussion.

Discussion of Zoning Ordinance (Vargus) **(Agenda Item D.9)**

There was some discussion.

Discussion of Financial Report (Shields) **(Agenda Item D.10)**

There was some discussion.

Consideration of Minutes of November 8, 2018 Council Meeting (Asbell) **(Agenda Item D.11)**

MOTION: Upon a motion made by Councilwoman Lepley and seconded by Councilman West, council voted five (5) "ayes," no (0) "nays" to approve the minutes as presented. *The motion carried.*

EXECUTIVE SESSION: **(Agenda Item E)**

At 9:11 p.m. Mayor Vargus recessed into executive session in accordance with (1) § 551.071(2), Texas Government Code to wit: consultation with Town Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter. (2) § 551.072 Texas Government Code to wit: deliberations about real property; (3) § 551.087 Texas Government Code to wit: Economic Development Negotiations; and (4) § 551.076 Texas Government Code to wit: deliberations about Security Devices

RECONVENE: **(Agenda Item F)**

Mayor Vargus reconvened the regular session of the Lakewood Village Town Council at 9:40 p.m. No action was taken.

REPORTS **(Agenda Item G)**

Mayor Vargus reported that Town Secretary Asbell will be out until after January 4th to recover from shoulder surgery.

Mayor Vargus reported that the Army Corps of Engineers will release the draft master plan for Lewisville Lake in January 2019.

ADJOURNMENT (Agenda Item H)

MOTION: Upon a motion made by Councilwoman Lepley and seconded by Mayor Pro-Tem Reed council voted five (5) "ayes" and no (0) "nays" to adjourn the Regular Meeting of the Lakewood Village Town Council at 9:47 p.m. on Thursday, December 13, 2018. The motion carried.

These minutes approved by the Lakewood Village Town Council on the 10th day of January 2019.

APPROVED

_____

Ed Reed
MAYOR PRO-TEM

ATTEST:

_____

Linda Asbell, TRMC, CMC
TOWN SECRETARY