

# City of Wimberley

12111 Ranch Road 12, P.O. Box 2027, Wimberley, Texas, 78676

**REGULAR CITY COUNCIL MEETING**  
**WIMBERLEY CITY HALL-CITY COUNCIL CHAMBERS**  
**12111 RANCH ROAD 12, WIMBERLEY, TEXAS**  
**FEBRUARY 19, 2009 6:30 P.M.**

## AGENDA

**CALL TO ORDER:** FEBRUARY 19, 2009 @ 6:30 P.M.

**CALL OF ROLL:** CITY SECRETARY

### INVOCATION

### PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

### CITIZENS COMMUNICATIONS:

*THE CITY COUNCIL WELCOMES COMMENTS FROM CITIZENS ON ISSUES AND ITEMS OF CONCERN, NOT ON THIS AGENDA. THOSE WISHING TO SPEAK MUST SIGN IN BEFORE THE MEETING BEGINS AND OBSERVE A THREE-MINUTE TIME LIMIT WHEN ADDRESSING COUNCIL. SPEAKERS WILL HAVE ONE OPPORTUNITY TO SPEAK DURING THE TIME PERIOD. SPEAKERS DESIRING TO SPEAK ON AN AGENDA ITEM WILL BE ALLOWED TO SPEAK WHEN THE AGENDA ITEM IS CALLED. INQUIRIES ABOUT MATTERS NOT LISTED ON THE AGENDA WILL EITHER BE DIRECTED TO STAFF OR PLACED ON A FUTURE AGENDA FOR COUNCIL CONSIDERATION.*

### 1. CONSENT AGENDA

*THE FOLLOWING ITEMS MAY BE ACTED UPON IN ONE MOTION. NO SEPARATE DISCUSSION OR ACTION IS NECESSARY UNLESS REQUESTED BY A COUNCIL MEMBER OR CITIZEN, IN WHICH EVENT THOSE ITEMS WILL BE PULLED FROM THE CONSENT AGENDA FOR SEPARATE CONSIDERATION.*

- (A) APPROVAL OF MINUTES OF THE REGULAR CITY COUNCIL MEETING OF FEBRUARY 5, 2009.
- (B) APPROVAL OF MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF FEBRUARY 12, 2009.
- (C) APPROVAL OF THE DECEMBER 2008 CITY OF WIMBERLEY FINANCIAL STATEMENTS.

### 2. CITY ADMINISTRATOR REPORT

- STATUS REPORT ON EFFORTS UNDERWAY TO SECURE STATE AND FEDERAL FUNDING FOR THE DOWNTOWN WASTEWATER PROJECT

- STATUS REPORT ON THE DEVELOPMENT OF REVISED STEEP SLOPE REGULATIONS FOR THE CITY OF WIMBERLEY
- STATUS REPORT ON PREPARATIONS FOR THE MAY 9, 2009 MUNICIPAL GENERAL ELECTION
- STATUS REPORT ON PROPOSED DESIGNATION OF A TRUCK ROUTE ON RANCH ROAD 12 IN WIMBERLEY
- STATUS REPORT ON A PROPOSED ROAD MAINTENANCE AGREEMENT WITH HAYS COUNTY
- STATUS REPORT ON THE BLUE HOLE REGIONAL PARK REQUEST FOR QUALIFICATIONS
- STATUS REPORT ON UPCOMING FOURTH OF JULY ACTIVITIES
- STATUS REPORT ON ACTIVITIES OF THE WIMBERLEY MUNICIPAL COURT
- STATUS REPORT ON ACTIVITIES OF THE CITY MARSHAL

### 3. PRESENTATIONS

INTRODUCTION OF HAYS COUNTY SHERIFF TOMMY RATLIFF TO WIMBERLEY CITY COUNCIL BY HAYS COUNTY JUDGE LIZ SUMTER.

### 4. PUBLIC HEARING AND POSSIBLE ACTION

- (A) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF THE FIRST READING OF AN ORDINANCE AMENDING SUBSECTION 155.107(B)(1) (PLANNING AND ZONING COMMISSION), OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS, IN ORDER TO REVISE THE MEMBERSHIP REQUIREMENTS; PROVIDING FOR AN EFFECTIVE DATE; PROPER NOTICE AND MEETING; SEVERABILITY AND REPEALER. *(PLACE FIVE COUNCIL MEMBER DICK LARSON)*
- (B) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY OF WIMBERLEY, AMENDING SECTION 155 (ZONING), APPENDIX F, OF THE CODE OF WIMBERLEY, DESIGNATING GEOGRAPHIC BOUNDARIES FOR A PARTICULAR ZONING DISTRICT AND CLASSIFICATION FOR A 0.477 ACRE TRACT LOCATED AT 500 BLUE HERON RUN, WIMBERLEY, HAYS COUNTY, TEXAS, DESIGNATING INITIAL ZONING FOR SUCH TRACT AS SINGLE FAMILY RESIDENTIAL 2 (R2); AND PROVIDING FOR THE FOLLOWING: DELINEATION ON ZONING MAP; SEVERABILITY; EFFECTIVE DATE AND PROPER NOTICE AND MEETING. *(BETTY SUE COOPER, APPLICANT)*
- (C) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT SUBMITTED BY BETTY SUE COOPER TO OPERATE A BED AND BREAKFAST LODGING FACILITY ON AN APPROXIMATELY 0.477 ACRE TRACT LOCATED AT 500 BLUE HERON RUN, WIMBERLEY, TEXAS, ZONED SINGLE FAMILY RESIDENTIAL 2 (R2), AND IMPOSING CERTAIN CONDITIONS; AND PROVIDING FOR FINDINGS OF FACT; AMENDMENT OF THE ZONING DISTRICT MAP; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING; AND PROVIDING FOR CERTAIN CONDITIONS. *(BETTY SUE COOPER, APPLICANT)*

- (D) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT SUBMITTED BY LON BREITENBACH TO OPERATE A BED AND BREAKFAST LODGING FACILITY ON AN APPROXIMATELY 1.008 ACRE TRACT LOCATED AT 2635 FLITE ACRES ROAD, WIMBERLEY, TEXAS, ZONED RESIDENTIAL ACREAGE (RA), AND IMPOSING CERTAIN CONDITIONS; AND PROVIDING FOR FINDINGS OF FACT; AMENDMENT OF THE ZONING DISTRICT MAP; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING; AND PROVIDING FOR CERTAIN CONDITIONS. (*LON BREITENBACH, APPLICANT*)

5. ORDINANCES

- (A) CONSIDER APPROVAL OF THE FIRST READING OF AN ORDINANCE AMENDING CHAPTER 70 (TRAFFIC REGULATIONS) OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS, IN ORDER TO ADD A SUBSECTION ENTITLED "THROUGH-TRUCK TRAFFIC"; PROVIDING FOR A PENALTY, FINDINGS OF FACT, AN EFFECTIVE DATE, PROPER NOTICE AND MEETING, SEVERABILITY AND REPEALER. (*CITY ADMINISTRATOR*)
- (B) CONSIDER APPROVAL OF FIRST READING OF AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE) OF THE CODE OF ORDINANCES TO CREATE A NEW CHAPTER 156 ENTITLED "NON-POINT SOURCE POLLUTION CONTROL", IN ORDER TO ESTABLISH AND ADOPT A NON-POINT SOURCE POLLUTION PROGRAM AND REGULATION; PROVIDING FOR A PENALTY AS PROVIDED IN SECTION 10.99 OF THE CODE; AND PROVIDING FINDINGS OF FACT, A REPEALING CLAUSE, TO PROVIDE A SAVINGS AND SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE. (*CITY ADMINISTRATOR*)
- (C) CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING ORDINANCE NO. 2009-004, WHICH ORDERED THE GENERAL ELECTION TO BE HELD JOINTLY WITH OTHER ENTITIES ON MAY 9, 2009, FOR THE PURPOSE OF ELECTING CITY COUNCIL MEMBERS FOR PLACES ONE, THREE AND FIVE OF THE CITY OF WIMBERLEY CITY COUNCIL AND ALL MATTERS RELATED TO HOLDING SUCH ELECTION, IS HEREBY AMENDED TO ADD THE HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT; AND PROVIDING FOR FINDINGS OF FACT, SEVERABILITY, CONFLICTING PROVISIONS, GOVERNING LAW, PROPER NOTICE AND OPEN MEETING, AND AN EFFECTIVE DATE. (*CITY ADMINISTRATOR*)

6. DISCUSSION AND POSSIBLE ACTION

- (A) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING A PROPOSED JOINT ELECTION AGREEMENT WITH THE HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT FOR THE MAY 9, 2009 ELECTION. (*CITY ADMINISTRATOR*)
- (B) DISCUSS AND CONSIDER POSSIBLE ACTION ON ISSUES RELATING TO THE IMPLEMENTATION OF THE CITY OF WIMBERLEY ECONOMIC DEVELOPMENT STRATEGY. (*PLACE FOUR COUNCIL MEMBER STEVE THURBER*)
- (C) DISCUSS AND CONSIDER APPROVAL OF A RACIAL PROFILING POLICY AND ANNUAL RACIAL PROFILING REPORT FOR THE CITY OF WIMBERLEY CITY MARSHAL. (*CITY MARSHAL*)

- (D) DISCUSS AND CONSIDER ACTION REGARDING THE CURRENT CITY-WIDE ZONING PROJECT AND THE PREVIOUS CITY COUNCIL CHARGE TO THE PLANNING AND ZONING COMMISSION RELATING TO PROJECT. (MAYOR PRO-TEM BOB FLOCKE)
- (E) DISCUSS AND CONSIDER POSSIBLE ACTION RELATING TO THE ANNUAL PERFORMANCE REVIEW OF THE CITY ADMINISTRATOR. (MAYOR TOM HALEY)

7. CITY COUNCIL REPORTS

- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

ADJOURNMENT

THE CITY COUNCIL MAY RETIRE INTO EXECUTIVE SESSION AT ANY TIME BETWEEN THE MEETING'S OPENING AND ADJOURNMENT FOR THE PURPOSE OF DISCUSSING ANY MATTERS LISTED ON THE AGENDA AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE INCLUDING, BUT NOT LIMITED TO, HOMELAND SECURITY PURSUANT TO CHAPTER 418.183 OF THE TEXAS LOCAL GOVERNMENT CODE; CONSULTATION WITH LEGAL COUNSEL PURSUANT TO CHAPTER 551.071 OF THE TEXAS GOVERNMENT CODE; DISCUSSION ABOUT REAL ESTATE ACQUISITION PURSUANT TO CHAPTER 551.072 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF PERSONNEL MATTERS PURSUANT TO CHAPTER 551.074 OF THE TEXAS GOVERNMENT CODE; DELIBERATIONS ABOUT GIFTS AND DONATIONS PURSUANT TO CHAPTER 551.076 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF ECONOMIC DEVELOPMENT PURSUANT TO CHAPTER 551.087 OF THE TEXAS GOVERNMENT CODE; ACTION, IF ANY, WILL BE TAKEN IN OPEN SESSION.

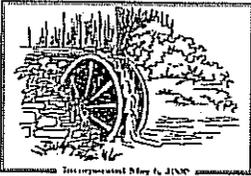
**CERTIFICATION**

I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on February 13, 2009 at 6:00 p.m.

  
\_\_\_\_\_  
CARA MC PARTLAND, CITY SECRETARY

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact Don Ferguson, City Administrator, at (512) 847-0025 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program at 1-800-735-2988.

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

**Project/Proposal Title:** APPROVAL OF FEBRUARY 5, 2009 MINUTES OF REGULAR CITY COUNCIL MEETING

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

Attached are minutes for the February 5, 2009 Regular City Council Meeting for review and consideration.

**City of Wimberley**  
City Hall, 12111 Ranch Road 12, Ste. 114  
Wimberley, Texas 78676  
**Minutes of Regular Meeting of City Council**  
February 5, 2009 at 6:30 p.m.

City Council meeting called to order at 6:30 p.m. by Mayor Tom Haley.

Mayor Haley gave the Invocation and Councilmembers led the Pledge of Allegiance to the United States and Texas flags.

Councilmembers Present: Mayor Haley and Councilmembers Charles Roccaforte, Bob Flocke, Jeri Xiques, Steve Thurber, and Dick Larson.

Staff Present: City Administrator Don Ferguson, City Secretary Cara McPartland, and Assistant City Attorney Brad Young.

**Presentations of Citizens:**

- Citizen Communications

No citizen comments were heard.

**1. Consent Agenda**

- A. Approval of minutes of the regular City Council meeting of January 15, 2009.
- B. Approval of minutes of the special City Council meeting of January 28, 2009.

Councilmember Flocke moved to approve Consent Agenda items as presented. Councilmember Xiques seconded. Motion carried on a vote of 5-0.

**2. City Administrator Report**

- Status report on efforts underway to secure state and federal funding for the Downtown Wastewater Project

City Administrator Ferguson thanked Council for its attendance at last week's public meeting held at the Wimberley Community Center. He reported on recent productive meetings with State officials on efforts relating to possible stimulus package funding for projects submitted to the Texas Water Development Board. Mr. Ferguson advised of positive feedback on the City's submitted application for stimulus package funding and reported on a meeting held with U.S. Department of Agriculture (USDA) officials relating to long-term financing for projects. Constant contact and monitoring will continue as the City aggressively pursues funding.

- Status report on the Texas Parks and Wildlife grant application for the development of the Blue Hole Regional Park

City Administrator Ferguson reported that the grant application for approximately \$500,000 in funds has been submitted and anticipated a four to five month review cycle. He reported on the time deadlines and responses to the City's published Request for Qualifications (RFQ) for Blue Hole Regional Park development. Mr. Ferguson advised that a broadly representative stakeholder group will make a recommendation to Council upon review of submitted RFQs. He cautioned Council members against any communications with respondents to the RFQ.

- Status report on the coordinated compliance review of septic systems in downtown Wimberley

City Administrator Ferguson reported on the door-to-door courtesy review underway with downtown property owners by City and Hays County representatives, which will take approximately six to seven weeks to complete. In response to Councilmember Flocke's inquiry, Mr. Ferguson noted that a proactive compliance process is in place should some systems be found non-compliant and outlined various alternatives for property owners.

- Status report on activities of the Wimberley Municipal Court

City Administrator Ferguson reported on that February's court docket reflected very light activity.

- Status report on activities of the City Marshal

City Administrator Ferguson reported on continuing speed enforcement and assistance provided to Hays County Sheriff's Office on burglary cases.

City Administrator Ferguson closed his remarks by noting that the City has received notice of a rate increase from Texas Disposal Systems.

### **3. Presentations**

- A. Presentation by the Chairman of the Transportation Advisory Board (TAB) of the Board's quarterly activities report.

This item was heard after Agenda Item No. 7A. TAB Chairman Corwin Vansant presented information on the following TAB activities:

- TAB's progress on design and engineering of downtown sidewalks
- Ranch Road 12 parkway design from the Junction to San Marcos and its related bond issue
- Alternate routing for downtown storm sewer line under Ranch Road 12
- Analyzed existing downtown sidewalks and requested restriping/signage currently underway by Texas Department of Transportation (TxDOT)

- TxDOT agreement on the reconfiguration of Ranch Road 12 and FM 32 with possible City acquisition of approximately 3.5 acres of land tentatively planned as a “Welcome to Wimberley” park

Chairman Vansant reported on the following activities of TAB’s Transportation Master Plan (TMP) Subcommittee:

- Identification of locations with limited emergency vehicle access in coordination with Wimberley Fire Department/EMS
- Developed future locations for sidewalks, trails, downtown parking areas
- Developed plans for new streets or extensions of existing streets to provide connectivity
- Possible planned conversion of Las Flores and La Buena Vista into a multi-lane continuation of Winters Mill Parkway
- Completed and distributed the TMP Phase 1 Report, with Phase 2 in progress

Chairman Vansant reported on the following activities of TAB’s Square Improvement Subcommittee:

- Held productive public meeting in June 2008 to present current plans
- Met with major trucking representatives to help resolve loading/unloading issues downtown
- Constructed two prototype planters on the north side of the square in front of River House
- Completed preliminary design to install deck/seating at two large oak trees at Ranch Road 12 and Old Kyle Road
- Created a comprehensive list of downtown business owners
- Analyzed low water crossings and proposed engineering/administrative solutions for each location
- Noted reduced speeding complaints from citizens due to City Marshal enforcement efforts

Chairman Vansant reported on notice from Capital Area Metropolitan Planning Organization (CAMPO) regarding receipt of grant funding for hike, bike, and pedestrian paths on the bypass. He noted that Hays County is currently working on right-of-way issues for this project. He reported that the traffic control study is presently on hold and that plans are being reviewed to integrate private roads into the City’s road system.

Discussion among staff, Council, and Chairman Vansant acknowledged the diligent efforts and hard work by TAB/subcommittee members and addressed specific questions relating to connectivity, ongoing maintenance of downtown business owners list, newly installed downtown planters, regular quarterly reports, downtown traffic control, and the need for more funding such as an ad valorem tax.

#### B. Presentation by the City staff on the citywide zoning project

This item was heard after Agenda Item No. 7H. City Administrator Ferguson reported on the current/upcoming public meeting/notification process and advised additional meetings may be

scheduled as needed. He noted major proposed zoning changes (particularly those concentrated along entry corridors), feedback to date, and map locations for public viewing.

Discussion among Council and Mr. Ferguson addressed possible deficiencies in the bulk mailing process, pending consideration of an ordinance reflecting Comprehensive Plan updates, concerns regarding the effect of proposed zoning on property tax appraisals/exemptions and existing uses, compatibility with the Comprehensive Plan, positive aspects to citywide zoning, and ability to address individual property owners' concerns over proposed zoning.

#### **4. Public Hearing and Possible Action**

- A. Hold a public hearing and consider approval of the second and final reading of an ordinance amending Subsection 155.107(B)(1) (Planning and Zoning Commission), of the Code of Ordinances of the City of Wimberley, Texas, in order to revise the membership requirements; providing for an effective date; proper notice and meeting; severability and repealer (*Place Five Councilmember Dick Larson*).

Because this ordinance is currently being rewritten, Mayor Haley pulled this item for consideration at Council's next regularly scheduled meeting as a first reading.

- B. Hold a public hearing and consider approval of an application for an amending plat of Lots 5 and 6, Flite Acres/Little Ranches located off Hoots Holler Road, Wimberley, Hays County, Texas along with a requested exception to the City Code requirements relating to minimum width/maximum depth lot ratios (*Lon Breitenbach, Applicant*).

City Administrator Ferguson reviewed the application including repartitioned lot sizes/acreages, explained the reasoning for the applicant's requested exceptions to minimum width/maximum depth requirements, and advised of staff's recommendation for approval. He noted that Planning and Zoning Commission unanimously voted for approval and that no negative public comments were received.

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing and opened Council discussion. Councilmember Thurber moved to approve the item as presented. Councilmember Larson seconded. Motion carried on a vote of 5-0.

#### **5. Resolution**

Consider approval of a resolution of the City of Wimberley, Texas in support of the creation and implementation of a wastewater system (*City Administrator*).

Mayor Haley introduced the item and Wimberley property owner Phil Collins spoke in full support of the resolution and complimented Hays County Environmental Health Department for its help in researching area septic systems permitting. Discussion addressed the purpose and usefulness of this resolution in helping property owners to obtain wastewater service by alternate methods provided

that no City legal/property rights are violated. Agreement was reached that approval of this item expressing general support without specific references to any particular property may offer some positive benefits. Hearing no further discussion, Mayor Haley entertained a motion. Councilmember Thurber moved to approve the item as presented. Councilmember Xiques seconded. Motion carried on a vote of 5-0.

## 6. Ordinances

- A. Consider approval of the second and final reading of an ordinance of the City of Wimberley, Texas amending Title V (Public Works) by creating Chapter 51 (Water Conservation) of the Code of Ordinances in order to establish regulations to conserve water; providing for a penalty for violations of the ordinance; findings of fact; repealer; severability; effective date; and proper notice and meeting (*Place Four Councilmember Steve Thurber*).

Mayor Haley introduced the item and opened the public hearing. Hearing no comments, Mayor Haley closed the public hearing and opened Council discussion. Councilmember Thurber read an excerpt from a letter to the editor printed in the January 17, 2009 edition of the Wimberley View (written by Becky T. Lane) expressing concern over Hays County Commissioners Court proceedings that referenced Wimberley's lack of water conservation regulations. City Administrator Ferguson reviewed past discussions of this proposed ordinance and outlined current revisions based on those discussions relating to allowed watering times and restructuring of language in §51.29 (Access to Premises). City Administrator Ferguson recommended changing references to March 1, 2009 in the proposed ordinance to April 1, 2009.

Councilmember Roccaforte moved to approve the item as presented. Councilmember Thurber offered a friendly amendment to change any stated deadlines of March 1, 2009 to read April 1, 2009. Councilmember Roccaforte accepted the friendly amendment and restated his motion to approve the ordinance as presented with the previously stated date changes. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- B. Consider approval of an ordinance of the City of Wimberley, Texas, ordering a General Election on May 9, 2009, for the purpose of electing City Council members for Places One, Three, and Five of the City of Wimberley City Council, such election to be held jointly with Hays County and Wimberley ISD; establishing early voting locations and polling places for the election; making other provisions for the conduct of the election; and providing for findings of fact, severability, conflicting provisions, governing law, proper notice and open meeting, and an effective date (*City Administrator*).

City Administrator Ferguson explained the need for this ordinance to call the election and outlined eligible electors, voting/early voting days/hours, participating joint election entities, and election officers. He noted that there is a need for qualified election workers.

Councilmember Flocke moved to approve the item as presented. Councilmember Xiques seconded. Motion carried on a vote of 5-0.

## 7. Discussion and Possible Action

- A. Discuss and consider approval of the City of Wimberley Annual Financial Report for the Fiscal Year ended September 30, 2008 (*City Administrator*).

This item was heard after Agenda Item No. 2. Preston Singleton of Singleton, Moore & Company, LLP presented the City's Annual Financial and Compliance Report. He summarized the report, provided an overview of financial statements, and highlighted the City's revenues/expenditures in various fund balances. He noted the City's dependence on sales tax revenue which is subject to fluctuations in the overall economy, with the suggestion of a nominal property tax as a future option to help even out revenues.

Mr. Singleton reviewed net changes in fund balances and reported that the City has approximately eight months of expenditures in its unreserved General Fund balance. Favorable comments were made regarding the City's fund balance, with very little variation noted between budgeted and actual amounts. All expenditures were within budgeted amounts.

Mr. Singleton concluded his presentation by summarizing the following four sections of the Fiscal Year 2007/2008 Audit Reporting Package: required communications with the governing body, including internal control related matters; summary of audit adjustments; summary of proposed, but unrecorded journal entries; and management representation letter.

Council thanked Mr. Singleton for his presentation and Mayor Haley entertained a motion. Councilmember Thurber moved to approve the item as presented. Councilmember Larson seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider approval of an agreement with the Hays County Election Division to conduct the May 9, 2009 election for the City of Wimberley (*City Administrator*).

This item was heard after Agenda Item No. 6B. Mayor Haley introduced the item and entertained a motion. Councilmember Flocke moved to approve the item as presented. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action regarding a proposed joint election agreement with the Wimberley ISD for the May 9, 2009 election (*City Administrator*).

Mayor Haley introduced the item and entertained a motion. Councilmember Xiques moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider possible action regarding a proposed joint election agreement with

Hays County for the May 9, 2009 election (*City Administrator*).

Mayor Haley introduced the item and entertained a motion. Councilmember Xiques moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

E. Discuss and consider action approving a variance to the City of Wimberley sign regulations for a business located at 12605 Ranch Road 12 (*City Administrator*).

City Administrator Ferguson stated that legal review has determined that prior concerns relating to prohibited "off-premise" signage have been resolved and that staff recommends approval. Discussion among staff and Council addressed status of signage should the business expand or relocate. Councilmember Flocke moved to approve the variance in accordance with the following standards:

- The variance will not authorize a type of sign which is specifically prohibited
- The variance is not contrary to the goals and objectives outlined by the City of Wimberley Comprehensive Plan
- The variance is not contrary to the public interest
- Due to special conditions, a literal enforcement of the sign ordinance would result in unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement. Financial or economic hardship alone will not ordinarily satisfy this requirement.
- The spirit and purpose of the chapter will be observed, and substantial justice will be done.

Councilmember Xiques seconded. Councilmember Larson abstained. Motion carried on a vote of 4-0.

F. Discuss and consider action approving a variance to the City of Wimberley sign regulations for a business located at 14201 Ranch Road 12 (*City Administrator*).

City Administrator Ferguson explained this variance request to allow the owner to use State Farm's business logo colors (red and white) on the existing free standing sign located in front of the office complex. Councilmember Thurber felt that the City Sign Ordinance is in place to preserve the character and charm of Wimberley and that granting variances serves to detract from Wimberley's unique atmosphere. In response to Councilmember Larson, City Administrator Ferguson replied that no complaints had been received relating to this variance request. Councilmember Xiques felt that allowing the variance would give the business a better chance at success and did not feel that the use of business logo colors would harm Wimberley's aesthetic appeal. Councilmember Roccaforte concurred with Councilmember Xiques. Councilmember Flocke agreed with Councilmember Xiques that signs do not all have to be of the same limited color schemes and likened such sameness to signs on a military base.

Mayor Haley entertained a motion. Councilmember Roccaforte moved to approve the item as presented and in accordance with the following conditions:

- The variance will not authorize a type of sign which is specifically prohibited
- The variance is not contrary to the goals and objectives outlined by the City of Wimberley Comprehensive Plan
- The variance is not contrary to the public interest
- Due to special conditions, a literal enforcement of the sign ordinance would result in unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement. Financial or economic hardship alone will not ordinarily satisfy this requirement.
- The spirit and purpose of the chapter will be observed, and substantial justice will be done.

Councilmember Larson seconded. Mayor Haley called for a vote as follows: Councilmember Roccaforte, aye; Councilmember Flocke, aye; Councilmember Xiques, aye; Councilmember Thurber, nay; Councilmember Larson aye. Motion carried on a vote of 4-1.

G. Discuss and consider approval of a commercial lease agreement for the existing City of Wimberley City Hall office space and storage space (*City Administrator*).

City Administrator Ferguson stated that negotiations have reduced the amount of rent increase from 5 percent to 3.5 percent. Councilmember Thurber stated that the lease should not contain any rent increase given that in the current economy there is an abundance of empty commercial space.

Councilmember Flocke moved to approve the item as presented. Councilmember Roccaforte seconded. Mayor Haley called for a vote as follows: Councilmember Larson, aye; Councilmember Thurber, nay; Councilmember Xiques, aye; Councilmember Flocke, aye; Councilmember Roccaforte, aye. Motion carried on a vote of 4-1.

H. Discuss and consider possible action regarding the duties and responsibilities of the City of Wimberley Advisory Boards and Commissions (*Mayor Pro tem Bob Flocke*).

This item was heard after Agenda Item No. 3A. Council discussion addressed traditional roles of boards/commissions, reinstatement of quarterly reporting, routine receipt by Council of all boards/commissions agendas/minutes, more effective use/design of website, and underutilization of talents of boards/commissions, with suggested corrective actions. General agreement was reached to direct staff to implement previously stated suggestions to distribute all board/commission agendas/minutes to Council, reinstate quarterly reporting, and more fully utilize available talent of board/commission members for various projects/tasks. City Administrator Ferguson also suggested the possibility of considering annual joint workshops with Council and various boards/commissions.

I. Discuss and consider action to establish a process that will be used to determine the use of

the property recently donated to the City of Wimberley by Pedernales Electric Cooperative (*City Administrator*).

City Administrator Ferguson requested direction from Council on the possibility of forming a task force to receive input and make a recommendation on the use of the donated property. Mayor Haley suggested that each member of Council make an appointment. Discussion generally agreed on appointment of a five-member group consisting of representatives from Parks and Recreation Board, Transportation Advisory Board, Wimberley Chamber of Commerce, and Keep Wimberley Beautiful. Mayor Haley withdrew his previously stated recommendation.

Councilmember Flocke moved to approve the formation of an ad hoc committee with representation (selected by Board chairs) from Parks and Recreation Board and Transportation Advisory Board, as well as representation from the Wimberley Chamber of Commerce and Keep Wimberley Beautiful, in order to recommend uses for the recently donated property. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- J. Discuss and consider possible action relating to the annual performance review of the City Administrator (*Mayor Tom Haley*).

Mayor Haley requested that this item be pulled and placed on Council's next regular meeting.

## **8. City Council Reports**

- Announcements
- Future Agenda Items

Councilmember Roccaforte requested discussion of slope requirements as a future agenda item.

Councilmember Flocke requested discussion on possible implementation of a City business permit (with a nominal fee) to better track business activity as a future agenda item.

Hearing no further comments, Mayor Haley entertained a motion. Councilmember Larson moved to adjourn. Mayor Haley called the meeting adjourned.

**Adjournment:** Council meeting adjourned at 8:11 p.m.

Recorded by:

Cara McPartland

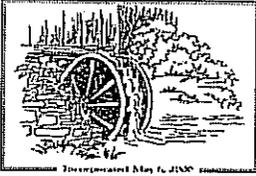
These minutes approved on the \_\_\_\_ of February, 2009.

**APPROVED:**

**Tom Haley, Mayor**

**DRAFT**

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

**Project/Proposal Title:** APPROVAL OF FEBRUARY 12, 2009 MINUTES OF SPECIAL CITY COUNCIL MEETING

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

Attached are minutes for the February 12, 2009 Special City Council Meeting for review and consideration.

**MINUTES**  
**SPECIAL CITY COUNCIL MEETING**  
**FEBRUARY 12, 2009 – 6:30 P.M.**

The City Council of the City of Wimberley, Texas met for the purpose of observing a public hearing of the Planning and Zoning Commission located at 12111 Ranch Road 12, Wimberley, Hays County, Texas on Thursday, February 12, 2009 at 6:30 p.m. regarding the proposed city-wide zoning map.

Those present were: Mayor Tom Haley, Presiding; Council Members Charles Roccaforte, Bob Flocke, Jeri Xiques, and Steve Thurber.

Members of the City of Wimberley City Council attended the special meeting for the purpose of observing the public hearing. No action was taken during the meeting that began at 6:30 p.m. and ended at 8:51 p.m.

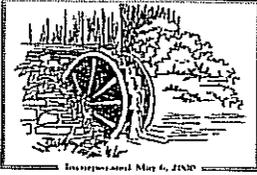
DATE APPROVED: February 19, 2009

\_\_\_\_\_  
Tom Haley, Mayor

ATTEST:

\_\_\_\_\_  
Cara McPartland, City Secretary

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

Project/Proposal Title: APPROVAL OF DECEMBER  
2008 FINANCIAL REPORTS

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

Motion

Discussion

Project/Proposal Summary:

Attached are the December 2008 Financial Reports for review and consideration.

Council Package  
Financial Statements Village of Wimberley  
For the Period Ended 12/31/2008

- Balance Sheet - General Fund
- Revenue/Expenditure - General Fund
- Budget Vs Actual - General Fund
- Balance Sheet - Blue Hole
- Revenue/Expenditure - Blue Hole
- Budget Vs Actual - Blue Hole
- Balance Sheet - Municipal Court
- Revenue/Expenditure - Municipal Court
- Budget Vs Actual - Municipal Court
- Cypress Creek Nature Trail - Financial Statements

2-3-09 Faxed to: 512-847-0422 36pgs  
1:35pm *Jo*

**City of Wimberley**  
**General Fund**  
**Balance Sheet - Modified Accrual Basis**  
**December 31, 2008**

**Assets**

**Current Assets**

101.10 Petty Cash-General	\$	150.00
103.10 Cash - Blanco National Bank - General		248,607.45
105.10 Cash - Blanco National Bank - CD		218,825.77
110.10 Texpool - General		362,235.19
112.10 Due From Cypress Creek		3,394.17
114.10 Due From Blue Hole		2,050.25
116.10 Due From Municipal Court		652.90
120.10 Accounts Receivable		5,791.87
121.10 Sales Tax Receivable		<u>60,364.35</u>

Total Current Assets \$ 902,071.95

Total Assets \$ 902,071.95

**Liabilities and Fund Balance**

**Current Liabilities**

301.10 Withholding Tax Payable	\$	1,838.00
302.10 FICA Tax Payable		3,008.14
303.10 Accounts Payable		2,471.00
311.10 TMRS Payable		1,150.36
320.10 Accrued Salaries Payable		<u>5,749.52</u>

Total Current Liabilities \$ 14,217.02

Total Liabilities 14,217.02

**Fund Balance**

467.10 Fund Balance - Undesignated	437,582.18
469.10 Designated Fund Balance - Public Works	300,000.00
470.10 Designated Fund Balance - New City Hall	50,000.00
471.10 Designated Fund Balance - W/W on Square	30,000.00
472.10 Designated Fund Balance - Future Grant Match	50,000.00
496.10 Suspense	(3,863.48)
498.10 Net Excess (Deficit)	<u>24,136.21</u>

Total Fund Balance 887,854.93

Total Liabilities and Fund Balance \$ 902,071.95

**City of Wimberley**  
**General Fund**  
**Statement of Revenue and Expenditures - Modified Accrual Basis**  
For the One Month and Three Months Ended  
December 31, 2008

	Current Period		Year To Date	
	Amount	Percent	Amount	Percent
<b>Revenues</b>				
501.10 Sales & Use Tax	\$ 60,364.35	88.44	\$ 148,111.89	86.19
503.10 Interest Income - General	1,352.07	1.98	4,308.23	2.51
504.10 Miscellaneous Income	(311.00)	(0.46)	4,095.35	2.38
505.10 Building Permits	2,330.94	3.41	4,494.99	2.62
508.10 Building Inspections	2,150.00	3.15	4,485.00	2.61
509.10 Plan Reviews	715.00	1.05	1,527.50	0.89
511.10 Sign Permits	190.00	0.28	430.00	0.25
512.10 Subdivision	881.00	1.29	2,775.00	1.61
513.10 Zoning	0.00	0.00	935.00	0.54
516.10 Municipal Court Costs/Fines	578.80	0.85	652.90	0.38
525.10 Franchise Fees - Misc	6.42	0.01	18.28	0.01
	<u>68,257.58</u>	<u>100.00</u>	<u>171,834.14</u>	<u>100.00</u>
<b>Total Revenues</b>				
<b>Expenditures</b>				
<b>Admin - Personnel</b>				
601.10 City Administrator	7,307.70	10.71	23,025.98	13.40
602.10 City Secretary	2,846.16	4.17	8,423.09	4.90
603.10 Receptionist/Clerk	1,944.00	2.85	3,402.00	1.98
606.10 Payroll Taxes	925.49	1.36	2,798.09	1.63
607.10 TMRS - Admin	339.06	0.50	998.35	0.58
608.10 Health Care	1,449.00	2.12	2,873.00	1.67
	<u>14,811.41</u>	<u>21.70</u>	<u>41,520.51</u>	<u>24.16</u>
<b>Total Admin - Personnel</b>				
<b>Admin - Operating</b>				
609.10 Dues - TML & City Mgr Assoc	100.00	0.15	415.00	0.24
610.10 Public Notices	58.00	0.08	534.00	0.31
611.10 Printing	96.00	0.14	327.00	0.19
612.10 Telephone	318.88	0.46	1,147.69	0.67
613.10 Copies	0.00	0.00	251.88	0.15
614.10 Rent	4,184.00	6.13	12,552.00	7.30
615.10 Cleaning	400.00	0.59	900.00	0.52
616.10 Office Supplies	79.64	0.12	558.42	0.32
617.10 Utilities	422.07	0.62	900.99	0.52
618.10 Equipment Leases	999.23	1.46	1,604.76	0.93
619.10 Water Cooler	33.49	0.05	109.79	0.06
620.10 Postage	50.24	0.07	101.51	0.06
621.10 Insurance	0.00	0.00	12,155.07	7.07
622.10 Records Management	14.96	0.02	288.68	0.17

Restricted for Management's Use Only

**City of Wimberley**  
**General Fund**  
**Statement of Revenue and Expenditures - Modified Accrual Basis**  
For the One Month and Three Months Ended  
December 31, 2008

	Current Period		Year To Date	
	Amount	Percent	Amount	Percent
623.10 Office Technology	\$ 685.00	1.00	\$ 734.00	0.43
626.10 Security Expense	0.00	0.00	169.13	0.10
628.10 Technology Consultant	0.00	0.00	55.00	0.03
631.10 Capital Outlay - Technology	21.00	0.03	21.00	0.01
632.10 Capital Outlay - Other	0.00	0.00	500.00	0.29
<b>Total Admin - Operating</b>	<b>7,460.49</b>	<b>10.93</b>	<b>33,325.92</b>	<b>19.39</b>
<b>Legal</b>				
641.10 Legal	6,717.32	9.84	10,241.07	5.86
<b>Total Legal</b>	<b>6,717.32</b>	<b>9.84</b>	<b>10,241.07</b>	<b>5.86</b>
<b>Council - Boards Expenditures</b>				
651.10 Association Dues	35.00	0.05	135.00	0.08
652.10 Training	0.00	0.00	255.00	0.15
655.10 Financial Management Services	1,000.00	1.47	3,000.00	1.75
656.10 Audit	3,250.00	4.76	3,250.00	1.89
<b>Total Council - Boards Expenditures</b>	<b>4,285.00</b>	<b>6.28</b>	<b>6,640.00</b>	<b>3.86</b>
<b>Building Department Expenditures</b>				
676.10 Contract Inspector	4,895.00	7.17	5,802.50	3.43
677.10 Site Plan Reviews	585.00	0.86	585.00	0.34
<b>Total Building Department Expenditures</b>	<b>5,480.00</b>	<b>8.03</b>	<b>6,487.50</b>	<b>3.78</b>
<b>Public Works - Personnel</b>				
702.10 Salaries-Code Enforcement & Permitting	2,163.20	3.17	6,448.00	3.75
704.10 Salaries-GIS/Permitting Clerk	2,480.00	3.63	7,392.00	4.30
706.10 Payroll Taxes	355.21	0.52	1,058.78	0.62
707.10 TMRS - Public Works	135.59	0.20	398.91	0.23
708.10 Health Benefits	800.00	1.17	1,400.00	0.81
<b>Total Public Works - Personnel</b>	<b>5,934.00</b>	<b>8.69</b>	<b>16,697.69</b>	<b>9.72</b>
<b>Public Works - Operating</b>				

**City of Wimberley**  
**General Fund**  
**Statement of Revenue and Expenditures - Modified Accrual Basis**  
**For the One Month and Three Months Ended**  
**December 31, 2008**

	Current Period		Year To Date	
	Amount	Percent	Amount	Percent
715.10 Supplies - Public Works	\$ 8.54	0.01	\$ 8.54	0.00
720.10 Fuel	90.50	0.13	188.29	0.10
722.10 Vehicle Maint. & Insurance	66.18	0.10	95.13	0.06
<b>Total Public Works - Operating</b>	<b>165.22</b>	<b>0.24</b>	<b>271.96</b>	<b>0.16</b>
<b>Roads</b>				
727.10 Road Maintenance	750.00	1.10	3,931.55	2.29
731.10 Mowing / Tree Trimming	600.00	0.88	2,675.00	1.56
732.10 Signs/Barricades	75.00	0.11	75.00	0.04
733.10 Parking Lot Lease	100.00	0.15	300.00	0.17
736.10 Contract Labor	3,640.85	5.33	5,369.45	3.12
<b>Total Roads</b>	<b>5,165.85</b>	<b>7.57</b>	<b>12,351.00</b>	<b>7.19</b>
<b>Water/Wastewater</b>				
756.10 Public Restroom Wastewater	285.00	0.42	661.54	0.38
<b>Total Water/Wastewater</b>	<b>285.00</b>	<b>0.42</b>	<b>661.54</b>	<b>0.38</b>
<b>Public Safety - Personnel</b>				
801.10 Salaries - City Marshall	2,920.00	4.28	8,703.85	5.07
806.10 Payroll Taxes	223.38	0.33	665.85	0.39
807.10 TMRS City Contribution-PS	85.27	0.12	250.89	0.15
808.10 Health Care - Public Safety	425.00	0.62	825.00	0.48
<b>Total Public Safety - Personnel</b>	<b>3,653.65</b>	<b>5.35</b>	<b>10,445.59</b>	<b>6.08</b>
<b>Public Safety - Operating</b>				
820.10 Municipal Court Judge	725.00	1.06	725.00	0.42
821.10 City Prosecutor	754.00	1.10	783.00	0.46
824.10 Animal Control	0.00	0.00	6,000.00	3.49
825.10 Fuel-Public Safety	118.76	0.17	167.63	0.10
828.10 Supplies - Public Safety	0.00	0.00	220.00	0.13
830.10 Capital Outlay - Vehicle	0.00	0.00	608.95	0.35
832.10 Capital Outlay - Technology	0.00	0.00	241.02	0.14
<b>Total Public Safety - Operating</b>	<b>1,597.76</b>	<b>2.34</b>	<b>8,745.60</b>	<b>5.09</b>

**City of Wimberley**  
**General Fund**  
**Statement of Revenue and Expenditures - Modified Accrual Basis**  
For the One Month and Three Months Ended  
December 31, 2008

	Current Period		Year To Date	
	Amount	Percent	Amount	Percent
Parks - Operating				
859.10 Nature Trail Operations	\$ <u>158.15</u>	<u>0.23</u>	\$ <u>309.55</u>	<u>0.18</u>
Total Parks - Operating	<u>158.15</u>	<u>0.23</u>	<u>309.55</u>	<u>0.18</u>
Total Expenditures	<u>55,713.85</u>	<u>81.62</u>	<u>147,697.93</u>	<u>85.95</u>
NET EXCESS (DEFICIT)	\$ <u><u>12,543.73</u></u>	<u><u>18.38</u></u>	\$ <u><u>24,136.21</u></u>	<u><u>14.05</u></u>

VILLAGE OF WIMBERLEY  
 BUDGET VS ACTUAL - GENERAL FUND  
 For The Three Months Ended December 31, 2008

	CURRENT PERIOD	YTD ACTUAL	%	ANNUAL BUDGET	OVER (UNDER)	%	MTD %
<b>REVENUES</b>							
501.1 Sales & Use Tax	\$ 60,364.35	\$ 148,111.89	86.19%	\$ 476,400.00	\$ (328,288.11)	-68.91%	-75.00%
502.1 Mixed Beverage Tax	-	-	0.00%	7,500.00	(7,500.00)	-100.00%	-75.00%
503.1 Interest Income	1,352.07	4,350.54	2.53%	18,000.00	(13,649.46)	-75.83%	-75.00%
504.1 Misc. Income	(311.00)	3,179.89	1.86%	5,000.00	(1,820.11)	0.00%	-75.00%
505.1 Building Permits	2,330.94	4,793.26	2.79%	22,000.00	(17,206.74)	-78.21%	-75.00%
506.1 Building Inspections	2,150.00	3,609.05	2.10%	29,000.00	(25,390.95)	-87.56%	-75.00%
509.1 Plan Reviews	715.00	1,527.50	0.89%	18,000.00	(16,472.50)	-91.51%	-75.00%
510.1 Beer & Wine Permits	-	-	0.00%	-	-	0.00%	-75.00%
511.1 Sign Permits	190.00	430.00	0.25%	7,000.00	(6,570.00)	-93.86%	-75.00%
512.1 Subdivision	881.00	2,775.00	1.61%	15,000.00	(12,225.00)	-81.50%	-75.00%
513.1 Zoning	-	935.00	0.54%	15,000.00	(14,065.00)	-93.77%	-75.00%
514.1 Copies/Maps/Misc.	-	-	0.00%	500.00	(500.00)	-100.00%	-75.00%
516.1 Municipal Court/Costs Fines	578.80	652.90	0.38%	43,600.00	(42,947.10)	-98.50%	-75.00%
525.1 Franchise Fees - Misc	8.42	1,469.11	0.85%	180,000.00	(178,530.89)	-99.18%	-75.00%
541.1 Health Fees	-	-	0.00%	15,000.00	(15,000.00)	-100.00%	-75.00%
<b>TOTAL REVENUES</b>	<b>68,257.58</b>	<b>171,834.14</b>	<b>100.00%</b>	<b>852,000.00</b>	<b>(680,165.86)</b>	<b>-79.83%</b>	<b>-75.00%</b>
<b>EXPENDITURES</b>							
<b>ADMINISTRATION EXPENDITURES</b>							
<i>Personnel</i>							
601.1 City Administrator	7,307.70	23,025.98	15.59%	95,000.00	(71,974.02)	-75.76%	-75.00%
602.1 City Secretary	2,846.16	8,423.09	5.70%	37,000.00	(28,576.91)	-77.23%	-75.00%
603.1 Receptionist/Clerk	1,944.00	3,402.00	2.30%	29,204.00	(25,802.00)	-88.35%	-75.00%
604.1 Fire Marshal (Contract Labor)	-	-	0.00%	4,000.00	(4,000.00)	-100.00%	-75.00%
605.1 Intern	-	-	0.00%	-	-	0.00%	-75.00%
606.1 Payroll Taxes	925.49	2,798.09	1.89%	13,341.00	(10,542.91)	-79.03%	-75.00%
607.1 TMRS	339.06	998.35	0.68%	8,593.00	(7,594.65)	-88.38%	-75.00%
608.1 Health Care	1,449.00	2,873.00	1.95%	13,500.00	(10,627.00)	-78.72%	-75.00%
<b>Total Personnel</b>	<b>14,811.41</b>	<b>41,520.51</b>	<b>28.11%</b>	<b>200,638.00</b>	<b>(159,117.49)</b>	<b>-79.31%</b>	<b>-75.00%</b>
<i>Operating</i>							
609.1 Dues (TML & City Mgr Assoc.)	100.00	415.00	0.28%	4,000.00	(3,585.00)	-89.63%	-75.00%
610.1 Public Notices	58.00	534.00	0.36%	4,500.00	(3,966.00)	-88.13%	-75.00%
611.1 Printing	96.00	327.00	0.22%	500.00	(173.00)	-34.60%	-75.00%
612.1 Telephone	316.86	1,147.69	0.78%	5,700.00	(4,552.31)	-79.87%	-75.00%
613.1 Copies	-	251.88	0.17%	750.00	(498.12)	-66.42%	-75.00%

Restricted for Management's Use Only

VILLAGE OF WIMBERLEY  
 BUDGET VS ACTUAL - GENERAL FUND  
 For The Three Months Ended December 31, 2008

	CURRENT PERIOD	YTD ACTUAL	%	ANNUAL BUDGET	OVER (UNDER)	%	MTD %
614.1 Rent	4,184.00	12,552.00	8.50%	55,000.00	(42,448.00)	-77.18%	-75.00%
615.1 Cleaning	400.00	900.00	0.61%	5,200.00	(4,300.00)	-82.69%	-75.00%
616.1 Office Supplies	79.64	558.42	0.38%	5,000.00	(4,441.58)	-88.83%	-75.00%
617.1 Utilities	422.07	900.99	0.61%	5,500.00	(4,599.01)	-83.62%	-75.00%
618.1 Equipment Leases	999.23	1,604.76	1.09%	4,200.00	(2,595.24)	-61.79%	-75.00%
619.1 Water Cooler	33.49	108.79	0.07%	540.00	(430.21)	-79.67%	-75.00%
620.1 Postage	50.24	101.51	0.07%	5,000.00	(4,898.49)	-97.97%	-75.00%
621.1 Insurance	-	12,155.07	8.23%	15,000.00	(2,844.93)	-18.97%	-75.00%
622.1 Records Management	14.96	288.68	0.20%	7,500.00	(7,211.32)	-98.15%	-75.00%
623.1 Office Technology	685.00	734.00	0.50%	650.00	84.00	12.92%	-75.00%
626.1 Security Expense	-	169.13	0.11%	800.00	(630.87)	-78.86%	-75.00%
628.1 Technology Consultant	-	55.00	0.04%	535.00	(480.00)	-89.72%	-75.00%
629.1 Pay Comparability Adjustment	-	-	0.00%	1,000.00	(1,000.00)	-100.00%	-75.00%
630.1 Capital Outlay - Furnishings	-	-	0.00%	400.00	(400.00)	-100.00%	-75.00%
631.1 Capital Outlay - Technology	21.00	21.00	0.01%	6,300.00	(6,279.00)	-99.67%	-75.00%
632.1 Capital Outlay - Other	-	500.00	0.34%	-	500.00	0.00%	-75.00%
635.1 Mileage	-	-	0.00%	750.00	(750.00)	-100.00%	-75.00%
638.1 Repairs & Maintenance	-	-	0.00%	-	-	0.00%	-75.00%
639.1 Signs/Zoning	-	-	0.00%	-	-	0.00%	-75.00%
652.1 Training-Travel	-	-	0.00%	2,000.00	(2,000.00)	-100.00%	-75.00%
<i>Total Operating</i>	<u>7,460.49</u>	<u>33,325.92</u>	<u>22.56%</u>	<u>130,825.00</u>	<u>(97,499.08)</u>	<u>-74.53%</u>	<u>-75.00%</u>
TOTAL ADMINISTRATION EXPENDITURES	22,271.90	74,846.43	50.68%	331,463.00	(256,616.57)	-77.42%	-75.00%
LEGAL DEPARTMENT EXPENDITURES	6,717.32	10,241.07	6.93%	55,000.00	(44,758.93)	-81.38%	-75.00%
641.1 Legal	-	-	0.00%	-	-	0.00%	-75.00%
649.1 Operating Transfer-Out	6,717.32	10,241.07	6.93%	55,000.00	(44,758.93)	-81.38%	-75.00%
TOTAL LEGAL	35.00	135.00	0.09%	1,000.00	(865.00)	-86.50%	-75.00%
COUNCIL - BOARD EXPENDITURES	-	255.00	0.17%	1,500.00	(1,245.00)	-83.00%	-75.00%
651.1 Association Dues	-	-	0.00%	-	-	0.00%	-75.00%
652.1 Training	-	-	0.00%	2,500.00	(2,500.00)	-100.00%	-75.00%
653.1 Town Hall Meetings	-	-	0.00%	12,000.00	(9,000.00)	-75.00%	-75.00%
654.1 Election	-	-	0.00%	-	-	0.00%	-75.00%
655.1 Financial Management Services	1,000.00	3,000.00	2.03%	10,000.00	(6,750.00)	-67.50%	-75.00%
656.1 Audit	3,250.00	3,250.00	2.20%	-	-	0.00%	-75.00%
657.1 Public Satisfaction Survey	-	-	0.00%	-	-	0.00%	-75.00%
658.1 Planning	-	-	0.00%	-	-	0.00%	-75.00%

Restricted for Management's Use Only

VILLAGE OF WIMBERLEY  
 BUDGET VS ACTUAL - GENERAL FUND  
 For The Three Months Ended December 31, 2008

	CURRENT PERIOD	YTD ACTUAL	%	ANNUAL BUDGET	OVER (UNDER)	%	MTD %
659.1	-	-	0.00%	-	-	0.00%	-75.00%
660.1	-	-	0.00%	-	-	0.00%	-75.00%
661.1	-	-	0.00%	3,000.00	(3,000.00)	-100.00%	-75.00%
662.1	-	-	0.00%	2,500.00	(2,500.00)	0.00%	-75.00%
663.1	-	-	0.00%	-	-	0.00%	-75.00%
<b>TOTAL COUNCIL - BOARD EXPENDITURES</b>	<b>4,285.00</b>	<b>6,640.00</b>	<b>4.50%</b>	<b>32,500.00</b>	<b>(25,860.00)</b>	<b>-79.57%</b>	<b>-75.00%</b>
<b>BUILDING DEPARTMENT EXPENDITURES</b>	<b>4,895.00</b>	<b>5,902.50</b>	<b>4.00%</b>	<b>22,000.00</b>	<b>(16,097.50)</b>	<b>-73.17%</b>	<b>-75.00%</b>
676.1	585.00	585.00	0.40%	18,000.00	(17,415.00)	-96.75%	-75.00%
677.1	-	-	0.00%	-	-	0.00%	-75.00%
678.1	-	-	0.00%	-	-	0.00%	-75.00%
<b>TOTAL BUILDING DEPARTMENT EXPENDITURES</b>	<b>5,480.00</b>	<b>6,487.50</b>	<b>4.39%</b>	<b>40,000.00</b>	<b>(33,512.50)</b>	<b>-83.78%</b>	<b>-75.00%</b>
<b>PUBLIC WORKS/CODE ENFORCEMENT EXPENDITURES</b>	<b>2,163.20</b>	<b>6,448.00</b>	<b>4.37%</b>	<b>28,121.00</b>	<b>(21,673.00)</b>	<b>-77.07%</b>	<b>-75.00%</b>
<i>Personnel</i>							
701.1	-	-	0.00%	-	-	0.00%	-75.00%
702.1	-	-	0.00%	-	-	0.00%	-75.00%
703.1	-	-	0.00%	-	-	0.00%	-75.00%
704.1	2,480.00	7,392.00	5.01%	32,240.00	(24,848.00)	0.00%	-75.00%
706.1	355.21	1,058.78	0.72%	4,922.00	(3,863.22)	0.00%	-75.00%
707.1	135.59	398.91	0.27%	-	398.91	0.00%	-75.00%
708.1	800.00	1,400.00	0.95%	9,000.00	(7,600.00)	-84.44%	-75.00%
<b>Total Personnel</b>	<b>5,934.00</b>	<b>16,697.69</b>	<b>11.31%</b>	<b>74,283.00</b>	<b>(57,585.31)</b>	<b>-77.52%</b>	<b>-75.00%</b>
<i>Operating</i>							
712.1	-	-	0.00%	250.00	(250.00)	-100.00%	-75.00%
713.1	-	-	0.00%	1,000.00	(1,000.00)	-100.00%	-75.00%
714.1	-	-	0.00%	-	-	0.00%	-75.00%
715.1	8.54	8.54	0.04%	-	8.54	0.00%	-75.00%
720.1	90.50	168.29	0.11%	2,000.00	(1,831.71)	0.00%	-75.00%
721.1	-	-	0.00%	750.00	(750.00)	-100.00%	-75.00%
722.1	66.18	95.13	0.06%	1,000.00	(904.87)	0.00%	-75.00%
<b>Total Operating</b>	<b>165.22</b>	<b>271.96</b>	<b>0.18%</b>	<b>5,000.00</b>	<b>(4,728.04)</b>	<b>0.00%</b>	<b>-75.00%</b>
<b>Total Public Works</b>	<b>6,099.22</b>	<b>16,969.65</b>	<b>11.49%</b>	<b>79,283.00</b>	<b>(62,313.35)</b>	<b>-77.52%</b>	<b>-75.00%</b>

Restricted for Management's Use Only

VILLAGE OF WIMBERLEY  
 BUDGET VS ACTUAL - GENERAL FUND  
 For The Three Months Ended December 31, 2008

	CURRENT PERIOD	YTD ACTUAL	%	ANNUAL BUDGET	OVER (UNDER)	%	MTD %
<u>Roads</u>							
727.1	750.00	3,931.55	2.66%	75,000.00	(71,068.45)	-94.76%	-75.00%
	-	-	0.00%	20,000.00	(20,000.00)	-100.00%	-75.00%
728.1	-	-	0.00%	40,000.00	(40,000.00)	-100.00%	-75.00%
729.1	-	-	0.00%	7,000.00	(7,000.00)	-100.00%	-75.00%
730.1	-	-	0.00%	-	-	0.00%	-75.00%
731.1	600.00	2,675.00	1.81%	12,500.00	(9,825.00)	-78.60%	-75.00%
732.1	75.00	75.00	0.05%	5,000.00	(4,925.00)	-98.50%	-75.00%
733.1	100.00	300.00	0.20%	1,200.00	(900.00)	-75.00%	-75.00%
734.1	-	-	0.00%	-	-	0.00%	-75.00%
735.1	-	-	0.00%	-	-	0.00%	-75.00%
736.1	3,640.85	5,369.45	3.64%	5,000.00	369.45	7.39%	-75.00%
737.1	-	-	0.00%	-	-	0.00%	-75.00%
	5,165.85	12,351.00	8.36%	165,700.00	(153,349.00)	-92.55%	-75.00%
<u>Water/Wastewater</u>							
752.1	-	-	0.00%	5,000.00	(5,000.00)	-100.00%	-75.00%
753.1	-	-	0.00%	-	-	0.00%	-75.00%
754.1	-	-	0.00%	-	-	0.00%	-75.00%
755.1	-	-	0.00%	-	-	0.00%	-75.00%
756.1	285.00	661.54	0.45%	7,500.00	(6,838.46)	-91.18%	-75.00%
	285.00	661.54	0.45%	12,500.00	(11,838.46)	-94.71%	-75.00%
	11,550.07	29,982.19	20.30%	257,483.00	(227,500.81)	-88.36%	-75.00%
TOTAL PUBLIC WORKS/COURTS ENFORCEMENT EXPENDITURES							
<u>PUBLIC SAFETY/COURTS EXPENDITURES</u>							
<u>Personnel</u>							
801.1	2,920.00	8,703.85	5.89%	37,960.00	(29,256.15)	-77.07%	-75.00%
806.1	223.38	665.85	0.45%	3,094.00	(2,428.15)	0.00%	-75.00%
807.1	85.27	250.89	0.17%	-	250.89	0.00%	-75.00%
808.1	425.00	825.00	0.56%	4,500.00	(3,675.00)	-81.67%	-75.00%
	3,653.65	10,445.59	7.07%	45,554.00	(35,108.41)	-77.07%	-75.00%
<u>Operating</u>							
820.1	725.00	725.00	0.49%	10,000.00	(9,275.00)	-92.75%	-75.00%
821.1	754.00	783.00	0.53%	10,000.00	(9,217.00)	-92.17%	-75.00%
822.1	-	-	0.00%	1,000.00	(1,000.00)	0.00%	-75.00%

Restricted for Management's Use Only

VILLAGE OF WIMBERLEY  
 BUDGET VS ACTUAL - GENERAL FUND  
 For The Three Months Ended December 31, 2008

	CURRENT PERIOD	YTD ACTUAL	%	ANNUAL BUDGET	OVER (UNDER)	%	MTD %
823.1 Training	-	-	0.00%	4,500.00	(4,500.00)	-100.00%	-75.00%
824.1 Animal Control	-	6,000.00	4.06%	6,000.00	-	0.00%	-75.00%
825.1 Fuel	118.76	167.63	0.11%	6,000.00	(5,832.37)	-97.21%	-75.00%
826.1 Supplies	-	220.00	0.15%	-	220.00	3.67%	-75.00%
830.1 Capital Outlay - Vehicles	-	608.95	0.41%	-	608.95	0.00%	-75.00%
831.1 Capital Outlay - Equipment	-	-	0.00%	12,500.00	(12,500.00)	-100.00%	-75.00%
832.1 Capital Outlay - Technology	-	241.02	0.16%	12,500.00	(12,258.98)	-98.07%	-75.00%
837.1 Sanitarian (Contract Labor)	-	-	0.00%	12,500.00	(12,500.00)	-100.00%	-75.00%
<u>Total Operating</u>	<u>1,597.76</u>	<u>8,745.60</u>	<u>5.92%</u>	<u>75,000.00</u>	<u>(66,254.40)</u>	<u>-88.34%</u>	<u>-75.00%</u>
TOTAL PUBLIC SAFETY/COURTS EXPENDITURES	5,251.41	19,191.19	12.99%	120,554.00	(101,362.81)	-84.08%	-75.00%
<b>PARKS &amp; RECREATION EXPENDITURES</b>							
<u>Personnel</u>							
851.1 Assistant to City Admin	-	-	0.00%	-	-	0.00%	-75.00%
852.1 Health Benefits	-	-	0.00%	-	-	0.00%	-75.00%
853.1 Payroll Taxes	-	-	0.00%	-	-	0.00%	-75.00%
<u>Total Personnel</u>	<u>-</u>	<u>-</u>	<u>0.00%</u>	<u>-</u>	<u>-</u>	<u>0.00%</u>	<u>-75.00%</u>
<u>Operating</u>							
854.1 Mileage	-	-	0.00%	-	-	0.00%	-75.00%
855.1 Public Information	-	-	0.00%	-	-	0.00%	-75.00%
856.1 Parks Research & Development	-	-	0.00%	-	-	0.00%	-75.00%
857.1 Trails Master Plan	-	-	0.00%	-	-	0.00%	-75.00%
859.1 Nature Trail Operations	151.40	302.80	0.21%	15,000.00	(14,697.20)	-97.98%	-75.00%
<u>Total Operating</u>	<u>151.40</u>	<u>302.80</u>	<u>0.21%</u>	<u>15,000.00</u>	<u>(14,697.20)</u>	<u>-97.98%</u>	<u>-75.00%</u>
TOTAL PARKS & RECREATION EXPENDITURES	151.40	302.80	0.21%	15,000.00	(14,697.20)	-97.98%	-75.00%
TOTAL EXPENDITURES	55,707.10	147,691.18	1.00	852,000.00	(704,308.82)	-82.67%	-75.00%
Net Excess (Deficit)	\$ 12,550.48	\$ 24,142.96	0.00%	\$ -	\$ 24,142.86	-2.83%	-75.00%

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**City of Wimberley**  
**Blue Hole Parkland**  
**Balance Sheet - Modified Accrual Basis**  
**December 31, 2008**

**Assets**

**Current Assets**

108.40 Cash - Blanco National Bank - Blue Hole	\$ 67,889.40
110.40 Texpool - Blue Hole	<u>163,161.03</u>

<b>Total Current Assets</b>	<b>\$ <u>231,050.43</u></b>
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<b>Total Assets</b>	<b>\$ <u><u>231,050.43</u></u></b>
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**Liabilities and Fund Balance**

**Current Liabilities**

304.40 Due To General Fund	\$ <u>2,050.25</u>
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<b>Total Current Liabilities</b>	<b>\$ <u>2,050.25</u></b>
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<b>Total Liabilities</b>	<b><u>2,050.25</u></b>
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**Fund Balance**

467.40 Fund Balance - Blue Hole	83,227.58
473.40 Designated Fund Balance Blue Hole - Soccer Fields	146,701.58
498.40 Net Excess (Deficit)	<u>(928.98)</u>

<b>Total Fund Balance</b>	<b><u>229,000.18</u></b>
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<b>Total Liabilities and Fund Balance</b>	<b>\$ <u><u>231,050.43</u></u></b>
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**City of Wimberley**  
**Blue Hole Parkland**  
**Statement of Revenue and Expenditures - Modified Accrual Basis**  
**For the One Month and Three Months Ended**  
**December 31, 2008**

	Current Period		Year To Date	
	Amount	Percent	Amount	Percent
<b>Revenues</b>				
503.40 Interest Income - Blue Hole Parkland	\$ 205.59	100.00	\$ 721.99	116.08
542.40 Rental Fees	<u>0.00</u>	<u>0.00</u>	<u>(100.00)</u>	<u>(16.08)</u>
<b>Total Revenues</b>	<u>205.59</u>	<u>100.00</u>	<u>621.99</u>	<u>100.00</u>
<b>Expenditures</b>				
<b>Parks - Operating</b>				
861.40 Contract Labor/Wages	0.00	0.00	77.50	12.46
862.40 Utilities	94.02	45.73	183.21	29.46
863.40 Mowing	0.00	0.00	350.00	56.27
864.40 Operating Supplies	0.00	0.00	137.26	22.07
866.40 Rental	353.00	171.70	353.00	56.75
868.40 Public Restroom Facilities	<u>150.00</u>	<u>72.96</u>	<u>450.00</u>	<u>72.35</u>
<b>Total Parks - Operating</b>	<u>597.02</u>	<u>290.39</u>	<u>1,550.97</u>	<u>249.36</u>
<b>Total Expenditures</b>	<u>597.02</u>	<u>290.39</u>	<u>1,550.97</u>	<u>249.36</u>
<b>NET EXCESS (DEFICIT)</b>	<u>\$ (391.43)</u>	<u>(190.39)</u>	<u>\$ (928.98)</u>	<u>(149.36)</u>

VILLAGE OF WIMBERLEY  
 BUDGET VS ACTUAL - BLUE HOLE SPECIAL REVENUE FUND  
 For The Three Months Ended December 31, 2008

	CURRENT PERIOD	YTD ACTUAL	%	ANNUAL BUDGET	OVER (UNDER)	%	MTD %
<b>REVENUES</b>							
508.4 Interest Income	\$ 205.59	\$ 721.98	116.08%	\$ 8,000.00	\$ (7,278.01)	-90.98%	-75.00%
518.4 Designated Funds	-	-	0.00%	7,000.00	(7,000.00)	-100.00%	-75.00%
541.4 Gate Fees	-	-	0.00%	25,000.00	(25,000.00)	-100.00%	-75.00%
542.4 Rental Fees	-	(100.00)	0.00%	2,000.00	(2,100.00)	-105.00%	-75.00%
<b>TOTAL REVENUES</b>	<b>205.59</b>	<b>621.99</b>	<b>116.08%</b>	<b>42,000.00</b>	<b>(41,378.01)</b>	<b>-98.52%</b>	<b>-75.00%</b>
<b>EXPENDITURES</b>							
861.4 Contract Labor/Wages	-	77.50	5.00%	12,500.00	(12,422.50)	-99.38%	-75.00%
862.4 Utilities	94.02	183.21	0.00%	1,000.00	(816.79)	-81.68%	-75.00%
863.4 Mowing	-	350.00	22.57%	750.00	(400.00)	-53.33%	-75.00%
864.4 Operating Supplies	-	137.26	0.00%	1,500.00	(1,362.74)	-90.85%	-75.00%
865.4 Contract Services	-	-	0.00%	5,000.00	(5,000.00)	-100.00%	-75.00%
866.4 Rental	353.00	353.00	0.00%	1,500.00	(1,147.00)	-76.47%	-75.00%
867.4 Materials	-	-	0.00%	750.00	(750.00)	-100.00%	-75.00%
868.4 Public Restroom Facilities	150.00	450.00	29.01%	1,000.00	(550.00)	-55.00%	-75.00%
869.4 Capital Outlay - Facilities	-	-	0.00%	18,000.00	(18,000.00)	-100.00%	-75.00%
<b>TOTAL BLUE HOLE PARKLAND EXPENDITURES</b>	<b>597.02</b>	<b>1,550.97</b>	<b>56.58%</b>	<b>42,000.00</b>	<b>(40,449.03)</b>	<b>-96.31%</b>	<b>-75.00%</b>
<b>Net Excess (Deficit)</b>	<b>\$ (391.43)</b>	<b>\$ (928.98)</b>	<b>59.50%</b>	<b>\$ -</b>	<b>\$ 928.98</b>	<b>-2.21%</b>	<b>-75.00%</b>

Restricted for Management's Use Only





**City of Wimberley**  
**Municipal Court**  
**Balance Sheet - Modified Accrual Basis**  
**December 31, 2008**

**Assets**

**Current Assets**

109.50 Cash - Blanco National Bank -Municipal Court      \$      1,662.00

Total Current Assets      \$      1,662.00

Total Assets      \$      1,662.00

**Liabilities and Fund Balance**

**Current Liabilities**

304.50 Due to General - Municipal Court      \$      652.80

350.50 Municipal Court Cost Payable      875.10

Total Current Liabilities      \$      1,528.00

Total Liabilities      1,528.00

**Fund Balance**

498.50 Net Excess (Deficit)      134.00

Total Fund Balance      134.00

Total Liabilities and Fund Balance      \$      1,662.00

**City of Wimberley**  
**Municipal Court**  
**Statement of Revenue and Expenditures - Modified Accrual Basis**  
**For the One Month and Three Months Ended**  
**December 31, 2008**

	Current Period		Year To Date	
	Amount	Percent	Amount	Percent
<b>Revenues</b>				
550.50 Court Technology Fees	\$ 36.00	40.91	\$ 48.00	35.82
551.50 Building Security Fees	27.00	30.68	36.00	26.87
552.50 Child Safety Fees	<u>25.00</u>	<u>28.41</u>	<u>50.00</u>	<u>37.31</u>
<b>Total Revenues</b>	<u>88.00</u>	<u>100.00</u>	<u>134.00</u>	<u>100.00</u>
<b>Total Expenditures</b>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>NET EXCESS (DEFICIT)</b>	<u>\$ 88.00</u>	<u>100.00</u>	<u>\$ 134.00</u>	<u>100.00</u>

VILLAGE OF WIMBERLEY  
 BUDGET VS ACTUAL - MUNICIPAL COURT SPECIAL REVENUE FUND  
 For The Three Months Ended December 31, 2008

	CURRENT PERIOD	YTD ACTUAL	%	ANNUAL BUDGET	OVER (UNDER)	%	MTD %
<b>REVENUES</b>							
550.5 Court Technology Fees	\$ 36.00	48.00	35.82%	-	\$ 48.00	0.00%	-75.00%
551.5 Building Security Fees	27.00	36.00	26.87%	-	36.00	0.00%	-75.00%
551.5 Child Safety Fees	25.00	50.00	37.31%	-	50.00	0.00%	-75.00%
<b>TOTAL REVENUES</b>	<b>88.00</b>	<b>134.00</b>	<b>100.00%</b>	<b>-</b>	<b>134.00</b>	<b>0.00%</b>	<b>-75.00%</b>
<b>EXPENDITURES</b>							
<b>TOTAL MUNICIPAL COURT EXPENDITURES</b>	<b>-</b>	<b>-</b>	<b>0.00%</b>	<b>-</b>	<b>-</b>	<b>0.00%</b>	<b>-75.00%</b>
<b>Net Excess (Deficit)</b>	<b>\$ 88.00</b>	<b>\$ 134.00</b>	<b>100.00%</b>	<b>\$ -</b>	<b>\$ (134.00)</b>	<b>0.00%</b>	<b>-75.00%</b>



**City of Wimberley  
JOURNAL REPORT**

December 31, 2008

CD - Cash disbursements

Client No: 347

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<u>Date</u>	<u>Acct</u>	<u>Acct Desc</u>	<u>Amount</u>	<u>Ref</u>	<u>Description</u>
12/1/08	866.40	Rental	353.00	2234	Jim's Rent-All
12/3/08	862.40	Utilities	40.00	2235	Pedernales Electric
12/3/08	862.40	Utilities	54.02	2236	Wimberley Water Supply Corp
12/15/08	868.40	Public Restroom Facilities	150.00	2237	Leineweber Plumbing co., Inc.
12/2/08	708.10	Health Benefits	200.00	5929	Abigail Gillfillan-Health Care-Admin
12/2/08	733.10	Parking Lot Lease	100.00	5930	Calkins Interest, LTD
12/2/08	608.10	Health Care	200.00	5931	Cara McPartland-Health Care-Admin
12/2/08	608.10	Health Care	312.00	5932	Don Ferguson - Health Care - Admin
12/2/08	808.10	Health Care - Public Safety	200.00	5933	Garth W. Robinson - Public Safety
12/2/08	608.10	Health Care	200.00	5934	Monica Alcalá - Health Care - Admin
12/2/08	614.10	Rent	500.00	5935	Todd Routh - Rent
12/2/08	614.10	Rent	3,684.00	5936	Todd Routh - rent
12/2/08	708.10	Health Benefits	200.00	5937	William E. Bowers - HC - Public Works
12/3/08	616.10	Office Supplies	2.49	5938	Ace Hardware 286027
12/3/08	715.10	Supplies - Public Works	8.54	5938	Ace Hardware - 287789
			11.03	5938	Reference Total
12/3/08	623.10	Office Technology	49.00	5939	Anvil Communications, Inc.
12/3/08	677.10	Site Plan Reviews	585.00	5940	ATS Engineers, Inspectors and Surveyors
12/3/08	676.10	Contract Inspector	1,235.00	5940	ATS Engineers, Inspectors and Surveyors
			1,820.00	5940	Reference Total
12/3/08	641.10	Legal	6,717.32	5941	Bickerstaff, HP & C LP 69851/69853
12/3/08	821.10	City Prosecutor	754.00	5941	Bickerstaff, HP & C LP/69852
			7,471.32	5941	Reference Total
12/3/08	620.10	Postage	50.24	5942	Federal Express
12/3/08	727.10	Road Maintenance	375.00	5943	Garret Allen
12/3/08	617.10	Utilities	422.07	5944	Pedernales Electric
12/3/08	859.10	Nature Trail Operations	79.11	5944	Pedernales Electric
			501.18	5944	Reference Total
12/3/08	615.10	Cleaning	400.00	5945	Pow Wow Services
12/3/08	656.10	Audit	3,250.00	5946	Singleton, Moore & Co. LLP
12/3/08	825.10	Fuel-Public Safety	62.00	5947	Texas Fleet Fuel-NP15284985
12/3/08	720.10	Fuel	44.54	5947	Texas Fleet Fuel - NP15371894
			106.54	5947	Reference Total
12/3/08	612.10	Telephone	316.86	5948	Verizon

**City of Wimberley  
JOURNAL REPORT**

December 31, 2008

CD - Cash disbursements

Client No: 347

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<u>Date</u>	<u>Acct</u>	<u>Acct Desc</u>	<u>Amount</u>	<u>Ref</u>	<u>Description</u>
12/3/08	859.10	Nature Trail Operations	29.04	5949	Wimberley Water Supply Corp
12/8/08	736.10	Contract Labor	1,977.50	5950	Sedona Staffing
12/10/08	607.10	TMRS - Admin	339.06	5951	TMRS City Contributions-Admin
12/10/08	707.10	TMRS - Public Works	135.59	5951	TMRS City Contributions-Admin
12/10/08	807.10	TMRS City Contribution-PS	85.27	5951	TMRS City Contributions-Admin
12/10/08	311.10	TMRS Payable	958.74	5951	Texas Municipal Retirement System
			1,518.66	5951	Reference Total
12/10/08	301.10	Withholding Tax Payable	1,803.00	5952	Blanco National Bank
12/10/08	302.10	FICA Tax Payable	2,933.80	5952	Blanco National Bank
			4,736.80	5952	Reference Total
12/15/08	506.10	Building Inspections	45.00	5953	Gary Callon
12/15/08	623.10	Office Technology	636.00	5954	Avenet Web Solutions
12/15/08	722.10	Vehicle Maint. & Insurance	58.33	5955	Bentley's Auto - 9931
12/15/08	631.10	Capital Outlay - Technology	21.00	5956	Dell Marketing LP -XCPMC12X2
12/15/08	859.10	Nature Trail Operations	50.00	5957	Doubletree Lock & Key
12/15/08	611.10	Printing	96.00	5958	Englehart Printing -5103
12/15/08	727.10	Road Maintenance	375.00	5959	Garrett Allen/8137-8139-8140-8141
12/15/08	610.10	Public Notices	58.00	5960	Holley Media
12/15/08	756.10	Public Restroom Wastewater	285.00	5961	Leinneweber Plumbing Co- 59713/59892
12/15/08	720.10	Fuel	45.96	5962	Texas Fleet Fuel - NP15460114
12/15/08	825.10	Fuel-Public Safety	29.25	5962	Texas Fleet Fuel - NP15460114
			75.21	5962	Reference Total
12/15/08	609.10	Dues - TML & City Mgr Assoc	85.00	5963	Texas Municipal Clerks Association
12/15/08	608.10	Health Care	25.00	5964	Wimberley Valley Medical Center
12/15/08	808.10	Health Care - Public Safety	25.00	5964	Wimberley Valley Medical Center
			50.00	5964	Reference Total
12/15/08	676.10	Contract Inspector	2,615.00	5965	Neptune-Wilkinson Associates, Inc
12/17/08	676.10	Contract Inspector	1,045.00	5968	ATS Engineers, Inspectors and Suveyors
12/17/08	722.10	Vehicle Maint. & Insurance	7.85	5969	Bentley's Auto
12/17/08	609.10	Dues - TML & City Mgr Assoc	15.00	5970	Capital Chapter of Municipal Clerks
12/17/08	736.10	Contract Labor	1,663.35	5971	Fire Planning & Development Concepts, LL
12/17/08	619.10	Water Cooler	33.49	5972	Hill Country Springs
12/17/08	618.10	Equipment Leases	281.03	5973	Kyocera Mita America

**City of Wimberley**  
**JOURNAL REPORT**

December 31, 2008

CD - Cash disbursements

Client No: 347

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<u>Date</u>	<u>Acct</u>	<u>Acct Desc</u>	<u>Amount</u>	<u>Ref</u>	<u>Description</u>
12/17/08	618.10	Equipment Leases	718.20	5974	LCRA
12/17/08	655.10	Financial Management Services	1,000.00	5975	Lori I Graham CPA PC
12/17/08	820.10	Municipal Court Judge	725.00	5976	Mounger & Campbell, LLP
12/17/08	616.10	Office Supplies	77.15	5977	Sam's Club
12/17/08	651.10	Association Dues	35.00	5977	Sam's Club
			112.15	5977	Reference Total
12/17/08	731.10	Mowing / Tree Trimming	600.00	5978	Sanders Landscape Services
12/17/08	825.10	Fuel-Public Safety	27.51	5979	Texas Fleet Fuel NP15594432
12/17/08	732.10	Signs/Barricades	75.00	5980	The Fence Guy
12/30/08	708.10	Health Benefits	200.00	5983	Abigail Gillfillan Health Care - Admin
12/30/08	608.10	Health Care	200.00	5984	Cara McPartland-Health Care - Admin
12/30/08	608.10	Health Care	312.00	5985	Don Ferguson - Health Care - Admin
12/30/08	808.10	Health Care - Public Safety	200.00	5986	Garth W. Robinson
12/30/08	608.10	Health Care	200.00	5987	Monica Alcala - Health Care - Admin
12/30/08	708.10	Health Benefits	200.00	5988	William E. Bowers
12/31/08	103.10	Cash - Blanco National Bank - General	-40,274.29	disb	disbursements
12/31/08	108.40	Cash - Blanco National Bank - Blue Hole	-597.02	disb	disb
			-40,871.31	disb	Reference Total
		Total for 74 Items	0.00		

**City of Wimberley**  
**JOURNAL REPORT**

December 31, 2008

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Client No: 347

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<u>Date</u>	<u>Acct</u>	<u>Acct Desc</u>	<u>Amount</u>	<u>Ref</u>	<u>Description</u>
12/31/08	103.10	Cash - Blanco National Bank - General	45,275.59	1	deposits
12/31/08	121.10	Sales Tax Receivable	-39,403.23	1	sales tax receivable
12/31/08	505.10	Building Permits	-2,330.94	1	building permits
12/31/08	506.10	Building Inspections	-2,195.00	1	inspections
12/31/08	509.10	Plan Reviews	-715.00	1	plan reviews
12/31/08	511.10	Sign Permits	-190.00	1	sign permits
12/31/08	512.10	Subdivision	-881.00	1	subdivision fees
12/31/08	525.10	Franchise Fees - Misc	-6.42	1	franchise fees - misc
12/31/08	120.10	Accounts Receivable	135.00	1	a/r
12/31/08	504.10	Miscellaneous Income	311.00	1	to reclassify
			0.00	1	Reference Total
12/31/08	121.10	Sales Tax Receivable	60,364.35	2	sales tax receivable
12/31/08	501.10	Sales & Use Tax	-60,364.35	2	sales & use tax
			0.00	2	Reference Total
12/31/08	496.10	Suspense	3,863.46	3	suspense-1/2/09 payroll cleared
12/31/08	103.10	Cash - Blanco National Bank - General	-3,863.46	3	suspense-1/2/09 payroll cleared
			0.00	3	Reference Total
12/31/08	622.10	Records Management	14.96	4	q/b s/c
12/31/08	103.10	Cash - Blanco National Bank - General	-14.96	4	q/b s/c
			0.00	4	Reference Total
12/31/08	105.10	Cash - Blanco National Bank - CD	895.60	5	cash-cd
12/31/08	503.10	Interest Income - General	-895.60	5	interest income
			0.00	5	Reference Total
12/31/08	110.10	Texpool - General	456.47	6	texpool-general
12/31/08	503.10	Interest Income - General	-456.47	6	interest texpool
			0.00	6	Reference Total
12/31/08	110.40	Texpool - Blue Hole	205.59	7	texpool blue hole
12/31/08	503.40	Interest Income - Blue Hole Parkland	-205.59	7	interest income bh
			0.00	7	Reference Total
12/31/08	109.50	Cash - Blanco National Bank - Municipal Court	1,316.00	8	cash-mc

**City of Wimberley  
JOURNAL REPORT**

December 31, 2008

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<u>Date</u>	<u>Acct</u>	<u>Acct Desc</u>	<u>Amount</u>	<u>Ref</u>	<u>Description</u>
12/31/08	550.50	Court Technology Fees	-36.00	8	court tech fees
12/31/08	551.50	Building Security Fees	-27.00	8	bldg sec fees
12/31/08	552.50	Child Safety Fees	-25.00	8	child safety fees
12/31/08	350.50	Municipal Court Cost Payable	-649.20	8	court fees payable to state
12/31/08	304.50	Due to General - Municipal Court	-578.80	8	due to general-mc
			0.00	8	Reference Total
12/31/08	706.10	Payroll Taxes	355.21	9	payroll taxes-pw
12/31/08	806.10	Payroll Taxes	223.38	9	payroll taxes - ps
12/31/08	606.10	Payroll Taxes	-578.59	9	payroll taxes reclassified
			0.00	9	Reference Total
12/31/08	116.10	Due From Municipal Court	578.80	10	due from municipal court
12/31/08	516.10	Municipal Court Costs/Fines	-578.80	10	municipal court fees
			0.00	10	Reference Total
		Total for 33 Items	0.00		

**City of Wimberley**  
**JOURNAL REPORT**

December 31, 2008

PYA - Generated payroll accrual

Client No: 347

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<u>Date</u>	<u>Acct</u>	<u>Acct Desc</u>	<u>Amount</u>	<u>Ref</u>	<u>Description</u>
12/31/08	606.10	Payroll Taxes	1,218.99	CKS	Employer's FICA
12/31/08	302.10	FICA Tax Payable	-1,218.99	CKS	Employer's FICA
12/31/08	606.10	Payroll Taxes	285.09	CKS	Employer's Medicare
12/31/08	302.10	FICA Tax Payable	-285.09	CKS	Employer's Medicare
			0.00	CKS	Reference Total
		Total for 4 Items	0.00		

**City of Wimberley  
JOURNAL REPORT**

December 31, 2008

PYR - Generated payroll transaction

Client No: 347

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<u>Date</u>	<u>Acct</u>	<u>Acct Desc</u>	<u>Amount</u>	<u>Ref</u>	<u>Description</u>
12/31/08	601.10	City Administrator	7,307.70	CKS	SALARY
12/31/08	301.10	Withholding Tax Payable	-1,838.00	CKS	Federal Withholding
12/31/08	302.10	FICA Tax Payable	-1,504.06	CKS	Fica + Medicare Withholding
12/31/08	311.10	TMRS Payable	-983.04	CKS	TMRS Contribution
12/31/08	103.10	Cash - Blanco National Bank - General	-15,335.96	CKS	Net Payroll Checks
12/31/08	602.10	City Secretary	2,846.16	CKS	SALARY
12/31/08	704.10	Salaries-GIS/Permitting Clerk	2,480.00	CKS	SALARY
12/31/08	801.10	Salaries - City Marshall	2,920.00	CKS	SALARY
12/31/08	603.10	Receptionist/Clerk	1,944.00	CKS	SALARY
12/31/08	702.10	Salaries-Code Enforcement & Permitting	2,163.20	CKS	SALARY
			0.00	CKS	Reference Total
		Total for 10 Items	0.00		

**City of Wimberley**  
**JOURNAL REPORT**  
AJE - Adjusting Entry

December 31, 2008

Client No: 347

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<u>Date</u>	<u>Acct</u>	<u>Acct Desc</u>	<u>Amount</u>	<u>Ref</u>	<u>Description</u>
12/31/08	112.10	Due From Cypress Creek	3,394.17	3b	close cc bank acct
12/31/08	467.10	Fund Balance - Undesignated	-3,394.17	3b	close cc bank acct
			0.00	3b	Reference Total
		Total for 2 Items	0.00		

**Village of Wimberley - Cypress Creek Nature Trail**  
**Balance Sheet - Modified Accrual Basis**  
December 31, 2008

Assets

Current Assets

Cash - Blanco National Bank \$ 3,394.17

Total Current Assets \$ 3,394.17

Total Assets \$ 3,394.17

Liabilities and Fund Balance

Current Liabilities

Due to General Fund \$ 3,394.17

Total Current Liabilities \$ 3,394.17

Total Liabilities 3,394.17

Fund Balance

Total Fund Balance 0.00

Total Liabilities and Fund Balance \$ 3,394.17

**Village of Wimberley - Cypress Creek Nature Trail**  
**Statement of Revenues and Expenditures - Modified Accual Basis**  
For the One Month and Three Months Ended  
December 31, 2008

	Current Period		Year To Date	
	Amount	Percent	Amount	Percent
<b>Revenues</b>				
	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Total Revenues	\$ 0.00	0.00	\$ 0.00	0.00
<b>Expenses</b>				
	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Total Expenses	0.00	0.00	0.00	0.00
Net Excess (Deficit)	\$ <u>0.00</u>	<u>0.00</u>	\$ <u>0.00</u>	<u>0.00</u>

## Village of Wimberley - Cypress Creek Nature Trail

## JOURNAL REPORT

December 31, 2008

AJE - Adjusting Entry

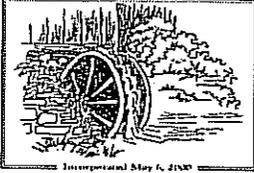
Client No: 344

Page 1

<u>Date</u>	<u>Acct</u>	<u>Acct Desc</u>	<u>Amount</u>	<u>Ref</u>	<u>Description</u>
12/31/08	467	Fund Balance	3,394.17	3a	reclass operating transfer in
12/31/08	305	Due to General Fund	-3,394.17	3a	due to general
			0.00	3a	Reference Total
		Total for 2 Items	0.00		



# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

Project/Proposal Title: CITY ADMINISTRATOR'S  
REPORT

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

Motion

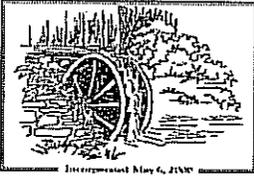
Discussion

**Project/Proposal Summary:**

The City Administrator will present a report on the following items:

- Status report on efforts underway to secure federal funding for the Downtown Wastewater Project
- Status report on the development of revised steep slope regulations for the City of Wimberley
- Status report on preparations for the May 9, 2009 Municipal General Election
- Status report on the proposed designation of a *Ranch Road 12 Truck Route* in Wimberley
- Status report on the development of a proposed road maintenance agreement with Hays County
- Status report on the Blue Hole Regional Park *Request for Qualifications*
- Status report on upcoming Fourth of July activities
- Status report on activities of the Wimberley Municipal Court
- Status report on activities of the City Marshal

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

Project/Proposal Title: INTRODUCTION OF NEW  
HAYS COUNTY SHERIFF

Funds Required:  
Funds Available:

Council Action Requested:

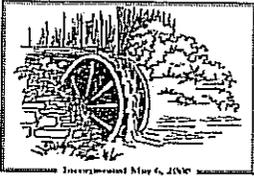
- Ordinance
- Resolution
- Motion
- Discussion

---

## Project/Proposal Summary:

This item was placed on the agenda to allow Hays County Judge Liz Sumter to introduce Hays County Sheriff Tommy Ratliff to the City Council.

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

**Project/Proposal Title:** CONSIDER FIRST READING OF AN ORDINANCE RELATING TO THE MEMBERSHIP QUALIFICATIONS FOR THE PLANNING AND ZONING COMMISSION

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

Last month, the City Council considered an ordinance changing the qualifications for membership on the following City boards and commissions:

- Transportation Advisory Board
- Water/Wastewater Advisory Board
- Parks and Recreation Advisory Board
- Building Code Board of Review
- Planning and Zoning Commission

The proposed ordinance required all members of the above mentioned Boards, with the exception of the Parks and Recreation Board, to reside within the City limits.

After considerable discussion, the City Council agreed to not change the qualifications for membership on the Transportation Advisory Board, Water/Wastewater Advisory Board, Parks and Recreation Advisory Board and Building Code Board of Review. However, the Council did direct staff to prepare an ordinance changing the membership qualifications for the Planning and Zoning Commission.

Specifically, the revised ordinance allows up to two members of the seven member Planning and Zoning Commission to reside in the City's Extra Territorial Jurisdiction (ETJ) provided the individuals are the owners and operators of a business located inside the city limits of Wimberley.

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

**AN ORDINANCE AMENDING SUBSECTION 155.107(B)(1) (PLANNING AND ZONING COMMISSION), OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS, IN ORDER TO REVISE THE MEMBERSHIP REQUIREMENTS; PROVIDING FOR AN EFFECTIVE DATE; PROPER NOTICE AND MEETING, SEVERABILITY AND REPEALER.**

**WHEREAS**, the City of Wimberley ("City") is authorized to establish boards and commissions to receive public input and provide recommendations to the City Council; and,

**WHEREAS**, the City Council strives to consider qualified individuals who represent a broad sampling of the community when appointing members to the City's boards and commissions; and the Planning and Zoning Commission reviewed the proposed code amendment; and,

**WHEREAS**, the City Council of the City of Wimberley, Texas desires to amend the membership requirements for members of the Planning and Zoning Commission; and finds that such amendments will enhance the membership of the City's Planning and Zoning Commission.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:**

**I. FINDINGS OF FACT**

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

**II. AMENDMENT**

1. THAT § 155.107(B)(1) (PLANNING AND ZONING COMMISSION) of the Wimberley Code of Ordinances shall be amended in its entirety to read as follows:

*"(B) Creation; membership; officers; rules and bylaws.*

(1) There is created, in accordance with Tex. Loc. Gov't Code, Chapter 211, the Planning and Zoning Commission, hereafter sometimes referred to as the "Commission," which shall consist of 7 members who are either resident citizens of the city or are residents of the extraterritorial jurisdiction of the city, provided that no more than 2 members shall reside in the extraterritorial jurisdiction of the city, and these 2 members must be owners and operators of a business located inside the city limits of Wimberley."

Except as provided herein, of the Code of Ordinances of the City of Wimberley shall remain in full force and effect.

**III. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

**IV. EFFECTIVE DATE**

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

**V. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**FIRST READING PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by a \_\_\_\_ (Ayes) \_\_\_\_ (Nays) \_\_\_\_ (Abstain) vote of the City Council of the City of Wimberley, Texas.

**SECOND READING PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by a \_\_\_\_ (Ayes) \_\_\_\_ (Nays) \_\_\_\_ (Abstain) vote of the City Council of the City of Wimberley, Texas.

**CITY OF WIMBERLEY**

By: \_\_\_\_\_  
Tom Haley, Mayor

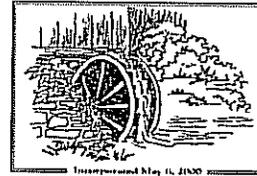
**ATTEST:**

\_\_\_\_\_  
Cara McPartland, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Carolyn J. Crosby, Assistant City Attorney

# Report for Initial Base Zoning: ZA-09-001



**Summary:**

A request for initial base zoning of Single Family Residential 2 (R2) for property located at 500 Blue Heron Run.

**Applicant Information:**

**Applicant:** Betty Sue Cooper  
500 Blue Heron Run  
Wimberley, TX 78676

**Property Owner:** Betty Sue Cooper

**Subject Property:**

**Legal Description:** Breezeway Lot 1, and part of lot 2; Harrison Resort 2 Lot 17 and part of lot 16

**Location:** 500 Blue Heron Run

**Existing Use of Property:** Residential

**Existing Zoning:** Unzoned

**Proposed Use of Property:** Bed and Breakfast

**Proposed Zoning:** R2

**Planning Area:** B

**Overlay District:** Protected Waterway

**Surroundings:**

**Frontage On:** Blue Heron Run

**Area Zoning and Land Use Pattern:**

	Current Zoning	Existing Land Use
<b>N of Property</b>	Unzoned	Residential
<b>S of Property</b>	RA	Residential
<b>E of Property</b>	Unzoned	Vacation Rentals
<b>W of Property</b>	Unzoned	Residential

**Legal Notice**

**200' Letters:** 1/23/09

**Published:** 1/28/09

**Sign Placement:** 1/23/09

**Responses:** none

**Comments:**

The applicant has submitted a request to initially zone the subject property Single Family Residential 2 (R2) at 500 Blue Heron Run. The subject property is in Planning Area B. The R2 Zoning district is a permitted use in this Planning Area. The R2 zoning district consists of lots between 20,000 square feet and 2 acres.

The subject property is made up of 4 separate lots totaling .477 acres or 20,778 square feet and thus qualifies for the R2 zoning district. The existing residence sits across these lot lines and it has been determined that due to setbacks and the proximity to the water there is not adequate space to expand the footprint of the building or add additional structures.

This zoning has been requested because the applicant is pursuing a Conditional Use Permit for the operation of a Bed and Breakfast on the subject property. The property has to be within a base zoning district before a Conditional Use Permit can be considered.

On February 12, 2009, the Planning and Zoning Commission voted to continue consideration of this case until its next regular meeting to allow for the mailing of a more specific notice to the adjacent property owners. As such, City staff recommends City Council delay consideration of the case until March 5<sup>th</sup>.

ORDINANCE NO. 2009-\_\_\_\_\_

**AN ORDINANCE OF THE CITY OF WIMBERLEY, AMENDING SECTION 155 (ZONING), APPENDIX F, OF THE CODE OF WIMBERLEY, DESIGNATING GEOGRAPHIC BOUNDARIES FOR A PARTICULAR ZONING DISTRICT AND CLASSIFICATION FOR A 0.477 ACRE TRACT LOCATED AT 500 BLUE HERON RUN, WIMBERLEY, HAYS COUNTY, TEXAS, DESIGNATING INITIAL ZONING FOR SUCH TRACT AS SINGLE FAMILY RESIDENTIAL 2 (R2); AND PROVIDING FOR THE FOLLOWING: DELINEATION ON ZONING MAP; SEVERABILITY; EFFECTIVE DATE AND PROPER NOTICE AND MEETING.**

**WHEREAS**, the regulations established by Section 155 (Zoning), as amended, (the "Code") are specifically designed to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public facilities; and

**WHEREAS**, in the course of adopting the regulations established by the Code, the Planning and Zoning Commission and City Council gave careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the community's history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and

**WHEREAS**, the regulations established by the Code have been adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for the particular uses; with a view of conserving property values and encouraging the most appropriate use of land in the City; and

**WHEREAS**, the regulations established by the Code are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and

**WHEREAS**, the following enactments are a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, and 211; and

**WHEREAS**, the City Council and Planning and Zoning Commission have carefully reviewed the requirements of the City's Code of Ordinances and have concluded that the 0.477 acres described as Breezeway Subdivision Lot 1 and a portion of Lot 2, and Harrison Resort Subdivision 2, Lot 17 and a portion of Lot 16, should be designated with an initial zoning of Single Family Residential 2 (R2) designation and that such designation is consistent with established City policy and in the public interest; and

**WHEREAS**, parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City's official newspaper before the 15<sup>th</sup> day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to

the respective hearing.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, HAYS COUNTY, TEXAS:**

### **ARTICLE I. AMENDMENT**

Section 155 (Zoning) of the Code of Wimberley is hereby amended by adding the following language to Appendix F to read as follows, which shall be incorporated into and made part of Section 155 (Zoning), and given full weight and effect:

#### **Appendix F: Zoning District Designations**

The City Council of the City of Wimberley has divided the City into the zoning districts as follows. The applicable use, height, area and development regulations adopted by the City shall apply to each district. The following geographic boundaries of the zoning districts for the properties listed below are hereby established as follows:

The 0.477 acres described as Breezeway Subdivision Lot 1 and a portion of Lot 2, and Harrison Resort Subdivision 2, Lot 17 and a portion of Lot 16, and more particularly described by metes and bounds in the attached Exhibit "A" incorporated by reference, in Wimberley, Hays County, Texas, commonly known as 500 Blue Heron Run, is hereby designated initial zoning of Single Family Residential 2 (R2) designation.

Except as expressly amended herein, Appendix F shall remain in full force and effect.

### **ARTICLE II. ZONING DISTRICT MAP**

The official Zoning District Map shall be revised to reflect the zoning district boundary established by this Ordinance.

### **ARTICLE III. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

### **IV. EFFECTIVE DATE**

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

### **ARTICLE V. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of

said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_ (Ayes) to \_\_\_\_\_ (Nays) \_\_\_\_\_ (Abstain) vote of the City Council of the City of Wimberley, Texas.

**CITY OF WIMBERLEY**

BY: \_\_\_\_\_  
Tom Haley, Mayor

**ATTEST:**

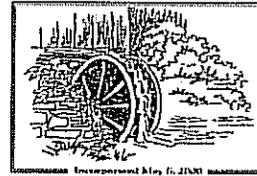
\_\_\_\_\_  
Cara McPartland, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Carolyn J. Crosby, Assistant City Attorney

DRAFT

# Report for Conditional Use Permit CUP-09-001



## Summary:

A Request for a Conditional Use Permit (CUP) to allow the operation of a Bed and Breakfast at 500 Blue Heron Run

## Applicant Information:

**Applicant:** Betty Sue Cooper  
500 Blue Heron Run  
Wimberley, TX 78676

**Property Owner:** Betty Sue Cooper

## Subject Property:

**Legal Description:** Breezeway Lot 1, and part of lot 2; Harrison Resort 2 Lot 17 and part of lot 16

**Location:** 500 Blue Heron Run

**Existing Use of Property:** Residential

**Existing Zoning:** Unzoned

**Proposed Use of Property:** Bed and Breakfast

**Proposed Zoning:** R2

**Planning Area:** B

**Overlay District:** Protected Waterway

## Surroundings:

**Frontage On:** Blue Heron Run

**Area Zoning and Land Use Pattern:**

	Current Zoning	Existing Land Use
<b>N of Property</b>	Unzoned	Residential
<b>S of Property</b>	RA	Residential
<b>E of Property</b>	Unzoned	Vacation Rentals
<b>W of Property</b>	Unzoned	Residential

## Legal Notice

**200' Letters:** 1/23/09

**Published:** 1/28/09

**Sign Placement:** 1/23/09

**Responses:** none

## Comments:

The applicant has requested a Conditional Use Permit (CUP) to allow the operation of a Bed and Breakfast at 500 Blue Heron Run. The subject property is located in close proximity to two other Bed and Breakfast operations and is compatible with other existing properties in the area.

The home is located across multiple lots and staff has determined that due to the required setbacks and the proximity to the Cypress Creek and Blanco River, there is not adequate space to expand the footprint of the proposed Bed and Breakfast operation.

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The proposed Bed and Breakfast will have a maximum occupancy of 10 guests and provide 5 off-street parking places. Four of the parking spaces fit comfortably on the lot, but the fifth space appears to be partially on the right-of-way at the dead end of Blue Heron Run.

As the property is located at the confluence of the Cypress Creek and Blanco River, guests will have access to both waterways in the area directly bounding the proposed Bed and Breakfast facility. Access to the water shall be by a stairway to be constructed from the area of the house to the water level. Guests will not be allowed to use the waterways in front of other properties or enter upon any property which is not part of the Bed and Breakfast facility for any reason.

The applicant intends to sell the lot and the new owner is the intended operator of the proposed Bed and Breakfast. The proposed Bed and Breakfast will not be owner occupied but will be managed by a local management company.

On February 12, 2009, the Planning and Zoning Commission voted to continue consideration of this case until its next regular meeting to allow for the mailing of a more specific notice to the adjacent property owners. As such, City staff recommends City Council delay consideration of the case until March 5<sup>th</sup>.

ORDINANCE NO. 2009-\_\_\_\_\_

**AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT SUBMITTED BY BETTY SUE COOPER TO OPERATE A BED AND BREAKFAST LODGING FACILITY ON AN APPROXIMATELY 0.477 ACRE TRACT LOCATED AT 500 BLUE HERON RUN, WIMBERLEY, TEXAS, ZONED SINGLE FAMILY RESIDENTIAL 2 (R2), AND IMPOSING CERTAIN CONDITIONS; AND PROVIDING FOR FINDINGS OF FACT; AMENDMENT OF THE ZONING DISTRICT MAP; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING; AND PROVIDING FOR CERTAIN CONDITIONS.**

**WHEREAS**, an application for a Conditional Use Permit has been filed by Betty Sue Coopert ("Applicant") requesting authorization to operate a bed and breakfast lodging facility on real property described as Breezeway Subdivision Lot 1 and a portion of Lot 2, and Harrison Resort Subdivision 2, Lot 17 and a portion of Lot 16, consisting of approximately 0.477 acres, zoned Single Family Residential 2 (R2); and

**WHEREAS**, a bed and breakfast lodging facility is an authorized use in areas zoned Single Family Residential 2 (R2) upon the granting of a Conditional Use Permit; and

**WHEREAS**, after conducting a public hearing on the matter, the Planning and Zoning Commission recommended approval of the CUP application; and

**WHEREAS**, Applicant has submitted a Conditional Use Permit Application, site plan, and list of conditions on the use of the property for the bed and breakfast purposes, attached hereto as Exhibits "A" and "B", respectively, and incorporated herein, and other necessary information, and has complied with the requirements of the Wimberley Zoning Ordinance; and

**WHEREAS**, the Planning and Zoning Commission and City Council have conducted Public Hearings on the Application for a Conditional Use Permit wherein public comment was received and considered on the Application; and

**WHEREAS**, the City Council finds that the use of the subject property as a bed and breakfast lodging facility, subject to the conditions imposed by this Ordinance, is an appropriate use for the property and is a compatible use with the surrounding properties and neighborhoods.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:**

**ARTICLE I. FINDINGS OF FACT**

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

## **ARTICLE II. APPROVAL - TERMS AND CONDITIONS**

The CITY COUNCIL HEREBY GRANTS the Application for a Conditional Use Permit submitted by Betty Sue Cooper ("Applicant") for use as a bed and breakfast lodging facility on real property described as Breezeway Subdivision Lot 1 and a portion of Lot 2, and Harrison Resort Subdivision 2, Lot 17 and a portion of Lot 16, consisting of approximately 0.477 acres, zoned Single Family Residential 2 (R2), Wimberley, Hays County, Texas, subject to the following terms and conditions:

1. Applicant shall not commence development until it has secured all permits and approvals as required by the Wimberley zoning regulations, ordinances or any permits required by regional, State and Federal agencies.
2. This Ordinance only authorizes the additional use of the subject property as a bed and breakfast lodging facility in accordance with the site plan attached hereto as Exhibit "A", and subject to the conditions described in Exhibit "B", attached and incorporated by reference, as well as all applicable regulations in effect at the time of the submission of the building permit application. No other use of the property is authorized by this Conditional Use Permit.
3. No commercial signage shall be permitted on the subject property. No more than one (1) sign shall be permitted to provide the property street address and not identify the business. Any signage material, color and dimension shall be compatible with the "Hill Country" theme.

## **ARTICLE III. ZONING DISTRICT MAP**

The official Zoning District Map shall be revised to reflect the Conditional Use Permit established by this Ordinance.

## **ARTICLE IV. REPEALER**

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

## **ARTICLE V. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

**ARTICLE VI. EFFECTIVE DATE**

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

**ARTICLE VII. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED AND APPROVED** by the Wimberley City Council on the \_\_\_ day of \_\_\_\_\_, 2009 by a vote of \_\_\_\_ (Ayes) and \_\_\_\_ (Nays).

**WIMBERLEY, TEXAS**

By: \_\_\_\_\_  
Tom Haley, Mayor

**ATTEST:**

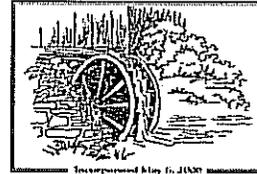
\_\_\_\_\_  
Cara McPartland, City Secretary

(SEAL)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Carolyn J. Crosby, Assistant City Attorney

# Report for Conditional Use Permit CUP-08-009



**Summary:**

A Request for a Conditional Use Permit (CUP) to allow the operation of a Bed and Breakfast at 2635 Flite Acres Rd

**Applicant Information:**

**Applicant:** Lon Breitenbach  
5008 Jeffrey Rd  
Austin, TX 78746

**Property Owner:** Lon Breitenbach

**Subject Property:**

**Legal Description:** Flite Acres / Little Ranches Lot 6  
**Location:** 2635 Flite Acres  
**Existing Use of Property:** Residential  
**Existing Zoning:** (RA) Residential Acreage  
**Proposed Use of Property:** Bed and Breakfast  
**Proposed Zoning:** (RA) Residential Acreage  
**Planning Area** A  
**Overlay District** Protected Waterway

**Surroundings:**

**Frontage On:** Flite Acres

**Area Zoning and Land Use Pattern:**

	Current Zoning	Existing Land Use
<b>N of Property</b>	R1	Residential
<b>S of Property</b>	RA	Residential
<b>E of Property</b>	R1	Residential
<b>W of Property</b>	RA	Residential

**Legal Notice**

**200' Letters** 1/23/09  
**Published** 1/28/09  
**Sign Placement** 1/23/09  
**Responses** none

**Comments:**

The applicant has requested a Conditional Use Permit (CUP) to allow the operation of a Bed and Breakfast at 2635 Flite Acres Rd. The subject property is currently zoned (RA) Residential Acreage which allows for the operation of a Bed and Breakfast provided a Conditional Use Permit has been granted for such use.

The proposed Bed and Breakfast facility consists of 3 bedrooms and will have a maximum occupancy of 6 people. Four off-street parking spaces will be provided for guests on the subject property. The proposed Bed and Breakfast will not be owner occupied but will be managed by a local management company.

Access to the proposed Bed and Breakfast cottage is from Flite Acres Rd. The driveway to the property has a low-water crossing that does not meet the City's design standards for low-water crossings. To remedy this, the applicant is in the process of securing emergency access from University Dr in the event of inundation. The applicant is also prepared to install safety devices on the crossing that will warn guests when the waters are high.

On February 12, 2009, the Planning and Zoning Commission held a public hearing on the request for a CUP. Afterwards, the Commission voted unanimously to recommend approval of the CUP.

## § 155.105 CONDITIONAL USE PERMITS.

### (A) *Conditional uses.*

(1) The purpose of the CUP, conditional use permit, process is to allow certain uses which are not specified, permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "conditional uses" within the specific zoning district. Possible conditional uses, if any, are listed in each zoning district.

(2) The City Council by an affirmative vote may, after public hearing and proper notice to all parties affected, and after recommendations from the Planning and Zoning Commission that the uses are in general conformance with the intent of the Comprehensive Plan and with general objectives of the city, and containing such requirements and safeguards as are necessary to protect adjoining property, authorize certain uses by a CUP. As a zoning action, issuance of a CUP shall only apply to real property (such as shall not be attached to any person, business entity, or the like), shall not be transferred from one property to another (such as shall not move if a business operation relocates), and shall not expire without proper zoning action to rescind the CUP (such as change the zoning to remove the CUP, with appropriate public notification, public hearing, and the like).

(3) A zoning application for a CUP shall be accompanied by a metes and bounds description and a survey or scale drawing showing the property for which the CUP is being requested, and by a development plan (see § 155.077) drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials, and locations of buildings and the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings, and fences; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of 200 feet. The city shall make available application forms specifying drawing requirements. The Director or his or her designee, the Planning and Zoning Commission, or the City Council may require additional information or drawings (such as building floor plans), operating data, and expert evaluation or testimony concerning the location, function, and characteristics of any building or use proposed. The development plan shall be reviewed and approved along with the CUP zoning application, and in accordance with § 155.077 of this code.

### (B) *Conditional use permit regulations.*

(1) In recommending that a conditional use permit for the premises under consideration be granted, the city shall determine that the uses are harmonious and adaptable to building structures and uses of abutting property and other property in the vicinity of the premises under consideration, and shall make recommendations as to requirements for the paving of streets, alleys, and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate off-street parking, screening, and open space, heights of structures, and compatibility of buildings. In approving a requested CUP, the Planning and Zoning Commission and the City Council may consider any or all of the following:

- (a) The use is harmonious and compatible with surrounding existing uses or proposed uses, and does not more adversely affect an adjoining site than would a permitted use;
- (b) The architecture, facade, and signage designs of the use are traditional hill country

designs and are harmonious with those of adjacent uses. In the case of chain establishments, they shall not include or simulate the signature designs of those establishments beyond the absolute minimum necessary to identify the establishment;

- (c) The use requested by the applicant is set forth as a conditional use in the base district;
- (d) The nature of the use is reasonable;
- (e) The conditional use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;
- (f) The conditional use does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting, or its type of sign; and
- (g) Any additional conditions specified, if any, ensure that the intent and purposes of the base district are being upheld.

(2) In granting a conditional use permit, the Planning and Zoning Commission and the City Council may impose conditions which shall be complied with by the owner or grantee before a certificate of occupancy may be issued by the Building Official, or his or her designee, for use of the building on that property pursuant to the conditional use permit and the conditions precedent to the granting of the certificate of occupancy. Any special conditions shall be set forth in writing by the City Council prior to issuance of the certificate of occupancy, and shall be incorporated into the amending ordinance establishing the CUP.

(3) No conditional use permit shall be granted unless the applicant, owner, and grantee of the conditional use permit shall be willing to accept and agree to be bound by and comply with the written requirements or conditions of the conditional use permit, as incorporated into the amending ordinance establishing the CUP, and as reviewed by the Planning and Zoning Commission and approved by the City Council.

(4) A building permit or certificate of occupancy shall be applied for and secured within 1 year from the time of granting the conditional use permit; provided, however, that the City Council may authorize 1 extension of 1 additional year. After the 1-year period (and the 1-year extension, if it has been granted by the City Council) has elapsed, the Planning and Zoning Commission and the City Council may review the development plan for continued validity and compliance. If the development plan is determined to be invalid or no longer viable, then the applicant and property owner(s) must submit a new or revised development plan for approval prior to any construction or to application for a building permit for the area designated for the conditional use permit. The new development plan must be resubmitted for review and approval in accordance with § 155.077 of this code. If building construction or use of a CUP has not commenced within a reasonable amount of time after 1 year, then the City Council, at its option, may initiate proceedings to rescind the CUP for lack of use. No development right, if any, shall vest in a CUP that has expired or is no longer valid.

(5) No building, premises, or land used under a conditional use permit may be enlarged, modified, structurally altered, or otherwise significantly changed unless an amended conditional use permit is granted for that enlargement, modification, structural alteration, or change. Minor changes or alterations may be approved by the Director or his or her designee.

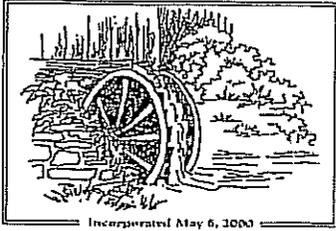
(6) The Board of Adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any conditional use permit.

(7) In residential districts, the Planning and Zoning Commission and the City Council shall have the right to waive the requirements of this section in whole or in part if they find that the proposed use conforms to the criteria of § 155.109(A)(2) and that conforming to the requirements of this section places an undue burden upon the applicant.

(8) When the City Council authorizes granting of a conditional use permit, the Zoning District Map shall be amended according to its legend to indicate that the affected area has conditional and limited uses, and the amendment is to indicate the appropriate zoning district for the approved use and prefixed by a CUP designation.

(C) *Bed and breakfast lodging.* The review for CUP approval of a bed and breakfast lodging facility shall consider the impact of tenant activity on the surrounding residential properties, the neighborhood and environment, and other factors as the Commission deems appropriate. It shall include but not be limited to consideration of the following:

- (1) Permitted uses in the applicable zoning district;
- (2) The proposed occupancy and the size of the property, and whether a smaller occupancy level is appropriate;
- (3) Setbacks and proximity to other dwellings;
- (4) Rental regulations (such as no large parties, no extra guests) imposed by the owner and the degree of owner involvement in property management (such as owner in residence or not in residence);
- (5) Occupant access to waterways and other environmentally sensitive areas;
- (6) Vehicle access and on-site parking and the number of parking spaces available;
- (7) Compliance with all state, county, and city ordinances, laws, rules, and regulations, including the Building Code and Fire Code; and
- (8) Adequacy of wastewater treatment systems.



# Village of Wimberley

## CONDITIONAL USE PERMIT APPLICATION

No. CUP-08 - 009

### FOR OFFICIAL USE ONLY

Application Date: 11/24/08 Tentative P&Z Hearing: 11/8/08 Tentative Council Hearing: 11/15/08

FEES: \$400.00 DATE PAID: 11/24/08 CHECK NO. 1593 REC'D BY ABBY

PROJECT SITE ADDRESS: 2635 FLITE ACRES RD Wimberley, TX. 78676

OWNER/APPLICANT ERIN AND LOU BREITENBACH PHONE (512) 968 5211

FAX (512) 853-7900 EMAIL: lonbreitenbach@yahoo.com

Mailing Address: 5008 JEFFREY R CITY: AUSTIN STATE: TX ZIP: 78746

APPLICANT UNDERSTANDS that the purpose of the Conditional Use Permit (CUP) process is to allow certain uses which are not specific permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "Conditional Uses" within the applicable zoning district.

ZONING: RT RA CM CONDITIONAL USE REQUESTED: (e.g. Bed & Breakfast Lodging)

B+B

Planning Area A Zoning RA Total Acreage or Sq. Ft. 8 ACRES

Subdivision: FLITE ACRES LITTLE PAVES Lot 5+6 Block \_\_\_\_\_

Appraisal District Tax ID#: R 17294

Deed Records Hays County: Volume 165 Page 285 TAX ASSESSOR - BOOK 2770, PAGE 358

Is property located in an overlay district? ( ) Yes (  ) No - If Yes, (Property is in Protected water overlay)

Type: \_\_\_\_\_

Is property located in flood plain? ( ) Yes (  ) No

Utilities:

Electric Provider: PEPERNALES

Water Provider or Private Well: WIMBERLEY WATER

Wastewater Service Provider or Hays County Septic Permit No: \_\_\_\_\_

*2635 FUTE ACRES*  
**LIST OF CONDITIONS THAT MAY BE INCLUDED  
IN BED AND BREAKFAST CUPs**

The Zoning ordinance provides in Section 42.2B that "in granting a Conditional Use Permit, the Planning and Zoning Commission and the City Council may impose conditions which shall be complied with by the owner or grantee...." The following is a list of usual conditions that may be included in Bed and Breakfast CUPs. Not all of these conditions should be in every CUP nor should the list be deemed exclusive. The Zoning Ordinance sets forth in Sections 42.2A and 42.3 the matters which may be taken into consideration in granting a Bed and Breakfast CUP. The following list addresses many of those matters. References after each condition below are to these sections of the Ordinance

**CONSTRUCTION:** The architecture and façade of all new construction will be traditional "Hill Country" design and harmonious with those of adjacent uses. 42.2 A 2.

**COMPATIBILITY TO NEARBY AREAS:** The facilities on the property will at all times be harmonious and compatible with surrounding uses. 42.2 A 1.

**OFF-STREET PARKING:** All parking will be off-street. 4 off-street parking spaces will be provided for off-street guest parking, which will be adequate for a maximum occupancy of 6 guests. Parking will be in these spaces only. 42.2 A 5; 42.3 F.

**SIGNAGE:** All signage will be of traditional "Hill Country" design. 42.2 A 2; 42.2 A 6.

**NOISE AND LIGHTING:** All noise audible from, and all light visible from outside the property shall be maintained at low levels appropriate to a single family neighborhood. No large parties are permitted. 42.2 A 1; 42.2 A 6.

**NUMBER OF BEDROOMS:** 3 42.3 B.                      **MAXIMUM OCCUPANCY:** 6 guests. 42.3 B.

**OCCUPANT REGULATIONS AND GUIDELINES:** The bed and breakfast lodging facility shall be operated in accordance with the guest guidelines furnished by owner and attached to the Conditional Use Permit These guidelines shall be furnished to all guests. These guidelines may not be modified to be made less restrictive with out the consent of the Village Administrator. 42.3 D.

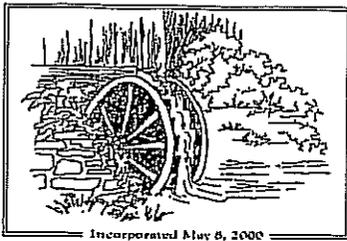
**WASTEWATER SYSTEM:** The wastewater treatment system will at all times be adequate for the maximum occupancy. (Applicant should provide as part of his application a certificate from the appropriate authority evidencing the adequacy of the waste water treatment system for the proposed use.) 42.3 H.

**WATERFRONT USAGE** (Applicable if guests have water access). Guests may not enter upon any property which is not part of the owner's property for the purpose of entering or exiting the water. 42.3 E.

**PROPERTY MANGEMENT:** Owner will provide guests and close-by neighbors with owner's telephone number to assure Owner's immediate knowledge of any concerns that may arise. (If not owner occupied) Owner agrees to retain under contract a responsible local management company at all times the property is used as a non-owner occupied bed and breakfast lodging. The management company shall advise guests of the applicable conditions contained herein, receive and pass on to owner any complaints received and at owner's direction act upon such complaints. (If Owner occupied) The owner shall actively supervise and manage the property at all times that it is used as a bed and breakfast facility. 42.3 D.

**MISCELLANEOUS:** Owner agrees to maintain the property in a manner conducive to the health and safety of the guests and the neighborhood. All trash and garbage will be placed in provided receptacles which shall not be visible from the street except on pick-up day. The exterior of the facility and the landscaping, including lawns, will be maintained in good condition at all times. 42.2 A 1.

**REVOCATION:** The CUP may be revoked by the City Council upon recommendation of the Planning and Zoning Commission in the event of the violation of any of the conditions contained therein.



# City of Wimberley

12111 Ranch Road 12 (P.O. Box 2027), Wimberley, Texas 78676

Phone: 512-847-0025 Fax: 512-847-0422

Email: [village@anvilcom.com](mailto:village@anvilcom.com) Web: [www.vil.Wimberley.tx.us](http://www.vil.Wimberley.tx.us)

Tom Haley, Mayor - Bob Flocke, Mayor Pro-tem

Council Members - Charles Roccaforte, Jeri Xiques, Terrie Bursiel, Dick Larson  
Dan Ferguson, City Administrator

January 22, 2009

## NOTICE OF PUBLIC HEARING

Re: **File No. CUP-08-009**  
2635 Flite Acres Road, Wimberley, Texas  
A Request for a Conditional Use Permit (CUP) to allow the operation of a Bed and Breakfast at this location.

Dear Property Owner:

You are receiving this letter because you own property within 200 feet of the above-referenced location.

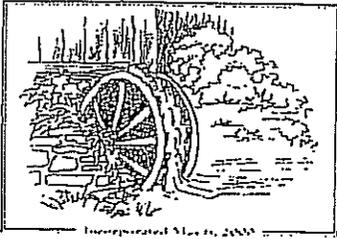
Lon Breitenbach has requested a Conditional Use Permit in order to operate a Bed and Breakfast on the subject property. The current zoning for this property is Residential Acreage (RA).

The City of Wimberley Planning & Zoning Commission will consider this request during a public hearing on **Thursday, February 12, 2009, at 6:30 p.m.** in the Wimberley City Hall, 12111 Ranch Road 12. Upon a recommendation from the Commission, City Council will hold a Public Hearing to consider the same request on **Thursday, February 19, 2009, at 6:30 p.m.**

Because the granting of this request may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted to the City Administrator prior to the meeting.

Additional information regarding the proposed Conditional Use Permit is available for public review at City Hall during normal business hours. Should you have questions, please contact the City Administrator at 512-847-0025.

CITY OF WIMBERLEY



# Village of Wimberley

12111 Ranch Road 12, Ste. 114 (P.O. Box 2027), Wimberley, Texas 78676

Phone: (512) 847-0025 Fax: 512-847-0422

E-mail: [village@wimberley-tx.com](mailto:village@wimberley-tx.com) Web: [vil.Wimberley.tx.us](http://vil.Wimberley.tx.us)

## NOTICE BY SIGN POSTING

Zoning File No.: 08-009

Owner: Lon Braitenbeck

Date: 1/23/09

TO: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property:

( ) Project Site Address 2635 Plite Acres Rd

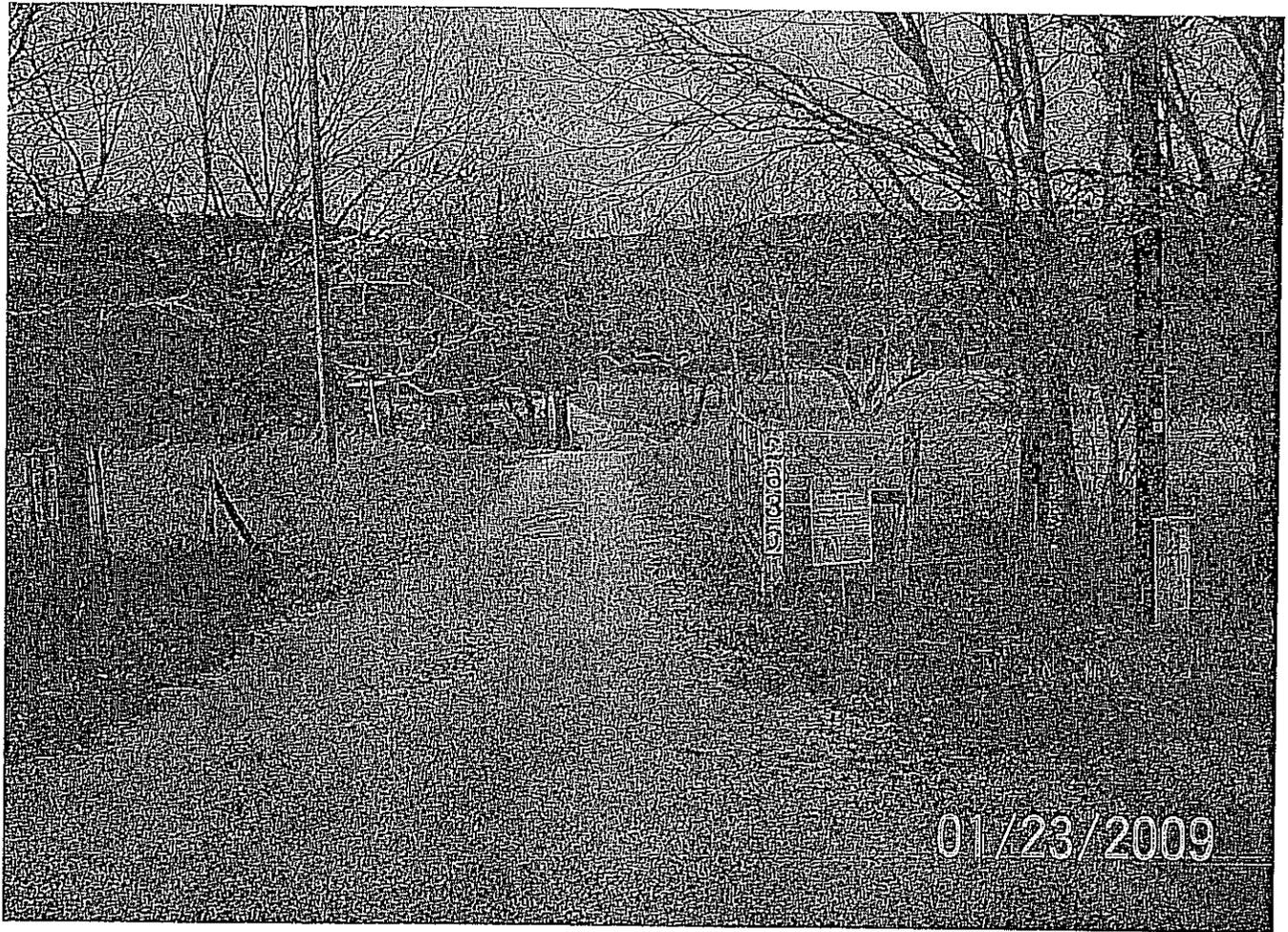
which is located on Plite Acres Rd

Bill Bowers  
Asst. Public Works

Note: The above-referenced zoning sign was placed on the subject property on

1/23/, 2009.

Bill Bowers  
Signature

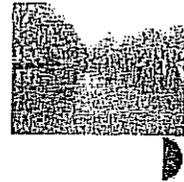






# Hays Central Appraisal District

2008 CERTIFIED VALUES



- Home
- General Information
- News
- FAQ
- Searches
  - PropertyID Search
  - Account Search
  - Owner Search
  - Address Search
  - Advanced Search

Property Detail Sheet (R17294)

- History
- GIS Map
- Datasheet

**Owner Information**

Owner ID: 09176330  
 Owner Name: BREITENBACH EDWARD & ERIN  
 Owner Address: 5008 JEFFERY PL  
 WEST LAKE HILLS, TX 78746  
 Property Address: 2625 FLITE ACRES RD  
 WIMBERLEY, TX 78676

**Parcel Information**

Legal Description: A0368 HUGH G PANNELL SURVEY, ACRES 1.008  
 Acreage: 1.008  
 Cross Reference: 10-0368-0018-00000-8  
 Undivided Interest: 100%  
Exemption Codes: AG (Agriculture Use)  
 Entity Codes: CWI (Village Of Wimberley)  
 EWI (WIMBERLEY HAYS CO ES DIST #3)  
 FWI (WIMBERLEY FIRE HAYS CO ES DIST #4)  
 GHA (HAYS COUNTY)  
 RSP (SPECIAL ROAD)  
 SWI (WIMBERLEY ISD)  
 Deed Type: Warranty Deed With Vendor's Lien  
 Deed Book: 2770  
 Deed Page: 358  
 Map Page:

**Property Data**

- Detail Sheet
- Datasheet

**Other**

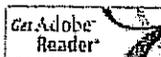
- Taxing Units
- Neighborhoods
- Abstracts
- Subdivisions
- Directions
- Hays Tax Office
- Board of Directors
- ARB Members

- Tax Rates
- Low Income Housing
- Taxpayers Rights (Engli:
- Taxpayers Rights (Span
- Delinquent Tax Sales
- Capitalization Rate

Land HS:	\$0 +
Land NHS:	\$0 +
Improvement HS:	\$66,270 +
Improvement NHS:	\$0 +
Ag Market:	\$9,190
Ag Use:	\$100 +
Timber Market:	\$0
Timber Use:	\$0 +
Assessed:	\$66,370 =

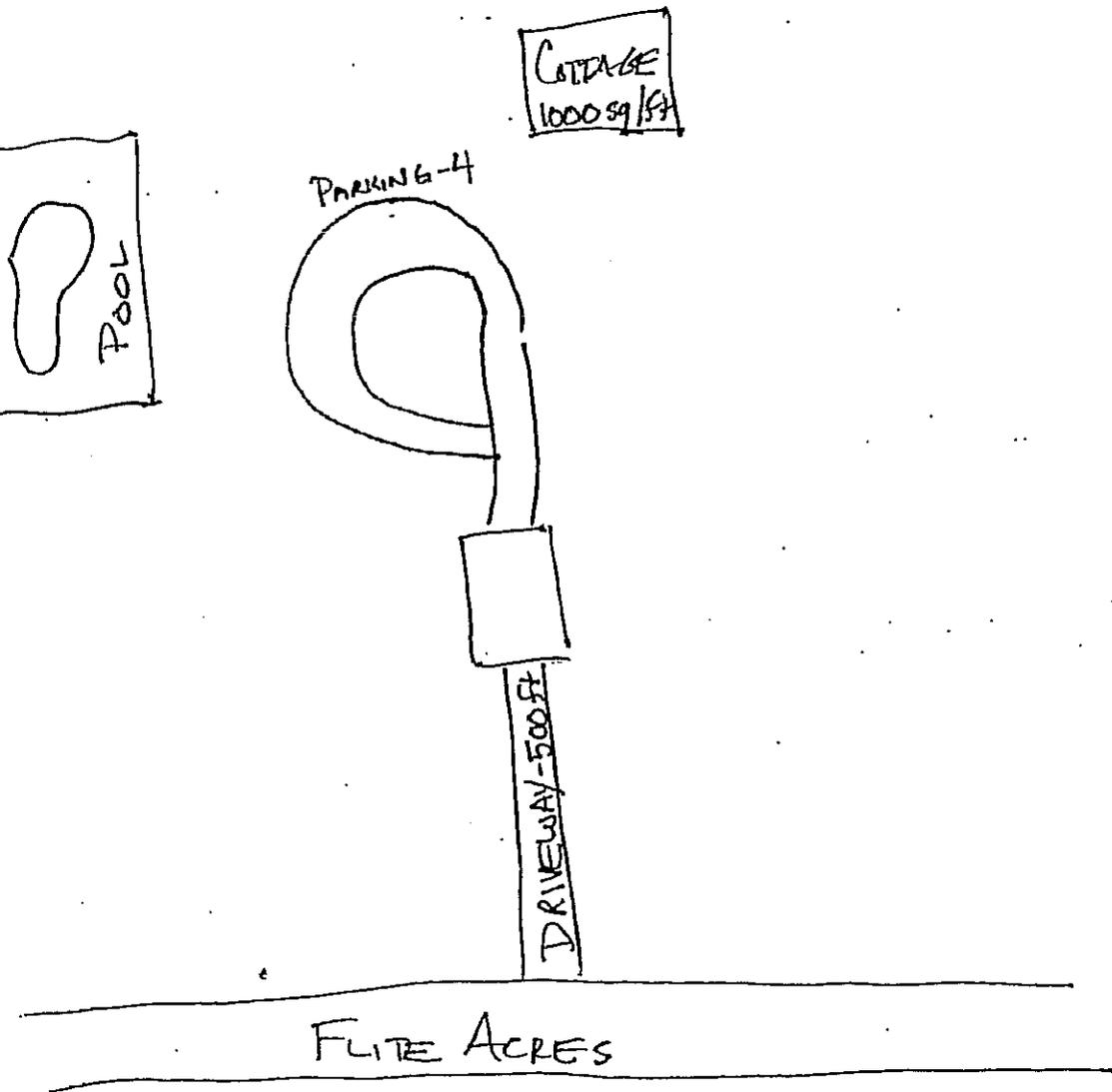
- Forms
- Other Map Formats
- Links
- Subdivision Recorded Pl
- GIS Maps
- Employment opportunitie

		Improvements		
ID	Type	SPTB	Segs	Value
<u>Imp1</u>	R (Residential)	A1 (A1-Residential (sf, 5 Ac Or Less1		\$ 66,270
		Land		
ID	Type	SPTB	Acre:	Market
<u>Land1</u>	IPF (IMPROVED PASTUFD1 (D1-Qualified Ag Land)		1.00E	\$ 9,190



\* Adobe Acrobat Reader 5.0 (minimum) is required to view pdf documents. Acrobat Reader is a free program available [here](#).

# 2635 FLITE ACRES



**ORDINANCE NO. 2009-\_\_\_\_\_**

**AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT SUBMITTED BY LON BREITENBACH TO OPERATE A BED AND BREAKFAST LODGING FACILITY ON AN APPROXIMATELY 1.008 ACRE TRACT LOCATED AT 2635 FLITE ACRES ROAD, WIMBERLEY, TEXAS, ZONED RESIDENTIAL ACREAGE (RA), AND IMPOSING CERTAIN CONDITIONS; AND PROVIDING FOR FINDINGS OF FACT; AMENDMENT OF THE ZONING DISTRICT MAP; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING; AND PROVIDING FOR CERTAIN CONDITIONS.**

**WHEREAS**, an application for a Conditional Use Permit has been filed by Lon Breitenbach ("Applicant") requesting authorization to operate a bed and breakfast lodging facility on real property described Flite Acres/Little Ranches Subdivision Lot 6, consisting of approximately 1.008 acres, zoned Residential Acreage (RA); and

**WHEREAS**, a bed and breakfast lodging facility is an authorized use in areas zoned Residential Acreage (RA) upon the granting of a Conditional Use Permit; and

**WHEREAS**, after conducting a public hearing on the matter, the Planning and Zoning Commission recommended approval of the CUP application; and

**WHEREAS**, Applicant has submitted a Conditional Use Permit Application, site plan, and list of conditions on the use of the property for the bed and breakfast purposes, attached hereto as Exhibits "A" and "B", respectively, and incorporated herein, and other necessary information, and has complied with the requirements of the Wimberley Zoning Ordinance; and

**WHEREAS**, the Planning and Zoning Commission and City Council have conducted Public Hearings on the Application for a Conditional Use Permit wherein public comment was received and considered on the Application; and

**WHEREAS**, the City Council finds that the use of the subject property as a bed and breakfast lodging facility, subject to the conditions imposed by this Ordinance, is an appropriate use for the property and is a compatible use with the surrounding properties and neighborhoods.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:**

**ARTICLE I. FINDINGS OF FACT**

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

## **ARTICLE II. APPROVAL - TERMS AND CONDITIONS**

The CITY COUNCIL HEREBY GRANTS the Application for a Conditional Use Permit submitted by Lon Breitenbach (“Applicant”) for use as a bed and breakfast lodging facility on real property described as Flite Acres/Little Ranches Subdivision Lot 6, consisting of approximately 1.008 acres, zoned Residential Acreage (RA), Wimberley, Hays County, Texas, subject to the following terms and conditions:

1. Applicant shall not commence development until it has secured all permits and approvals as required by the Wimberley zoning regulations, ordinances or any permits required by regional, State and Federal agencies.
2. This Ordinance only authorizes the additional use of the subject property as a bed and breakfast lodging facility in accordance with the site plan attached hereto as Exhibit “A”, and subject to the conditions described in Exhibit “B”, attached and incorporated by reference, as well as all applicable regulations in effect at the time of the submission of the building permit application. No other use of the property is authorized by this Conditional Use Permit.
3. No commercial signage shall be permitted on the subject property. No more than one (1) sign shall be permitted to provide the property street address and not identify the business. Any signage material, color and dimension shall be compatible with the “Hill Country” theme.

## **ARTICLE III. ZONING DISTRICT MAP**

The official Zoning District Map shall be revised to reflect the Conditional Use Permit established by this Ordinance.

## **ARTICLE IV. REPEALER**

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

## **ARTICLE V. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

## **ARTICLE VI. EFFECTIVE DATE**

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

**ARTICLE VII. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED AND APPROVED** by the Wimberley City Council on the \_\_\_ day of \_\_\_\_\_, 2009 by a vote of \_\_\_ (Ayes) and \_\_\_ (Nays).

**WIMBERLEY, TEXAS**

By: \_\_\_\_\_  
Tom Haley, Mayor

**ATTEST:**

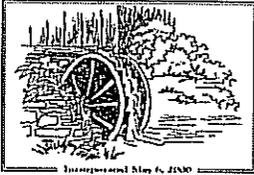
\_\_\_\_\_  
Cara McPartland, City Secretary

(SEAL)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Carolyn J. Crosby, Assistant City Attorney

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

**Project/Proposal Title:** CONSIDER PROPOSED  
ORDINANCE PROHIBITING THROUGH TRUCK  
TRAFFIC ON CR 1492

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

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## Project/Proposal Summary:

This item was placed on the agenda to allow City Council to consider the first reading of a proposed ordinance prohibiting through truck traffic on County Road 1492 (CR 1492).

The proposed ordinance was drafted in an attempt to deal with the growing problem of large tractor trailer rigs becoming stuck while attempting to negotiate the sharp curve on CR 1492 just south of the Blanco River Crossing. In the past twelve months, traffic on the heavily traveled road has been blocked at least twice because of large trucks becoming stuck in the curve.

In addition, there is growing concern about the impact of heavy truck traffic on the CR 1492 Blanco River Crossing.

City staff presented the issue to the City Transportation Advisory Board on February 11, 2009. After considerable discussion, the Board voted unanimously to recommend approval of the proposed regulation of through truck traffic.

According to the proposed ordinance, through truck traffic would be prohibited on CR 1492. The prohibition would not apply to authorized emergency vehicles, light trucks such as pick up trucks or trucks with drivers that are able to produce proof of scheduled delivery on CR 1492 or a public or private street that can be only accessed from CR 1492.

If approved, the appropriate regulatory signage will be placed on CR 1492 and where CR 1492 intersects with River Road and Ranch Road 12.

**ORDINANCE NO. 2009-\_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 70 (TRAFFIC REGULATIONS) OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS, IN ORDER TO ADD A SUBSECTION ENTITLED "THROUGH-TRUCK TRAFFIC"; PROVIDING FOR A PENALTY, FINDINGS OF FACT, AN EFFECTIVE DATE, PROPER NOTICE AND MEETING, SEVERABILITY AND REPEALER.**

**WHEREAS**, the City of Wimberley ("City") has exclusive control over the highways, streets, and alleys of the municipality pursuant to § 311.002 of the Texas Transportation Code; and,

**WHEREAS**, use of certain streets and highways by truck traffic as defined herein, can cause severe damage to the infrastructure of streets, impede the flow of traffic and have the potential to cause serious damage to property and human life; and,

**WHEREAS**, the City Council finds that there are alternate routes throughout the City that provide sufficient connectivity for truck traffic to traverse through the City; and,

**WHEREAS**, further, that there is no burden on intra- or interstate commerce and any inconvenience is minimal compared to the governmental interest of protecting human life and property, therefore such traffic should be diverted accordingly; and,

**WHEREAS**, the City Council of the City of Wimberley, Texas finds that the amendments enumerated herein are in the best interest of the public health safety and welfare and will enhance the same for all citizens of Wimberley.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:**

**I. FINDINGS OF FACT**

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

**II. AMENDMENT**

1. THAT CHAPTER 70: TRAFFIC REGULATIONS be amended to add subsections 71.01 et. seq. entitled "Through-Truck Traffic" to read as follows:

**"THROUGH-TRUCK TRAFFIC.**

**§ 71.01 DEFINITIONS.** For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and phrases which are not defined in this subchapter but are defined in the Tex. Trans. Code or other ordinances or code provisions of the city shall be given the meanings set forth in those ordinances or in the Tex. Trans. Code.

(1) **AUTHORIZED EMERGENCY TRUCKS.** Fire department trucks, police trucks, public or private ambulances for which permits have been issued by the State Board of Health, emergency trucks of municipal departments or public service corporations as are designated or authorized by the governing body of an incorporated city, private trucks operated by volunteer firemen or certified Emergency Medical Services volunteers while answering a fire alarm or responding to a medical emergency, and trucks owned by the state or by a political subdivision engaged in emergency utility repair or electric, water, or wastewater services.

(2) **LIGHT TRUCK.** Any truck with a manufacturer's rated carrying capacity of two thousand (2,000) pounds or less, including trucks commonly known as pickup trucks, panel delivery trucks, and carryall trucks.

(3) **PROOF OF ROUTE.** A written verification of pick-ups, deliveries, or destinations, which may include a log book, delivery slip, shipping order, bill, or any other document which identifies and specifies the date, address, and name of the person requesting or directing the pick-up or delivery and the destination of the pick up or delivery.

(4) **THROUGH TRUCK.** Trucks having no destination, pick-up, or delivery point within the corporate limits of the city.

(5) **TRUCK.** A motor vehicle designed, used, or maintained primarily for the transportation of property, including "truck tractors," "road tractors," "trailers," "semitrailers," "pole trailers," and "special mobile equipment," as those terms are defined in Tex. Transp. Code § 541.201.

#### **§ 71.02 THROUGH TRUCK TRAFFIC.**

(1) Regulations.

(a) County Road 1492, within the corporate limits of the City, is closed to through truck traffic.

(b) The prohibition in this section does not apply to Authorized Emergency Trucks, Light Trucks, or Trucks with drivers that are able to produce proof of route on County Road 1492, or access to a public or private street that can only be accessed from County Road 1492.

(2) Above notwithstanding, it shall not be a defense in a prosecution under this traffic code that there was no sign, or that such sign was not sufficiently legible or in a proper position to be seen by the defendant or by an ordinarily observant person.

#### **§ 71.03 PENALTY.**

Except as otherwise provided in this title, any person violating a provision of this title shall be punished as provided in Title I, Chapter 10, § 10.99.

Except as provided herein, of the Code of Ordinances of the City of Wimberley shall remain in full force and effect.

**III. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

**IV. EFFECTIVE DATE**

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

**V. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by a \_\_\_\_\_ (Ayes) \_\_\_\_\_ (Nays) \_\_\_\_\_ (Abstain) vote of the City Council of the City of Wimberley, Texas.

**CITY OF WIMBERLEY**

By: \_\_\_\_\_  
Tom Haley, Mayor

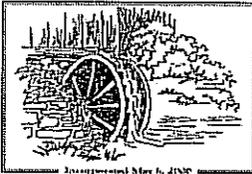
**ATTEST:**

\_\_\_\_\_  
Cara McPartland, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Carolyn J. Crosby, Assistant City Attorney

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

**Project/Proposal Title:** CONSIDER FIRST READING  
OF THE NON-POINT SOURCE POLLUTION  
ORDINANCE

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

## Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider the first reading of a Non-Point Source Pollution (NPS) Control Ordinance. It is an ordinance designed to control and treat storm water run-off.

Storm water run-off, or non-point source pollution, is a significant source of periodic pollution in streams, creeks and rivers. The NPS ordinance requires new developments and redevelopments to utilize best management practices to treat storm water run-off in order to improve the quality of water entering the creeks, rivers, and streams within the community.

A companion NPS fee ordinance will be presented to City Council on March 5<sup>th</sup>.

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

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE) OF THE CODE OF ORDINANCES TO CREATE A NEW CHAPTER 156 ENTITLED "NON-POINT SOURCE POLLUTION CONTROL", IN ORDER TO ESTABLISH AND ADOPT A NON-POINT SOURCE POLLUTION PROGRAM AND REGULATION; PROVIDING FOR A PENALTY AS PROVIDED IN SECTION 10.99 OF THE CODE; AND PROVIDING FINDINGS OF FACT, A REPEALING CLAUSE, TO PROVIDE A SAVINGS AND SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Wimberley, Texas (the "City") seeks to provide for the health, safety and welfare of its citizens; and,

WHEREAS, the Council finds that the drainage ways, creeks, tributaries, and rivers of the City are subject to the potential for periodic pollution which may result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services and extraordinary public expenditures for pollution reduction and protection, all of which adversely affect the public health, safety and general welfare; and,

WHEREAS, the Council seeks to protect real property, the drainage ways, creeks, tributaries and rivers of the City from non-point source pollution; and,

WHEREAS, the City has the authority to regulate non-point source pollution within the City's corporate and extraterritorial limits pursuant to Texas Local Government Code Chapters 51, 212, 401, and 402, and Texas Water Code Chapters 7 and 26; and,

WHEREAS, the City recognizes its responsibility and authority to impose ordinances and controls that are necessary for the government of the City, its interest, welfare, and good order of the City as a body politic.

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

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Amendment.** THAT the City of Wimberley Code of Ordinances, Title XV (Land Usage), is hereby amended to add a new Chapter 156 entitled "Non-point Source Pollution Control" to read as shown on the attached Exhibit "A", incorporated by reference for all purposes.

Except as expressly amended herein, the Code of Ordinances shall remain in full force and effect.

**Section 3.** All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions

contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

**Section 4.** Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances as a whole.

**Section 5.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

**Section 6. Open Meetings.** That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act, Capt. 551, Loc. Gov't. Code.

**PASSED AND APPROVED** this \_\_\_ day of \_\_\_\_\_, 2009, by a vote of \_\_\_ (Ayes) to \_\_\_ (Nays) \_\_\_ (Abstain) vote of the City Council of the Village of Wimberley, Texas.

**CITY OF WIMBERLEY, TEXAS**

\_\_\_\_\_  
Tom Haley, Mayor

**ATTEST:**

\_\_\_\_\_  
Cara McPartland, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Carolyn J. Crosby, Assistant City Attorney

## CHAPTER 156

### NONPOINT SOURCE POLLUTION CONTROL

#### § 156.001 Authority

This Chapter is promulgated under the authority of Section 26.177 Texas Water Code.

#### § 156.002 Scope of Authority and Jurisdiction

This Chapter shall apply to all territory within the incorporated limits of the City of Wimberley, Texas. Any person proposing to develop land or improve property within the jurisdiction of the city is subject to the provisions of this Chapter. This Chapter also applies to individual building structures, subdivisions, excavation and fill operations and similar activities.

#### § 156.003 Findings of Fact

The drainage ways and creek areas of the City of Wimberley, Texas, are subject to the potential for periodic pollution which may result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services and extraordinary public expenditures for pollution reduction and protection, all of which adversely affect the public health, safety and general welfare.

(A) Lands within the city's jurisdiction that are undergoing development or are facing development pressure, which if not properly regulated, can adversely impact stormwater quality.

(B) All watersheds within the city's jurisdiction, and especially those with abrupt topography, sparse vegetation, and thin and easily disturbed soil, are vulnerable to degradation resulting from development activities.

(C) The development of land causes large quantities of soil to be displaced and transported to downstream locations. This soil displacement can create significant soil erosion, degradation of the water quality, and sedimentation problems. Erosion is a dangerous activity in that it contaminates water supplies and water resources. A buildup of sediment degrades water quality, destroys valuable environmental resources and clogs watercourses and storm drains.

(D) The continued economic growth of the city is dependent on adequate quality and quantity of water, a pleasing natural environment, and recreational opportunities in close proximity to the city.

(E) Specifically, creek and floodplain areas in the city are valuable resources to the citizens of the city in that they provide recreational opportunities, improve the aesthetics of the community, convey stormwater runoff and filter water pollutants.

(F) If watersheds within the city's jurisdiction are not developed in a sensitive and innovative manner, their water resources, natural environment, and recreational characteristics will be irreparably damaged. As valuable resources, creeks and floodplains warrant protection.

(G) The council is desirous of adopting appropriate development rules and regulations for the purpose of protecting the water quality of the watersheds within its jurisdiction.

#### **§ 156.004 Statement of Purpose**

Non-point source pollution control management policies shall govern the planning, design, construction, operation and maintenance of drainage, erosion, and water quality control facilities within the city. This Chapter sets forth the minimum requirements necessary to provide and maintain a safe, efficient and effective non-point source pollution control system within the city and to establish the various public and private responsibilities for the provision thereof. Further, it is the purpose of this Chapter to:

(A) Protect human life, health and property;

(B) Minimize the expenditure of public money for building and maintaining non-point source pollution control projects and cleaning sediments out of storm drains, streets, sidewalks and watercourses;

(C) Preserve the natural beauty and aesthetics of the community;

(D) Control and manage the quality of stormwater runoff, the sediment load in that runoff, from points and surfaces within subdivisions;

(E) Help maintain a stable tax base and preserve land values; and

(F) Establish a reasonable standard of design and performance for development which prevents erosion and sediment damage and which reduces the pollutant loading to streams, ponds and other watercourses.

#### **§ 156.005 Lands to which this Chapter Applies**

This Chapter shall apply to all areas of land within the incorporated limits of the city.

#### **§ 156.006 Technical Construction Standards and Specifications (TCSS) Manual**

Incorporated by reference into this Chapter is the Technical Construction Standards and Specifications (TCSS) Manual from the City of Austin, Texas, which describes in detail the technical procedures to be used to comply with the provisions contained in this Chapter. The criteria specified in the latest edition of the TCSS Manual, is adopted in its entirety, and is considered an integral part of the official non-point source pollution management plan for the city. Although the intention of this manual is to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented.

Other accepted engineering procedures may be used to conduct hydrologic and hydraulic studies if approved by the city engineer. The city's Technical Construction Standards and Specifications Manual, hereinafter called the "TCSS Manual," is maintained and available for inspection at City Hall.

## **Division 2. Definitions**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Chapter, shall have the meanings herein after designated.

*Affected Person:* Any person who resides within the city's corporate limits, whose legal rights, duties, or privileges may be affected by stormwater management practices from any proposed development for which a permit is sought.

*Agricultural Activities:* Pasturing of livestock or use of the land for planting, growing, cultivating, and harvesting crops for human or animal consumption.

*Agricultural Stormwater Runoff:* Any stormwater runoff from orchards, cultivated crops, pastures, range land, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

*And:* Where necessary to effectuate the intent of this Chapter, or to prevent an ambiguity or mistake, the words "and" and "or" are interchangeable.

*Annual Pollutant Load:* The amount of pollution in stormwater runoff that is discharged from a developed site over the course of one (1) year; usually measured in pounds and based on an average year of rainfall. (The average annual rainfall in the city area watershed is 32.5 inches/year.) The annual pollutant load is calculated by multiplying the pollutant concentration by the volume of runoff and does not include the background pollutant load.

*Applicant:* A person who submits an application for approval required by this Chapter. The applicant shall be the owner of the property subject to this Chapter acting in person or by and through the owner's authorized representative. Documentation evidencing ownership of the property and the authority of the authorized agent shall be submitted as required by the city administrator.

*Application:* A written request for an approval required by this Chapter.

*Background Pollutant Load:* The amount of pollution in stormwater runoff that is discharged from a site before development. The background pollutant load is calculated by multiplying the drainage area of the site by the annual runoff coefficient by the background stormwater pollution concentrations. The annual runoff coefficient for background conditions is 0.049. The background stormwater pollution concentrations are as follows:

Total Suspended Solids (TSS)	55.00 mg/l
Total Phosphorus (TP)	0.04 mg/l
Total Nitrogen (TN)	0.54 mg/l
Chemical Oxygen Demand (COD)	22.00 mg/l
Biochemical Oxygen Demand (BOD)	8.00 mg/l
Fecal Coliform (FC)	4,000.00 colonies/ 100 ml
Fecal Streptococci (FS)	3,000.00 colonies/ 100 ml
Total Organic Carbon (TOC)	6.00 mg/l
Oil and Grease (O&G)	0.00 mg/l

Best Management Practice (BMP): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the non-point source pollution of water of the United States.

Bluff: Geologic surface feature with a vertical change in elevation of more than forty feet (40') at an average gradient greater than four hundred percent (400%).

Council: The duly elected or appointed mayor and councilmembers of the city.

Bond: Any form of a surety bond in an amount and form satisfactory to the city.

Builder: A person engaged in clearing, grubbing, filling, excavating, grading, constructing a pad, installing service utility lines and/or constructing or placing a building(s) or other structure(s) on a lot or other type of tract of land that is owned by the person and that will not be further subdivided into other lots.

City: The City of Wimberley, Texas.

City Administrator: The person holding the position of city administrator, as appointed by the council. For the purposes of this Chapter, the city administrator may appoint, in writing, a designee to act on his or her behalf.

City Engineer: Such professional engineer or firm of licensed professional consulting engineers that has been specifically employed by the city to assist in engineering-related matters.

City of Wimberley Jurisdiction: All land located within the corporate limits of the city.

Commencement of Construction: The disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.



Commercial Development: All development other than open space, single-family, or multi-family residential development.

Construction Limit Line: The line marking the boundary of disturbance from construction.

Contractor: Any person, other than the owner, engaging in land development activities on land located within the city's jurisdiction.

Critical Environmental Features (CEFs): Features determined to be of critical importance to the maintenance of water quality, including floodplains, riparian corridors, steep slopes in excess of twenty-five percent (25%), groundwater recharge areas, springs, wetlands, bluffs, caves, and highly erodible natural features.

Developer: A person who owns a tract of land and who is engaged in clearing, grubbing, filling, mining, excavating, grading, installing streets and utilities or otherwise preparing that tract of land for the eventual division into one or more lots on which building(s) or other structure(s) will be constructed or placed.

Development: All land modification activity, including the construction of building, roads, paved storage areas, and parking lots. "Development" also includes any land disturbing construction activities or human-made change of the land surface, including clearing of vegetative cover, excavating, filling and grading, mining, and dredging, and the deposit of refuse, waste or fill. Care and maintenance of lawns, gardens, and trees; minimal clearing (ten feet (10') wide) for surveying and testing; and agricultural activities are excluded from this definition.

Discharge: Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the stormwater drainage system or into the waters of the United States.

Discharge (hydraulics): The rate of fluid flow, expressed as the volume of fluid passing a point per unit time, commonly expressed as cubic feet per second.

Discharger: Any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any operator of a construction site or industrial facility.

Domestic Sewage: Human excrement, gray water from home clothes washing, bathing, showers, dishwashing, and food preparation, other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings, including apartment houses and hotels, office buildings, factories, and institutions, that is free from industrial waste.

Drainage area: The horizontal projection of the area contributing runoff to a single control or design point.

Dwelling, Residence: Any building, or portion thereof, which is designed for or used as living quarters for one or more families.

Easement: An area of restricted use on private property upon which the city or a public utility, or both, shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, and/or other improvements or growths which in any way will endanger or interfere with the construction, maintenance or efficiency of its respective systems within said easements. The city and utilities shall, at all times, have the right to ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring of permission of anyone.

Environmental Protection Agency (EPA): The United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of EPA or such successor agency.

Erosion: The detachment and movement of soil, sediment, or rock fragments by wind, water, ice or gravity.

Extremely Hazardous Substance: Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.

Facility: Any building, structure, installation, process, or activity from which there is or may be discharge of a pollutant.

Fertilizer: A solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants that is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of one or more fertilizers. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

Fill: The manmade deposition and compaction of material to effect a rise in elevation.

Final Stabilization: The status when all soil disturbing activities at a site have been completed, and a uniform perennial vegetative cover with a minimum density of seventy percent (70%) of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures, such as the use of riprap, gabions, or geotextiles, have been employed.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (A) the overflow of inland or tidal waters.
- (B) the unusual and rapid accumulation or runoff of surface waters from any source.

Grade: The vertical location or elevation of a surface, or the degree of rise or descent of a slope.

Harmful Quantity: The amount of any substance that will cause pollution of water in the State.

Hazardous Household Waste (HHW): Any material generated in a household (including single and multiple residences, hotels, motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR §261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

Hazardous Substance: Any substance listed in Table 302.4 of 40 CFR Part 302.

Hazardous Waste: Any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

Herbicide: A substance or mixture of substances used to destroy a plant or to inhibit plant growth.

Impervious Cover: Buildings, parking areas, roads, and other impermeable man-made improvements covering the natural land surface that prevents infiltration.

Industrial Waste: Any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.

Infiltration: The passage or movement of water into the subsurface of the natural land.

Landowner: Any person holding title to or having an interest in land.

Land User: Any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

Licensed Professional Engineer (LPE), Professional Engineer (PE): A person who has been duly licensed and registered by the State Board of Registration for Professional Engineers to engage in the practice of engineering in the State of Texas.

Multi-family Dwelling: Three or more dwelling units on a single lot designed to be occupied by three (3) or more families living independently of one another, exclusive of hotels and motels. Includes three-family units (triplex) and four-family units (quadriplex), as well as traditional apartments.

Must/May: The word "must" is always mandatory, while the word "may" is merely permissive.

Natural Drainage: A stormwater runoff conveyance system not altered by manmade changes of the land's surface.

Natural State: The condition of the land existing prior to any development activities.

New Construction: Structures for which the "start of construction" commenced on or after the date of adoption of this Chapter by the council.

*Non-point Source (NPS) Pollution*: Pollution that is caused by or attributable to diffuse sources. Such pollution results in the human-made or human-induced alteration of the chemical, physical, biological, or radiological integrity of water. Typically, NPS pollution results from land runoff, precipitation, atmospheric disposition, or percolation.

*Non-point Source Pollution Control Plan*: The drawings and documents submitted by an applicant seeking plan or permit approval under this Chapter. Such a plan consists of a system of vegetative, structural and other measures to control the increased rate and volume of surface runoff and reduce pollutants in the runoff caused by human changes to the land.

*Notice of Intent (NOI)*: The notice of intent that is required by either the site development permit or building permit.

*Notice of Termination (NOT)*: The Notice of Termination that is required by either the site development permit or the building permit.

*NPDES General Permit for Stormwater Discharges Associated with Industrial Activity (or Industrial General Permit)*: The Industrial General Permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41304 on September 9, 1992, and any subsequent modifications or amendments thereto.

*NPDES General Permit for Stormwater Discharges from Construction Sites (or Construction General Permit)*: The Construction General Permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41217 on September 9, 1992, and any subsequent modifications or amendments thereto.

*NPDES Permit*: A permit issued by EPA, or by the State under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*Oil*: Any kind of oil in any form, including, but not limited to, petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.

*Operator*: The person or persons who, either individually or taken together, meet the following two criteria: (1) they have operational control over the facility specifications, including the ability to make modifications in specifications; and (2) they have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

*Other Municipal Ordinances*: Ordinances such as, but not limited to, zoning, subdivision, construction specifications, and any applicable provision in the Code of Ordinances adopted by Council and any amendments thereto.

*Or*: Where necessary to effectuate the intent of this Chapter, or to prevent an ambiguity or mistake, the words "and" and "or" are interchangeable.

Owner: The person who owns a facility or part of a facility or a lessee.

Permittee: A landowner or land user who is undertaking land development activities pursuant to a permit granted according to the provisions of this Chapter.

Pesticide: A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, as these terms are defined in Section 76.001 of the Texas Agriculture Code.

Petroleum Product: A petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol; other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.

Petroleum Storage Tank (PST): Any one or combination of aboveground or underground storage tanks that contain petroleum products and any connecting underground pipes.

Point Source: Any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutant: Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

Pollution: The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Public Improvements: Facilities, infrastructure and other appurtenances as defined by the Subdivision Ordinance of the city.

Qualified Personnel: Persons who possess the appropriate competence, skills, and ability, as demonstrated by sufficient education, training, experience, and, when applicable, any required certification or licensing to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally-accepted industry standards for such activity.

Release: Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the stormwater drainage system or the waters of the United States.

Right-of-Way: A parcel of land occupied or intended to be occupied, by a street or alley. Where appropriate, "right-of-way" may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and/or gas facilities; water, wastewater and drainage facilities; or for any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street.

Riparian Corridor: The ecological areas within and adjacent to the floodplain that can be comprised of the following species:

Pecan, American Elm, Arizona Walnut, Bald Cypress, Black Walnut, Bur Oak, Cedar Elm, Little Walnut, Green Ash, Texas Sargarberry, American Sycamore, Eastern Cottonwood and Black Willow, Live Oak

Rubbish: Nonputrescible solid waste, excluding ashes, that consist of (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Runoff: That portion of the precipitation that makes its way toward stream channels or lakes as surface or subsurface flow. When the term "runoff" is used alone, surface runoff usually is implied.

Sanitary Sewer (or sewer): The system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to a sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

Sediment: Solid soil material, both mineral and organic, that is being moved or has been moved from its original site by wind, gravity, flowing water or ice. Also, sometimes referred to as "silt" or "sand."

Sedimentation: Deposit of detached soil particles.

Septic Tank Waste: Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Service Station: Any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from stationary storage tanks.

Sewage (or Sanitary Sewage): The domestic sewage and industrial waste that is discharged into a sanitary sewer system and passes through the sanitary sewer system to a sewage treatment plant for treatment.

Shall/Should: The word "shall" is always mandatory, while the word "should" is recommended but not mandatory.

Sheet Flow: Water or stormwater runoff flowing in a thin, diffused layer over the ground surfaces.

Single-Family Residence: A dwelling designed and constructed for occupancy by one single family and which is located on a separate lot delineated by front, side and rear lot lines and includes single-family detached and single-family attached (townhouses) dwellings.

Site Plan Approval: The approval required by Section 155.077 of the Code of Ordinances of the City of Wimberley.

Solid Waste: Any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including, solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.

Spring: A point or zone of natural groundwater discharge having measurable flow, or a pool, and characterized by the presence of a mesic plant community adapted to the moist conditions of the site.

Start of Construction: For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Stormwater: Any moisture that falls naturally from the atmosphere in a discrete storm event, including snow, sleet, rain, and hail.

Stormwater Drainage System: A conveyance or system of conveyances including roads with drainage systems, catch basins, curbs, gutters, ditches, man-made channels, or storm drains designed or used for collecting or conveying storm water.

Stormwater Pollution Prevention Plan (SWPPP): A plan required by either the NPDES Construction General Permit or the NPDES Industrial General Permit and which describes and

ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity to the facility.

Subdivision: A division, or re-division, of any tract of land situated within the city's incorporated limits or its extraterritorial jurisdiction into two or more parts, lots or sites, for the purpose, whether immediate or future, of sale, division of ownership or building development. "Subdivision" includes re-subdivisions of land or lots which are part of previously recorded subdivisions.

Subdivision Ordinance: Chapter 154 of the City's Code of Ordinances, as amended from time to time.

Structure: A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. When used in the context of stormwater, the term means drainage improvement, such as dams, levees, bridges, culverts, head walls, or flumes.

Substantial Improvement: Any combination of repairs, reconstruction or improvements of a structure, the cumulative cost of which equals or exceeds fifty percent (50%) of the initial market value of the structure either: (1) before the first improvement or repair is started; or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Incremental improvements over a period of time, the cumulative cost of which equals or exceeds fifty percent (50%) of the market value at the time of the first improvement, shall be considered a substantial improvement. The term does not, however, include either: (1) any project for the improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Upland Waterways: A defined waterway that is a tributary to the main stem of the Blanco River, including the following: Cypress Creek, Smith Creek, Wilson Creek, Pierce Creek, Spoke Pile Creek, Lone Man Creek and other unnamed tributaries to the main stem of the Blanco River.

Use: Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; or any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Use Permit: The permit required before any use may be commenced.

Used Oil (or used motor oil): Any oil that has been refined from crude oil or a synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with State and federal law.

Variance: A grant of relief to a person from the requirements of this Chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Chapter.

Violation: The failure of a structure or other development to be fully compliant with this Chapter.

Waterway: A natural, defined water course as designated on the U.S. Geologic Survey topographic maps.

Water in the State (or Water): Any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

Water Quality Buffer Zone (WQBZ): Natural riparian areas along waterways and critical environmental features that reduce overland flow velocities and filter pollutants.

Water Quality Control, Best Management Practice (BMP): A structure, system, or feature that provides water quality benefits by treating stormwater runoff.

Water Quality Standard: The designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by the State to be necessary to protect those uses, as specified in Chapter 307 of Title 30 of the Texas Administrative Code.

Water Quality Volume: The volume of runoff necessary to be captured and treated to meet the performance standards.

Waters of the United States: All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR § 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.

Watershed: The total area contributing runoff to a stream or drainage system.

Wetland: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions and conforms to the U.S. Army

Corps of Engineers' definition. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard Waste: Leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

Zoning Ordinance: Chapter 155 of the City's Code of Ordinances, as amended from time to time.

### **Division 3. Non-point Source Pollution Control Measures**

#### **§ 156.007 Non-point Source Pollution Control Management General Prohibitions**

No person shall introduce or cause to be introduced into the stormwater drainage system any discharge that is not composed entirely of stormwater.

#### **§ 156.008 Non-point Source Pollution Control Management Specific Prohibitions and Requirements**

(A) No person shall introduce or cause to be introduced into the stormwater drainage system any discharge that causes or contributes to causing the city to violate a water quality standard.

(B) No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the stormwater drainage system:

- (1) Any used motor oil, antifreeze, or any other motor vehicle fluid;
- (2) Any industrial waste;
- (3) Any hazardous waste, including hazardous household waste;
- (4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
- (5) Any garbage, rubbish, or yard waste;
- (6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than two such vehicles;
- (7) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;

(8) Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;

(9) Any wastewater from commercial floor, rug, or carpet cleaning;

(10) Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;

(11) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;

(12) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydromulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;

(13) Any runoff or washdown water from any animal pen, kennel, or fowl or livestock containment area;

(14) Any filter backwash from a swimming pool, or fountain, or spa;

(15) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;

(16) Any discharge from water line disinfection by superchlorination or other means if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;

(17) Any fire protection water containing oil or hazardous substances or materials. This prohibition does not apply to discharges or flow from fire fighting by a fire department or duly recognized volunteer fire department;

(18) Any water from a water curtain in a spray room used for painting vehicles or equipment;

(19) Any contaminated runoff from a vehicle wrecking yard;

(20) Any substance or material that will damage, block, or clog the stormwater drainage system;

(21) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:

- (a) Compliance with all state and federal standards and requirements;
- (b) No discharge containing a harmful quantity of any pollutant; and
- (c) No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 mg/l of total petroleum hydrocarbons (TPH).

(C) No person shall introduce or cause to be introduced into the stormwater drainage system any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with landfilling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable.

(D) No person shall connect a line conveying sanitary sewage, domestic or industrial, to the stormwater drainage system, or allow such a connection to continue.

(E) No person shall cause or allow any pavement washwater from a service station to be discharged into the stormwater drainage system unless such washwater has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the stormwater drainage system.

(F) Regulation of Pesticides, Herbicides, and Fertilizers.

(1) Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer must comply fully with all state and federal statutes and regulations including, without limitation, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and all federal regulations promulgated pursuant to FIFRA; Chapters 63, 75, and 76 of the Texas Agriculture Code and all state regulations promulgated pursuant thereto; and any other state or federal requirement.

(2) Any license, permit, registration, certification, or evidence of financial responsibility required by state or federal law for sale, distribution, application, manufacturer, transportation, storage, or disposal of a pesticide, herbicide or fertilizer must be presented to the city and any city law enforcement officer for examination upon request.

(3) No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.

(4) No person shall use or cause to be used any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the stormwater drainage system or waters of the United States.

(5) No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the stormwater drainage system or waters of the United States.

(6) If provided with a display notice containing the provisions of this Subsection, pertaining to the regulation of pesticides, herbicides, and fertilizers, or a reasonable description thereof, and the information that any user of the product may obtain further information from the city, any person selling pesticides, herbicides, or fertilizers at retail or wholesale shall post the notice prominently where it may be read by purchasers of the product.

(G) Used Oil Regulation

(1) No person shall:

(a) Discharge used oil into the stormwater drainage system or a sewer, drainage system, septic tank, surface water, groundwater, or water course;

(b) Knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or knowingly directly dispose of used oil on land or in a landfill;

(c) Apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.

(2) All businesses that change motor oil for the public are encouraged to serve as public used oil collection centers as provided by state statute.

(3) A retail dealer who annually sells directly to the public oil in containers for use off-premises shall post in a prominent place a sign informing the public that improper disposal of used oil is prohibited by law. The sign shall prominently display the toll-free telephone number of the state used oil information center.

**§ 156.009 Non-point Source Pollution Control Management Performance Standards**

Except as otherwise provided in this Chapter, all development subject to this Chapter shall achieve the following performance standards:

(A) Removal of Annual Pollutant Load

(1) For development not using on-site irrigation with treated wastewater effluent:

- (i) Total Suspended Solids (TSS) 95% removal
- (ii) Total Phosphorus (TP) 95% removal
- (iii) Oil and Grease (O&G) 95% removal

(2) For development using on-site irrigation with treated wastewater effluent or with septic system effluent:

- (i) Total Suspended Solids (TSS) 95% removal
- (ii) Total Phosphorus (TP) 95% removal
- (iii) Total Nitrogen (TN) 95% removal
- (iv) Chemical Oxygen Demand (COD) 95% removal
- (v) Biochemical Oxygen Demand (BOD) 95% removal
- (vi) Fecal Coliform (FC) 95% removal
- (vii) Fecal Streptococci (FS) 95% removal
- (viii) Total Organic Carbon (TOC) 95% removal

(3) Background and Developed Sites Pollutant Concentrations and Pollutant Loads:

(a) Background pollutant concentrations shall be as defined in Division 2 of this Chapter.

(b) Standard pollutant concentrations for developed sites shall be as defined in the TCSS Manual.

(c) Calculation of annual pollutant loading shall comply with the criteria given in the TCSS Manual.

(4) Water Quality Volume: The minimum volume of stormwater runoff for water quality control shall be the first one-half (0.5") inch of runoff plus an additional one-tenth (0.1") inch for each ten percentage point increase of the gross impervious cover over twenty percent (20%) of the contributing drainage area to the water quality control. Water quality volume shall be calculated in accordance with the TCSS Manual.

(B) Impervious Cover:

(1) Impervious cover limits shall not exceed the amounts provided for in Chapter 155 (Zoning) of the City's Code of Ordinances.

(2) General - The impervious cover limits of Chapter 155 may be increased by the following amounts under the following conditions, if approved by the city:

(i) Isolation of Roof Runoff and Irrigation (for all development uses). The maximum impervious cover limits may be increased up to five (5) percentage points if roof runoff is isolated, treated and used for irrigation.

(ii) Water Quality Controls (for single-family residential use only). The maximum impervious cover limit may be increased up to twenty (20) percentage points if appropriate water quality controls are provided.

(iii) Transfer of Development Intensity: multi-family residential use and nonresidential use.

(aa) An applicant who complies with a provision of this Subsection qualifies for the development intensity transfer:

(1) For each three (3) acres of land that an applicant leaves undeveloped and undisturbed in an area zoned by the city for nonresidential use, and does not include impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover, but in no case shall the maximum impervious cover limit be increased by more than ten (10) percentage points; or

(2) For each six (6) acres of land that an applicant leaves undeveloped and undisturbed in an area zoned by the city for residential use and does not include impervious calculations elsewhere, the applicant may

transfer up to one (1) acre of impervious cover, but in no case shall the maximum impervious cover limit be increased by more than ten (10) percentage points; or

(3) For each six (6) acres of land that an applicant leaves undeveloped and undisturbed in the ETJ of the city and does not include its impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover, but in no case shall the maximum impervious cover limit be increased by more than ten (10) percentage points.

(b) An applicant who qualifies for a development density transfer must comply with the following requirements to effectuate the transfer:

(i) the transferring tract and the receiving tract must be located within the corporate limits or the ETJ of the city, and

(ii) the transferring tract does not include a water quality buffer zone or critical environmental feature, and

(iii) the receiving tract must comply with the water quality control standards of this Chapter, and

(iv) the transferring and the receiving tracts must be concurrently platted and must transfer development intensity at that time, and

(v) the development intensity transfer must be noted on the plats of the transferring and receiving tracts, and

(vi) a restrictive covenant must be filed in the deed records, approved by the city that runs with the transferring tract and describes the development intensity transfer.

(d) Water Quality Buffer Zones (WQBZ)

(1) Along Waterways: A water quality buffer zone is established along each waterway as follows:

(a) Upland Waterways: The WQBZ shall extend a minimum of one hundred feet (100') from the edge of the banks parallel to each side of each Upland Waterway, with at least thirty (30) acres of contributing drainage area.

(b) Blanco River: The WQBZ shall extend a minimum of one hundred fifty feet (150') from the edge of the banks parallel to each side of the Blanco River, with at least thirty (30) acres of contributing drainage area.

(c) The two-year peak flood level shall be calculated in accordance with the TCSS Manual.

(2) Critical Environmental Features (CEF):

The WQBZ shall extend a minimum of eighty-five feet (85') around the outside periphery of natural springs, natural recharge features, and wetlands.

(3) Overlapping Water Quality Buffer Zones:

If two (2) or more WQBZ's overlap, then the widest zone shall be established.

**§ 156.010 Impervious Cover**

(A) Although a certain percentage of impervious cover is discussed and designated within this Chapter, nothing in this Chapter shall release a person from meeting the requirements of the zoning and landscape provisions of the City's Code of Ordinances.

(B) Impervious cover shall include all man-made improvements which prevent the infiltration of water into the natural soil, or prevent the migration of the infiltration as base flow.

The following shall be considered as impervious cover:

- (1) Roads, pavements, and driveways, except as provided in Subsection (c) of this Section;
- (2) Parking areas;
- (3) Buildings;
- (4) Pedestrian walkways and sidewalks;
- (5) Concrete, asphalt, masonry, surfaces areas, and paving stone surfaced areas;
- (6) Swimming pool water surface area;
- (7) Densely compacted natural soils or fills which result in a coefficient of permeability less than  $1 \times 10^{-6}$  cm/sec;
- (8) All existing man-made impervious surfaces prior to development;

(9) Water quality and stormwater detention basins lined with impermeable materials;

(10) Stormwater drainage conveyance structures lined with impermeable materials;

(11) Interlocking or "permeable pavers";

(12) Fifty percent (50%) of the horizontal surface area of an uncovered deck that has drainage spaces between the deck boards that is located over a pervious surface;

(C) The following will not be considered as impervious cover:

(1) Existing roads adjacent to the development and not constructed as part of the development at an earlier phase;

(2) Naturally occurring impervious features, such as rock out crops;

(3) Landscaped areas and areas remaining in their natural state;

(4) Water quality controls and stormwater detention basins not lined with impermeable materials.

(5) Stormwater drainage conveyance structures not lined with impermeable materials.

(D) The following shall not be included in the total site area against which the allowable impervious cover percentage limit is applied:

(1) Water Quality Buffer Zones;

(2) Critical Environmental Features.

(E) Restrictions:

(1) Impervious cover shall not be constructed downstream of water quality controls;

(2) Impervious cover shall not be constructed within Water Quality Buffer Zones;

(3) Impervious cover shall not be constructed within the areas designated for on-site irrigation for treated wastewater effluent disposal.

§ 156.011 Water Quality Buffer Zones (WQBZ)

(A) All development activities, including temporary construction activities and landscaping activities, shall be restricted from the WQBZ, except the following development activities may be allowed if approved by the city:

- (1) Roadway and driveway crossings;
- (2) Hike and bike trails in accordance with the Comprehensive Plan;
- (3) Maintenance and restoration of natural vegetation;
- (4) Water quality control monitoring devices;
- (5) Removal of trash, debris, pollutants;
- (6) Utilities, as subject to the restrictions of Subsection (B) of this Section;
- (7) Fences that do not obstruct flood flows;

(8) Public and private parks and open space, with development in the parks and open space limited to hiking, jogging, or walking trails, and excludes stables and corrals for animals

- (9) Private drives to allow access to property not otherwise accessible.

(B) All utilities, other than wastewater shall be located outside the WQBZ except for crossings. Wastewater lift stations shall be located outside the WQBZ. On-site wastewater disposal system shall be located outside the WQBZ. Wastewater trunk lines and lateral lines shall be located outside the WQBZ to the maximum extent practical except for crossings. In no case shall any wastewater line be located less than one hundred fifty feet (150') from the edge of the bank of the Blanco River, or one hundred feet (100') from the center line of an Upland Waterway except for crossing, unless approved by the city, and unless the applicant has shown that installation outside of this zone is physically prohibitive or environmentally unsound. All wastewater trunk lines located in the WQBZ shall meet design standards and construction specifications of testing not to exceed 10 gallons per inch diameter per mile of pipe for 24 hours at a minimum test head of 2 feet above the crown of pipe at upstream manhole, or as otherwise required by state law.

(C) All water quality control discharges and stormwater discharges onto a WQBZ shall:

- (1) have diffused, sheet flow;
- (2) have peak velocities of less than five (5) fps at the 2-year design storm.

**§ 156.012 Overland Flow**

(A) No untreated stormwater runoff from developed land shall be allowed to flow over critical environmental features that are recharge structures.

(B) To the maximum extent practical, all roof runoff from non-residential buildings shall have down spouts disconnected from the site stormwater drainage system.

(C) To the maximum extent practical, all stormwater drainage shall be treated using overland flow methods to a vegetated buffer. The vegetated buffer shall be designed in accordance with the TCSS Manual.

(D) Drainage patterns shall be designed to the maximum extent practical to prevent erosion, maintain and recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by stormwater. Overland sheet flow and natural drainage features and patterns shall be maintained to the maximum extent practical, depending on volumes and velocities of runoff for the development, as opposed to concentrating flows in storm sewers and drainage ditches.

(E) Construction of enclosed storm sewers and impervious channel linings are permitted only when the city, on the basis of competent engineering evidence from the applicant, concludes that such storm sewers or impervious linings are protective of water quality.

(F) If storm sewers are deemed necessary as specified above, the applicant shall design the stormwater drainage system to mitigate its impact on water quality by using structural devices or other methods to prevent erosion and dissipate discharges from outlets wherever practicable, and by directing discharges to maximize overland flow through buffer zones or grass line swales.

(G) Overland flow facilities for the stormwater drainage system shall be designed in accordance with the criteria of the TCSS Manual.

**§ 156.013 Infiltration**

(A) To the maximum extent practical, water quality controls shall be designed to restore the infiltration capacity of pre-development conditions. Infiltration BMP's shall be designed in accordance with the TCSS Manual.

(B) Infiltration systems shall be designed and located to avoid impacts to existing springs and recharge structures.

**§ 156.014 Steep Slopes**

(A) To the maximum extent practical, non-residential construction shall be limited to those areas with pre-development natural grades of less than twenty-five percent (25%).

(B) Erosion control, terracing and water quality control BMP's shall be designed in accordance with the TCSS Manual.

(C) A cut or fill with a finished gradient steeper than thirty-three percent (33%) shall be stabilized with a permanent structure.

**§ 156.015 Vegetation**

(A) To the maximum extent practical, landscape shall be preserved in its natural state and shall comply with the requirements of the zoning ordinance of the city.

(B) To the maximum extent practical, xeriscape and low maintenance vegetation shall be included in all non-residential development and shall be provided in accordance with the TCSS Manual.

(C) To the maximum extent practical, the use of herbicides, pesticides and fertilizers shall be minimized.

(D) A pesticide and fertilizer management plan shall be submitted providing information regarding proper use, storage, and disposal of pesticides and fertilizers. The plan shall indicate likely pesticides and fertilizers to be used. The plan shall include two lists of pesticides and fertilizers: (1) those which, due to their chemical characteristics, potentially contribute significantly to water quality degradation; (2) those which, due to the chemical characteristics, potentially would result in minimal water quality degradation.

(E) An Integrated Pest Management (IPM) Plan may be submitted in accordance with the TCSS Manual.

(F) If applicable, Vegetative BMP's, such as vegetative filter strips, shall be designed in accordance with the TCSS Manual.

**§ 156.016 Water Quality Controls (WQC)**

(A) Water quality controls (WQC) are required for all new impervious cover development as follows:

(1) Multi-family residential development, non-residential development, and all subdivision development: Water quality controls shall be sized for the entire contributing drainage area that contains development if:

- (a) the new development contains impervious cover; or
- (b) the re-development increases the total impervious cover to exceed 40 percent.

(2) Single-family residential development (not part of a subdivision development): Water quality controls shall be sized for the entire contributing drainage area that contains development if:

(a) the new development contains total impervious cover in excess of twenty percent (20%); or

(b) the re-development increases the total impervious cover to exceed twenty percent (20%).

(B) The volume of runoff (water quality volume) to be captured, isolated, and treated by each WQC shall be as required in Section 156.009. Each WQC shall be sized for the contributing drainage area only to that WQC.

(C) Vegetated filter strips shall be used to the maximum extent practical for the treatment of stormwater runoff. Additional structural WQC's shall be provided where a vegetated filter strip alone is not sufficient to reduce developed condition pollutant loads to the levels required in Section 156.009.

(D) Pollutant loads from all developed areas shall be considered when determining the level of treatment needed to comply with these regulations. Developed areas requiring treatment shall include the total contributing drainage area with:

- (1) areas of impervious cover;
- (2) lawns using pesticides, herbicides or fertilizers;
- (3) landscaping using pesticides, herbicides or fertilizers;
- (4) gardens using pesticides, herbicides or fertilizers;
- (5) golf courses and play fields using pesticides, herbicides or fertilizers;
- (6) areas of on-site spray irrigation with wastewater effluent;

(E) The following areas shall not require water quality treatment:

(1) The full area of existing natural areas or restored natural areas which are restricted from development and pesticides, herbicide, or fertilizer application through a plat note or restrictive covenant and the runoff from which is routed around the WQC. The drainage areas of unrouted runoff from natural areas which blend with the runoff from the developed areas shall be included in the water quality volume calculations.

(2) One half (1/2) of the area using landscaping with vegetation that requires no irrigation, pesticide, herbicide, or fertilizer applications.

- (3) The full area of the WQC structure.
  - (4) Swimming pools which do not discharge their filter backwash into the stormwater drainage system.
  - (5) Impervious surface areas used for stormwater collection and on-site irrigation.
  - (6) The full area of off-site drainage areas and the runoff from which is routed around the WQC. Unrouted runoff from off-site areas shall be included in the sizing of the WQC. The drainage areas of unrouted runoff from off-site areas which blend with the runoff from the developed areas shall be included in the water quality volume calculations.
- (F) Removal efficiencies for WQC's shall be as established in the TCSS Manual or must be approved by the city based on reports or studies contained in engineering or scientific literature. The efficiency of a second or later WQC in a series shall be reduced by five percentage points for each subsequent WQC in series, except the design of the first WQC in series after a vegetative filter strip shall be based upon the full rated efficiency.
- (G) WQC for oil and grease treatment shall be sized only for the surface area of paving.
- (H) The maximum drainage area for a single WQC shall be fifty (50) acres.
- (I) The design of WQC's shall be in accordance with the TCSS Manual.

**§ 156.017 Erosion Control Requirements**

- (A) This Chapter shall apply regardless of whether an applicant is required to obtain a permit from the city in order to conduct such land disturbing or construction activity.
- (B) Off-Site Borrow, Spoil and Staging Areas: Where applicable, off-site borrow areas, spoil areas and construction staging areas shall be considered as part of the project site and shall be governed by this Chapter.
- (C) Related Land Areas: The erosion control requirements of this Chapter shall apply to all related land areas. Additionally, when land disturbing activity occurs on a project, all disturbed land areas related to the project shall have permanent erosion control established before final occupancy of structures located thereon or final acceptance of the subdivision may be obtained. This Section applies whether or not a building permit is required.
- (D) BMP's: For erosion and sediment control during construction, BMP's shall comply with the TCSS Manual.

(E) Design of Permanent BMP's: For erosion and sediment control, design of permanent BMP's shall be in accordance with the TCSS Manual.

(F) Peak Runoff Rate: The peak runoff rate for developed conditions shall not exceed the peak runoff rate for pre-development conditions for the two-year storm event. Peak runoff rate calculations shall comply with the criteria given in the TCSS Manual.

#### **§ 156.018 Isolation of Roof Runoff and Irrigation**

(A) If roof runoff is isolated from the site stormwater collection system and is used for irrigation, the system shall comply with the following requirements:

(1) The system shall comply with the pollutant removal requirements of Section 156.009.

(2) No reduction in the water quality volume will be allowed as a result of choosing this method of pollution reduction;

(3) Roof runoff shall be collected and routed to a separate storage area distinct from that which collects and treats other stormwater runoff;

(4) The roof runoff system shall provide for the collection of no less than the required water quality volume. Harvesting and storage of additional runoff in excess of the minimum required water quality volume for on-site irrigation is allowable;

(5) Roof runoff in excess of the minimum required water quality volume may be routed to detention facilities or discharged to a water quality control;

(6) The system shall be designed to accept the water quality volume within seventy-two (72) hours after the end of the rainfall event and to detain and treat the water quality volume in accordance with the water quality control requirements of this Chapter. For the purpose of this requirement, individual storm events shall be separated by seventy-two (72) hours with no more than a trace of rainfall;

(7) The collected water may be used to irrigate landscaped or natural areas on the site. Irrigation systems shall be designed in accordance with standard irrigation practices considering such factors as soil type slope, and vegetation and must be approved by the city.

(B) The impervious area of the roof that is used for isolation and water quality control treatment of the roof runoff may be used for the impervious cover allowance, allowed by Section 156.009, subject to the following restrictions:

(1) TSS pollutant removal from the roof's stormwater runoff that is isolated shall exceed the pollutant removal requirements of Section 156.009, but in no case shall the total TSS pollutant removal by the system exceed the total TSS load of pollutants

from the impervious roof surface, including background TSS pollutant loads and development-caused TSS pollutant loads; and

(2) The excess TSS pollutant removal shall be equated to a surface area of impervious cover that would contribute an amount of TSS pollutants equivalent to the excess TSS pollutant removed; and

(3) The maximum allowable impervious cover allowance shall be the lesser of the following:

(a) The impervious surface area that does not increase the total impervious surface for the contributing drainage area by more than five (5) percentage points; or

(b) The impervious surface area that is equal to fifty percent (50%) of the equivalent impervious surface area determined in Subsection (b)(2) of this Section.

#### **§ 156.019 Erosion Hazard Setbacks**

Erosion hazard setback determinations shall be made for every stream in which natural channels and waterways are to be preserved. Natural channel banks will be protected by use of the determined setbacks unless a plan to stabilize and protect stream banks is approved by the city. Where setbacks are used for erosion protection, no building, fence, wall, deck, swimming pool or other structure shall be located, constructed or maintained within the area encompassing the setback.

Erosion hazard setbacks shall be utilized to provide stream bank protection for the major waterways within the city which are to be maintained as natural floodplains. These major waterways are the Blanco River and Upland Waterways. Erosion setbacks may also be required for other waterways within the city where a future determination is made that the waterway shall be maintained as a natural floodplain. The setback requirement for each waterway shall be determined as described in the TCSS Manual.

#### **§ 156.020 Non-Residential and Multi-Family Permanent Construction**

When construction or land disturbing activities are conducted as part of a Non-Residential or Multi-Family construction project in the incorporated limits of the city, as part of the application for a building permit or a site development permit, the developer shall submit an erosion control plan to the city for approval. Permanent erosion control shall be established prior to the occupancy of any non-residential or multi-family structure. Phased occupancy will be allowed only when there are no outstanding erosion control violations for the project for which the request is made, and if all other applicable permit requirements are met.

#### **§ 156.021 Residential Lots with a Building Permit**

When land disturbing activities are conducted on a residential lot for which a building permit must be issued, the builder shall comply with the following:

(A) Erosion Control Plan: Prior to approval of a building permit for a residential lot by the city, the builder obtaining the building permit shall submit an erosion control plan for approval by the city. No inspection may be performed on a project until a city-approved erosion control plan is implemented.

(B) City Inspection: The city shall inspect the erosion control devices located at a site for compliance with the approved erosion control plan submitted for such site. If a builder fails to implement or maintain erosion control devices as specified in the approved erosion control plan, the city shall provide such party with written notice of noncompliance identifying the nature of such noncompliance.

(C) Correction Period: The builder shall have twenty-four (24) hours to bring the erosion control devices into compliance with the intent of the approved erosion control plan for the site where the violation occurred. Modifications to the approved erosion control plan may be required to maintain all sediment on-site. Correction shall include sediment clean-up, erosion control device repair, erosion control device maintenance, and installation of additional erosion control devices to prevent re-occurrence of the violation. The 24-hour cure period may be extended for inclement weather or other factors at the discretion of the building official.

(D) Extension/Stop Work Order: If the intent of the approved control plan, which is maintaining sediment on-site, is not met, then the builder shall take action within twenty-four (24) hours to control soil eroding from the site and clean up any sediment and shall have one week to submit a new erosion control plan. Work may continue during the review period. Implementation of this plan will be required within twenty-four (24) hours of plan approval by the city. If no plan is submitted within one week, then construction activities shall be halted until a new plan is submitted and approved.

(E) City Re-inspection: At the end of the 24-hour correction period, the city shall re-inspect the site and may assess a re-inspection fee. If at the time of such re-inspection, the erosion control devices at the site have not been brought into compliance with the approved erosion control plan, the city may issue a stop work order and issue a citation for each violation of the city's erosion control requirements. When a stop work order has been issued, a re-inspection fee shall be assessed. To obtain a re-inspection for removal of the stop work order, a request must be submitted and a re-inspection fee, as set by the city Official, shall be paid.

(F) Removal of Erosion Control Devices: Upon issuance of a certificate of occupancy or upon establishing permanent ground cover on a lot, all temporary erosion control devices shall be removed.

#### **§ 156.022 Maintenance of Non-point Source Pollution Controls**

(A) Maintenance Plans. Prior to NPS Pollution Control Permit issuance, all applicants shall prepare a plan describing the measures necessary to maintain each water quality

control required by this Chapter in accordance with the maintenance guidelines set forth in the TCSS Manual. The maintenance plan must be submitted to and approved by the city. Upon receiving written approval of the maintenance plan from the city, the landowner or land user must record in the county deed records and on the plats that the property is subject to an water quality control maintenance plan, an NPS Pollution Control Permit, an Annual Operating Permit; and must also, upon transferring title to that property, or any subdivided portion thereof, place a restriction in the deed that states that the property is subject to a water quality control maintenance plan, and an Annual Operating Permit.

(B) Maintenance Required. All water quality control measures and their appurtenances shall be maintained by the applicant or subsequent landowner(s) or land user(s) pursuant to the approved plan. Landowners and land users outside the city limits and not within a utility district may elect to form a Maintenance Association (MA) in accordance with this Section prior to permit issuance. All MAs must post financial security or create a maintenance fund for the purpose of maintaining all water quality controls required by this Chapter. The duties and responsibilities of an MA may be performed by a Homeowners' Association, Property Owners' Association, or like entity if it meets the requirements of this Section of this Chapter. The maintenance of all BMPs shall be in accordance with the NPS Pollution Control Permit and the approved maintenance plan.

(C) Requirements for MAs. The applicant must submit to the city the approved chapters of association for the MA, as well as a map showing the boundaries of its jurisdiction. The MA must have the following general powers which are reflected in the chapters of association:

- (1) Own and convey property;
- (2) Operate and maintain common property, specifically the water quality controls;
- (3) Establish rules and regulations;
- (4) Assess members maintenance fees and enforce said assessments;
- (5) Sue and be sued;
- (6) Contract for services to provide operation and maintenance;
- (7) If the MA is a homeowners' association, it must have as members all the homeowners, lot owners, property owners, or unit owners;
- (8) The MA shall exist in perpetuity; however, if the MA is dissolved or annexed into the city or a utility district, the chapters of association must provide that the property consisting of the water quality controls shall be conveyed to the city or a utility district; and

(9) It shall be clearly stated in the chapters of association of the MA that:

(a) It is the responsibility of the MA to operate and maintain the water quality controls;

(b) The water quality controls are owned by the MA or described therein as common property;

(c) There is a method of assessing and collecting the assessment for operation and maintenance of the water quality controls; and

(d) Any amendment that would affect the water quality controls must be approved by the city.

(D) Phased Projects. If an MA is proposed for a project which will be developed in phases and subsequent phases will utilize the water quality controls, the MA must have the ability to accept future phases into the MA.

#### **§ 156.023 Operation of Non-point Source Pollution Controls**

Owners or operators of water quality controls on the site shall obtain and review an annual operating permit, as required in Section 156.029.

#### **§ 156.024 Wastewater Restrictions**

(A) Construction of wastewater facilities within a WQBZ shall comply with the restrictions given in Section 156.011.

(B) Wastewater treatment by land application shall meet the following requirements:

(1) Must have at least eight thousand (8,000) square feet of irrigated land for each living unit equivalent (LUE), or

(2) Must have at least seven thousand (7,000) square feet of irrigated land for each LUE if the irrigated land has six inches (6") or more of topsoil. Calculation of LUE shall be in accordance with the TCSS Manual.

(3) Evaluation of land proposed for on-site application of treated wastewater effluent shall be in accordance with the TCSS Manual.

(C) Wastewater treatment by land application is prohibited:

(1) On a slope with a gradient of more than fifteen percent (15%);

(2) In a WQBZ;

- (3) In a 100-year floodplain; or
- (4) During wet weather conditions.

**§ 156.025 Environmental Assessments**

(A) An applicant shall file an environmental assessment for proposed development located:

- (1) Over aquifer recharge features;
- (2) Over critical environmental features;
- (3) In a WQBZ;
- (4) In a 100-year flood plain; or
- (5) On a tract with a gradient of more than twenty-five percent (25%);

(B) The environmental assessment shall include:

- (1) A hydrogeologic report in accordance with the TCSS;
- (2) A vegetation report in accordance with the TCSS Manual; and
- (3) A wastewater report in accordance with the TCSS Manual.

**Division 4. Administration**

**§ 156.026 Summary of Review and Approval Process**

The city has several approval processes and permits in place which relate to non-point source pollution control management. These processes and permits are reviewed in the following paragraphs:

(A) Zoning Process: Compliance with the city's zoning regulations shall be demonstrated as follows:

(1) Concept Plan: General layouts and concepts of the non-point source pollution prevention management system, in accordance with the TCSS manual.

(2) Site Plan: Detailed layouts, designs, design criteria, and computations of the non-point source pollution prevention management system, in accordance with the TCSS Manual.

(B) Subdivision Process: Compliance with the city's subdivision regulations shall be demonstrated as follows:

(1) Preliminary Plat: Detailed layouts, designs, design criteria, and computations of the non-point source pollution prevention management system, in accordance with the TCSS Manual.

(C) Building Permit, Site Plan Approval: The following documents shall be included in the submittal to the city for the application for the building permit or the site plan approval in compliance with the city's subdivision regulations:

(1) Detailed construction drawings and specifications of the water quality control public improvements to be constructed, in accordance with the TCSS Manual;

(2) Erosion control plan, in accordance with the TCSS Manual;

(3) Stormwater pollution prevention plan (SWPPP), in accordance with the TCSS Manual;

(4) Non-point source pollution control plan (NPS), in accordance with the TCSS Manual;

(5) Approved NPDES permit, if required;

(6) Approved Edwards Aquifer Pollution Protection Program permit, if required;

(7) Section 404 Permit, if required;

(8) Non-point source pollution control permit application in accordance with Section 156.028;

(9) Fiscal security for the construction of the water quality controls and the temporary erosion and sedimentation controls in accordance with Section 156.039.

(D) During construction, the following documentation shall be submitted to the city, in accordance with the TCSS Manual:

(1) Notice of Intent (NOI);

(2) Notice of Termination (NOT); and

(3) Engineer's Concurrence Letter.

(E) The following documents shall be submitted to the city with the application for approval of the final plat, in compliance with the city's subdivision regulations.

- (1) documentation of "as-constructed" conditions of the water quality control improvements;
  - (2) descriptions of the dedicated easements;
  - (3) description of the dedicated water quality control public improvements;
- and
- (4) application for annual operating permit, in accordance with Section 156.029.

**§ 156.027 Charges and Fees**

(A) The city may adopt reasonable fees for reimbursement of costs of implementing its non-point source pollution prevention management program and the cost of implementing this Chapter, which costs may include, but not be limited to, the following:

- (1) Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing discharges and reviewing monitoring reports submitted by dischargers;
- (2) Fees for spill and release reports and responding to spills and releases of oil, hazardous and extremely hazardous substances, and other pollutants;
- (3) Application and review fees for permits;
- (4) Application and review fees for submittals associated with the concept plan, preliminary plat, site plan, construction drawings for public improvements, and final plats;
- (5) Re-application and re-review fees;
- (6) Inspection fees;
- (7) General Consultation with the applicant and with the city concerning the applicant's development; and
- (8) Other fees as the city may deem necessary to carry out the requirements contained in this Chapter. These fees relate solely to the matters covered by this Chapter and are separate from all other fees, fines, and penalties chargeable by the city.

(B) Fees and charges shall be as shown in the City's Code of Ordinances, and may be amended from time to time. It is the developer's or owner's responsibility to obtain and comply with the city's current fee schedule and submission requirements.

§ 156.028 Non-Point Source Pollution Control Permit (Construction Permit)

(A) Authorized Activities-Permit Required

(1) Except as provided in Subsection (B), no landowner or land user subject to this Chapter may commence or conduct development in the watersheds which lie within the city without first obtaining an NPS pollution control permit from city. Prior to commencing development and prior to the city approving an application for a building permit or a site development permit, the landowner or land user controlling or using the site and desiring to undertake development subject to this Chapter shall pay an application fee and submit a complete application for a permit. By submitting an application, the applicant is authorizing city to enter the site to obtain information required for the review of the permit application. The city will issue a NPS pollution control permit upon the applicant's submission of a complete permit application, payment of the application fee, and upon the city's approval of the permit application. (2) An NPS pollution control permit shall be required for all re-development for which a water quality control is required to be constructed or modified in accordance with Section 156.016.

(3) An NPS pollution control permit shall be required for all utility construction that results in construction or disturbance of real property one acre in size or greater.

(B) Authorized Activities - No Permit Required

(1) Single-family Residences. No permit is required for new construction of a single-family residence on a single-family lot which is not part of a subdivision. Landowners or land users undertaking such construction shall, however, utilize the measures for controlling erosion and sedimentation and for controlling non-point source pollution as described in the TCSS Manual during the construction process. Such landowners or land users shall, at the time of application for building permits from the city, demonstrate the erosion and sedimentation control measures and the non-point pollution control measures that will be used.

(2) Existing Development. No permit is required for existing development on the effective date of this Chapter. If, however, improvements or additions are made after the date of the approval of this Chapter which require the addition of a new water quality control or the modification to an existing water quality control, then the landowner or land user must obtain a permit and demonstrate that the pollution resulting from the development will meet the performance standards set forth in Section 156.009.

(3) Final Plats. Landowners or land users developing sites for which final subdivision plats have been approved by city prior to the effective date of this Chapter do not need a permit. Such landowners or land users shall, however, comply with Section 156.017 regarding erosion and sedimentation control. Such landowners or land users

shall, at the time of application for building permits from the city, demonstrate the erosion and sedimentation control measures that will be used.

(4) Utility Maintenance. No permit is required for routine maintenance and installation of utility lines if a landowner or land user complies with the guidelines set forth in the TCSS manual for such activity, and the accumulated size of the disturbance is less than one acre.

(C) Processing of NPS Pollution Control Permit Applications

(1) Preparation of Permit Applications. Applicants who must obtain an NPS Pollution Control Permit shall prepare the permit application in accordance with the TCSS Manual.

(2) Review and Approval of Permit Applications.

(a) General. The city shall review applications for NPS Pollution Control Permits in conjunction with the review of applications for site development permits and subdivision approval.

(b) Initial review. Once the application is accepted by city as being a complete submittal, the city will conduct a technical review of the permit application. The technical review period shall commence upon acceptance of the permit application and will continue for a period of time not to exceed fifteen (15) calendar days. The applicant shall be promptly notified in writing of any additional information that may be necessary for a complete technical review.

(c) Subsequent Reviews. If more information is needed to complete the technical review, an applicant shall have thirty (30) calendar days to submit additional information or revise the application. If the applicant provides the additional information within the thirty (30) day period, the technical review shall be extended for no more than fifteen (15) calendar days. If the applicant does not provide the additional information within the thirty (30) day period, the city may withhold approval of any preliminary or final plats or development plans until such time as the additional information is submitted by the applicant.

(3) Application Fees. The application and review fee and charges shall be as approved by Council.

(4) Fiscal Security. Proof of fiscal security shall be provided with the NPS Pollution Control Permit. Fiscal security shall be provided in accordance with the requirements in Section 156.039.

(5) Permit Conditions. All permits shall require the permittee to:

- (a) Notify the city within forty-eight (48) hours before commencing any development;
- (b) Obtain a permit amendment from city prior to modifying the approved NPS pollution controls (BMPs); however, no permit amendment is required for minor field adjustments of temporary erosion controls;
- (c) Install all NPS pollution controls (BMPs) as identified in the approved permit;
- (d) Comply with the requirements of this Chapter regarding maintenance plans;
- (e) Repair any siltation or erosion damage resulting from development;
- (f) Inspect all temporary erosion and sedimentation controls after each rain of one-half inch (0.5") or more, and at least once each week, and make needed repairs;
- (g) Allow the city to enter the site for the purpose of inspecting compliance with the permit, or for performing any work necessary to bring the site into compliance with the permit;
- (h) Designate a location on the site for the posting of notices;
- (i) Keep a copy of the permit and all development plans on the site or with the permittee's designated representative;
- (j) Upon completion of development, the permittee's registered professional engineer shall certify in writing to the city that the NPS pollution controls (BMPs) were constructed and maintained in accordance with the permit conditions and this Chapter;
- (k) Promptly notify the city in writing of any change in the name, address, or telephone number of the permittee;
- (l) Assign the NPS pollution control permit and all rights and obligations associated there with to the land owner, operator, Property Owners' Association or other entity as applicable, upon completion of construction of the development if the permit is not already in the name of the entity responsible for the BMP's.
- (m) Pay all fees associated with the permit application in a timely manner;

(n) Perform all activities in accordance with the federal, state or local laws or ordinances;

(o) Indemnify and hold the city and its authorized agents and its authorized consultants harmless from any and all claims, demands, damages, actions, costs and charges to which the city may become subject and which the city may have to pay by reason of injury to any person or property, or loss of life, or loss of property, resulting from, or in any way connected with the permittee's actions under the permit.

(p) No work is authorized that is not directly addressed in the permit application submitted to the city.

(q) Nothing in the permit is intended to amend or alter any legal rights or benefits previously granted to or vested in the city.

(r) Any terms and conditions reached between the city and the applicant.

(6) Duration. Except as provided in Subsection (7) of this Chapter, NPS pollution control permits are permits specifically required prior to construction and shall be valid for the life of the site development permit or the building permit for the development.

(7) Termination for Nonuse. A NPS pollution control permit will be terminated by the city should the building permit or the site development permit be terminated. If the city terminates a permit for nonuse and the fiscal security is still in effect, the city may call on the permittee's security in order to provide permanent stabilization of the site.

#### **§ 156.029 Annual Operating Permit**

(A) General Requirements. The owners or operators of all new water quality controls for multi-family residential development, for single-family subdivision development, and for non-residential development must obtain an annual operating permit. The owner or operator is responsible for the proper operation and maintenance of the control and for annual permit renewal. The first operating permit will be issued by the city upon:

- (1) The completion of construction, if applicable;
- (2) Inspection of the control by the city after review of the maintenance plan accompanying the design engineer's concurrence letter of the completion of construction;
- (3) Final inspection approval by the city;

(4) The issuance of a certificate of compliance or a certificate of occupancy by the city, if applicable; and

(5) Payment of the permit fee.

(B) Operating Permit Procedures. All water quality controls must be maintained in accordance with this Chapter, and each permitted control will be inspected each year by the city to confirm that proper maintenance, as described in the maintenance plan, has occurred prior to renewal of the permit. An operating permit shall be required for developed sites with existing water quality control only when new development or re-development occurs.

(C) Operating Permit Information Requirements. The permit application shall include the following components and must be submitted to the city with the site plan for new construction, or not later than thirty (30) calendar days prior to the renewal date shown on an existing permit:

(1) Name and address of the water quality control;

(2) Name, title and business phone number of the owner or operator;

(3) Single point of contact name, phone number, and fax number;

(4) Mailing address of the owner or operator;

(5) Site plan number on file with the city for the control;

(6) Previous operating permit;

(7) Signature block for city approval;

(8) Special conditions required by restrictive covenant, or by agreement at a condition of city approval;

(9) Maintenance records and date of last maintenance;

(10) Name of Contractor who performed the required maintenance;

(11) Results of required maintenance, including actions taken, materials removal, disposal location, components replaced.

(D) Operating Permit Renewal

(1) It is the responsibility of the permittee to apply to the city for renewal of the permit no later than thirty (30) calendar days before the existing permit expires. The application must be accompanied by payment of the appropriate renewal fee, updated information concerning ownership or facility operation and enforcement status. Upon

receipt of all information and fees, including a favorable inspection and maintenance report, the city will renew the permit for a period of one (1) year.

(2) Any repair work or modifications of a control not specified in the maintenance plan shall require the permittee's engineer's concurrence letter, prior to renewal of the permit.

(3) Permit renewal will be withheld if there is pending enforcement action against the permittee based on any violations of water quality regulations at the site.

(E) Permit Transfer. The transfer of the operating permit shall require the completion of a new permit application, and must be submitted not later than thirty (30) calendar days after transfer of ownership or operation of the control.

(F) Enforcement. Failure to comply with the provisions of the operating permit is a violation of the City's Code of Ordinances.

#### **§ 156.030 Water Quality Control Plan**

(A) All applications for developments and construction required to provide water quality controls shall include a water quality control plan. The plan shall include all information necessary for the controls and must be labeled "Water Quality Control Plan" and sealed by the applicant's engineer. The plan is required to include the following, in accordance with the TCSS Manual.

- (1) Location of proposed controls, type of controls, and location of monitoring sites if required;
- (2) Delineation of water quality and access easements or lots;
- (3) Delineation of retention or irrigation access;
- (4) Details of proposed water quality controls;
- (5) Sequencing of construction;
- (6) Temporary erosion and sedimentation controls, in accordance with Section 156.031;
- (7) Impervious cover calculations;
- (8) Delineation of water quality drainage areas; and
- (9) Record on the plat that the property is subject to a water quality control maintenance plan, an NPS Pollution Control Permit, and an annual operating permit, if applicable.

(B) The applicant shall submit in addition to the water quality control plan, the following information in the "Water Quality Control Plan Engineer's Report:"

(1) The methodology and water quality control strategy proposed to achieve the target pollutant concentrations;

(2) Calculations illustrating the undeveloped and developed pollutant concentrations expected for the proposed development;

(3) Calculations illustrating expected pollutant concentrations reductions for the controls proposed; and

(4) Special conditions approved by the city for installation or maintenance of proposed controls used to achieve the target pollutant reductions.

#### **§ 156.031 Erosion Control Plan**

(A) In order to clearly identify all erosion and sediment control measures to be installed and maintained throughout the duration of the project, a detailed erosion control plan shall be required prior to the issuance of the site development permit or the building permit in accordance with the requirements set forth in the TCSS Manual.

(B) Each developer shall implement and maintain the erosion control measures shown on its approved erosion control plan in order to minimize the erosion and the transport of silt, earth, topsoil, etc., by water runoff or construction activities, beyond the limits of the developer's site onto city streets, drainage easements, drainage facilities, storm drains of other city property prior to beginning any land disturbing activity.

(C) It shall be an offense for a developer or a third party performing work on a project to violate any of the requirements of this Chapter, including, but not limited to, the following:

(1) Conducting any land disturbing or construction activity without an approved erosion control plan for the location where the violation occurred.

(2) Failing to install erosion control devices or to maintain erosion control devices throughout the duration of land disturbing activities, in compliance with the approved erosion control plan for the location where the violation occurred.

(3) Failing to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices as specified in an approved erosion control plan for the location where the violation occurred.

(4) Allowing sediment laden water resulting from below ground installations to flow from a site without being treated through an erosion control device.

(5) Failing to repair damage to existing erosion control devices, including replacement of existing grass or sod.

(D) Written notice of violation shall be given to the developer or his job site representative as identified in the erosion control plan for a site. Such notice shall identify the nature of the alleged violation and the action required to obtain compliance with the intent of the approved erosion control plan.

#### **§ 156.032 NPDES Permit-Five-Acre Disturbances**

All operators of sites of construction activity, including clearing, grading, and excavation activities, that result in the disturbance of five or more acres of total land area, or that are part of a common plan of development or sale within which five or more acres of total land area are disturbed, or who are required to obtain an NPDES permit for stormwater discharges associated with construction activity, shall comply with the following requirements:

(A) Any operator who intends to obtain coverage as an operator for stormwater discharges from a construction site under the NPDES General Permit for Stormwater Discharges From Construction Sites ("the Construction General Permit") shall submit a signed copy of its Notice of Intent (NOI) to the City at least fourteen (14) days prior to the commencement of construction activities. If the construction activity is already underway upon the effective date of this Chapter, the NOI shall be submitted within thirty (30) days. For stormwater discharges from construction sites where the operator changes, an NOI shall be submitted at least seven (7) days prior to when the operator commences work at the site.

(B) A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared and implemented in accordance with the requirements of the Construction General Permit or any individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this Chapter and any other provision of the city's Code of Ordinances.

(C) On a site of more than one acre in total land area or a site which is impacted by offsite drainage for more than one acre, the SWPPP shall be prepared, signed, and sealed by a registered professional engineer. The signature and seal of the registered professional engineer shall constitute certification that the SWPPP fully complies with the requirements of the construction general permit, or with any applicable individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this Chapter. The SWPPP shall contain the name, title, and business address of the registered professional engineer signing it, and the date that he/she did so.

(D) The SWPPP shall be completed prior to the submittal of the NOI to the city and, for new construction, prior to the commencement of construction activities. The SWPPP shall be updated and modified as appropriate and as required by the construction general permit and this Chapter. Any update or modification to the SWPPP shall be prepared, signed, and sealed by a registered professional engineer, if the original SWPPP was required to have been prepared by a registered professional engineer.

(E) A copy of any NOI that is required shall be submitted to the city in conjunction with any application for a building permit, site development, subdivision plat approval, site development plan approval, and any other city approval necessary to commence or continue construction at the site.

(F) The City shall require any operator who is required to prepare a SWPPP to submit the SWPPP, and any modifications thereto, to the City for review. Such submittal and review of the SWPPP shall be required by the city prior to commencement of or during construction activities at the site.

(G) Upon the city's review of the SWPPP and any site inspection that he or she may conduct, the city may deny approval of any building permit, site development permit, subdivision plat, site development plan, or any other city approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the SWPPP does not comply with the requirements of the construction general permit, any individual or group NPDES permit issued for stormwater discharge from the construction site, or any additional requirement imposed by or under this Chapter. Also, if at any time the city determines that the SWPPP is not being fully implemented, the city may similarly deny approval of any building permit, site development permit, subdivision plat, site development plan or any other city approval necessary to commence or continue construction, or to assume occupancy, at the site.

(H) The owner shall make the SWPPP and any modification thereto available to the city upon request, and to EPA and state inspectors.

(I) The city may notify the owner at any time that the SWPPP does not meet the requirements of the construction general permit, any applicable individual or group NPDES permit issued for stormwater discharges from the construction site, or any additional requirement imposed by or under this Chapter. Such notification shall identify those provisions of the permit or Chapter which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within seven (7) days of such written notification from the city, the operator shall make the required changes to the SWPPP and shall submit to the city a written certification that the requested changes have been made.

(J) The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the stormwater drainage system or to the waters of the United States, and which has not otherwise been addressed in the SWPPP, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges associated with construction activity. In addition, the SWPPP shall be amended to identify any new contractor or subcontractor that will implement a measure in the SWPPP.

(K) Qualified personnel, provided by the operator of the construction site, shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven calendar days and within

twenty-four (24) hours of the end of the storm that is one-half inches (0.5") or greater. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Discharge locations or points that are accessible shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.

(L) Based on the results of the inspections, the site description and the pollution prevention measures identified in the SWPPP, the SWPPP shall be revised as appropriate, but in no case later than seven calendar days following the inspection. Such modifications shall provide for timely implementation of any changes to the SWPPP within seven calendar days following the inspection.

(M) A report summarizing the scope of any inspection, and the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with Section 156.032 above shall be made and retained as part of the SWPPP for at least three (3) years from the date that the site is finally stabilized. Such report shall identify any incidence of noncompliance. Where a report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the facility's NPDES permit, and this Chapter. The report shall be certified and signed by the person responsible for making the report.

(N) The owner shall retain copies of any SWPPP and all reports required by this Chapter or by the NPDES permit for the site, and records of all data used to complete the NOI, for a period of at least three (3) years from the date that the site is finally stabilized.

(O) Where a site has been finally stabilized and all stormwater discharges from construction activities that are authorized by this Chapter and by the NPDES permit for those construction activities are eliminated, or where the operator of all stormwater discharges at a facility changes, the owner of the construction site shall submit to the city a Notice of Termination (NOT) that includes the information required for Notices of Termination by Part VIII of the Construction General Permit.

(P) Upon final stabilization of the construction site, the owner or the duly authorized representative thereof shall submit written certification to the city that the site has been finally stabilized. The city may withhold an occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the city has determined, following any appropriate inspection, that final stabilization has, in fact, occurred and that any required permanent structural controls have been completed.

§ 156.033 Variances

(A) General. Where the council finds that undue hardships will result from strict compliance with a certain provision(s) of this Chapter, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve a variance from portions of these regulations so that substantial justice may be done and the public interest is secured, provided that the variance shall not have the effect of nullifying the intent and the purpose of these regulations, and further provided that the council shall not approve a variance unless it shall make finding based upon the evidence presented to it in each specific case that:

(1) Granting the variance will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the variance will not prevent the orderly development or use of other property in the vicinity;

(2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, and are not applicable generally to other property;

(3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

(4) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.

Such findings of the council together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the council at which a variance is considered. A variance from any provision of this Chapter may be granted only when in harmony with the general purpose and intent of this Chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the property owner or developer, standing alone, shall not be deemed to constitute undue hardship.

(B) Conditions. In approving a variance, the council may require such conditions as will, in its judgment, secure substantially the purpose described in Section 156.004.

(C) Procedures:

(1) A petition for a variance shall be submitted in writing by the applicant before the required application or submittal is submitted for the consideration of the city's planning and zoning commission (commission). The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner.

(2) Where a hardship is identified pursuant to this Chapter which requires issuance of a variance from a provision in this Chapter, the commission may recommend a conditional variance from the provision in this Chapter in conjunction with approval by the council. A conditional variance from this Chapter shall receive final approval provided that no new information or reasonable alternative plan exists which, at the determination of the council, voids the need for a variance. All variances shall have final approval or disapproval by the council.

#### **§ 156.034 Citizen Complaint**

A citizen may file a written complaint or report to the city of any spills, releases, illicit connections, other instances of anyone discharging pollutants into the stormwater drainage system or waters of the United States, and any other violation of this Chapter of which they become aware.

#### **§ 156.035 Release Reporting and Cleanup**

(A) The person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the stormwater drainage system or waters of the United States, shall immediately telephone and notify the city concerning the incident:

(1) An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;

(2) An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;

(3) An amount of oil that either (a) violates applicable water quality standards, or (b) uses a film or sheen upon or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or

(4) Any harmful quantity of any pollutant.

(B) The immediate notification required by this Chapter shall include the following information:

(1) The identity or chemical name of the substance released, and whether the substance is an extremely hazardous substance;

(2) The exact location of the release, including any known name of the waters involved or threatened and any other environmental media affected;

(2) Where a hardship is identified pursuant to this Chapter which requires issuance of a variance from a provision in this Chapter, the commission may recommend a conditional variance from the provision in this Chapter in conjunction with approval by the council. A conditional variance from this Chapter shall receive final approval provided that no new information or reasonable alternative plan exists which, at the determination of the council, voids the need for a variance. All variances shall have final approval or disapproval by the council.

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- (1) An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;
- (2) An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;
- (3) An amount of oil that either (a) violates applicable water quality standards, or (b) uses a film or sheen upon or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or
- (4) Any harmful quantity of any pollutant.

(B) The immediate notification required by this Chapter shall include the following information:

- (1) The identity or chemical name of the substance released, and whether the substance is an extremely hazardous substance;
- (2) The exact location of the release, including any known name of the waters involved or threatened and any other environmental media affected;

- (3) The time and duration (thus far) of the release;
- (4) An estimate of the quantity and concentration (if known) of the substance released;
- (5) The source of the release;
- (6) Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;
- (7) Any precautions that should be taken as a result of the release;
- (8) Any steps that have been taken to contain and clean up the released material and minimize its impacts; and
- (9) The names and telephone numbers of the person or persons to be contacted for further information.

(C) Within fifteen (15) days following such release, the responsible person in charge of the facility, vehicle, or other source of the release shall, unless waived by the council, submit a written report containing each of the items of information specified above in this Chapter, as well as the following additional information:

- (1) The ultimate duration, concentration, and quantity of the release;
- (2) All actions taken to respond to, contain, and clean up the released substances, and all precautions taken to minimize the impacts;
- (3) Any known or anticipated acute or chronic health risks associated with the release;
- (4) Where appropriate, advice regarding medical attention necessary for exposed individuals;
- (5) The identity of any governmental/private sector representatives responding to the release; and
- (6) The measures taken or to be taken by the responsible person(s) to prevent similar future occurrences.

(D) The notifications required by this Chapter shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the release, including any liability for damage to the city, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to this Chapter or to state or federal law.

(E) Any person responsible for any release as described in this Chapter shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.

(F) Any person responsible for a release described in this Chapter shall reimburse the city for any cost incurred by the city in responding to the release.

#### **§ 156.036 Access for Maintenance and Monitoring**

To provide necessary access for maintenance and monitoring, water quality controls must be contained within a water quality easement or restricted, platted lot. The easement documents shall note that water quality restrictions exist on the property or easement and that any alternative use or alteration must be approved by the city.

#### **§ 156.037 Compliance Monitoring-Right of Entry and Inspection During Construction**

(A) Right of Entry. Any owner who has filed a permit application or received a permit under this Chapter shall allow entry by the city on the site for the purposes of inspection and monitoring. Employees and agents of the city administrator are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions related to water quality and administration of this Chapter. They shall notify the owner or his designated agent prior to entering the site for inspection purposes.

(B) Predevelopment Inspection. After permit issuance, but before the installation of permanent erosion and sedimentation controls and before development commences, the applicant shall provide a written request to the city for an inspection of the temporary erosion controls and water quality controls. This predevelopment inspection will be attended by the City who will determine whether the temporary erosion and sedimentation controls and water quality controls will be in compliance with the permit. If the city does not conduct the predevelopment inspection within five (5) working days of receipt of the request for inspection, the applicant may proceed with development.

(C) Inspections During Development. During development, the city will inspect the site to ensure that temporary and permanent erosion controls are being maintained and that the permanent NPS pollution controls (BMPs) are being constructed in accordance with the requirements of this Chapter.

(D) Final Inspection. Upon completion of development, the city will conduct a final inspection of the NPS pollution controls used. This final development inspection must be attended by the permittee, city engineer, the design engineer, contractor, and field engineer. The city engineer will determine whether the NPS pollution controls are in compliance with the permit.

(E) Developer shall confirm that water quality controls are constructed in conformance with the approved design by provided a concurrence letter certified by the permittee's design engineer.

(F) The permittee's fiscal security will be released in accordance with Section 156.039.

**§ 156.038 Compliance Monitoring-Right of Entry for Inspection and Sampling Upon Project Completion**

(A) The city shall have the right to enter the premises of any site discharging stormwater to the stormwater drainage system or to water quality controls or to waters of the United States to determine if the discharger is complying with all requirements of this Chapter, and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. Dischargers shall make available to the city, upon request, any SWPPPs, operating permits, site development permits, construction permits, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, Notices of Intent, and any other records, reports, and other documents related to compliance with this Chapter and with any state or federal discharge permit.

(1) Where the owner has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city will be permitted to enter without delay for the purposes of performing his/her responsibilities.

(2) The city shall have the right to set up on the discharger's property, or require installation of discharger's operations.

(3) The city may require any owner whose property discharges to the stormwater drainage system or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges, and may specify the frequency and parameters of any such required monitoring.

(4) The city may require the owner to install monitoring equipment as necessary at the discharger's expense. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the discharger at the written or verbal request of the city and shall not be replaced. The costs of clearing such access shall be borne by the owner.

(6) Unreasonable delays in allowing the city access to the discharger's premises shall be a violation of this Chapter.

(B) Search Warrants. If the city has been refused access to any part of the premises from which stormwater is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this Chapter or any state or federal discharge permit, limitation, or requirement, or that there is a need to inspect and sample as part of a routine inspection and sampling program of the city designed to verify compliance with this Chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

**§ 156.039 Fiscal Security**

(A) Fiscal security shall be provided by the owner or developer for the construction of temporary and permanent erosion and sedimentation controls and for water quality controls, under the following considerations:

(1) Fiscal security shall be provided if the development is single-family subdivision, or multi-family residential or non-residential development; and

(2) Fiscal security shall be provided for new construction of controls and for re-development modifications to existing controls; and

(3) Fiscal security shall be provided if the application to construct or modify the controls under a site development permit or a building permit, is submitted to the city after the development application is submitted to the city for the city's approval of the final plat.

(B) Fiscal security shall be provided to the city as part of the application for an NPS Pollution Control Permit or as part of the application for a construction permit if a NPS Pollution Control Permit is not required.

(C) The amount of the fiscal security shall be determined and certified by the developer's engineer's and shall be equal to the full construction cost of the controls.

(D) Fiscal security for the controls shall be in the form of cash escrow or a cashier's check or money order in the specified amount. If authorized by the city, a performance bond or a letter of credit may be considered by the city, as security for the construction of the controls. The issuer of any surety bond and letter of credit shall be subject to the approval of the city.

(1) Performance Bond. If the council authorizes the developer to post a performance bond as security for its promises contained in the improvement agreement, the performance bond shall comply with the following requirements:

(a) All performance bonds must be in the forms acceptable to the city administrator and the city attorney; and

(b) All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in circular 570 (amended) by Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury; and

(c) All performance bonds must be signed by an agent accompanied by a certified copy of the authority to act; and

(d) All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required.

If the surety on any performance bond furnished by the owner is declared to be bankrupt or becomes insolvent or its right to do business is terminated in the State of Texas or the surety ceases to meet the requirements to be listed in Circular 570, the owner shall within twenty (20) calendar days thereafter substitute another performance bond and surety, both of which must be acceptable to the city.

(2) Letter of Credit. If the council authorizes the developer to post a letter of credit as security, the letter of credit shall:

(a) Be irrevocable; and

(b) Be for a term sufficient to cover the completion, maintenance, and warranty periods, but in no event less than two (2) years; and

(c) Required only that the city present the issuer with a sight draft and a certificate signed by an authorized representative of the city certifying to the city's right to draw funds under the letter of credit.

(E) As portions of the controls are completed in accordance with the TCSS Manual and the approved engineering plans and the applicable permits, the owner may make application to the city administrator (or designee) to reduce the amount of the original security. If the city administrator (or designee) is satisfied that such portion of the improvements has been completed in accordance with city standards, the administrator may (but is not required to) cause the amount of the letter of credit to be reduced by such amount that the administrator deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining improvements.

(F) Upon acceptance by the city of all required construction of the controls, the city will authorize a reduction in the security to ten percent (10%) of the original amount of the security if the property owner is not in violation of the permit requirements. The remaining security shall be security for the owner's covenant to maintain the required controls and to warrant that the improvements are free from defects for two (2) years thereafter.

#### **§ 156.040 Supplemental Enforcement Action**

(A) Performance Bonds. The city may, by written notice, order any owner or operator of a source of pollution discharge associated with construction or industrial activity to file a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the city to be necessary to achieve consistent compliance with this Chapter, any order issued hereunder, any required Best Management Practice, and/or any SWPPP provision. The city may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other city permit or approval necessary to commence or continue construction or any industrial activity at the site, or to assume occupancy, until such a performance bond has been filed.

(B) Liability Insurance. The city may, by written notice, order any owner or operator of a source of stormwater discharge associated with construction or industrial activity to submit proof that it has obtained liability insurance, or other financial assurance, in an amount not to exceed a value determined by the city, that is sufficient to remediate, restore, and abate any damage to the stormwater drainage system, the waters of the United States, or any other aspect of the environment that is caused by the discharge.

#### **§ 156.041 Stop Orders**

Whenever any work is being done contrary to the provisions of this Chapter, the building official may order the work stopped by notice in writing (referred to as a "Stop Work Order") served on any persons engaged in the doing or causing such work to be done. The stop work order shall be posted on the property adjacent to the activity in question, and any such person shall forthwith stop work until authorized by the building official to proceed with the work.

#### **§ 156.042 Permit Revocation**

A violation of this Chapter shall authorize the city administrator to cancel any permit depending in whole or in part on any approval under this Chapter. If a permit is canceled, no further work shall be done on the project made the subject of the permit until the violation has been cured and new submittals under this Chapter, as required by the city administrator, have been made and approved in accordance with the provisions of this Chapter and a new permit has been issued.

#### **§ 156.043 Denial of Approvals and Permits**

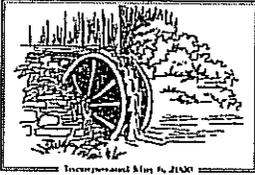
A violation of this Chapter shall authorize the city administrator to deny any approvals or permits sought by the person violating this Chapter under Chapter 151 (Building Regulations; Construction), Chapter 154 (Subdivision Control) and Chapter 155 (Zoning) of the City's Code of Ordinances.

#### **§ 156.044 Penalties and Injunctive Relief**

Any person violating this Chapter, upon conviction, is punishable by a fine in accordance with the general penalty provision found in Section 10.99 of the City's Code of Ordinances.

Any person violating this Chapter is subject to suit for injunction as well as prosecution for criminal violations.

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

**Project/Proposal Title:** CONSIDER AN ELECTION  
ORDINANCE AMENDMENT ADDING THE HAYS  
TRINITY GROUNDWATER CONSERVATION DISTRICT  
TO THE MAY 9, 2009 WIMBERLEY JOINT ELECTION

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

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## Project/Proposal Summary:

The item was placed on the agenda to allow City Council to discuss and consider adding the Hays Trinity Groundwater Conservation District to the list of entities participating in the Joint Election for the City of Wimberley in May 2009. Other entities participating in the election include the Wimberley ISD and Hays County.

All four entities are contracting with the Hays County Elections Division to conduct the election. The County Election Administrator will serve as the early voting clerk while Judy Dunn has agreed to serve as the Presiding Election Judge and Lee Gibson the Alternate Presiding Judge.

Approval of the attached ordinance is necessary to proceed with preparations for the election.

ORDINANCE NO. 2009-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS ADMENDING ORDINANCE NO. 2009-004, WHICH ORDERED THE GENERAL ELECTION TO BE HELD JOINTLY WITH OTHER ENTITIES ON MAY 9, 2009, FOR THE PURPOSE OF ELECTING CITY COUNCIL MEMBERS FOR PLACES ONE, THREE AND FIVE OF THE CITY OF WIMBERLEY CITY COUNCIL AND ALL MATTERS RELATED TO HOLDING SUCH ELECTION, IS HEREBY AMENDED TO ADD THE HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT; AND PROVIDING FOR FINDINGS OF FACT, SEVERABILITY, CONFLICTING PROVISIONS, GOVERNING LAW, PROPER NOTICE AND OPEN MEETING, AND AN EFFECTIVE DATE.

WHEREAS, the City Council ("Council") on February 5, 2009, approved an Ordinance for a General Election ("Election"), to be held on May 9, 2009, to allow voters of the City of Wimberley (the "City") to vote and elect City Council Members for Places One, Three and Five; and,

WHEREAS, the Wimberley Independent School District and Hays County have also ordered an election to be held on May 9, 2009; and,

WHEREAS, the Council has authority pursuant to Chapter 271, Texas Election Code, to enter into a joint election agreement with the County and other political subdivisions that will hold elections on the same date, and in certain election precincts on May 9, 2009, and did so with the entities described above at its Council meeting of February 5, 2009; and,

WHEREAS, the City learned after the execution of such agreements that the Hays Trinity Groundwater Conservation District has also ordered an election to be held on May 9, 2009, and wishes to hold the election jointly with the City to be administered by Hays County Elections Administrator.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:**

**I. AMENDMENT**

THAT the last sentence of Section 4. (Conduct of Election and Election Services Contract) of Ordinance No. 2009-004, be amended to read as follows:

"Pursuant to Chapter 271 of the Texas Election Code, the Council orders that the election be conducted under the terms and conditions of the joint election agreements by and between the City, Wimberley Independent School District, Hays County, and the Hays Trinity Groundwater Conservation District."

**II.** Except as amended herein, Ordinance No. 2009-004 shall remain in full force and effect.

III. **Severability.** If any portion of this Ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance and the application of such provision to other persons and circumstances shall remain valid and in full force and effect, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

IV. **Conflicting Provisions.** All orders and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Order shall be and remain controlling as to the matters ordered herein.

V. **Governing Law.** This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

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

VII. **Authorization to Execute.** The Mayor is authorized to execute and the City Secretary is authorized to attest this Ordinance on behalf of the Board; and the Mayor is authorized to do all other things legal and necessary in connection with the holding and consummation of the Election.

VIII. **Effective Date.** This Ordinance is effective immediately upon its passage and approval.

**PASSED, APPROVED AND ADOPTED** this 19<sup>th</sup> day of February 2009 by the City Council of the City of Wimberley by a vote of \_\_\_\_\_ (Ayes) \_\_\_\_\_ (Nays) \_\_\_\_\_ (Abstain).

**CITY OF WIMBERLEY**

By: \_\_\_\_\_  
Tom Haley, Mayor

ATTEST:

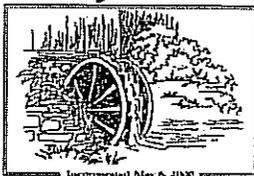
\_\_\_\_\_  
Cara Mc Partland, City Secretary

(SEAL)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Carolyn J. Crosby, Assistant City Attorney

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

**Project/Proposal Title:** CONSIDER APPROVAL OF A JOINT ELECTION AGREEMENT BETWEEN THE CITY OF WIMBERLEY AND HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

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## Project/Proposal Summary:

The City of Wimberley and Hays Trinity Groundwater Conservation District (HTGCD) will hold elections on May 9, 2009.

Like the City, the HTGCD will be contracting with the Hays County Elections Administrator to carry out its elections. As such, there is a need for the City and HTGCD to enter into a joint election agreement for the May election. The proposed agreement will allow the City and HTGCD to share polling places in the election, and appoint the same election officials to preside over the election. In return, the City and HTGCD will share equally the election expenses charged by the Hays County Elections Administrator for carrying out the elections.

Attached is the proposed joint election agreement for review and consideration.

**AGREEMENT BY THE CITY OF WIMBERLEY AND  
HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT  
TO HOLD A JOINT ELECTION IN VOTING PRECINCTS  
ON MAY 9, 2009**

**WHEREAS**, the Hays Trinity Groundwater Conservation District (“DISTRICT”) will hold a general election on May 9, 2009, for trustee positions for the board; and,

**WHEREAS**, the City of Wimberley (“CITY”) will also hold a general election for City Council positions within the boundaries of the CITY on May 9, 2009; and,

**WHEREAS**, Texas Election Code, Chapter 271, authorizes political subdivisions of the State of Texas to hold elections jointly in voting precincts if it will be of benefit to the citizens and voters thereof to be served by common polling places and elections are ordered by the authorities of two or more political subdivisions to be held on the same day in all or part of the same territory; and,

**WHEREAS**, Texas Government Code, Chapter 791, authorizes local governments to contract with one another and with agencies of the state for various governmental functions including those in which the contracting parties are mutually interested.

**NOW, THEREFORE**, pursuant to Chapter 791 of the Texas Government Code and Sections 271.001 et. seq. of the Texas Election Code, the Joint Election Agreement set forth below is entered into by and between the Entities acting by and through their respective governing bodies, agree as follows:

1. The District and the City will share polling places during the election on May 9, 2009.
2. The District and the City will appoint the same election officials to preside over the election precinct in which a common election is held.
3. The District and the City will use a HAVA compliant voting system (DREs) in each election precinct in which a common election is held.
4. The expenses of the joint election will be divided equally between the entities having a common election. Expenses will be determined and divided based on each precinct. By way of example, where the entities hold a common election in a precinct, the expenses will be apportioned one-half each. Each entity will bear all expenses for equipment and supplies utilized in its election.
5. It is agreed that all entities will contract with Hays County Elections Administrator to provide all election services needed for these elections.
6. Early voting for District and City shall be conducted jointly per the election services contract with Hay County Elections Administrator in accordance with Title 7 of the Texas Election Code.

7. Each individual signing below represents and warrants the execution of this Agreement has been duly authorized by the respective entity they represent.

DATED this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**CITY OF WIMBERLEY**

BY: \_\_\_\_\_  
Tom Haley,  
Mayor

ATTEST: \_\_\_\_\_

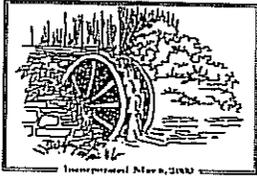
DATED this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT**

BY: \_\_\_\_\_  
President, HTGCD Board

ATTEST: \_\_\_\_\_

# City Council Agenda Form



**Date Submitted:** February 17, 2009

**Agenda Date Requested:** February 19, 2008

**Project/Proposal Title:** Possible action on issues relating to implementation of the City's Economic Development Strategy

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

Ordinance

Resolution

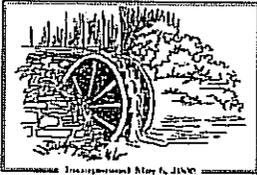
Motion

Discussion

**Project/Proposal Summary:**

This item was placed on the agenda at the request of Councilmember Steve Thurber to allow discussion and possible action on issues relating to the implementation of the City of Wimberley Economic Development Strategy.

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

**Project/Proposal Title:** CONSIDER APPROVAL OF A RACIAL PROFILING POLICY FOR DEPARTMENT OF THE CITY MARSHAL AND THE MARSHAL'S ANNUAL RACIAL PROFILING REPORT

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

Ordinance

Resolution

Motion

Discussion

## Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider adopting the Racial Profiling Policy for the Wimberley City Marshal Department.

State law prohibits peace offices from engaging in racial profiling. That same law requires each law enforcement agency to have written policy prohibiting such profiling. Attached is the Wimberley Marshal's Racial Policy for review and consideration. It is a policy that :

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

City staff recommends approval of the attached policy along with the Annual Racial Profiling Report for the Wimberley City Marshal.

# **MARSHAL OFFICE**

## **PROCEDURE 507**

### **RACIAL PROFILING**

#### **507.01 PURPOSE**

The purpose of the policy is to reaffirm the Marshal Office's commitment to unbiased policing in all its encounters between Officer's and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our Officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the Law.

#### **507.02 POLICY**

It is the policy of this Office to police in a proactive manner and, to aggressively investigate suspected violations of the Law. Officers shall actively enforce state and federal laws in a responsible and professional manner, without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in the policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians. Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the Law and freedom from unreasonable searches and seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned. This policy shall not preclude Officers from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire or someone who appears to be ill, lost or confused. Nor does this policy prohibit shopping someone suspected of a crime based upon observed actions and/or information received about the person.

#### **507.03 DEFINITIONS**

- A. Racial Profiling – A law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants or other citizen contacts. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of a specific suspect for whom an Officer is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race,

ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:

1. Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin.
  2. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.
  3. Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place. A law enforcement agency can derive at two principles from the adoption of this definition of racial profiling:
    - a. Police may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while police may use race in conjunction with other known factors of the suspect.
    - b. Law enforcement Officers may not use racial or ethnic stereotypes as factors in selecting whom to stop and search. Racial profiling is not relevant as it pertains to witnesses, etc.
- B. Race or Ethnicity - Of a particular decent, including Caucasian, African, Hispanic, Asian or Native American.
- C. Pedestrian Stop – An interaction between a Peace Officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.
- D. Traffic Stop - A Peace Officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

#### 507.04 TRAINING

Officers are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by Law. All Officers shall complete a TCLEOSE training and education program on racial profiling not later than the second anniversary of the date the Officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the Officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001 held a TCLEOSE immediate proficiency certificate, or who had held a Peace Officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003. The City Marshal, as part to the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling. An individual appointed or elected as a City Marshal before the effective date of this Act shall complete the program on racial profiling established under Subsection (j), Section 96.461, Education Code, as added by this Act, not later than September 1, 2003.

## 507.05 COMPLAINT INVESTIGATION

The Office shall accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed a complaint. Any employee who receives an allegation of racial profiling, including the Officer who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint through the appropriate channel or direct the individual(s). Any employee contacted shall provide to that person a copy of a complaint form and direct to the office for process. All employees will report any allegation of racial profiling to their superior before the end of their shift. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints will be acknowledged in writing to the initiator who will receive disposition regarding said complaint within a reasonable period of time. The investigation shall be reduced to writing and any reviewer's comments or conclusions shall be filed with the City Marshal. When applicable, findings and/or suggestions for disciplinary action, retraining, or changes in policy shall be filed with the City Administrator. If a racial profiling complaint is sustained against an Officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination. If there is a departmental video or audio recording of the events upon which a complaint of a racial profiling is based, upon commencement of an investigation by this Office into the complaint and written request of the Officer made the subject of the complaint, this Office shall promptly provide a copy of the recording to that Officer.

## 507.06 PUBLIC EDUCATION

This Office will inform the public of its policy against racial profiling and the complaint process. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, the Internet, as well as governing board meetings. Additionally information will be made available as appropriate in languages other than English.

## 507.07 CITATION DATA COLLECTION & REPORTING

- A. An Officer is required to collect information relating to traffic stops in which a citation is issued. On the citation Officers must include:
1. Officer's name.
  2. Date, time.
  3. Person's age, gender, & race.
  4. Location of stop.
  5. Disposition of stop.
  6. Vehicle information, year, make, model, & license plate number.
  7. Vehicle description.
  8. Reason for stop.
  9. Was a search conducted? Why? Did probable cause exist?

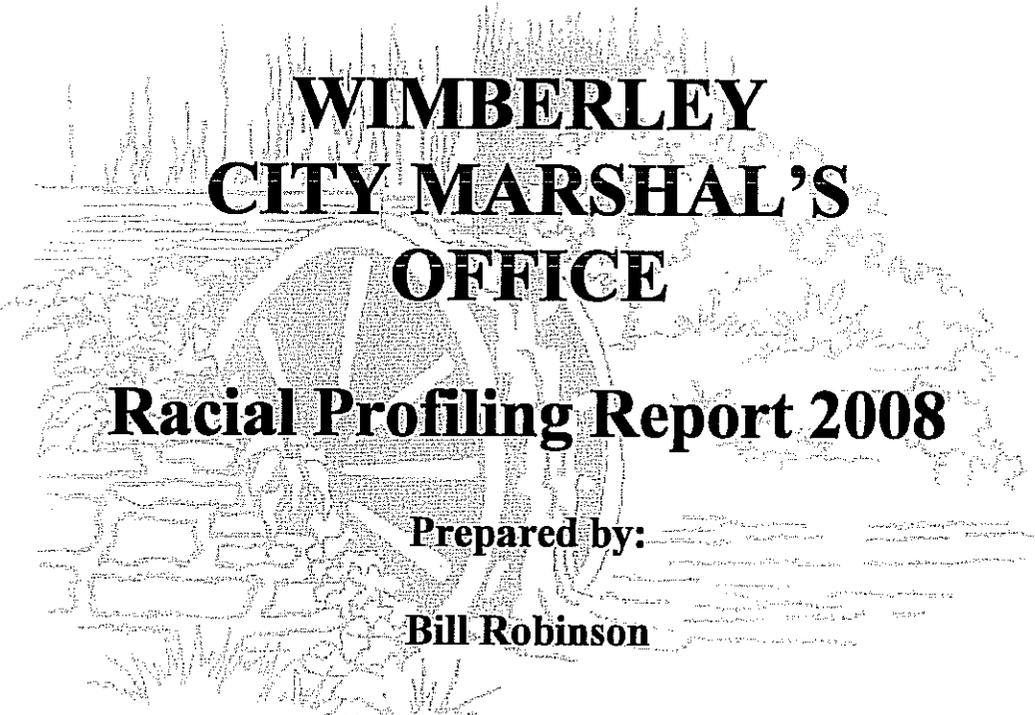
10. Was the search consensual?
11. Why was consent requested?
12. Was anything found? What?
13. Was a warning issued?
14. Arrest for this cited violation or any other violation.

B. Not later than March 1st of each year, the Office shall submit a report to the City Council containing this information from the preceding calendar year.

#### 507.08 USE OF VIDEO AND AUDIO EQUIPMENT

- A. Peace Officers and this Office are exempt from the compilation, analysis and reporting requirement in Section 507.06 above if during the calendar year before the date that a report under Section 507.06 above is due:
1. Each motor vehicle regularly used by this Office to make traffic and pedestrian stops is equipped with a video camera and transmitter-activated equipment, and each motorcycle regularly used by this Office to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and
  2. Each traffic and pedestrian stop made by an Officer of this Office that is capable of being recorded by video and audio, or audio, as appropriate is recorded.
  3. Each traffic stop that is not recorded by video and audio or audio shall be documented on the appropriate form.
- B. This Office shall retain the video and audiotapes, or the audiotape of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this Office alleging that one of our Officers has engaged in racial profiling with respect to a traffic or pedestrian stop, this Office shall retain the video and audiotapes, or the audiotape of the stop until final disposition of the complaint.
- C. Supervisors will ensure Officers of this Office are recording their traffic and pedestrian stops. A recording of each Officer will be reviewed at least once every ninety (90) days. If the equipment used to record audio and/or video of traffic or pedestrian stops is malfunctioning or otherwise not operable, the Officer making the stop shall properly record and report the information as required in Section .07 above. Officers who fail to use the equipment used to record audio and/or video of traffic or pedestrian stops during a stop and the equipment is found to be operating properly, the Officer shall be subject to discipline, including termination of employment.

# **CITY OF WIMBERLEY**



## **WIMBERLEY CITY MARSHAL'S OFFICE**

### **Racial Profiling Report 2008**

**Prepared by:**

**Bill Robinson**

## **Introduction**

Article 2.132 (8) of the Texas Code of Criminal Procedure requires the annual reporting to the local governing body of data collected on the race or ethnicity of individuals stopped and issued citations or arrested for traffic violations and whether or not those individuals were searched.

This report details an analysis of the Wimberley City Marshal's Office policies, training, and statistical information on racial profiling for the year 2008. This report has been prepared to specifically comply with Article 2.132 – 2.135 of the Texas Code of Criminal Procedure and make a determination of the level of compliance with those articles.

Article 2.132(b)(6) requires that law enforcement agencies collect statistical information on traffic stops resulting in citation with specific information on the race of the person cited. In addition, information concerning searches of persons and whether or not the search was based on consent is also required to be collected. The Wimberley City Marshal's Office submitted statistical information on all traffic contacts (i.e., traffic stops resulting in a citation being issued) in 2008 and accompanying information on the race of the person cited. Accompanying this data was the relevant information on searches and arrests.

# ANALYSIS OF THE DATA

COLLECTED FROM JULY 1, 2008  
THROUGH DECEMBER 31, 2008

## Racial Demographics For the City of Wimberley

	Number	Percent
African American	7	0.2
Asian	5	0.1
Hispanic	263	6.9
Native American	30	0.8
White	3589	94.5
<b>TOTAL</b>	<b>3894*</b>	<b>102.5*</b>

The City of Wimberley is comprised of a total population of 3,797 according to the U.S. Census Bureau, Census 2000.

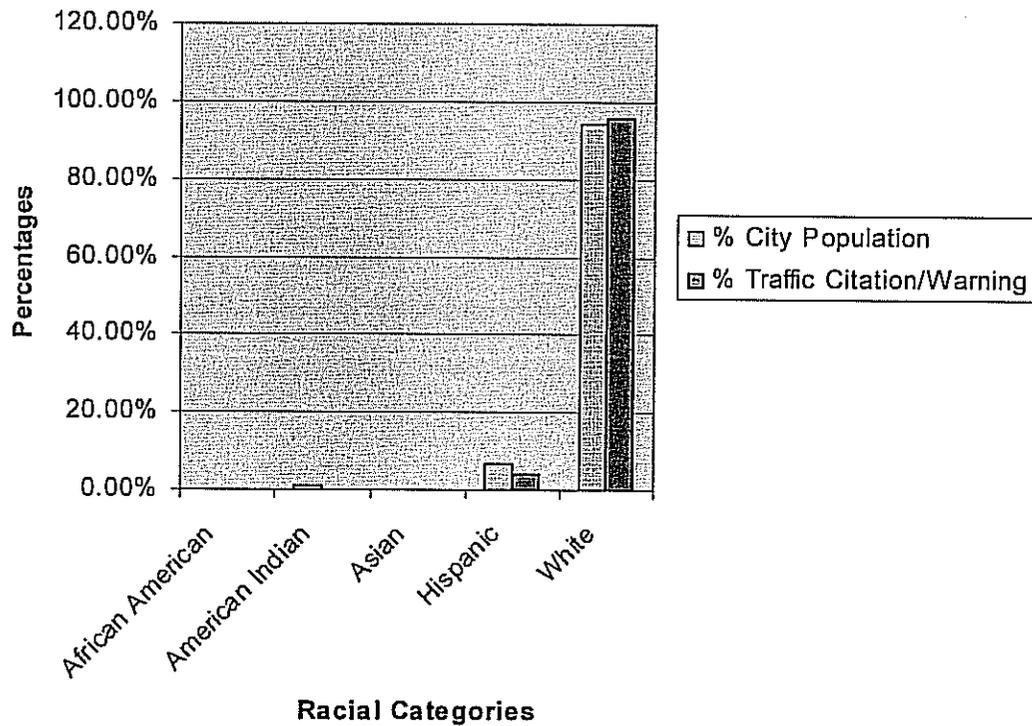
\*The numbers may add to more than the total population and the percentages may add to more than 100 percent because individuals may report more than one race.

The following charts depict the percentages of people cited by race. White drivers constituted 95.70% of all drivers cited, whereas Whites constituted 94.50% of the city population. Hispanic drivers constituted 4.30% of all drivers cited, whereas Hispanics constituted 6.90% of the city population.

The chart shows that Whites are cited at a rate higher than the percentage of Whites in the City population. Hispanics are cited at rates that are lower than the percentage of Hispanics in the city population.

No African American, American Indian, or Asian drivers received citations/warnings.

	<b>African American</b>	<b>American Indian</b>	<b>Asian</b>	<b>Hispanic</b>	<b>White</b>
<b>% of City Population</b>	<b>0.20%</b>	<b>0.80%</b>	<b>0.10%</b>	<b>6.90%</b>	<b>94.50%</b>
<b>% Received Traffic Citation/Warning</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>4.30%</b>	<b>95.70%</b>



The following table reports the summaries for the total number of persons cited, searched, and/or arrested by the Wimberley City Marshal. In addition, the table contains a category for individuals who granted consent to search.

<b>Action</b>	<b>African American</b>	<b>American Indian</b>	<b>Asian</b>	<b>Hispanic</b>	<b>White</b>	<b>TOTAL</b>
Citations/Warnings	0	0	0	3	67	70
Searches	0	0	0	0	0	0
Consensual Searches	0	0	0	0	0	0
Custody Arrests	0	0	0	0	0	0

Of 70 persons cited/warned, 67 were White and 3 were Hispanic.

No searches were conducted, whether based on probable cause or incident to arrest.

Because no searches were conducted, no data is recorded relative to consensual searches.

No persons were arrested.

### **Racial Profiling Complaints**

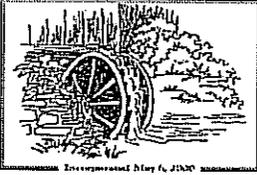
During 2008, there were no complaints for racial profiling reported or filed with the Wimberley City Marshal's Office.

## **Summary of Findings**

The analysis of the material and data from the Wimberley City Marshal's Office revealed the following:

- A comprehensive review of the Wimberley City Marshal's Office regulations, specifically the policy concerning racial profiling, is fully in compliance with Article 2.132 of the Texas Code of Criminal Procedure.
- A review of the information presented and supporting documentation reveals that the Wimberley City Marshal's Office is fully in compliance with Texas law on training and education regarding racial profiling.
- A review of the documentation produced by the Marshal's Office in both print and electronic form reveals that the Office is fully in compliance with applicable Texas law on the racial profiling complaint process and public education about the complaint process.
- Analysis of the data reveals that the Marshal's Office is fully in compliance with applicable Texas law on the collection of racial profiling data.
- The analysis of statistical information from the Marshal's Office reveals that there are no methodologically conclusive indications of systemic racial profiling by the Marshal's Office.
- The Wimberley City Marshal's Office is fully in compliance with applicable Texas law concerning the prohibition of racial profiling.

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

**Project/Proposal Title:** CONSIDER ACTION REGARDING CITY-WIDE ZONING PROJECT AND PREVIOUS CHARGE TO PLANNING AND ZONING COMMISSION REGARDING THE PROJECT

**Funds Required:**

**Funds Available:**

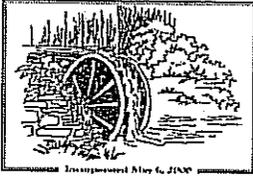
**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

This item was placed on the agenda by Mayor Pro-tem Bob Flocke to allow City Council to discuss and consider action regarding the current city-wide zoning project and the previous City Council charge to the Planning and Zoning Commission relating to the project.

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

**Project/Proposal Title:** CONSIDER ACTION  
RELATING TO THE ANNUAL PERFORMANCE REVIEW  
FOR THE CITY ADMINISTRATOR

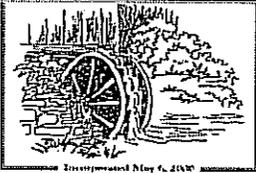
**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

This item was placed on the agenda to allow the City Council to conduct the annual performance review for the City Administrator and consider any action relating to the review.

# City Council Agenda Form



Date Submitted: February 13, 2009

Agenda Date Requested: February 19, 2009

Project/Proposal Title: CITY COUNCIL REPORTS

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

Motion

Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow for reports to be presented by the Mayor and members of City Council and for future agenda item requests.