

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
JANUARY 14, 2019**

Mayor Tim Barker declared a Regular Meeting duly open for the transaction of business at 7:00 P.M at City Hall 120 E. Caney Street Wharton, TX. Councilmember Russell Machann led the opening devotion and Mayor Tim Barker led the pledge of allegiance.

Councilmember's present were: Mayor Tim Barker and Councilmembers Al Bryant, Terry Freese, Alice Heard-Roberts, Don Mueller, Russell Machann and Steve Schneider.

Councilmember absent was: None.

Staff members present were: City Manager Andres Garza, Jr, Finance Director Joan Andel, City Secretary Paula Favors, TRMC, CPM, City Attorney Paul Webb, Interim Public Works Director Robert Ewart, Community Development Director Gwyn Teves, Police Chief Terry David Lynch, Building Official Ronnie Bollom, Assistant to Building Official Claudia Velasquez and Code Enforcement Officer Jimmy Nickolyn.

Visitors present were: Laura Clemons, Mary Barnes, Travis Morgan, Isaiah Coleman, Andy Hollingsworth, Lucas Hollingsworth, Noah Hollingsworth, Audra Herrera with Hunton Andrews Kurth, LLP, James Gilley, Jr. with U.S. Capital Advisors, Robert Macek and Chad Odom, III, Executive Director of the Wharton Economic Development Corporation (WEDCo).

The second item on the agenda was Roll Call and Excuses Absences. All members were present.

The third item on the agenda was Public Comments. Mr. Isaiah Coleman stated issues with all railroad crossing in the City in which most vehicles have to come to a complete stop before going over. Mr. Coleman said that the streets were in terrible shape and potholes are on most roads. Mr. Travis Morgan stated he was interested in fill dirt from the future Stavena Addition Drainage Project.

The fourth item on the agenda was the Wharton Moment. Mayor Tim Barker stated the City of Wharton lost a great Whartonian with the passing of Mr. David Copeland. Mayor Barker said Mr. Copeland was a past Fire Chief for the City and served on the City Council for six years.

The fifth item on the agenda was to review and consider reading of the minutes from regular meeting held December 10, 2018. City Manager Andres Garza, Jr. presented a draft copy of the minutes from the regular meeting on December 10, 2018. After some discussion, Councilmember Al Bryant moved to approve the reading of the minutes from the regular meeting held December 10, 2018. Councilmember Russell Machann seconded the motion. All voted in favor.

The sixth item on the agenda was to review and consider the City of Wharton Financial Report for December 2018. Finance Director Joan Anandel presented the financial report for the month of December 2018. Mrs. Anandel stated that the TexPool balance for December was \$75,833.94 with an average monthly yield of 2.20%. She said the Prosperity Bank balance for December 2018 was \$3,134,824.21 with an average monthly yield of .25%. After some discussion, Councilmember Al Bryant moved to approve the City of Wharton Financial Report for the month of December 2018. Councilmember Steve Schneider seconded the motion. All voted in favor.

The seventh item discussed on the agenda was to review and consider a request from Mr. Andy Hollingsworth regarding a juvenile curfew ordinance. City Manager Andres Garza, Jr. presented a copy the request from Mr. Andy Hollingsworth regarding a juvenile curfew ordinance. Mr. Hollingsworth stated he had several issues with juveniles and damage to his property that he felt could have been avoided if a juvenile curfew was in place. Mr. Hollingsworth said several of his neighbors had asked him to represent them as well and all were wanting to see something in place that would make juveniles parents responsible for them. Police Chief Terry David Lynch stated the Police Department receives sporadic calls regarding juveniles and in Mr. Hollingsworth's case the issue was resolved, and he was paid restitution. Councilmember Al Bryant expressed his concerns with juveniles that were in after school activities or traveling in the late-night hours due to jobs. City Manager Andres Garza, Jr. requested Police Chief Lynch formulate a review of calls received by his department regarding juveniles and present the findings to the City Council at a future meeting. After some discussion, no action was taken.

The eighth item discussed on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.074 and 551.087 of the Local Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any Matter considered in Executive Session shall be made in Open Meeting.

- A. **Discussion:** Appointment of Municipal Court Judge.
- B. **Discussion:** To deliberate the offer of a financial or other incentive to Tractor Supply Company.
- C. **Discussion:** Industrial District No. 1 Contract.

Mayor Barker moved the meeting into closed session at 7:15 p.m.

The item ninth item discussed on the agenda was to review and consider action on items discussed in Executive Session:

Mayor Tim Barker returned to open session at 7:50 p.m.

- A. **Review & Consider:** Appointment of Municipal Court Judge.

After some discussion, Councilmember Russell Machann moved to appoint Jared Cullar as the Municipal Court Judge for a term expiring June 30, 2021. Councilmember Don Mueller seconded the motion. All voted in favor.

B. Review & Consider: To deliberate the offer of a financial or other incentive to Tractor Supply Company.

After some discussion, Councilmember Al Bryant moved to approve City Staff deliberating the offer of a financial or other incentive to Tractor Supply Company. Councilmember Steve Schneider seconded the motion. All voted in favor.

C. Review & Consider: Industrial District No. 1 Contract.

After some discussion, no action was taken.

The tenth item discussed on the agenda was to review and consider a request by Mr. Paul Kearney, Event Coordinator for Wharton County Juneteenth Festival, for City Council consideration to approve the following:

- A. Authorization to hold the 9th Annual Juneteenth Festival on Saturday, June 15, 2019 from 8:00 a.m. through 12:00 midnight in the downtown square area.
- B. Use of the City of Wharton stage and City personnel to assemble and dismantle the stage at no cost.
- C. City of Wharton assistance by providing hotel/motel funding for the required security.
- D. City of Wharton assistance in coordinating with Waste Corporation of America for:
 - 1. Dumpsters to be placed near the Monterey Square in the parking area assigned to The Party Mouse.
 - 2. A minimum of 30 barrels around Monterey Square.
 - 3. 600+ wide mouth bags for the barrels.
 - 4. Additional pick-up of existing dumpsters around Monterey Square.
- E. Waiver of the fees associated with the Temporary Permit for the consumption and possession of Alcoholic Beverages.
- F. City Council authorization to close portions of Houston and Fulton Street from Milam to Burleson Street from 5:00 p.m. on Friday, June 14th through 12:00 Midnight, Saturday, June 15th, 2019 and the section of Houston Street from Burleson Street to Elm Street on Saturday, June 15, 2019 from 6:00 p.m. through 11:30 p.m. and Burleson Street (Highway 60) in accordance with the Traffic Control Plan and to provide all necessary barricades.
- G. **Ordinance:** An ordinance approving the traffic control plan for the James Simmons, Jr. 7th Annual Juneteenth Festival, authorizing the Police Department to redirect traffic and authorizing the Mayor of the City of Wharton to execute the Texas Department of Transportation Agreement for the Temporary Closure of State Right of Way.

City Manager Andres Garza, Jr. presented copies of the letter dated December 8, 2018 from Mr. Paul Kearney, Event Coordinator for the Wharton County Juneteenth Festival requesting the aforementioned items and a draft copy of the Texas Department of Transportation Agreement for the Temporary Closure of State Right of Way and a draft copy of the ordinance approving the traffic control plan for this event. After some discussion, Councilmember Al Bryant moved to approve

afore mentioned items A. through F. and City of Wharton Ordinance 2019-01, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019 - 01**

AN ORDINANCE APPROVING THE TRAFFIC CONTROL PLAN FOR THE JAMES SIMMONS, JR. 9TH ANNUAL JUNETEENTH FESTIVAL, AUTHORIZING THE POLICE DEPARTMENT TO REDIRECT TRAFFIC AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE TEXAS DEPARTMENT OF TRANSPORTATION AGREEMENT FOR THE TEMPORARY CLOSURE OF STATE RIGHT OF WAY.

WHEREAS, The Wharton County Juneteenth Festival Committee Members wishes to hold the James Simmons, Jr. 9th Annual Juneteenth Festival in the downtown area of the City of Wharton and has requested approval to close portions of State Hwy. 60; and,

WHEREAS, Said festival requires the City of Wharton to close State Highway 60, known as Burleson Street from its intersection of Polk Street to Fulton Street; and,

WHEREAS, The closure will require the detouring of all traffic traveling south on State Highway 60 according to the map (Attachment A) attached to this ordinance; and,

WHEREAS, If there are any other ordinances that would be violated because of the re-routing of all traffic their suspension is hereby authorized; and,

WHEREAS, The City Council wishes to authorize the Mayor of the City of Wharton to execute the Agreement for the Temporary Closure of State Right of Way as required by the Texas Department of Transportation.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, that:

Section I. The traffic control plan for the James Simmons, Jr. 9th Annual Wharton County Juneteenth Festival is hereby approved.

Section II. The detour route resulting from the closure of State Highway 60 is hereby approved as detailed in the attached map (Attachment A) which is hereby made part of this ordinance.

Section III. The closure of all streets as indicated in said map identified in Section II are hereby authorized.

Section IV. The traffic detour plan as identified in Section III above is hereby approved.

Section V. The Chief of Police and City Staff are hereby authorized to make the necessary expenditures needed to ensure the safety of the public.

Section VI. That the Mayor of the City of Wharton is hereby authorized to execute the Agreement for the Temporary Closure of State Right of Way as required by the Texas Department of Transportation.

Section VII. This ordinance shall become effective on the 15th day of June 2019 and remain in effect until such time that State Highway 60 is reopened to all traffic.

PASSED, APPROVED AND ADOPTED this 14th day of January 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST

PAULA FAVORS
City Secretary

Councilmember Alice Heard-Roberts seconded the motion. All voted in favor.

The eleventh item discussed on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 86, Utilities and Services, Article I-In General, Section 86-1 and 86-23; providing that a violation of the ordinance or any part of the code as adopted hereby shall constitute a penalty upon conviction of a fine; providing for separability and setting an effective date. City Manager Andres Garza, Jr. stated the Code Enforcement Department was requesting amendments/additions to the City of Wharton Code of Ordinances, Chapter 86, Utilities Services, Article I-in General, Grease Ordinance Section 86-1 and Section 86-23 of the following Articles and Sections:

Sec. 86-1: Definitions added/changed.

Sec. 86-23: Changes to Applicability and Purpose Changes to Inspections:

- Added control authority, scheduled inspections.
- Re-Inspection Fees added.
- Changes to Violations & Enforcement.

Assistant to the Building Official Claudia Velasquez presented the proposed changes and stated the Public Works Committee had met on January 8, 2019 and voted to recommend the City Council consider the amendments/additions. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Ordinance No. 2019-02, which read as follows:

CITY OF WHARTON

ORDINANCE NO. 2019-02

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 86, UTILITIES AND SERVICES, ARTICLE I-IN GENERAL, SECTION 86-1 AND 86-23; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas:

WHEREAS, it is the desire of the City of Wharton Code of Ordinances to read as follows:

DIVISION 1. – IN GENERAL

Sec. 86-1. - Definitions.

The following words, terms and phrases, when used in this and subsequent articles shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Analytical laboratory (or laboratory) means the independent EPA-approved laboratory specifically contracted by the city to perform required analysis of wastewater discharges subject to the requirements of the ordinance codified herein. Only the laboratory specifically contracted by the city shall be recognized for the analysis of compliance point samples.

Approving authority means the Public Works Director of the City of Wharton or his/her duly authorized representative.

Authorized representative of the user means:

- (1) If the user is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of the principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;
- (3) The individuals described in paragraphs (1) and (2), above may designate another authorized representative if this authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates, or specifies the individual having overall responsibility for environmental matters for the company, and this written authorization is submitted to the city.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees

centigrade, usually expressed as a concentration [milligrams oxygen utilized per liter of wastewater (mg/l)].

Building sewer means the extension from the building drain to the public sewer or other place of disposal (also called line lateral and line connection).

Categorical pretreatment standard or *categorical standard* means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Clean Water Act, which applies to an industrial user.

Chemical oxygen demand (COD) means the measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

City means the City of Wharton, Texas, or the City Council of Wharton, Texas, and those persons authorized by the city council to represent the city.

Commercial grease generator means every food preparation and food services establishment including, but not limited to, bakeries, bars, butcher shops, cafes, clubhouses, delicatessens, ice cream parlors, hospitals, hotels, restaurants, schools, commercial day care centers, or similar places where meat, poultry, seafood, dairy products, or fried foods are prepared or served, but shall not apply to any residence not used for the commercial preparation or sale of food items.

Compliance point means a point of access to a course of discharge from an industrial user at which samples are collected and analyzed for flow and quality. These samples must be representative of the total discharge to the public sewer and must be collected prior to co-mingling with any other noncontrolled flows. Samples are taken at the compliance point of an industrial user for the purposes of determining the user's compliance with all applicable pretreatment standards and requirements. Samples collected at locations other than at the compliance point are considered for water quality information and background purposes only.

Composite sample means the sample resulting from the combination of individual discrete wastewater samples taken at selected intervals based on an increment of either flow or time.

Contact cooling water means water used for cooling which may come into direct contact with any raw material, intermediate product, waste product, or finished product either by deliberate design or by accidental occurrence.

Control authority means a city representative, including but not limited to, Code Enforcement Building Official, Public Works Director or third party contractor.

Control manhole means a manhole giving access to building sewer at some point before the building sewer discharge mixes with other discharges into the public sewer.

Control point means a point of access to course of discharge before the discharge mixes with other discharges in the public sewer. For industrial discharges, the control point is also considered the compliance point.

Director means the Public Works Director of the City of Wharton, or his/her duly authorized representative.

Domestic wastewater means waterborne waste normally discharged from the sanitary conveniences of dwellings, residences, hotels, apartments, office buildings and factories, free from stormwater, groundwater, surface water and industrial waste. Normal domestic wastewater shall mean domestic wastewater that is "normal" sewage for the city.

Emulsifiers, surfactants or lubricants means those chemical compounds, either naturally-occurring or synthetically-derived, which are added to, or incorporated into, an aqueous stream to chemically alter the properties of that stream to improve solubility, viscosity, lubricity or heat transfer characteristics.

Excessive strength wastewater means any industrial wastewater in which any of the following concentrations are exceeded:

BOD = 150 milligrams per liter of wastewater;

TSS = 200 milligrams per liter of wastewater;

Total oil and grease = 15 milligrams per liter of wastewater.

Existing source means any source of discharge, the construction or operation of which commenced prior to the effective date of this pretreatment ordinance and prior to the publication date of any EPA proposed categorical pretreatment standards, which would be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Clean Water Act.

Fat, oil and grease (FOG) means a semi solid viscous liquid organic polar compound derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 Code of Federal Regulations (CFR) Part 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."

Food-based oils and greases means the liquid, semi-solid or solid substances originating from animal or vegetable sources which are encountered in sewer discharges from food processing activities. These substances are discernible from other types of oils and greases, which are not generated from typical food processing activities.

Food processing activities means those activities specifically involved in the preparation of food items for human consumption. These activities may be conducted at residential, retail, commercial or institutional type facilities.

Garbage means animal and vegetable wastes and residue from the preparation, cooking and dispensing of food and from the handling, processing, storage and sale of food products and produce.

Generator means a person/business who owns or operates causes, creates, generates, stores or otherwise produces liquid waste or a person who owns property upon which liquid waste is caused, created, generated, stored or produced including, but not limited to, grease trap waste as a by-product of a domestic or nondomestic activity other than a residence or nonbusiness location. *Grab sample* means a sample, which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

Grease or grit trap device utilized by commercial or industrial generators of liquid waste to intercept, collect and restrict the passage of petroleum-based oil and grease waste and inorganic or other solids in the sanitary sewer collection system.

Grease interceptor means a receptacle utilized by commercial or industrial generators of liquid waste to intercept, collect and restrict the passage of organic, inorganic, greasy or fatty liquid, semi-liquid and/or solid wastes into both public and private sanitary sewers to which the receptacle is directly or indirectly connected. An interceptor is located outside of a building and the tank capacity is more than 500 gallons.

Grease trap means a receptacle utilized by commercial or industrial generators of liquid waste to intercept, collect and restrict the passage of organic, inorganic, greasy or fatty liquid, semi-liquid and/or solid wastes into both public and private sanitary sewers to which the receptacle is directly or indirectly connected. Typically located inside a building with a capacity of less than 500 gallons.

Grease trap/interceptor waste means any organic, inorganic, greasy or fatty liquid, semi-liquid and/or solid waste collected by and ultimately removed from a grease trap for proper disposal.

Grit trap waste means oil and grease wastes and/or inorganic solids generated by commercial, industrial, automotive or heavy machinery repair and/or washing facilities.

Indirect discharge means the introduction of pollutants into the public sewer from any nondomestic or industrial source regulated under Sections 307(b), (c) or (d) of the Clean Water Act.

Industrial oils and greases means those oils and greases present in wastes discharged from industrial facilities as a result of industrial activities conducted at those facilities. Industrial oils and greases may be food-based, petroleum-based, synthetic or natural products that are employed in industrial operations or which are an integral part of those operations.

Industrial user means any person that discharges industrial wastes to the public sewer system and any other source of "indirect discharge" as defined above. An industrial facility is one that engages in manufacturing, production or processing operations and which has been identified as such by the Standard Industrial Classification Code applicable to that facility.

Industrial waste means water-borne solids, liquids or gaseous wastes resulting from a discharged, permitted to flow, or escaping from any industrial, manufacturing, or processing operation, or any mixture of these wastes with water or domestic wastewater. This definition does not apply to food preparation or other institutional wastes, which are considered "nondomestic" wastes.

Industrial waste charge means the charge made on those persons who discharge industrial wastes into the public sewer system.

Industrial waste permit means the authorization, by way of issuance of a permit, by the director to an industrial facility to discharge particular waste streams to the public sewer system. The permit describes the wastes and concentrations, which may be discharged by a facility and describes the conditions under which those wastes may be discharged.

Instantaneous maximum allowable discharge limit means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any

discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and therefore, is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Act; the Solid Waste Disposal Act, Resource Conservation and Recovery Act (RCRA); any state regulation contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

Liquid waste means waterborne solids and liquids containing dissolved or suspended waste material including, but not limited to, septic waste and wastes from grease traps and grit traps.

Liquid waste manifest means the written, multi-part documentation required to be in the possession of the transporter enabling disposal of hauled grease trap waste, grit trap waste, or septic waste at a permitted or registered disposal site.

Milligrams per liter (mg/l) means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Minor industrial user means any nonsignificant industrial user which may discharge "excessive strength wastewater" (as the term is herein defined) to the public sewer system, but that is not a significant industrial user.

National Pollution Discharge Elimination System (NPDES) means the federal wastewater and stormwater permitting program authorizing discharges to waters of the U.S. This permitting program sets out requirements for industrial discharges in addition to state and local permit programs.

Natural outlet means any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

New source means:

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the effective date of this pretreatment ordinance or after the publication date of any EPA proposed pretreatment standards under Section 3070 of the Clean Water Act, which would be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no existing source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generated or processed at the building, structure, facility, or installation is substantially independent of an existing source at the same site. In

determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, will be considered.

- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs (1) b. or c. above, but otherwise alters, replaces or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - a. Begun, or caused to begin as part of a continuous onsite construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation or removal of existing building structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

Nondomestic user means any person that discharges nondomestic wastes to the public sewer system that is not considered an industrial waste. Nondomestic sources include those wastes from food preparation and processing, commercial and retail facilities and institutional wastes from hotels, hospitals, schools, criminal justice facilities, nursing homes and other miscellaneous nonindustrial activities.

Oil and water separator or separator means a receptacle utilized by commercial or industrial generators (namely car washes and mechanic shops) of liquid waste to intercept, collect and restrict the passage of oils, grease, semi-liquid and/or solid wastes into both public and private sanitary sewers to which the receptacle is directly or indirectly connected. A separator is located outside of a building and the tank capacity is more than 500 gallons.

Overload means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

Pass through means a discharge which exits the publicly owned treatment works (POTW) into water of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any individual, group of individuals, authorized corporate representatives or corporation which is directly involved in and responsible for the discharge of any wastes to the public sewer system.

Petroleum-based oil and grease means those liquid semi-solid or solid wastes originating from petroleum products, including crude and refined oils, distillates, degreasing solvents, lubricating oils and cooling or thermal oils.

pH means the measure of the relative acidity or alkalinity of water.

Plumbing changes means the installation, replacement or removal of drainage pipe or water supply pipe.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, food-based, synthetic, and petroleum oil or petroleum oil-containing wastes and industrial wastes, and certain characteristics of wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutant into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means. Dilution of an industrial waste stream with other nonpolluted waters or domestic wastes is, not permitted as a form of pretreatment.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standards (or *standards*) shall mean prohibited discharge standards, categorical pretreatment standards, and other federal, state or local limits set out in this pretreatment ordinance.

Prohibited discharge standards (or *prohibited discharges*) means absolute prohibitions against the discharge of certain substances.

Publicly owned treatment works (POTW) means a "treatment works", or combination of all wastewater collection and treatment facilities owned and operated by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to treatment plant. This definition, however, does not include pipes, sewers, other conveyances, or sampling points located exclusively on private property, and that are physically located anterior to the indirect discharge point.

Receiving facility means a facility having written authorization by permit or registration issued by TCEQ to receive wastes as defined in 30 TAC 312.143.

Sanitary sewer means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

Septic tank wastes means those liquid and solid wastes collected from underground septic systems. Septic systems are those which use biological processes to treat domestic sewage and do not include industrial waste systems.

Septic waste means liquid wastes and sludge containing sufficient liquid content, normally more than 85 percent, to permit flow by gravity or minimal pumping, which is removed from a

portable toilet, chemical toilet, septic tank or cesspool. Septic waste does not include nondomestic wastes from commercial or industrial establishments.

Serve means: (1) to personally serve upon the generator or his agent; (2) to send by registered or certified mail, return receipt requested, to the generator or his agent, allowing at least five days for said mail to be retrieved by the recipient, at the address at which the generator receives his utility bill for the location of the alleged discharge; or (3) to place a written notice upon an entrance to the location where the alleged discharge is occurring or has occurred.

Sewage means the normal mixture of human wastes generated by domestic, residential, institutional, commercial and restaurant facilities. Sewage may include some cleaning compounds such as soaps, detergents or other cleaning products.

Significant industrial user means:

- (1) A user subject to any categorical pretreatment standards; or
- (2) A user that:
 - a. Discharges an average of 25,000 gallons per day (gpd) or more of nondomestic wastewater to the POTW; or
 - b. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon finding that a user meeting the criteria in paragraph (2) has no reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement, the city may, at any time, on its own initiative, or in response to a petition received from a user, determine that such use should not be considered a significant industrial user.

Slug load (or *slug*) means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards of the ordinance codified herein.

Standard methods means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater", as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation (WEF).

Storm sewer means a public sewer, which carries stormwaters and surface waters and drainage, and into which domestic wastewater or industrial wastes are not intentionally passed.

Stormwater means rainfall or any other forms of precipitation and the natural over land drainage of precipitation.

Texas Commission on Environmental Quality (TCEQ) means the state agency of that title, and its predecessor and successor agencies or where appropriate, the term may also be used as a designation from the director or other duly authorized official of said agency.

To discharge means to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of or to allow, permit or suffer any of these acts or omissions.

Total suspended solids (TSS) means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid and which is removable by laboratory filtering.

Transporter means a person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic sewage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 Texas Administrative Code 312.142.

Unpolluted wastewater means water, which does not contain any:

- (1) Free or emulsified grease or oil;
- (2) Acids or alkalis;
- (3) Phenols or other substances producing taste or odor in the receiving water;
- (4) Toxic or poisonous substances in suspension, colloidal state or solution;
- (5) Noxious or otherwise obnoxious or odorous gases;
- (6) More than ten mg/l each of suspended solids and BOD; and
- (7) Color exceeding 50 units as measured by the platinum-cobalt method of determination as specified in standard methods.

User (industrial user or nondomestic user) means any person who discharges industrial or nondomestic wastewater to the wastewater system, and any other source of indirect discharge as defined herein.

Waste means rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

Wastewater means liquids and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are discharged into the POTW.

Wastewater facilities includes all facilities for the collection, pumping, treating and disposing of wastewater and industrial wastes.

Wastewater service charge means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Wastewater treatment plant or treatment plant means that portion of the POTW, which is designed to provide treatment of sanitary wastewater and industrial waste.

Watercourse means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

(Ord. No. 2012-10, § I, 8-27-12; Ord. No. 2015-04, § I, 1-26-15; Ord. No. 2015-05, § I, 2-23-15)

Sec. 86-2. - Purpose and policy.

This article sets forth uniform requirements to be met by all industrial and nondomestic users utilizing the wastewater collection, transportation and treatment system for the City of Wharton,

Texas. The ordinance is written to enable the City of Wharton Wastewater Treatment System to comply with and enforce all applicable state and federal laws pertaining to industrial wastewater quality control.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-3. - General requirements for all users.

- (a) *General prohibitions:* No user shall introduce or cause to be introduced into a public sanitary sewer or any other component of the POTW any pollutant or wastewater, which causes pass through or interference. These general prohibitions apply to all industrial and nondomestic users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- (b) No industrial or nondomestic user may discharge to public sewers any waste, which by itself or by interaction with other wastes may:
 - (1) Injure or interfere with wastewater treatment processes or facilities;
 - (2) Constitute a hazard to humans or animals; or
 - (3) Create a hazard in receiving waters or the wastewater treatment plant effluent.
- (c) All discharges shall conform to this article.
- (d) No industrial or nondomestic discharge to public sewers may contain the following:
 - (1) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases;
 - (2) Strong acid, iron pickling wastes or concentrated plating solutions whether neutralized or not;
 - (3) Substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius);
 - (4) Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials;
 - (5) Obnoxious, toxic or poisonous solids, liquids or gases in quantities sufficient to violate this section; or
 - (6) Wastewater causing, alone or in conjunction with other sources, the treatment plants effluent to fail a toxicity test.
- (e) No waste, wastewater or other substances may be discharged into public sewers which have a pH lower than six or higher than nine or any other corrosive property capable of causing damage or hazard to structures, equipment and personnel at the wastewater facilities.
- (f) All waste, wastewater or other substance containing phenols, hydrogen sulfide or other taste- and odor-producing substances shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may

not exceed the requirements established by state, federal or other agencies with jurisdiction over discharges to receiving waters.

- (g) Any wastewater of such character or quantity that unusual attention or expense is required to handle such material at the wastewater treatment plant or in the collection system.
- (h) No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment, to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-4. - Heavy metals and toxic material limits.

- (a) No discharges to the public sewers may contain concentrations of heavy metals greater than the amounts specified in subsection (b) below.
- (b) Maximum allowable concentrations of discharges shall be as follows:
 - (1) *Quality levels of inland waters.* The allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharge to inland waters are as follows:

<u>Not to Exceed</u>			
Metal	Average	Daily Composite	Grab Sample
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

- (c) No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes and other applicable provisions.
- (d) Prohibited heavy metals and toxic materials include, but are not limited to the following:
 - (1) Antimony;
 - (2) Beryllium;
 - (3) Bismuth;
 - (4) Cobalt;
 - (5) Molybdenum;
 - (6) Tin;
 - (7) Uranylion;
 - (8) Rhenium;
 - (9) Strontium;
 - (10) Tellurium;
 - (11) Herbicides;
 - (12) Fungicides; and
 - (13) Pesticides.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-5. - Garbage.

- (a) No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimensions are prohibited.
- (b) The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-6. - Stormwater and other unpolluted drainage.

- (a) No person may discharge the following to public sanitary sewers:
 - (1) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
 - (2) Unpolluted cooling water;
 - (3) Unpolluted industrial process waters; or
 - (4) Other unpolluted drainage.

- (b) In compliance with the Texas Water Quality Act (V.T.C.A., Water Code § 26.001 et seq.) and other statutes, the approving authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (a) of this section may be discharged.
- (c) Polluted stormwaters and cooling waters may be discharged to the public sewer provided that authorization has been granted by the city for such discharges under the requirements of this article.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-7. - Temperature.

No person may discharge to the public sewers any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour or a combined total increase of plant influent temperature to 110 degrees Fahrenheit.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-8. - Radioactive wastes.

- (a) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.
- (b) The approving authority may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-9. - Impairment of facilities.

- (a) No person may discharge into public sewers any substance capable of causing:
 - (1) Obstruction to the flow in sewers;
 - (2) Interference with the operation of treatment processes of facilities;
 - (3) Excessive loading of treatment facilities;
 - (4) Discharges prohibited by subsection (a) of this section include but are not limited to materials which exert or cause concentrations of:
 - a. Inert suspended solids greater than 200 mg/l, including but not limited to:
 - 1. Fuller's earth;
 - 2. Lime slurries; and
 - 3. Lime residues;
 - b. Dissolved solids greater than 145 mg/l, including but not limited to:
 - 1. Sodium chloride; and
 - 2. Sodium sulfate.
 - c. Excessive discoloration, including but not limited to:
 - 1. Dye wastes; and
 - 2. Vegetable tanning solutions; or

d. BOD, COD or chlorine demand in excess of normal plant capacity.

- (b) No person may discharge into public sewers any substances that may:
 - (1) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
 - (2) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action; or wastewater treatment processes due to the nonamenability of the substance to bacterial action; or
 - (3) Deleteriously affect the treatment process due to excessive quantities.
- (c) No person may discharge any substance into public sewers which:
 - (1) Is not amenable to treatment or reduction by the processes and facilities employed; or
 - (2) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (d) The approving authority shall regulate the flow and concentration of slugs when they may:
 - (1) Impair the treatment process;
 - (2) Cause damage to collection facilities;
 - (3) Incur treatment costs exceeding those for normal wastewater; or
 - (4) Render the waste unfit for stream disposal.
- (e) No person may discharge into public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size, including but not limited to:
 - (1) Ashes;
 - (2) Cinders;
 - (3) Sand;
 - (4) Mud;
 - (5) Straw;
 - (6) Shavings;
 - (7) Metal;
 - (8) Glass;
 - (9) Rags;
 - (10) Feathers;
 - (11) Tar;
 - (12) Plastics;
 - (13) Wood;
 - (14) Unground garbage;

- (15) Whole blood;
- (16) Paunch manure;
- (17) Hair and fleshings;
- (18) Entrails;
- (19) Paper products, either whole or ground by garbage grinders;
- (20) Slop;
- (21) Chemical residues;
- (22) Paint residues; or
- (23) Bulk solids.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-10. - Local limits for nondomestic users.

(a) Maximum allowable concentrations of discharges for all nondomestic users shall be as follows:

PARAMETER	CONCENTRATION NOT TO EXCEED AT ANY ITME - mg/l
BOD	150
COD	250
TSS	200
Food-Based Oils or Grease	100
Cyanide	1
Chlorides	250
Fluorides	None other than present in the public water supply

(b) Other specific requirements for nondomestic users shall be as follows:

- (1) Nondomestic users shall provide pretreatment for fats, oils and greases by the use of grease traps. Nondomestic users will be required to maintain these traps in proper working order to maximize oil and grease removal. All traps shall be of adequate capacity, shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and shall so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by users at their expense. These traps will be inspected on a semi-annual basis at the discretion of the city.
- (2) Nondomestic user's wastewater will be sampled on a periodic basis at the director's discretion. The frequency of sampling and type of testing to be conducted will be based on a particular facility's potential to exceed certain discharge standard or requirements.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-11. - Local limits for industrial users.

Certain local limits apply to industrial users, as specified in article II Industrial Waste Disposal and Pretreatment, section 86-44.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-12. - Hauled or trucked in wastewater.

- (a) Trucked in wastes to any city treatment facilities are subject to the same pretreatment standards and requirements of this article. Prior approval must be obtained from the city before any trucked in wastes can be accepted for treatment at any treatment facilities. Industrial users transporting wastes over land for disposal at a POTW must obtain a waste haulers permit from the state regulatory authorities. The city may request information considering the nature of trucked in wastes. This information may include, but is not limited to, material safety data sheets (MSDS), process information, quantity to be treated and sample results.
- (b) Septic tank waste may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate any standard or requirement of this article. Wastewater discharge permits for individual vehicle to discharge septic waste may be issued by the director.
- (c) The director shall issue wastewater discharge permits to any haulers of industrial waste who discharge any industrial waste or wastewater into a public sewer or any other component of the POTW. The director may issue wastewater discharge permits to any generators of hauled industrial waste so discharged. The director may also prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other standards and requirements of this article unless otherwise authorized by the director.
- (d) Industrial waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (e) Industrial waste haulers who discharge any waste or wastewater into a public sewer or any other component of the POTW must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are Resources Conservation and Recovery Act (RCRA) hazardous wastes.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-13. - Required and approved discharges.

- (a) Unless exception is granted by the approving authority, the public sewer system shall be used by all persons discharging:
 - (1) Wastewater;
 - (2) Industrial waste;

- (3) Polluted liquids; or
 - (4) Certain unpolluted waters or liquids.
- (b) Unless authorized by the state water development board, no person may deposit or discharge any waste included in subsection (a) of this section on public or private property in or adjacent to any:
- (1) Natural outlet;
 - (2) Watercourse;
 - (3) Storm sewer; or
 - (4) Other area within the jurisdiction of the city.
- (c) The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-14. - Connections made by city; service applications.

- (a) All connections or taps to the city's water and sewer systems shall be made by employees of the city under the direction and supervision of the water superintendent. A work order shall be prepared and completed for all connections and taps to the city systems. Customer must pay the tap charges prior to installation of the taps as noted in subsections 86-15(1) and (2).
- (b) Each house or premises must have a separate meter and connection.
- (c) New customers are required to present a United States photo identification card and complete an application for utility services including a confidentiality notice at the time that the service is requested. If the owner is the applicant, proof of ownership is required. If the renter is the applicant, a lease agreement or owner authorization is required. Customers are also required to pay a deposit as noted in subsection 86-15(3).
- (d) All utility service customers are required to certify that any city ordinances regarding utility services will be complied with as amended from time to time by the city council. This certification is included in the service application referred to in subsection (b) of this section.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-15. - Water and sewer tap charges, deposits, administrative penalties and other charges.

Water and sewer tap charges, deposits, administrative penalties and other charges shall be as follows:

- (1) *Water.* Standard water tap fees for customers inside the city limits and outside the city limits are as follows:

	Size of Tap	Cost of Service
a.	¾-inch T-off	\$235.77
b.	¾-inch	\$471.52
c.	1-inch	\$619.72 + cost of meter
d.	1½-inch	\$929.58 + cost of meter
e.	2-inch	\$1,239.42 + cost of meter

Customers must pay for the cost of the meter for taps one inch and larger. Tap fees for taps larger than two inches shall be determined and based on the cost to install plus cost of water meter.

In addition to the standard water tap fee, customers must also pay the city for any and all additional costs associated with installing a water tap:

1. Customers are responsible for the actual cost for main line extensions, boring under a street or pre-existing utility line, or any other additional costs necessary to install a water tap. All main line extensions will require the extension to be extended the width of the property to the next adjacent property line unless a variance is issued. All main line extensions will require a written agreement between the city and the customer.
2. Residential customers inside the city limits that qualify for a homestead exemption prior to applying for a building permit will receive up to 200 feet of line extension at no charge for the cost of materials and installation. Residential homestead customers in the city limits will be charged for any borings associated with the installation of the first 200 feet of line extension and will be charged for any main line extensions in excess of 200 feet. Residential customers outside the city limits will be charged for the first 200 feet as well as for any boring associated with the first 200 feet and for any main line extensions in excess of 200 feet.
3. Customers will be required to pay the city in advance for any additional costs associated with connecting to the city's main line based on the city's engineer's estimate for projected engineer and construction costs. Once the project is complete, the customer will either be billed or refunded the difference between the estimate and the actual cost.

- (2) *Sewer.* Standard sewer tap fees for customers inside the city limits and outside the city limits are as follows:

	Size of Tap	Cost of Service
a.	4-inch	\$471.52

b.	6-inch	\$774.64
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In addition to the standard sewer tap fee, customers must also pay the city for any and all additional costs associated with installing a sewer tap:

1. Customers are responsible for the actual cost for main line extensions, boring under a street or pre-existing utility line, or any other additional costs necessary to install a sewer tap. All main line extensions will require the extension to be extended to the width of the property to the next adjacent property line unless a variance is issued. All main line extensions will require a written agreement between the city and the customer.
2. Residential customers inside the city limits that qualify for a homestead exemption prior to applying for a building permit will receive up to 200 feet of line extension at no charge for the cost of materials and installation. Residential homestead customers in the city limits will be charged for any borings associated with the installation of the first 200 feet of line extension and will be charged for any main line extensions in excess of 200 feet. Residential customers outside the city limits will be charged for the first 200 feet as well as for any boring associated with the first 200 feet and for any main line extensions in excess of 200 feet.
3. Customers will be required to pay the city in advance for any additional cost associated with connecting to the city's main line based on the city's engineer's estimate for projected engineer and construction costs. Once the project is complete, the customer will either be billed or refunded the difference between the estimate and the actual cost.

Residential and commercial customers are required to put a sewer clean out at the property line where the city's line ties into the customer's line.

- (3) *Deposits.* As a condition of receiving water, sewer and garbage service, the following deposits shall be charged:

a. Deposit amount:

Residential customer\ \$100.00

Residential—Senior citizens\ \$50.00 (60 years or over)

Commercial customer's\ Based on estimated bill \$100.00 minimum

The deposit for all commercial customers including businesses, industrial users, multi-residential units and all others will be based on the estimated water, sewer and garbage charges for one month. If the customer has consumption history, the estimate will be based on a 12-month average. If the customer is a new customer with no consumption history, the estimate will be based on usage of a similar customer and consider the type of garbage service requested. Current deposit amounts will remain for commercial customers until there is a change in ownership or account status.

- b. Deposits will not be required for public schools, counties, and other governmental entities.

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- c. Customers may transfer their deposits from one account to another account if they move from one address to another. The account must have a zero balance or the current balance will be transferred with the deposit and the new service enacted.
 - d. Customers transferring from one address to another must have paid the maximum deposit or must pay the difference between the deposit paid and the maximum deposit before the deposit can be transferred and the new service enacted.
 - e. Residential customers' deposits will be refunded by crediting the deposit amount to the customer's account after the customer has completed 24 months with no delinquent payments or no dishonored payments. If the customer has additional active accounts without deposits that have delinquent payments, the deposit will be transferred to one of the other accounts. A new deposit will be required if a customer appears on the cut-off list after the original deposit has been returned.
 - f. Customers must terminate utility services by providing written authorization signed or emailed by the customer whose name is on the account. In the event that the account is established under more than one name, any one person may authorize the disconnection of service.
 - g. Customers' deposits will be refunded by crediting the deposit amount to the customer's account when the account is final. Any remaining deposit will be mailed to the forwarding address provided by the customer. If the customer has additional active accounts without deposits, the deposit will be transferred to one of the other accounts.
 - h. Letters of credit are not acceptable in lieu of cash for payment of deposits as required in this section.
 - i. In the event a current utility service customer requests service at an additional address, the deposit may be waived if the customer has had no more than two delinquent payments on the existing account for the previous 12 months prior to the date of the request. In the event that either the initial account or any additional accounts appear on the cut-off list, an additional deposit will be required for each account.
- (4) *Administrative penalty.* If payment is not received on a delinquent account and is placed on the cut-off list and water is due to be or is disconnected, an administrative penalty will be assessed as follows:
Administrative penalty\\$25.00
- (5) *Other charges* include the following:
- a. *Late charges.* If payment is not received by the 15th of each month, a penalty will be assessed on the 16th of each month at the rate noted below:
Late charges\5% of balance due
 - b. *After hours charge.* An after hours charge will be assessed for a reconnection due to nonpayment requested by the customer that is not between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Friday. Services requested on holidays will also be charged an after hour charge.

After hours charge\\$30.00

- c. *Charges of damages.* Charges shall also be made for damages to equipment, such as meters, cutoff valves and locks. These charges shall be based on the actual cost of replacement, including labor, where applicable.
- d. *Industrial users.* Industrial users may be subject to additional charges and fees, relating to permitting and noncompliance issues, as outlined in article II, Industrial Waste Disposal and Pretreatment, sections 86-41 through 86-78.
- e. *Restaurants, food preparation facilities and other commercial users.* Restaurants, food preparation facilities, institutional facilities and other commercial type facilities utilizing grease traps will be subject to a \$100.00 fee for each exceedance of the local oil and grease limit of 100 mg/l. This fee is not a surcharge. The payment of this fee does not authorize the discharge of wastes containing oil and grease in concentrations greater than 100 mg/l. This limit applies only to food grade oils of animal or vegetable origin. The concentration of petroleum-based oil and grease is limited to 15mg/l. The oil and grease exceedance fee will be assessed for each sample result, which indicates an excess oil and grease concentration in sewer discharges from the facility. The city will be responsible for collecting and analyzing all oil and grease samples from grease traps. Oil and grease trap sampling will be conducted on a periodic basis at the city's discretion.
- f. *Septic tank waste* hauled or trucked into wastewater treatment plant as outlined in article II, section 86-54 will be billed at the following rate:

Fees for hauling waste, per 1,000 gallons\\$52.50

(Ord. No. 2012-10, § I, 8-27-12; Ord. No. 2014-06, § 1, 8-25-14; Ord. No. 2015-10, 8-24-15; Ord. No. 2016-06, § I, 8-22-16; Ord. No. 2017-09, § I, 8-28-17; Ord. No. 2018-06, § I, 8-27-18

Sec. 86-16. - Water service charges.

- (a) The monthly charges for water service rendered by the city shall be as follows:

Volume Charges

First 2,000 gallons (minimum)\\$21.41

Next 2,000 gallons, per 1,000\\$4.06

Next 3,000 gallons, per 1,000\\$4.21

Next 4,000 gallons, per 1,000\\$4.37

Next 4,000 gallons, per 1,000\\$4.65

Next 35,000 gallons, per 1,000\\$4.93

Next 50,000 gallons, per 1,000\\$5.11

Next 50,000 gallons, per 1,000\\$5.49

Next 50,000 gallons, per 1,000\\$5.83

- (b) Customers requesting temporary water services (seven-day increments) can apply for a temporary water rate based on the following:

Volume Charges

First 8,000 gallons for seven days\\$49.48

Over 8,000 gallons, per 1,000\\$4.52

The temporary water rate is intended as a temporary service for water only and will not be extended for more than 14 consecutive days without a deposit or connection fee being made in accordance with section 86-2, subsections (4) and (5). The base rate must be paid at the time the service is requested. Additional gallons will be billed after the temporary service is disconnected.

(Ord. No. 2012-10, § I, 8-27-12; Ord. No. 2013-20, § I, 8-26-13; Ord. No. 2014-06, § 1, 8-25-14; Ord. No. 2015-10, 8-24-15; Ord. No. 2016-06, § I, 8-22-16; Ord. No. 2017-09, § I, 8-28-17; Ord. No. 2018-06, § I, 8-27-18)

Sec. 86-17. - Sewer service charges.

- (a) The monthly charges for sanitary sewer services rendered by the city shall be as follows:

Volume Charges

First 2,000 gallons (minimum)\\$23.00

Next 2,000 gallons, per 1,000\\$3.58

Next 3,000 gallons, per 1,000\\$4.37

Next 4,000 gallons, per 1,000\\$4.85

Next 4,000 gallons, per 1,000\\$5.21

Next 35,000 gallons, per 1,000\\$5.64

Next 50,000 gallons, per 1,000\\$6.13

Next 50,000 gallons, per 1,000\\$6.49

Next 50,000 gallons, per 1,000\\$6.95

- (b) *Residential customers.* Monthly service charges for sewer service are based on the average water consumption for three winter months (December, January and February). The winter averaging is calculated in March and is reflected in the April 1st bill. New residential customers with no historical usage shall be billed for sewer usage based on the average residential customers' usage based on the most current winter averaging.

- (c) *Regular commercial customers.* Monthly service charge for sewer service shall be based on the monthly-metered water usage at the rates set forth above.

(Ord. No. 2012-10, § I, 8-27-12; Ord. No. 2013-20, § I, 8-26-13; Ord. No. 2014-06, § 1, 8-25-14; Ord. No. 2015-10, 8-24-15; Ord. No. 2016-06, § I, 8-22-16; Ord. No. 2017-09, § I, 8-28-17; Ord. No. 2018-06, § I, 8-27-18)

Sec. 86-18. - Billing, collection, etc.

- (a) Meters shall be read approximately every 30 days. Utility bills will be processed and mailed by the 1st day of each month.
- (b) All monthly bills for services rendered by the water and sewer systems are due upon issuance by the City of Wharton and are payable by the due date noted on the bill.
- (c) A delinquent charge (penalty) will be assessed to each account if not paid by the due date. Delinquent notices will be mailed on the next working day of the month following the due date as stated on the bill. In addition to delinquent notices, the city may use other forms of notification on delinquent accounts.
- (d) The city may discontinue service if payment is not received in full by 5:00 p.m. on the 5th business day after the issuance of delinquent notices. The city is not responsible for delays in the mail.
- (e) In the event of discontinuation of service, all amounts due the city including any penalties and charges are required to be paid in full before reconnection to the system. If the account is not paid in full by the tenth of the following month the account will be finalized and the deposit will be applied to the balance.
- (f) Customers may appeal incorrect or improper billings with the supervisor of the utility administration department within 15 days of issuance of the monthly bills. The customer service division shall investigate the validity of customer complaints and provide a report on their findings within three days of such filing. No late charges shall be applied to any account with an appeal pending. The failure of any customer to receive a bill or the subsequent reminder notice shall not be grounds for appeal. If, in the sole opinion of the supervisor of the department, the investigation supports the appeal, the account may be adjusted, as appropriate.
- (g) All checks issued for payment of water and/or sewer service returned unpaid shall incur a processing fee equal to the maximum amount allowed by law.
- (h) *Deposits.* If any person attempts to pay a required deposit by check or similar instrument and such instrument is dishonored, the service for which such deposit was made shall be subject to disconnection without notice. A processing fee as prescribed in subsection 86-5(g) and an administrative penalty in accordance with the schedule set out in subsection 86-15(4) will be charged.
- (i) *Account payment.* If any person attempts to pay an account bill by check or similar instrument and such instrument is dishonored, then the person obligated on the corresponding account shall be notified by letter sent by the United States first class mail that if he does not pay the bill, plus a processing fee as prescribed in subsection 86-5(g), in

full, by cash or money order, within five business days, the service for which such bill was prepared shall be discontinued and corresponding account will be charged an administrative penalty in accordance with the schedule set out in subsection 86-15(4). A certificate of mailing by the United States Postal Service shall be prima facie evidence of delivery of such notice. The payment on account by dishonored check or similar instrument shall constitute nonpayment and shall be subject to penalties therefor.

- (j) Payment by cash, cashier's check or money order. The city may refuse to accept payment by check or similar instrument from any person who has had three or more payments to the city made by check or similar instrument dishonored. The city shall notify the person in writing that only cash, cashier's check, or money order will be accepted from that person for one year. After one year, the customer may pay by check or similar instrument.
- (k) A customer who deems his account to have had an extraordinary increase in consumption may appeal to the utility billing department for a credit adjustment. Consideration may be given for unavoidable leaks and unexplainable consumption which amounts to 125 percent or more of the normal consumption for that account with normal consumption defined as the consumption of the same account for the same month in the prior year or the average consumption for the account for the past 12 months, whichever is greater. The credit adjustment will be limited to two months and limited to one-half of the amount determined to be over the normal consumption.
- (l) Utility customers may have their service temporarily disconnected for a period of not less than 30 days' by notification to the utility department. The account is said to be on-hold which means the service is disconnected by city employees and no charges are billed to the customer during that time. The city retains the deposit in order for the account to remain on-hold status. The account may remain "on-hold" status for a period not to exceed six months from the date the "on-hold" status began. Once the six-month period has lapsed, the account will become active. The account must have an active status for at least six months before the account may be put back "on-hold" status. However, all meters are checked on a monthly basis. Therefore, if there is any usage on the meter during the time the account is on vacation, the account will become active and all charges for water, sewer and garbage shall be billed to the customer.
- (m) *Final bill.* Upon termination of utility services, a final bill will be calculated based on the customer's usage. The billed amount will also be prorated based on the date of the request to terminate services.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-19. - Water and sewer service for outside city limits.

- (a) The city council may approve water and sewer service for customers outside the city limits.
- (b) Charges for water and/or sewer service usage for customers outside the city limits shall be in accordance with sections 86-16 and 86-17.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-20. - Cleaning compounds.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Cleaning compound means a cleaning compound in liquid, bar, spray, tablet, flake, powder or other form used for cleaning purposes. The term "cleaning compound" shall not mean:

- (1) A metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, or other substance that is intended to be used for industrial cleaning purposes.
- (2) A phosphorus acid product, including a sanitizer, brightener, acid cleaner or metal conditioner.
- (3) A detergent manufactured, stored or distributed for use or sale outside the city limits.

Phosphorus means elemental phosphorus.

- (b) *Restrictions.*

- (1) It shall be unlawful for any person to sell, offer or expose for sale, give or furnish any cleaning compound containing more than 0.5 percent phosphorus by weight except that dish washing formulations may contain up to 8.70 percent phosphorus by weight within the city from and after October 1, 1992.
- (2) The concentration of phosphorus by weight, expressed, as elemental phosphorus in any synthetic detergent or detergent shall be determined by the current applicable method prescribed by the American Society for Testing and Materials (A.S.T.M.).

- (c) *Voluntary limits.* The city will try to operate its wastewater treatment system so that the amount of phosphorus discharged from the system is less than 2.5 milligrams per liter (2.5 mg/l) on a daily average. Samples will be taken and tested at the same time other samples are taken for regulatory purposes.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-21. - Bulk water rates.

- (a) Bulk sales through fire hydrant water meters temporarily installed at locations remote from the Wharton Volunteer Fire Department on Fulton Street will require the following:

- (1) Advance, nonrefundable payment of \$50.00 to the City of Wharton at City Hall for setting the meter connection at the fire hydrant or other appropriate locations as the city may determine; and
- (2) Payment of bulk sales rate of \$82.46 per month for the first 1,000 gallons of water dispensed, or any fraction thereof; \$32.99 per month per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and

- (3) Advance, refundable fire hydrant meter deposit payment of \$200.00 to the City of Wharton at City Hall.
- (b) Bulk sales through permanently installed water meter dispensation point at the Wharton Volunteer Fire Department on Fulton Street will require the following:
- (1) No requirement for payment of meter setting fee; and
 - (2) Payment of bulk sales rate of \$82.46 for the first 1,000 gallons of water dispensed, or any fraction thereof; \$32.99 per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
 - (3) No requirement for payment of the \$200.00 fire hydrant meter deposit, however each water dispensation transaction authorized under this section must be prepaid to the City of Wharton at City Hall where a one-day dispensation voucher will be issued for presentation to the water plant operator to authorize a one-day dispensation of a not to exceed amount of water in gallons. The one-day dispensation voucher identifying the cumulative number of gallons purchased will allow for scheduled multiple withdrawals of water, but only during the same City of Wharton working day upon which initial dispensation commences.

Bulk sales water service customers must provide a suitable mobile water containment vessel of sound quality for receiving and hauling water for use or consumption at any location within the Wharton water system.

Public or private volunteer fire fighting organizations that procure water only for fire prevention and control purposes and do not resell such water for other purposes, are exempt from this classification, rates and fees schedule. Contractors constructing City of Wharton Public Works projects requiring potable water for dust control and construction operations shall also be exempt from this classification, rates and fees schedule.

Any \$200.00 refundable fire hydrant meter deposit paid to the City of Wharton may be applied by the City of Wharton to the payment of any bulk sales customer unpaid bills, and when so partially consumed through past-due account application, shall be restored by the bulk sales customer to the original \$200.00 amount.

Bulk sales water service dispensation to consumers having only an occasional need for such water service are encouraged to utilize the permanently installed water meter dispensation point at the Wharton Volunteer Fire Department located on Fulton Street.

Use of the Fulton Street permanently installed water meter dispensation point requires advanced payment by check or cash to the City of Wharton at City Hall and at least four hours advanced scheduling of prospective water withdrawals which shall also only occur during the following city working hours Monday—Friday 9:00 a.m.—12:00 p.m. and 1:00 p.m.—4:00 p.m. (Saturday, Sunday and city holidays excluded).

Sec. 86-22. - Bypass.

- (a) For the purposes of this section:
 - (1) Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.
 - (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) A user may allow a bypass to occur which does not cause pretreatment standards or requirements only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (c) and (d) of this section.
- (c)
 - (1) If a user knows in advance of the need for a bypass it shall submit it prior notice to the control authority, at least ten working days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the control authority of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five working days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (d)
 - (1) Bypass is prohibited, and the control authority may take an enforcement action against a user for a bypass unless:
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, pump and truck, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed during normal periods of equipment downtime or as preventive maintenance in the exercise of reasonable engineering judgment or prevent a bypass;
 - c. The user submitted notices as required under subsection (c) of this section.
 - (2) The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three conditions listed in subsection (d)(1) of this section.

(Ord. No. 2012-10, § I, 8-27-12)

Sec. 86-23. - Grease Ordinance; FATS, OILS, GREASE, AND GRIT PROGRAM

(a) *Applicability and Purpose.*

- (1) The purpose of this ordinance is to aid in the prevention of sanitary sewer blockages, obstructions and sanitary sewer overflows caused by the accumulation of fats, oils, grease, grit, and lint discharged into the sanitary sewer system.
- (2) This section shall apply to all nondomestic users of the publicly owned treatment works (POTW), as defined in the general provisions of this chapter, whose waste discharge contains or may contain grease, oil, sand or other harmful pollutants originating from processes including but not limited to, food preparation and serving, vehicle and equipment washing, machine shops and garages, carpet cleaning and water extraction, steam cleaning and chemical cleaning facilities or any facility with a liquid waste holding tank.
- (3) Grease traps or grease interceptors shall not be required for residential users.
- (4) Facilities generating fats, oils or greases as a result of food manufacturing, processing, preparation, or food service shall install, use and maintain appropriate grease traps or interceptors as required for compliance with this section. These facilities, include but are not limited to, restaurants, food manufacturers, food processors, hospitals, hotels and motels, prisons, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption.
- (5) No generator may intentionally or unintentionally allow the direct or indirect discharge of any petroleum oil, non-biodegradable cutting oil, or any fats, oils or greases of animal or vegetable origin into the POTW system in such amounts as to cause interference with the collection and treatment system, or as to cause pollutants to pass through the treatment works into the environment.

(b) *Definitions.*

- (1) This section shall apply to all nondomestic users of the publicly owned treatment works (POTW), as defined in the general provisions section of this section.

(c) *Grease traps, interceptors, separators and holding tanks.*

- (1) Users required to maintain pretreatment devices.
 - a. Grease traps, interceptors, separators or holding tanks shall be provided for the proper handling of wastes containing grease, oil, sand and/or other harmful pollutants which may interfere with the operation and maintenance of the POTW and shall be constructed and maintained in accordance with the provisions of this section.
 - b. All restaurants, institutions, cafeterias, or other establishments preparing or serving food shall be required to install and maintain a grease trap for the efficient removal of oil and grease from the waste stream. The design and installation of such devices shall be subject to review and approval by the control authority.
 1. Designs shall include sample ports. The control authority may require any nondomestic user to install a suitable sampling port in the private sewer to facilitate observation sampling and measurement of the wastes and flows. Sampling ports shall be readily accessible to the control authority at all times.

- c. All existing vehicle and equipment wash areas shall be equipped with interceptors for the removal of sand and other solids. Where an existing vehicle and equipment wash area is shown to discharge excessive oil and grease, the control authority may require installation of a separator. New vehicle and equipment wash facilities or any existing facility which has closed and proposes to reopen shall be required to provide interceptors and separators for the removal of oils, grease, sand and/or other pollutants before discharging to the sewerage system. The design and installation of such devices shall be subject to review and approval by the control authority.
 - d. It shall be the responsibility of the user/generator to furnish, operate and maintain such pretreatment devices as necessary to produce an effluent in compliance with this or other applicable ordinances.
 - e. Holding tanks shall be provided by the user/generator for automotive or other such waste oils and other waste which is prohibited from being discharged into the sanitary sewer. Such holding tanks shall be constructed to prevent leakage and splashing during operation and cleaning. Such tanks shall be maintained to preclude odor and other nuisances and shall not be connected to the sanitary sewer or in any other way be allowed to be discharged to the sanitary sewer.
- (2) Existing facilities.
- a. Existing facilities required by this or other applicable ordinances to maintain a grease trap, interceptor or separator not equipped with an adequately sized treatment unit shall within 18 months of the effective date of ordinance codified in this section, install an adequately sized grease trap, interceptor or separator in accordance with the specifications of this section.
 - b. Existing facilities required by this or other applicable ordinances to maintain a grease trap, interceptor or separator not equipped with a sample port shall within 18 months of the effective date of the ordinance from which this section derives, install a sample port in accordance with the specifications of this section.
 - c. Existing facilities required by this or other applicable ordinances to maintain a grease trap, interceptor or separator not equipped with required pretreatment device for the type of business shall within 12 months of the effective date of the ordinance from which this section derives, install an adequately sized grease trap, interceptor or separator in accordance with the specifications of this section.
 - d. In any circumstance where, in the opinion of the control authority the existing grease trap, separator or interceptor or the absence of a grease trap, separator or interceptor poses a serious threat or an on-going problem to the sanitary sewer, is a public nuisance, or poses a threat to public health or to the environment, the control authority may require the grease trap, interceptor or separator be installed or replaced under a more stringent specification.
 - e. If a food establishment or any other facility requiring a grease trap, interceptor or separator shall cease operation and shall be required to come into compliance, then such establishment or facility shall be required to comply with this section before reopening. If a commercial establishment that is occupied by multiple suites and/or a tenant has closed for operations, it is the property owner's responsibility to

maintain the cleaning ordinance for the grease trap, separator, or interceptor until to the suite is occupied.

(3) *General specifications.*

- a. Specifications outlined in this section shall be considered minimum only. It shall be the responsibility of each user to have a grease trap, interceptor or separator designed and installed and maintained that will produce an effluent in compliance with the requirements of this or other applicable ordinances.
 1. Grease traps, interceptors and separators shall meet or exceed the more stringent of specifications and requirements set forth in this division and other applicable local, state or federal requirements.
 - b. Grease traps, interceptors and separators shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and capable of withstanding the traffic load where installed.
 1. Manhole rings and covers, shall not be less than 24 inches in diameter, shall be installed in the lid of each compartment to facilitate easy access for cleaning and inspection. The manholes shall be placed so that all internal piping is accessible for maintenance and inspection. The cover shall be at or near, but not below the finished grade.
 - c. Plans for new grease traps, interceptors and separators or modifications to existing grease traps, interceptors and separators shall be submitted to the control authority.
 1. A description of plumbing fixtures draining to the trap, the number of fixture units and calculations used to determine the proposed capacity shall be included in the submittal.
 2. The control authority shall verify that all requirements have been met on the final plans prior to issuance of any required plumbing or construction permits and subsequent construction.
 - d. All new installations of grease traps, interceptors and separators shall be equipped with an approved sampling port immediately downstream of the treatment facility.
 1. Sampling ports/sample well shall be easily accessible and safely located and shall be constructed in accordance with plans approved by the control authority. Sampling ports shall be inspected by the control authority prior to use.
 2. Sampling ports/sample well shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
 3. Sampling ports/sample well shall be installed in the building sewer immediately downstream of the grease trap, interceptor or separator.
 4. The sampling port/sample well shall be a minimum of 12 inches in diameter, equipped with an access cover, with a flow channel not less than four inches in width and 12 inches in length.
 5. Sampling ports/sample well shall be constructed to exclude the entry of stormwater and groundwater and exit of wastewater (prevention of infiltration, exfiltration).
 - e. Grease trap, interceptors, separators and sampling ports/sample well shall be installed by a licensed plumber. Completed grease traps, interceptors, separators and

sampling ports/sample well shall be subjected to inspection by the control authority prior to connection to the sanitary sewer.

f. The control authority may at his sole discretion allow existing users with existing under-sized grease traps, interceptors or separators a trial period specified by the control authority in which to demonstrate that the use of best management practices, housekeeping procedures and increased maintenance of the grease trap, interceptor or separator to consistently produce an effluent in compliance with established limitations.

1. The user shall maintain records of procedures, training, and extra maintenance necessary to demonstrate the conditions of the trial period are being met.
2. The user shall have an appropriate sample port before any trial may begin.
3. At least six analyses shall be required within the trial period to demonstrate consistent compliance. Samples shall be collected at random times by an approved testing lab or by the control authority. All costs for sampling and analyses shall be borne by the user.
 - i. A user who has demonstrated consistent compliance during the trial period may be allowed to continue to operate with the existing treatment device. The user may be subject to periodic monitoring to demonstrate continued compliance.
 - ii. A user who has not been able to demonstrate consistent compliance shall be required to install a properly sized treatment device.

(4) *Grease interceptor specifications.*

- a. The minimum size of grease traps shall be determined according to the number of fixture units draining through the trap, but shall in no case, have a total liquid capacity of less than 750 gallons.
 1. The total number of fixture units multiplied by 150 gallons shall determine the minimum total liquid capacity of the interceptor. Fixture units shall be defined in accordance with the applicable plumbing code.
 2. The primary chamber shall occupy three-fourths of the total liquid capacity of the interceptor.
 3. The dividing wall between each chamber shall completely divide the chambers (shall extend top to bottom) except where the specific design of the interceptor provides for underflow, in which case the wall shall not be greater than 12 inches from the bottom, between the chambers rather than flow traveling through a pipe.
- b. Grease interceptors shall be equipped with double cleanouts on the outside of the trap in both the influent and effluent pipes.
- c. The influent shall enter the first chamber of the grease interceptor below the static level in accordance with the specifications outlined in this section. The effluent shall discharge from below the static water level of the second chamber in accordance with the specifications outlined in this section.
 1. The influent line into the first chamber shall terminate no greater than 18 inches from the bottom of the first chamber.
 2. The effluent line into the second chamber shall discharge from the lower 12 inches of the second chamber.

3. There shall be no openings in any influent or effluent pipe that will allow liquid to enter or exit the chamber at any point other than the intake or discharge point of the pipe.
4. The static water level shall be maintained throughout the entire interceptor.
- (5) *Grease trap specifications.*
 - a. All grease traps shall meet the manufacturers' specifications. The grease traps shall be operated and maintained in accordance with manufacturers' operating procedures.
- (6) *Oil and water separator specifications.*
 - a. Separators shall have a minimum detention time of not less than five minutes. The minimum size shall be in accordance with the specifications in this section.
 1. Separators may be located inside the wash bay and may be equipped with a grated cover, provided the openings in the cover are not greater than one-half inch. When located inside the wash bay, the control authority may require a larger capacity separator be installed to facilitate efficient sand and grit removal. Covers shall be easily removable for cleaning and inspection.
 2. Where located outside the wash bay, the separator shall be equipped with solid, watertight covers on each chamber and shall be preceded by a catch basin, located inside the bay, equipped with a grated cover with openings not greater than one-half inch. Covers shall be easily removable for cleaning and inspection.
 3. The inlet and outlet lines shall be designed and installed to provide uniform flow and stilling in the separator and to prevent sand from passing through the separator.
 4. The influent line into the first chamber shall terminate no greater than 18 inches from the bottom of the first chamber.
 5. The effluent line into the second chamber shall discharge from the lower 12 inches of the second chamber.
 6. There shall be no openings in any influent or effluent pipe that will allow liquid to enter or exit the chamber at any point other than the intake or discharge point of the pipe.
 7. The static water level shall be maintained throughout the entire separator.
 - b. Minimum sizing for separators, where required, shall be 150 gallons per fixture unit draining into the separator, but not less than the minimum sizes outlined below:

Separator	Minimum Size
Portable washer	Greater of 500 gal. or 150 gal./fixture unit
Single coin-operated wash bay	Greater of 500 gal. or 150 gal./fixture unit
Manual hand wash, single bay only	Greater of 500 gal. or 150 gal./fixture unit
2—4 coin-operated or manual hand wash bays	Greater of 1,000 gal. or 150 gal./fixture unit
>4 coin-operated or manual hand wash bays	Greater of 1,000 gal.+200 gal./bay >4 or 150 gal./fixture unit
Drive-through wash bay	Greater of 500 gal./bay or 150 gal./fixture unit

1. The primary chamber shall occupy three-fourths of the total liquid capacity of the trap/interceptor.
 2. The dividing wall between each chamber shall completely divide the chambers (shall extend top to bottom) except where the specific design of the interceptor provides for underflow, in which case the wall shall not be greater than 12 inches from the bottom, between the chambers rather than flow traveling through a pipe.
- (d) *Installation and maintenance requirements.*
- (1) *Installations.*
 - a. *New facilities.* Food processing or food service facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to design, install, operate and maintain a grease trap/interceptor in accordance with this ordinance, locally adopted plumbing codes or other applicable ordinances. Grease traps, interceptors or separators shall be installed and inspected prior to issuance of a certificate of occupancy.
 - b. *Existing facilities.* Existing grease traps, interceptors or separators must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with this section, unless specified in writing and approved by the control authority.
 - c. All grease traps, interceptors or separators waste shall be properly disposed of at an appropriate facility in accordance with federal, state or local regulations.
 - (2) *Cleaning and maintenance.*
 - a. Grease traps and grease interceptors shall be maintained in an efficient operating condition at all times.
 - b. Each grease trap pumped shall be fully evacuated unless the trap volume is greater than the tank capacity on the vacuum truck in which case the transporter shall arrange for additional transportation capacity so that the trap is fully evacuated within a 24-hour period, in accordance with 30 Texas Administrative Code 312.143.
 - (3) *Cleaning schedules.*
 - a. Grease traps and grease interceptors shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease traps, interceptors or separators; to ensure the discharge is in compliance with local discharge limits; and to ensure no visible grease is observed in the discharge.
 - b. Grease traps and grease interceptors subject to these standards shall be completely evacuated a maximum of every 90 days, or more frequently when:
 1. Twenty-five percent or more of the wetted height of the grease trap or grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe contains floating materials, sediments, oils or greases;

2. The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the POTW; or
 3. If there is a history of noncompliance.
 - c. Any person or business who owns or operates a grease trap, interceptor or separator may submit to the POTW a request in writing for an exception to the 90-day pumping frequency on a case-by-case basis when:
 1. The grease trap, interceptor or separator owner/operator has demonstrated the specific trap, interceptor or separator will produce an effluent, based on defensible analytical results, in consistent compliance with established local discharge limits such as BOD, COD, TSS, FOG, or other parameters as determined by the POTW; or
 2. Twenty-five percent of the wetted height of the grease trap, interceptor or separator, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or grease.
 - d. In any event, a grease trap, interceptor or separator shall be fully evacuated, cleaned and inspected at least every 180 days or an extended period of time for cleaning/inspection may be granted by the control authority for facilities that operate less than 365 days per year.
- (4) *Manifest requirements.*
- a. Each pump-out of a grease trap, interceptor or separator must be accompanied by a manifest to be used for record keeping purposes.
 - b. Businesses or persons who generate, collect and/or transport grease waste shall maintain a record of each individual collection and deposit. Such records shall be in the form of a manifest. The manifest shall include:
 1. Name of business, address, generator representative name and signature, date and time waste was collected, business identification number, type of waste removed from premises, and tank capacity.
 2. Name of transporter company, address, TCEQ registration number, name of transporter representative and signature, date the waste was removed, vehicle permit number, and gallons of waste removed.
 3. Name of disposal site, address, TCEQ registration number, name of disposal site representative and signature, date and time the waste was deposited at the disposal site.
 - c. Manifests can be obtained at Wharton City Hall and will consist of five parts and records shall be maintained as follows:
 1. One part of the manifest shall have the generator and transporter information completed and shall be given to the generator at the time of waste pickup.
 2. The remaining four parts of the manifest shall have all required information completely filled out and signed by the appropriate party before distribution of the manifest.
 3. One part of the manifest shall go to the receiving facility.
 4. One part shall go to the transporter company, who shall retain a copy of all manifests showing the collection and disposition of waste.

5. One copy of the manifest shall be returned by the transporter to the business who generated the wastes within 15 calendar days after the waste is received at the disposal site or processing facility.
6. One part of the manifest shall go to Wharton City Code Enforcement.
 - d. Copies of manifests returned to the waste generator shall be retained for three years and be readily available for review by the control authority.
 - e. Manifests shall be completed and returned to the city every 90 days or in accordance with the routine cleaning schedule. A manifest from each generator will be submitted to the city in the months assigned from the results of the initial survey conducted by the control authority. The generator will be subject to enforcement action including fines, penalties for late submittal of the manifest. (5) *Alternative treatment.*
 - a. A business/person commits an offense if the person introduces or causes, permits, or suffers the introduction of any surfactant, solvent or emulsifier into a grease trap. Surfactants, solvents and emulsifiers are materials which allow the grease to pass from the trap into the collection system and include, but are not limited to, enzymes, soap, diesel, kerosene, terpene, and other solvents.
 - b. It is an affirmative defense to an enforcement of alternative treatment subsection (d) (5) a. above, that the use of surfactants or soaps is incidental to normal kitchen hygiene operations.
 - c. Bio-remediation media may be used with the POTW's approval if the person requesting use of bio-remediation media has proved to the satisfaction of the POTW that laboratory testing, which is appropriate for the type of grease trap to be used, has verified that:
 1. The media is a pure live bacterial product which is not inactivated by the use of domestic or commercial disinfectants and detergents, strong alkalis, acids, and/or water temperature of 140 degrees F (60 degrees C).
 2. The use of the media does not reduce the buoyancy of the grease layer in the grease trap and does not increase the potential for oil and grease to be discharged to the sanitary sewer.
 3. The use of the bio-remediation media does not cause foaming in the sanitary sewer.
 4. The BOD, COD and TSS discharged to the sanitary sewer after use of the media does not exceed the BOD, COD and TSS which would be discharged if the product were not being used and the grease trap was being properly maintained. pH levels must be between 5 and 11.
 - d. All testing designed to satisfy the criteria set forth in subsection (d)(5)c. shall be scientifically sound and statistically valid in the opinion of the POTW. All tests to determine oil and grease, TSS, BOD, COD, pH, and other pollutant levels shall use appropriate tests which have been approved by the Environmental Protection Agency and the Texas Commission on Environmental Quality and which are defined in Title 40, Code of Federal Regulations, Part 136 or Title 30, Texas Administrative Code 319.11. Testing shall be open to inspection by the POTW, and shall meet the POTW's approval.

(e) *Inspections.*

- (1) The control authority will conduct a survey for each new and existing facility with grease traps, interceptors, or separators. After a full quarter of inspections (3 months), a review will take place to determine which customers should be placed on scheduled inspection, i.e.: monthly, quarterly, bi-annually or annually based on the consumption of grease, oil, lint, and/or sand traps.
 - (2) Inspection will be completed one time on the date placed on scheduled inspection, unless re-inspection is required.
- (f) *Re-Inspections.*
- (1) If the grease traps, interceptors, or separators are not in compliance, the trap or manifest will require a re-inspection within a timely manner determined by the control authority. The generator will be given sufficient time to rectify the issue.
 - (2) Re-inspection will result in a \$50 fee for each required re-inspection. Charges for re-inspections will be automatically assessed to customer's utility account when a re-inspection is performed.
- (g) *Violations, fees, fines and penalties.*
- (1) *Manifest submittals.*
 - a. Each generator is responsible for submitting a manifest to the city in the months assigned from the results of the initial survey conducted by the control authority.
 - b. Late submittal of a manifest will result in a \$100.00 late fee, plus \$5.00 per day that the manifest is late.
 - (2) *Violations and enforcement.*
 - a. Any business or generator who does not adhere to the cleaning and maintenance schedule set forth in this section and who discharges any contaminant into the city sewer will incur the following fines and penalties:
 1. \$2,000.00 per violation per day that the business or generator remains in violation.
 2. The business or generator will be immediately shut down until the violation has been rectified.
 3. The business or generator will be responsible for all cleanup, and costs to remediate any damage caused by the violation.
 4. All costs incurred by the city to clean out the FOG, and TSS in the city sewer lines will be billed to the violating business.

(Ord. No. 2015-04, § II, 1-26-15)

Secs. 86-24—86-40. - Reserved.

Fine and Penalty for Violations

Sec. 18-145. Penalties. Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 or more than the maximum provided in section 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the

business of such corporation or firm and the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Effective Date

This Ordinance shall become effective on the 25th day of January 2019.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 14th day of January 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Terry Freese seconded the motion. All voted in favor.

The twelfth item discussed on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 42, Occupational Licenses, Taxes and Regulations, Article IV, Division 4-Mobile Food Vendors and Temporary Food Vendors Mobile Food Courts and Mobile Food Establishments, Sections 42-220 to 42-235; providing that a violation of the ordinance or any part of the code as adopted hereby shall constitute a penalty upon conviction of a fine; providing for separability and setting an effective date. City Manager Andres Garza, Jr stated the Code Enforcement Department was recommending City Council's approval of the amendments/additions to the City of Wharton Code of Ordinances,

Chapter 42, Occupational licenses, Taxes and regulations, Article IV, Division 4, Mobile Food Courts and Mobile Food Establishments, Section 42-220 to Section 42-235 of the following Articles and Sections:

Division 4- Changed to Mobile Food Courts and Mobile Food Establishments

- Sec. 42- 220 Definitions added.
- Sec. 42-221 Scope added.
- Sec. 42- 222 Registration— Permit requirements.
- Sec. 42- 223 Exceptions.
- Sec. 42-224 Operation requirements shall comply with the following requirements.
- Sec. 42-225 Food truck courts added application information requirements including mobile food court permit.
- Sec. 42- 226 Hours of operation changed 7am-8pm.
- Sec. 42- 227 Signage added.
- Sec. 42-228 Off street parking added.

Assistance to the Building Official Claudia Velasquez presented the changes and additions to the ordinance. Mrs. Velasquez stated the Public Works Committee met on January 8, 2019 and voted to recommend to the City Council the approval of the amendments/additions. City Attorney Paul Webb stated that he had reviewed and approved the final draft ordinance. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Ordinance No. 2019-03, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-03**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 42, OCCUPATIONAL LICENSES, TAXES AND REGULATIONS, ARTICLE IV, DIVISION 4-MOBILE FOOD COURTS AND MOBILE FOOD ESTABLISHMENTS, SECTIONS 42-220 TO 42-235; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas:

WHEREAS, it is the desire of the City of Wharton Code of Ordinances to read as follows:

**DIVISION 4. –MOBILE FOOD COURTS AND MOBILE FOOD ESTABLISHMENTS
Sec. 42-220. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Food Truck Court means a property used or developed to accommodate more than one food truck as the primary use of the property while possibly accommodating areas on the property for entertainment or recreational opportunities. Food truck courts must have a valid certificate of occupancy in addition to all other applicable permits and inspections.

Ice cream truck means a motor vehicle in which ice cream, popsicles, ice sherbets, or other frozen desserts of any kind are carried for the purpose of retail sale on the streets of the City.

Mobile food establishment means an operator of a vehicle mounted, self or otherwise propelled, self-contained food service operation designed to be readily moveable (including, but not limited to, catering trucks, trailers, push carts and roadside vendors) used to store, prepare, display, serve or sell food that requires temperature control. The mobility of a mobile food establishment unit must be completely maintained at all times. No drive through service shall be permitted from a mobile food establishment.

Sec. 42-221. - Scope.

This article shall regulate all mobile food establishments operating within the City's corporate limits.

Sec. 42-222. - Registration— Permit requirements.

(a) No person shall operate a mobile food establishment who does not possess a valid, current mobile food establishment permit.

(b) A mobile food establishment shall make application on a form provided by the Code Enforcement Department, and shall provide all of the information listed in subsections (1) - (7) as part of the application:

- (1) The name and address of the owner and/or operator;
- (2) If the applicant represents a corporation, association or partnership, the names and addresses of the officers or partners;
- (3) Name which the food vending operation will operated;
- (4) A description of the type of food or the specific foods to be vended;
- (5) A description of the vehicle to be used in the mobile food vending operation along with the license or registration and vehicle identification number of the vehicle;
- (6) Except ice cream trucks, the locations within the City where the mobile food establishment will operate. Should such locations not yet be established, an updated list of locations shall be provided to the Code Enforcement Department at the time of issuance of permit;
- (7) An original written instrument, executed by each real property owner, verifying that the mobile food establishment is authorized to operate at such location or locations. Should the mobile food establishment acquire additional locations, an updated list shall be provided to the Code Enforcement Department along with written permission from real property owner.

(c) Any person applying for a mobile food court permit or mobile food establishment permit must submit to a background check of that person's criminal record by the City of Wharton.

(d) Any person who has been convicted of a misdemeanor involving moral turpitude within the three-year period immediately preceding the date of that person's application for a mobile food establishment permit or mobile food court permit or a felony involving moral turpitude within five-year period immediately preceding the

date of that person's application for registration shall be ineligible to receive a mobile food establishment permit or mobile food court permit. In these circumstances, the Code Enforcement Department shall reject the application and shall not issue a permit to that person.

- (e) If the application is rejected for any reason, the applicant must wait 12 months from date of denial before a subsequent application can be filed.
- (f) Upon receiving a completed application for a mobile food court permit or mobile food establishment permit, the administrator may make appropriate inspections of the location, equipment, vehicle, and other reasonable inspections concerned and shall issue a permit only if;
 - (1) The application complies with subsection (b), and
 - (2) Any inspection reveals compliance with the applicable requirements of all federal and state statutes and regulations, and city ordinances governing the proposed mobile food establishment operation.
- (g) Mobile food establishments during recovery from a declared natural disaster shall be regulated as follows;
 - (1) Applicant must possess a current mobile food vendor licensed and certified food manager certificate by Texas Department of State Health Services.
 - (2) An original written instrument, executed by each real property owner, verifying that the mobile food establishment is authorized to operate at such location or locations.
 - (3) Approval from either the Code Enforcement Department or Emergency Management.
 - (4) Upon approval, applicant may set up for two (2) weeks, depending on severity of the disaster.

Immediately following the two (2) week period applicant must submit all the information required in subsection (b) and must follow all the subject regulations of this section as to location and rules excluding allowable times and storage on site.

Sec. 42-223. - Exceptions.

Notwithstanding any term contained in this division to the contrary, this division shall not apply to the following:

- (1) A nonprofit organization, as defined by the Texas Department of State Health Services.
- (2) Vendors under the auspice of a festival/event sponsor.

Sec. 42-224. - Operation requirements shall comply with the following requirements.

Mobile food establishments shall comply with the following requirements:

- (a) Mobile food establishments shall comply with all sanitation and construction regulations as outlined in TAC § 229.169 of the Texas Food Establishment Rules, as amended.
- (b) All Mobile Food establishments are subject to comply with food and beverage certificate as outlined with TABC Section 11.46 General Grounds for Refusal, Section 11.49

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Premises Defined; Designation of Licensed Premises, Section 61.43 (5), Section 109.31 Municipal Regulation of Liquor, of the Texas Alcohol Beverage Commission, as amended.

- (c) The issuing, suspension and revocation of licenses for the handling of food by mobile food establishment owners, operators or their employees shall be regulated by the food handling administrator.
- (d) In order to ensure equal treatment of all mobile food establishment permit holders, variances from this article will not be granted.
- (e) Except for ice cream trucks, mobile food establishments are prohibited from operating on public rights-of-way. Exception: city-sponsored events.
- (f) A permitted mobile food establishment may operate at construction sites.
- (g) Mobile food establishments, including ice cream trucks, may operate on private property provided:
 - (1) The mobile food establishment permit holder has filed with the Code Enforcement Department written permission of the property owner for the operation of the mobile food establishment; and
 - (2) The applicant provides the original written instrument or no objection letter verifying that the mobile food establishment is authorized to operate at such location or locations as required in section 42-222(b)(7).
- (h) Any properly permitted mobile food establishment may operate in a location in or immediately adjacent to city-sponsored civic events.
- (i) May not use structures that are not intended for mobile food establishments. Examples of acceptable vehicles include, but are not limited to, vehicles equipped with serving windows, merchandise display equipment, kitchen preparation areas, and advertisement display section. Approved structures must adhere to the following:
 - 1. No cracked windows;
 - 2. No visible rust or disrepair;
 - 3. No emission of noxious gases, odors, and/or fumes.
- (j) Portable fire extinguishers shall be provided. A minimum 2-A; 10-BC multi-purpose fire extinguisher shall be currently inspected and tagged by a licensed technician.
- (k) Mobile food establishments shall have a Type 1 hood installed at or above all commercial cooking appliances and domestic cooking appliances which include flat grills, fryers, char grills, and pits used for commercial purposes that produce grease vapors. Type 1 hood systems shall be installed with an approved and inspected fire suppression system. A Type K fire extinguisher is also a requirement in the installation of a fire suppression system.
- (l) Mobile food establishments shall comply with all commercial building line setback requirements set forth in Chapter 18 (Building and Construction) of the Code of Ordinances in Section 18-77, Section (e), as amended.

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- (m) Mobile food establishments leasing property shall be properly screened by privacy fence of a height not less than six (6) feet in a way to avoid adverse impact upon adjoining properties and the uses thereof.
- (n) Mobile food establishments are not allowed to operate between two residential structures, with the exception of construction sites or special events. Properly permitted ice cream trucks are allowed within residential neighborhoods if compliant with subsection (o) below.
- (o) Ice cream trucks may stop on public streets or rights-of-way provided such stops:
 - 1. Are not in or within fifty (50) feet of an intersection;
 - 2. Not an area prohibited to the standing or parking of vehicles;
 - 3. All items are vended from the curbside of the vehicle or the rear of the vehicle; and
 - 4. The ice cream truck is vending in a safe manner.

Mobile food establishment inspections are conducted at the City of Wharton Permit Office. An appointment will be made for specific day-date-time. Missed appointments will result in a re-inspection fee. *No inspections are conducted off site.* Re-Inspection fees shall be \$50.00.

(1) *Permit revocation.*

- (a) If the permittee fails to comply, then the mobile food establishment permit may be revoked.
- (b) If a mobile food establishment permit is revoked, any fees paid to the City will be forfeited.
- (c) The former permittee may appeal the revocation of a mobile food establishment permit by submitting a written request for appeal to the Code Enforcement Department within ten days of receiving the notice of revocation. The City Manager will hold a hearing within a reasonable time of receipt of the appeal, but no later than 30 days after receipt, at which time the former permittee will have an opportunity to explain why the permit should not be revoked. The City Manager shall render a decision within 30 days of the date of the hearing. The City Manager's decision shall be final.
- (d) Mobile food establishment permits shall not be transferred or assigned and shall be considered revoked should the character of the food vending operation be changed from that specified in the permit.

(2) *Permit renewal and fees.*

- (a) Unless sooner revoked, a mobile food establishment permit is valid from date of issue until December 31st of that calendar year. Prior to operating a mobile food establishment, the mobile food establishment will submit the required information along with a fee of \$12.50/unit per month from the date of the application through December 31st of that calendar year.

- (b) The mobile food establishment fee for the period January 1st through December 31st shall be \$150.00/unit.
- (c) Such permits shall be issued on the earliest date of submission of the completed application.
- (d) Every mobile food establishment permit shall be renewed at least each year in like manner as the original permit application.
- (e) All funds collected for permits under the provisions of this division shall be deposited in the general fund of the city.
- (f) Mobile food establishment permits shall be valid for special events.

Sec. 42-225. Food Truck Courts.

- (a) Food truck courts shall be permitted land use with the City Council's discretionary approval of a specific use permit on property as outlined in section 42-224 (l) and (m).
- (b) A specific use permit for a food truck court may be revoked by the City Council if it finds that any condition imposed at the time of granting the permit is not met, or if thereafter ceases to exist. The City Council may deny a specific use permit for a food truck court if the development of said use would be detrimental or offensive to the surrounding area or otherwise be contrary to the health, safety, or general welfare of the City and its inhabitants. In approving or denying a specific use permit for a food truck court, the City Council shall consider:
 - 1. The nature of the proposed use;
 - 2. Proximity to other food trucks;
 - 3. Proximity to existing "brick and mortar" restaurants;
 - 4. The number of food trucks allowed within the food truck court at a single time;
 - 5. Existing uses in surrounding areas;
 - 6. Noise, dust, light, and traffic generated;
 - 7. Health and sanitary condition; and
 - 8. Compliance with other regulations of the Code of Ordinances.
- (c) Food Truck Courts shall be \$75.00 per space/per calendar year and payable upon issuance. Fees will not be prorated.
- (d) All food trucks utilizing food courts must possess a current mobile food establishment permit issued by the City of Wharton.

Sec. 42-226. – Hours of Operation.

- (a) Mobile Food Establishments.
 - 1. Food trucks shall only be allowed to engage in sales operations between the hours of 7:00 am and 8:00 pm.
- (b) Food Truck Courts.
 - 1. Food truck courts shall only be allowed to engage in sales operations between the hours of 7:00 am and 8:00 pm with the exception of a city sponsor event.

Sec. 42-227. – Signage.

- (a) All signage pertaining to or advertising a food truck and/or its menu shall be attached to the food truck. There shall be no limit to the amount of signage that is allowed on a food truck while the food truck is parked at a food truck court or operation site. A food truck shall not be outfitted with “changeable signage” as defined and/or set forth in Chapter 66 (Signs) of the Code of Ordinances. With an exception of one sandwich board which may be placed during business hours, but must be removed daily.

Sec. 42-228. - Off street vehicle parking.

- (a) Mobile Food Establishments.
 - 1. One off-street vehicle parking space shall be required for each table that is provided for use by food truck customers. If no tables are provided, no off-street vehicle parking shall be required.
- (b) Food Truck Courts.
 - 1. Two off-street vehicle parking shall be required for each table that is provided for use by the food truck customers. If no tables are provided, no off-street vehicle parking shall be required.

Sec. 42- 229 - Authority to enforce.

The Code Enforcement Department shall have authority to enforce the provisions of this division, and to enlist the assistance of all appropriate agencies in the enforcement effort.

Sec. 42. - 230 - Permit and license revocation.

Nothing in this division shall prevent the Code Enforcement Department, from immediately revoking a mobile food establishment and food truck court permit should such vendor be in violation of this division or any other city code or ordinance.

Sec. 42- 231 - All codes and ordinances effective.

In addition to the provision of this division, all other applicable city codes and ordinances shall apply to the operation of any mobile food establishment and food truck court, and shall be in full force and effect. This policy shall be effective even if the vendor has applied for and obtained a valid license and permit to operate, should the violations occur either prior or subsequent to obtaining such permit.

Secs.42-232 -- 42-235. - Reserved.

Fine and Penalty for Violations

Sec. 18-145. Penalties. Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 or more than the maximum provided in section 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Effective Date

This Ordinance shall become effective on the 25th day of January 2019.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 14th day of January 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Terry Freese seconded the motion. All voted in favor.
The thirteenth item discussed on the agenda was to review and consider a request from National Church Residents for the following:

A. **Resolution:** A resolution of the City Council of Wharton, Texas, in support of the submission of an application to the 2019 Competitive Housing Tax Credit (HTC) Program through the Texas Department of Housing and Community Affairs (TDHCA) by Morning Star Senior Housing Limited Partnership, for the rehabilitation of Morning Star Apartments.

B. Financial Contribution - \$250 (can be "in-kind").

City Manager Andres Garza, Jr. stated the National Church Residences would be making an application for the 2019 Low Income Housing Tax Credits with the Texas Department of Housing and Community Affairs for Morningstar Apartments at 1520 Barfield Rd., Wharton. City Manager Garza said the application would be for the rehabilitation of 40 apartments. Community Development Director Gwyn Teves stated the City Council Housing Committee met on Monday, January 14, 2019 and were recommending the City Council consider approving the request. After some discussion, Councilmember Al Bryant moved to approve a financial contribution of \$250 towards the cost of building permit fees and City of Wharton Resolution No. 2019-01, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-01**

A RESOLUTION OF THE CITY COUNCIL OF WHARTON, TEXAS, IN SUPPORT OF THE SUBMISSION OF AN APPLICATION TO THE 2019 COMPETITIVE HOUSING TAX CREDIT (HTC) PROGRAM THROUGH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) BY MORNING STAR SENIOR HOUSING LIMITED PARTNERSHIP, FOR THE REHABILITATION OF MORNING STAR APARTMENTS.

WHEREAS, Morning Star Senior Housing Limited Partnership (“Applicant”) has requested funding support from the City of Wharton to rehabilitate an existing 40-unit affordable senior rental housing community named Morning Star Apartments located at 1520 Barfield Road, Wharton, Wharton County, Texas (the “Development”); and,

WHEREAS, The Applicant intends to submit an application to the Texas Department of Housing and Community Affairs (“TDHCA”) for an allocation of 2019 Competitive 9% Housing Tax Credits (“HTC”) for the rehabilitation of Morning Star; and,

WHEREAS, Pursuant to the rules that govern the allocation of HTCs by TDHCA, an applicant who provides a resolution of support from the governing body of a local political subdivision to the Development will improve the overall success of its application; and,

WHEREAS, Pursuant to the rules that govern the allocation of HTCs by TDHCA, an applicant who provides a resolution from the governing body of a local political subdivision agreeing to commit a minimum of \$250 of funding assistance to the Development to improve the overall success of its application; and,

WHEREAS, Pursuant to the rules that govern the allocation of HTCs by TDHCA, the City of Wharton identifies Morning Star Apartments at 1520 Barfield Road as contributing more than any other to the concerted revitalization efforts of the municipality to improve the overall success of its application; and,

WHEREAS, The Applicant has requested a commitment of required funding assistance for \$250.00 for its application in the form of reduced building permit fees for the benefit of the Development from the City of Wharton for its application to TDHCA for the rehabilitation of Morning Star; and,

WHEREAS, 100% of the members of the City Council of the City are elected officials.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. That the City of Wharton, acting through its governing body, hereby confirms that it supports, approves construction and authorizes tax credits to the proposed rehabilitation of Morning Star by Morning Star Senior Housing Limited Partnership located at 1520 Barfield and that this formal action has been taken to put on record the opinion expressed by the City of Wharton in Wharton County on January 14, 2019.

Section II. That the City of Wharton, will commit a funding amount to the Development by waiving or reducing the Building Permit Fee in a minimum amount of \$250.00 should the project be selected for funding.

Section III. That the City of Wharton identifies Morning Star Apartments at 1520 Barfield Road as contributing more than any other to the concerted revitalization efforts of the municipality.

Section IV. Notwithstanding anything herein to the contrary, the funding commitment by the City of Wharton, shall be contingent on the Applicant's receipt of commitment of HTC's for the Development from TDHCA.

Section V. That the City of Wharton, Wharton County, Texas hereby supports the proposed Morning Star Apartments, and confirms that its governing body has voted specifically to approve the construction and/or rehabilitation of the Development and to authorize an allocation of Housing Tax Credits for the Development pursuant to Texas Government Code §2306.6703(a)(4).

Section VI. That for and on behalf of the Governing Body, Tim Barker, Mayor is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

Section VII. City of Wharton is not a related party to the Applicant, and any funding assistance committed by the City to the development of Morning Star pursuant to this resolution will not have been first provided to the City by the Applicant or any related party to the Applicant.

Section VIII. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 14th day of January 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST: _____
PAULA FAVORS
City Secretary

Councilmember Terry Freese seconded the motion. All vote in favor.

The fourteenth item discussed on the agenda was an ordinance authorizing the issuance of City of Wharton, Texas, Tax Anticipation Notes, Series 2019. City Manager Andres Garza, Jr. stated the City Staff met with Mr. James Gilley of U.S. Capital Advisors LLC, the City's financial advisor, regarding the issuance of City of Wharton Tax Anticipation Notes, Series 2019 to be used for flood reduction acquisition and relocation expenses related USACE Levee Project. Finance Director Joan Andel stated the Finance Committee met on January 8, 2019 and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Ordinance No. 2019-05, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-05**

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF WHARTON, TEXAS,
TAX ANTICIPATION NOTES, SERIES 2019.**

THE STATE OF TEXAS §
COUNTY OF WHARTON §
CITY OF WHARTON §

WHEREAS, the City of Wharton, Texas (the "City") is authorized to issue notes payable pursuant to Chapter 1431, Texas Government Code;

WHEREAS, the City Council of the City hereby finds and determines that it is necessary and in the best interest of the City and its citizens to pursue the issuance of Tax Notes and that the Notes shall be payable from and secured by ad valorem taxes levied, within the limits prescribed by law, on all taxable property within the City; Now, Therefore

BE IT ORDAINED THAT THE CITY COUNCIL OF THE CITY OF WHARTON IS AUTHORIZED TO TAKE VARIOUS ACTIONS TO PREPARE FOR THE ISSUANCE OF TAX NOTES FOR ALL EXPENDITURES ASSOCIATED WITH UTILITY ADJUSTMENTS, ACQUISITION OF PROPERTY FEE SIMPLE AND OTHER EXPENSES RELATED TO THE WHARTON FLOOD REDUCTION PROJECT (LEVEE),

INCLUDING THE APPOINTMENT OF AN UNDERWRITING
SYNDICATE AND ENGAGEMENT OF PROFESSIONALS IN
CONNECTION THEREWITH.

PASSED AND APPROVED THIS 14th DAY OF January, 2019.

By: _____

Mayor
City of Wharton, Texas

ATTEST:

City Secretary
City of Wharton, Texas

Councilmember Russell Machann seconded the motion. All voted in favor.

The fifteenth item discussed on the agenda was to review and consider an ordinance authorizing the issuance of City of Wharton, Texas, General Obligation Refunding Bonds, Series 2019; setting certain parameters for the bonds; authorizing the redemption prior to maturity of certain outstanding obligations; authorizing the pricing officer to approve the amount, the interest rate, price, and terms thereof and certain other procedures and provisions relating thereto. City Manager Andres Garza, Jr. stated the City Staff met with Mr. James Gilley of U.S. Capital Advisors LLC, the City's financial advisor, regarding the opportunity the City had to refund some bond series to realize some savings in interest expense. Mr. Gilley stated that he had made the necessary calculations and determined there was an opportunity for the City to refund bonds from 2009 and 2011 while gaining some savings. Finance Director Joan Andel stated the Finance Committee met on January 8, 2019 and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Ordinance No. 2019-06, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-06**

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF WHARTON, TEXAS,
GENERAL OBLIGATION REFUNDING BONDS, SERIES 2019; SETTING
CERTAIN PARAMETERS FOR THE BONDS; AUTHORIZING THE REDEMPTION
PRIOR TO MATURITY OF CERTAIN OUTSTANDING OBLIGATIONS;
AUTHORIZING THE PRICING OFFICER TO APPROVE THE AMOUNT, THE
INTEREST RATE, PRICE, AND TERMS THEREOF AND CERTAIN OTHER
PROCEDURES AND PROVISIONS RELATING THERETO**

THE STATE OF TEXAS §
COUNTY OF WHARTON §
CITY OF WHARTON §

WHEREAS, the City Council of the City of Wharton, Texas (the “City”) has heretofore issued the obligations described in Exhibit A attached hereto; and

WHEREAS, the City desires to refund part of said obligations in advance of their maturities as determined pursuant to the parameters set forth herein (the “Refunded Bonds”); and

WHEREAS, Chapter 1207, Texas Government Code (the “Act”) authorizes the City to issue refunding bonds payable from taxes, without an election, for the purpose of refunding the Refunded Bonds in advance of their maturities, and to accomplish such refunding by depositing directly with any paying agent for the Refunded Bonds (or other qualified escrow agent), the proceeds of such refunding bonds, together with other available funds, in an amount sufficient to provide for the payment or redemption of the Refunded Bonds, and provides that such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Bonds; and

WHEREAS, the Act further authorizes the City to delegate the authority to effect the sale of the Bonds to the Pricing Officer; and

WHEREAS, the City desires to authorize the execution of an escrow agreement and provide for the deposit of proceeds of the refunding bonds herein authorized, together with other funds, to pay the Refunded Bonds; and

WHEREAS, upon the issuance of the refunding bonds herein authorized and the deposit of funds referred to above, the Refunded Bonds shall no longer be regarded as being outstanding, except for the purpose of being paid pursuant to such deposit, and the pledges, liens, trusts and all other covenants, provisions, terms and conditions of the ordinances authorizing the issuance of the Refunded Bonds shall be, with respect to the Refunded Bonds, discharged, terminated and defeased; Now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON:

1. Recitals; Consideration. It is hereby found and determined that the matters and facts set out in the preamble to this Ordinance are true and correct.

It is hereby found and determined that the refunding contemplated in this Ordinance will benefit the City by providing a present value savings in the debt service payable by the City, that such benefit is sufficient consideration for the refunding of the Refunded Bonds, and that the issuance of the refunding bonds is in the best interests of the City.

2. Definitions. Throughout this Ordinance the following terms and expressions as used herein shall have the meanings set forth below:

“Blanket Issuer Letter of Representations” means the Blanket Issuer Letter of Representations between the City, the Registrar and DTC.

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“Bonds” means the City of Wharton, Texas, General Obligation Refunding Bonds, Series 2019 authorized in this Ordinance, unless the context clearly indicates otherwise.

“Business Day” means any day that is not a Saturday, Sunday, or a day on which the Registrar is authorized by law or executive order to close, or a legal holiday.

“City” means the City of Wharton, Texas.

“City Manager” means Andres Garza, Jr., or any successor in that office.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986.

“Comptroller” means the Comptroller of Public Accounts of the State of Texas.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Escrow Agent” means Zions Bancorporation, National Association, Amegy Bank Division.

“Escrow Agreement” means the agreement between the City and the Escrow Agent relating to the escrow of funds to pay the Refunded Obligations.

“Finance Director” means Joan Andel, or any successor in that office.

“Initial Bond” means the Initial Bond authorized by Section 6(d).

“Interest and Sinking Fund” means the interest and sinking fund for payment of the Bonds established by the City in Section 20 of this Ordinance.

“Interest Payment Date”, when used in connection with any Bond, means June 1, 2019, and each June 1 and December 1 thereafter until maturity.

“Mayor” means Tim Barker, or any successor in that office.

“MSRB” means the Municipal Securities Rulemaking Board.

“Officer’s Pricing Certificate” means a certificate signed by the Pricing Officer pursuant to Section 5 hereof.

“Ordinance” as used herein and in the Bonds means this ordinance authorizing the Bonds.

“Owner” means any person who shall be the registered owner of any outstanding Bond.

“Pricing Officer” means the Mayor or the City Manager or the Finance Director.

“Record Date” means, with respect to the Bonds, the close of business on the last Business Day of the month preceding such Interest Payment Date.

“Refunded Bonds” means any of the obligations described on Exhibit A attached hereto and as more specifically described in the Officer’s Pricing Certificate.

“Register” means the books of registration kept by the Registrar, in which are maintained the names and addresses of, and the principal amounts of the Bonds registered to, each Owner.

“Registrar” means Zions Bancorporation, National Association, Amegy Bank Division, and its successors in that capacity.

“Rule” means SEC Rule 15c2-12.

“SEC” means the United States Securities and Exchange Commission.

“Underwriter” means the individual underwriter or underwriting syndicate identified in the Officer’s Pricing Certificate.

3. Authorization. The Bonds shall be issued in fully registered form in a maximum principal amount not to exceed \$6,325,000 the purpose of refunding the Refunded Bonds, under and in strict conformity with the Constitution and laws of the State of Texas, particularly Chapter 1207, Texas Government Code.

4. Date, Denomination, Interest Rates, and Maturities. The Bonds shall be designated as “CITY OF WHARTON, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2019” and shall be dated, shall mature on the dates, in each of the years and in the amounts set out in the Officer’s Pricing Certificate, shall be subject to prior optional and mandatory redemption on the dates, for the redemption prices and in the amounts set out in the Officer’s Pricing Certificate and shall bear interest from their issue date at the rates set forth in the Officer’s Pricing Certificate payable on the dates set forth in the Officer’s Pricing Certificate. The Bonds may be transferred and exchanged as set out in this Ordinance. The Initial Bond shall be numbered I-1 and all other Bonds shall be numbered in sequence beginning with R-1. Bonds delivered on transfer of or in exchange for other Bonds shall be numbered in order of their authentication by the Registrar, shall be in the denomination of \$5,000 or integral multiples thereof, and shall mature on the same date and bear interest on the same rate as the Bond or Bonds in lieu of which they are delivered.

5. Selling and Delivering the Bonds. As authorized by Section 1207.007, Texas Government Code, any Pricing Officer is hereby authorized to act on behalf of the City through a date 180 days from the date of this Ordinance in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including

without limitation determining the price at which the Bonds will be sold, the issuance date for the Bonds, the form in which the Bonds shall be issued (whether as current interest bonds or as any combination of current interest bonds and compound interest bonds), the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the dates, prices and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory redemption provisions for the Bonds, the selection of the particular maturities and principal amounts of the Refunded Bonds, and all other matters not expressly provided in this Ordinance, relating to the issuance, sale and delivery of the Bonds, and the refunding of the Refunded Bonds, all of which shall be specified in the Officer's Pricing Certificate; provided that:

- (1) none of the Bonds shall bear interest at a rate greater than 15% per annum or in excess of the maximum rate allowed by Chapter 1204, Texas Government Code;
- (2) the proceeds from the sale of the Bonds, along with any available funds of the City that may be used in the refunding, must be sufficient to provide, after all original issue discount and underwriter's discount, amounts necessary to fund the costs and expenses of refunding the Refunded Bonds and the estimated costs of issuance of the Bonds; and
- (3) the net present value savings in debt service resulting from the refunding of the Refunded Bonds shall be at least 3.000% of the principal amount of the Refunded Bonds, as shown by a table of calculations prepared by the City's financial advisor and attached to the Officer's Pricing Certificate.

6. Execution of Bonds; Seal. (a) The Bonds shall be signed on behalf of the City by the Mayor and countersigned by the City Secretary, by their manual, lithographed, or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) If any officer of the City whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the authentication of such Bonds or before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Registrar's Authentication Bond substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Registrar. In lieu of the executed Registrar's Authentication Bond described above, the Initial Bond delivered at the Closing Date shall have attached hereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by his duly authorized agent, which certificate shall be evidence that

the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) On the Closing Date, the Initial Bond, being a single bond representing the entire principal amount of the Bonds, payable in stated installments to the Underwriter or its designee, executed by manual or facsimile signature of the Mayor and City Secretary of the City, approved by the Attorney General, and registered and manually signed by the Comptroller, shall be delivered to the Underwriter or its designee. Upon payment for the Initial Bond, the Registrar shall cancel the Initial Bond and deliver definitive Bonds to DTC.

7. Payment of Principal and Interest. The Registrar is hereby appointed as the paying agent and registrar for the Bonds. The principal of the Bonds shall be payable, without exchange or collection charges, in any coin or currency of the United States of America which, on the date of payment, is legal tender for the payment of debts due to the United States of America, upon their presentation and surrender as they respectively become due and payable at the principal payment office of the Registrar in Houston, Texas. The interest on each Bond shall be payable on each Interest Payment Date, by check mailed by the Registrar on or before the Interest Payment Date to the Owner of record as of the Record Date.

If the date for payment of the principal of or interest on any Bond is not a Business Day, then the date for such payment shall be the next succeeding Business Day with the same force and effect as if made on the date payment was originally due.

8. Successor Registrars. The City covenants that at all times while any Bonds are outstanding it will provide a commercial bank or trust company, organized under the laws of the United States or any state, and duly qualified and legally authorized to serve as Registrar for the Bonds. The City reserves the right to change the Registrar on not less than 60 days written notice to the Registrar, so long as any such notice is effective not less than 60 days prior to the next succeeding principal or interest payment date on the Bonds. Promptly upon the appointment of any successor Registrar, the previous Registrar shall deliver the Register or copies thereof to the new Registrar, and the new Registrar shall notify each Owner, by United States mail, first class postage prepaid, of such change and of the address of the new Registrar. Each Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Section.

9. Special Record Date. If interest on any Bond is not paid on any Interest Payment Date and continues unpaid for thirty (30) days thereafter, the Registrar shall establish a new record date for the payment of such interest, to be known as a Special Record Date. The Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the City. Such Special Record Date shall be fifteen (15) days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class, postage prepaid, not later than five (5) days prior to the Special

Record Date, to each affected Owner of record as of the close of business on the day prior to the mailing of such notice.

10. Ownership; Unclaimed Principal and Interest. The City, the Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment of the principal of or interest on such Bond, and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Owner of any Bond in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Registrar upon such Bond to the extent of the sums paid.

Amounts held by the Registrar which represent principal of and interest on the Bonds remaining unclaimed by the Owner after the expiration of three years from the date such amounts have become due and payable shall be reported and disposed of by the Registrar in accordance with the applicable provisions of Texas law including, to the extent applicable, Title 6 of the Texas Property Code, as amended.

11. Registration, Transfer, and Exchange. So long as any Bonds remain outstanding, the Registrar shall keep the Register at its principal payment office in Houston, Texas, and, subject to such reasonable regulations as it may prescribe, the Registrar shall provide for the registration and transfer of Bonds in accordance with the terms of this Ordinance.

Each Bond shall be transferable only upon the presentation and surrender thereof at the principal payment office of the Registrar in Houston, Texas, duly endorsed for transfer, or accompanied by an assignment duly executed by the registered Owner or his authorized representative in form satisfactory to the Registrar. Upon due presentation of any Bond for transfer, the Registrar shall authenticate and deliver in exchange therefor, within three (3) Business Days after such presentation, a new Bond or Bonds registered in the name of the transferee or transferees, in authorized denominations and of the same maturity and aggregate principal amount and bearing interest at the same rate as the Bond or Bonds so presented.

All Bonds shall be exchangeable upon presentation and surrender thereof at the principal payment office of the Registrar in Houston, Texas, for a Bond or Bonds of like maturity and interest rate and in any authorized denomination, in an aggregate amount equal to the unpaid principal amount of the Bond or Bonds presented for exchange. The Registrar shall be and is hereby authorized to authenticate and deliver exchange Bonds in accordance with the provisions of this Section. Each Bond delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such Bond is delivered.

The City or the Registrar may require the Owner of any Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Bond. Any fee or charge of the Registrar for such transfer or exchange shall be paid by the City.

12. Mutilated, Lost, or Stolen Bonds. Upon the presentation and surrender to the Registrar of a mutilated Bond, the Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like maturity, interest rate, and principal amount, bearing a number not contemporaneously outstanding. If any Bond is lost, apparently destroyed, or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authorize and the Registrar shall authenticate and deliver a replacement Bond of like maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding.

The City or the Registrar may require the Owner of a mutilated Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Registrar. The City or the Registrar may require the Owner of a lost, apparently destroyed or wrongfully taken Bond, before any replacement Bond is issued, to:

- (i) furnish to the City and the Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Bond;
- (ii) furnish such security or indemnity as may be required by the Registrar and the City to save them harmless;
- (iii) pay all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Registrar and any tax or other governmental charge that may be imposed; and
- (iv) meet any other reasonable requirements of the City and the Registrar.

If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Bond, authorize the Registrar to pay such Bond.

Each replacement Bond delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

13. Cancellation of Bonds. All Bonds paid in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment. The Registrar shall furnish the City with appropriate certificates of destruction of such Bonds.

14. Book-Entry Only System. (a) The Initial Bond shall be registered in the name designated in the Officer's Pricing Certificate. Except as provided in Section 15 hereof, all other Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such DTC Participant holds an interest in the Bonds, except as provided in this Ordinance. Without limiting the immediately preceding sentence, the City and the Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute Owner of such Bond for the purpose of payment of principal of and interest on the Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payments of principal, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a Bond certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions of this Ordinance with respect to interest checks being mailed to the Owner of record as of the Record Date, the phrase "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

15. Successor Securities Depository; Transfer Outside Book-Entry Only System. In the event that the City in its sole discretion, determines that the beneficial owners of the Bonds be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants, as identified by DTC, of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants, as identified by DTC, of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts, as identified by DTC. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners

transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

16. Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Blanket Letter of Representations.

17. Optional and/or Mandatory Redemption; Defeasance. The Bonds are subject to optional and/or mandatory redemption as set forth in the Form of Bond in this Ordinance and in the Officer's Pricing Certificate.

Principal amounts may be redeemed only in integral multiples of \$5,000. If a Bond subject to redemption is in a denomination larger than \$5,000, a portion of such Bond may be redeemed, but only in integral multiples of \$5,000. Upon surrender of any Bond for redemption in part, the Registrar, in accordance with Section 11 hereof, shall authenticate and deliver in exchange therefor a Bond or Bonds of like maturity and interest rate in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered.

Notice of any redemption identifying the Bonds to be redeemed in whole or in part shall be given by the Registrar at least thirty (30) days prior to the date fixed for redemption by sending written notice by first class mail to the Owner of each Bond to be redeemed in whole or in part at the address shown on the Register. Such notices shall state the redemption date, the redemption price, the place at which Bonds are to be surrendered for payment and, if less than all Bonds outstanding of a particular maturity are to be redeemed, the numbers of the Bonds or portions thereof of such maturity to be redeemed. Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice. By the date fixed for redemption, due provision shall be made with the Registrar for payment of the redemption price of the Bonds or portions thereof to be redeemed, plus accrued interest to the date fixed for redemption. When Bonds have been called for redemption in whole or in part and due provision has been made to redeem same as herein provided, the Bonds or portions thereof so redeemed shall no longer be regarded as outstanding except for the purpose of receiving payment solely from the funds so provided for redemption, and the rights of the Owners to collect interest which would otherwise accrue after the redemption date on any Bond or portion thereof called for redemption shall terminate on the date fixed for redemption.

The Bonds may be discharged, defeased, redeemed or refunded in any manner now or hereafter permitted by law.

18. Forms. The form of the Bond, including the form of Registration Certificate of the Comptroller, which shall be attached or affixed to the Initial Bond, the form of Assignment and the form of the Registrar's Authentication Certificate, shall be, respectively, substantially as follows, with such additions, deletions and variations as may be necessary to conform to the terms specified in the Officer's Pricing Certificate:

(a) Form of Bond.

UNITED STATES OF AMERICA
STATE OF TEXAS
COUNTY OF WHARTON

REGISTERED
NUMBER

REGISTERED
DENOMINATION

\$ _____

CITY OF WHARTON, TEXAS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2019

INTEREST RATE: MATURITY DATE: DATED DATE: CUSIP:

December 1, 20__ _____¹

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Wharton, Texas (the "City") promises to pay to the registered owner identified above, or registered assigns, on the maturity date specified above, upon presentation and surrender of this Bond at the principal payment office of Zions Bancorporation, National Association, Amegy Bank Division, (the "Registrar"), the principal amount identified above, payable in any coin or currency of the United States of America which on the date of payment is legal tender for the payment of debts due the United States of America, and to pay interest thereon at the rate shown above, calculated on the basis of a 360-day year of twelve 30-day months, from _____, _____, or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this Bond is payable by check on June 1 and December 1 beginning on June 1, 2019, mailed to the registered owner of record as of the close of business on the last business day of the month preceding each interest payment date.

THIS BOND is one of a duly authorized issue of Bonds, aggregating \$²_____ (the "Bonds"), issued for the purpose of refunding a portion of the City's outstanding obligations, under and in strict conformity with the Constitution and laws of the State of Texas, particularly Chapter 1207, Texas Government Code, and pursuant to an ordinance adopted by the City Council (the "Ordinance"), which Ordinance is of record in the official minutes of the City.

THE CITY RESERVES THE RIGHT, at its option, to redeem Bonds maturing on and after June 1, 2029, in whole or from time to time in part, in integral multiples of \$5,000, on June 1, 2030, or any date thereafter at par plus accrued interest on the principal amounts called for

¹ Insert from Officers Pricing Certificate.

² Insert from Officers Pricing Certificate.

redemption to the date fixed for redemption. If less than all the Bonds are to be redeemed, the City shall select the Bonds to be redeemed.

THE BONDS maturing in the years ____ and ____ (the "Term Bonds") are subject to mandatory redemption prior to maturity in the amounts and on the dates set out below, at a price equal to the principal amount to be redeemed plus accrued interest to the redemption date:

TERM BONDS MATURING IN THE YEAR

<u>Mandatory Redemption</u>	<u>Principal Amount</u>
June 1, 20__	\$_____
June 1, 20__ (maturity)	\$_____

TERM BONDS MATURING IN THE YEAR

<u>Mandatory Redemption</u>	<u>Principal Amount</u>
June 1, 20__	\$_____
June 1, 20__	\$_____
June 1, 20__ (maturity)	\$_____

The particular Term Bonds to be redeemed shall be selected by the Registrar by lot or other customary random selection method, on or before January 15 of each year in which Term Bonds are to be mandatorily redeemed. The principal amount of Term Bonds to be mandatorily redeemed in each year shall be reduced by the principal amount of such Term Bonds that have been acquired by the City and delivered to the Registrar for cancellation or have been optionally redeemed and which have not been made the basis for a previous reduction.

NOTICE OF ANY REDEMPTION shall be given by the Registrar at least thirty (30) days prior to the date fixed for redemption by first class mail, addressed to the registered owners of each Bond to be redeemed in whole or in part at the address shown on the books of registration kept by the Registrar. When Bonds or portions thereof have been called for redemption, and due provision has been made to redeem the same, the principal amounts so redeemed shall be payable solely from the funds provided for redemption, and interest which would otherwise accrue on the amounts called for redemption shall terminate on the date fixed for redemption.

THIS BOND IS TRANSFERABLE only upon presentation and surrender at the principal payment office of the Registrar in Houston, Texas, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his authorized representative, subject to the terms and conditions of the Ordinance.

THE BONDS ARE EXCHANGEABLE at the principal payment office of the Registrar in Houston, Texas, for Bonds in the principal amount of \$5,000 or any integral multiple thereof, subject to the terms and conditions of the Ordinance.

THIS BOND shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Bond is either (i) registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto or (ii) authenticated by the Registrar by due execution of the authentication certificate endorsed hereon.

THE REGISTERED OWNER of this Bond, by acceptance hereof, acknowledges and agrees to be bound by all the terms and conditions of the Ordinance.

THE CITY has covenanted in the Ordinance that it will at all times provide a legally qualified registrar for the Bonds and will cause notice of any change of registrar to be mailed to each registered owner.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly issued and delivered; that all acts, conditions and things required or proper to be performed, to exist and to be done precedent to or in the issuance and delivery of this Bond have been performed, exist and have been done in accordance with law; and that annual ad valorem taxes, within the limits prescribed by law, sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in the City, and have been pledged irrevocably for such payment.

IN WITNESS WHEREOF, this Bond has been signed with the manual or facsimile signature of the Mayor and countersigned with the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed, or placed in facsimile, on this Bond.

(AUTHENTICATION
CERTIFICATE)

(SEAL)

CITY OF WHARTON, TEXAS

Mayor

City Secretary

(b) Form of Registration Certificate of Comptroller of Public Accounts.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY SIGNATURE AND SEAL this _____.

Comptroller of Public Accounts of the
State of Texas

(SEAL)

(c) Form of Registrar's Authentication Certificate.

AUTHENTICATION CERTIFICATE

It is hereby certified that this Bond has been delivered pursuant to the Bond Ordinance described in the text of this Bond.

Zions Bancorporation, National Association,
Amegy Bank Division
As Paying Agent/Registrar

By _____
Authorized Signature
Date of Authentication _____

(d) Form of Assignment.

ASSIGNMENT

For value received, the undersigned hereby sells, assigns, and transfers unto

(Please print or type name, address, and zip code of Transferee)

(Please insert Social Security or Taxpayer Identification Number of Transferee)
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer said Bond on the books kept for registration thereof, with full power of
substitution in the premises.

DATED: _____

Signature Guaranteed:

Registered Owner

NOTICE: The signature above must correspond to the name of the registered owner as shown on the face of this Bond in every particular, without any alteration, enlargement or change whatsoever.

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

(e) The Initial Bond shall be in the form set forth in paragraphs (a), (b) and (d) of this Section, except for the following alterations:

- (1) immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As Shown Below" and the word "CUSIP" deleted;
- (2) in the first paragraph of the Bond, the words "on the maturity date specified above" and "at the rate shown above" shall be deleted and the following shall be inserted at the end of the first sentence "...with such principal to be paid in installments on the dates, in each of the years and in the principal amounts identified in the following schedule and with such installments bearing interest at the per annum rates set forth in the following schedule:"

[Information to be inserted from the Officer's Pricing Certificate]

- (3) the Initial Bond shall be numbered I-1.

19. CUSIP Numbers. CUSIP Numbers may be printed on the Bonds, but errors or omissions in the printing of such numbers shall have no effect on the validity of the Bonds.

20. Interest and Sinking Fund; Tax Levy. There is hereby established a separate fund of the City to be known as the City of Wharton, Texas, General Obligation Refunding Bonds, Series 2019 Interest and Sinking Fund (the "Interest and Sinking Fund"), which shall be kept separate and apart from all other funds of the City. The proceeds from all taxes levied, assessed and collected for and on account of the Bonds authorized by this Ordinance shall be deposited, as collected, in the Interest and Sinking Fund. While the Bonds or any part of the principal thereof or interest thereon remain outstanding and unpaid, there is hereby levied and there shall be annually assessed and

collected in due time, form and manner, and at the same time as other City taxes are assessed, levied and collected, in each year, a continuing direct annual ad valorem tax, within the limits prescribed by law, upon all taxable property in the City, sufficient to pay the current interest on the Bonds as the same becomes due and to provide and maintain a sinking fund of not less than two percent of the principal amount of the Bonds or the amount required to pay each installment of principal of the Bonds as the same matures, whichever is greater, full allowance being made for delinquencies and costs of collection, and said taxes are hereby irrevocably pledged to the payment of the interest on and principal of the Bonds and to no other purpose.

To pay the debt service coming due on the Bonds prior to receipt of the taxes levied to pay such debt service, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

21. Application of Chapter 1208, Texas Government Code. Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the taxes granted by the City under Section 20 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are outstanding an unpaid such that the pledge of the taxes granted by the City under Section 20 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

22. Further Proceedings. After the Initial Bond has been executed, it shall be the duty of the Mayor and other appropriate officials and agents of the City to deliver the Initial Bond and all pertinent records and proceedings to the Attorney General of the State of Texas, for examination and approval. After the Initial Bond has been approved by the Attorney General, it shall be delivered to the Comptroller for registration. Upon registration of the Initial Bond, the Comptroller (or the Comptroller's bond clerk or an assistant bond clerk lawfully designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate prescribed herein and the seal of said Comptroller shall be impressed, or placed in facsimile, thereon.

23. Sale; Engagement Letter. The Bonds shall be sold and delivered to the Underwriter at a price to be set forth in the Officer's Pricing Certificate, plus accrued interest to the date of delivery, in accordance with the form of Official Bid Form, which is hereby approved by the City Council, subject to completion in accordance with the terms of the Officer's Pricing Certificate. The Pricing Officer is hereby authorized and directed to execute the Official Bid Form on behalf of the City, and the Mayor, City Manager and all other officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds.

The engagement of Hunton Andrews Kurth LLP as bond counsel for the City in connection with the issuance, sale and delivery of the Bonds is hereby approved, ratified and confirmed, and the Mayor is hereby authorized to execute and deliver an engagement letter between the City and such firm, with respect to services as bond counsel, in such form as may be approved by the City Council.

24. Federal Income Tax Exclusion. The City intends that the interest on the Bonds shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended, (the “Code”) and all applicable temporary, proposed and final regulations (the “Regulations”) and procedures promulgated thereunder and applicable to the Bonds. For this purpose, the City covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Bonds (including all property, the acquisition, construction or improvement of which is to be financed directly or indirectly with the proceeds of the Bonds) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause the interest on the Bonds to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Bonds for federal income tax purposes. Without limiting the generality of the foregoing, the City shall comply with each of the following covenants:

(a) The City shall not use, permit the use of or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City shall have received a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

(b) Except as permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall, at all times prior to the last stated maturity of the Bonds,

- (i) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed directly or indirectly with Gross Proceeds of such series of the Bonds (including property financed with Gross Proceeds of the Refunded Bonds or notes or bonds refunded by the Refunded Bonds and not use or permit the use of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds in any activity carried on by any person or entity other than a state or local government, unless such use is solely as a member of the general public, or
- (ii) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of such series of the Bonds or any property the acquisition,

construction or improvement of which is to be financed directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Bonds or notes or bonds refunded by the Refunded Bonds other than taxes of general application and interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(c) Except to the extent permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be “loaned” to a person or entity if (1) property acquired, constructed or improved with Gross Proceeds (including property financed with Gross Proceeds of the Refunded Bonds or notes or bonds refunded by the Refunded Bonds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or such property are otherwise transferred in a transaction which is the economic equivalent of a loan.

(d) Except to the extent permitted by Section 148 of the Code and the regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the final stated maturity or final payment of the Refunded Bonds, directly or indirectly invest Gross Proceeds of such Bonds in any Investment (or use such Gross Proceeds to replace money so invested), if as a result of such investment the Yield of all Investments allocated to such Gross Proceeds whether then held or previously disposed of, exceeds the Yield on the Refunded Bonds.

(e) Based on all of the facts and estimates now known or reasonably expected to be in existence on the date the Bonds are delivered, the City reasonably expects that the proceeds of the Bonds and the Refunded Bonds (to the extent any of such proceeds remain unexpended) will not be used in a manner that would cause the Bonds or the Refunded Bonds or any portion thereof to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(f) At all times while the Bonds are outstanding, the City will identify and properly account for all amounts constituting gross proceeds of the Bonds in accordance with the Regulations. The City will monitor the yield on the investments of the proceeds of the Bonds and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Bonds. To the extent necessary to prevent the Bonds from constituting “arbitrage bonds,” the City will make such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Bonds to be less than the yield that is materially higher than the yield on the Bonds.

(g) The City will not take any action or knowingly omit to take any action, if taken or omitted, would cause the Bonds to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code.

(h) The City represents that not more than fifty percent (50%) of the proceeds of any new money portion of the Bonds or any new money issue refunded by, the Refunded Bonds was invested in nonpurpose investments (as defined in Section 148(f)(b)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the City reasonably expected at the time each issue of the Refunded Bonds was issued that at least eighty-five percent (85%) of the spendable proceeds of the Bonds or the Refunded Bonds would be used to carry out the governmental purpose of such Bonds within the corresponding three-year period beginning on the respective dates of the Bonds or the Refunded Bonds.

(i) The City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Bonds, if any, be rebated to the federal government. Specifically, the City will (i) maintain records regarding the receipt, investment and expenditure of the gross proceeds of the Bonds as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the City allocable to other obligations of the City or moneys which do not represent gross proceeds of any obligations of the City and retain such records for at least six years after the day on which the last outstanding Bond is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid, in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of the gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Bonds and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the City will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, including interest thereon and penalty.

(j) The City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in smaller profit or a larger loss than would have resulted if such arrangement had been at arm's length and had the yield on the issue not been relevant to either party.

(k) The City will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Bonds on such form and in such place as the Secretary may prescribe.

(l) The City will not issue or use the Bonds as part of an "abusive arbitrage device" (as defined in Section 1.148 10(a) of the Regulations). Without limiting the foregoing, the Bonds are not and will not be a part of a transaction or series of transactions

that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the City to exploit the difference between tax exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.

(m) Proper officers of the City charged with the responsibility for issuing the Bonds are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the Issue Date and stating whether there are facts, estimates or circumstances that would materially change the City's expectations. On or after the Issue Date, the City will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.

(n) The covenants and representations made or required by this Section are for the benefit of the Bond holders and any subsequent Bond holder, and may be relied upon by the Bond holder and any subsequent Bond holder and bond counsel to the City.

In complying with the foregoing covenants, the City may rely upon an unqualified opinion issued to the City by nationally recognized bond counsel that any action by the City or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Bonds to be includable in gross income for federal income tax purposes under existing law.

Notwithstanding any other provision of this Ordinance, the City's representations and obligations under the covenants and provisions of this Section shall survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the exclusion of interest on the Bonds from the gross income of the owners for federal income tax purposes.

25. Qualified Tax-Exempt Obligations. The City hereby designates the Bonds as "qualified tax-exempt obligations" as defined in Section 265(b)(3) of the Code. In connection therewith, the City represents (a) that the aggregate amount of tax-exempt obligations issued by the City during calendar year 2013, including the Bonds, which have been designated as "qualified tax-exempt obligations" under section 265(b)(3) of the Code does not exceed \$10,000,000, and (b) that the reasonably anticipated amount of tax-exempt obligations which will be issued by the City during calendar year 2013, including the Bonds, will not exceed \$10,000,000. For purposes of this Section, the term "tax-exempt obligation" does not include "private activity bonds" within the meaning of section 141 of the Code, other than "qualified 501(c)(3) bonds" within the meaning of section 145 of the Code. In addition, for purposes of this Section, the City includes all entities which are aggregated with the City under the Code.

26. Use of Proceeds. Proceeds from the sale of the Bonds shall, promptly upon receipt by the City, be applied as follows:

- (a) **Accrued interest in the amount of \$³ and, if necessary, net premium on the Bonds in the amount of \$⁴, shall be deposited into the Interest and Sinking Fund.**
- (b) **Premium in the amount of \$⁵ shall be used to pay the underwriter's discount.**
- (c) **Net premium in the amount of \$⁶ shall be used to pay the costs of issuance.**
- (d) **Bond proceeds in the aggregate amount of \$⁷, together with other lawfully available funds of the City in the amount of \$⁸ shall be deposited directly with the paying agent for the Refunded Bonds to pay all principal of and interest on the Refunded Bonds due on the redemption date specified in the Officer's Pricing Certificate and all costs incurred in the issuance of the Bonds and the refunding of the Refunded Bonds. Any proceeds of the Bonds remaining after making all such deposits and payments shall be deposited into the Interest and Sinking Fund.**

27. Redemption of Refunded Bonds. The City has irrevocably exercised its option to call the Refunded Bonds of the City for redemption prior to maturity on the dates and at the prices shown on Exhibit A attached to the Officer's Pricing Certificate, and authorizes and directs notice of such redemption to be given in accordance with the ordinances authorizing the issuance of such Refunded Bonds.

28. Continuing Disclosure Undertaking. (a) Annual Reports. The City will provide certain updated financial information and operating data to the MSRB annually in an electronic format as prescribed by the MSRB and available via the Electronic Municipal Market Access ("EMMA") system at www.emma.msrb.org. The information to be updated includes all quantitative financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 30 of this Ordinance in [Appendix A in Schedules 1 through 4, 6 through 8 and 10 through 13 and Appendix C.] The City will update and provide this information within six months after the end of each fiscal year.

³ Insert from Officers Pricing Certificate.

⁴ Insert from Officers Pricing Certificate.

⁵ Insert from Officers Pricing Certificate.

⁶ Insert from Officers Pricing Certificate.

⁷ Insert from Officers Pricing Certificate.

⁸ Insert from Officers Pricing Certificate.

If the City changes its fiscal year, it will submit a notice of such change to the MSRB, and the date of the new fiscal year end prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC, as permitted by the SEC Rule. The updated information will include audited financial statements, if the City commissions an audit and it is completed by the required time. If audited financial statements are not available by the required time, the City will provide unaudited financial statements by the required time and audited financial statements when and if such audited statements become available. Any such financial statements will be prepared in accordance with the accounting principles described in APPENDIX C or such other accounting principles as the City may require to employ from time to time pursuant to State law or regulation.

(b) Material Event Notices. The City shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner (not in excess of ten (10) days after the occurrence of the event), of any of the following events with respect to the Bonds:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the City;
- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (14) Appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material.

For the purposes, any event described in the immediate preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding Under States Bankruptcy Code or any other proceeding under state or federal law in which a court or governmental authority has assumed

jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance this Section by the time required by such Section.

(c) **Limitations, Disclaimers, and Amendments.** The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Texas law that causes Bonds no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and the beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE UNLIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Order for purposes of any other provision of this Order.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, or status or type of principal payment of the City, if (1) the agreement, as so amended, would have permitted an underwriter to purchase or sell Bonds in

the initial primary offering in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the holders of a majority in aggregate amount of the outstanding Bonds consent to such amendment or (b) a person unaffiliated with the City (such as nationally recognized bond counsel) determines that the amendment will not materially impair the interests of the holders and beneficial owners of the Bonds. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds. If any such amendment is made, the City will include in its next annual update an explanation in narrative form of the reasons for the change and its impact on the type of operating data or financial information being provided.

All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

29. Related Matters. To satisfy in a timely manner all of the City's obligations under this Ordinance, the Mayor, the City Secretary or an Assistant City Secretary, the City Manager, and all other appropriate officers and agents of the City are hereby authorized and directed to take all other actions that are reasonably necessary to provide for the refunding of the Refunded Bonds, including, without limitation, executing and delivering on behalf of the City all certificates, consents, receipts, requests, and other documents as may be reasonably necessary to satisfy the City's obligations under this Ordinance and to direct the application of funds of the City consistent with the provisions of this Ordinance.

30. Official Statement. The City Council hereby approves the form and content of the Preliminary Official Statement prepared for the initial offering and sale of the Bonds and hereby authorizes the preparation of a final Official Statement reflecting the terms of the Official Bid Form and other relevant matters. The use of such Official Statement in the reoffering of the Bonds by the Underwriter is hereby approved and authorized.

31. Registrar. The form of agreement setting forth the duties of the Registrar is hereby approved, and the appropriate officials of the City are hereby authorized to execute such agreement for and on behalf of the City.

32. No Personal Liability. No recourse shall be had for payment of the principal of or interest on any Bonds or for any claim based thereon, or on this Ordinance, against any official or employee of the City or any person executing any Bonds.

33. Power to Revise Form of Documents. Notwithstanding any other provision of this Ordinance, the Mayor, City Secretary and other appropriate officials of the City are each hereby authorized to make or approve such revisions, additions, deletions and variations to this Ordinance, in the judgment of the Mayor, City Secretary and other appropriate officials of the City, and in the opinion of Bond Counsel to the City, as may

be necessary or convenient to carry out or assist in carrying out the purposes of this Ordinance, the Preliminary Official Statement, and the final Official Statement; provided, however, that any changes to such documents resulting in substantive amendments to the terms and conditions of the Bonds or such documents shall be subject to the prior approval of the City Council.

34. Open Meeting. The meeting at which this Ordinance is adopted was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by the Texas Open Meetings Act; and such notice as given is hereby authorized, approved, adopted and ratified.

PASSED AND APPROVED on the 14th day of January, 2019.

Mayor
City of Wharton, Texas

ATTEST:

City Secretary
City of Wharton, Texas

(SEAL)

EXHIBIT A
CITY'S OUTSTANDING OBLIGATIONS

Tax and Revenue Certificates of Obligation, Series 2009
General Obligation Refunding Bonds, Series 2010
Tax and Revenue Certificates of Obligation, Series 2011
General Obligation Refunding Bonds, Series 2013
Tax and Revenue Certificates of Obligation, Series 2013
Tax and Revenue Certificates of Obligation, Series 2015
Tax Notes, Series 2017

Councilmember Terry Freese seconded the motion. All voted in favor.

The sixteenth item discussed on the agenda was to review and consider a resolution authorizing Publication of Notice of Intention to issue Certificates of Obligation. City Manager Andres Garza, Jr. presented a draft resolution and Notice of Intent to issue Certification of Obligation.

Finance Director Joan Anandel stated the Finance Committee met on January 8, 2019 and voted to recommend this item to the City Council for consideration. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2019-10, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-10**

**RESOLUTION AUTHORIZING PUBLICATION OF NOTICE
OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION**

**THE STATE OF TEXAS §
COUNTY OF WHARTON §
CITY OF WHARTON §**

WHEREAS, pursuant to Subchapter C of Chapter 271, Texas Local Government Code, the City Council (the "City Council") of the City of Wharton, Texas (the "City"), is authorized to issue certificates of obligation to pay, among other things, contractual obligations to be incurred for the construction of public works; for the purchase of materials, supplies, equipment or machinery for authorized needs and purposes; and for the payment of contractual obligations for professional services; and

WHEREAS, the City Council has determined that it is in the best interests of the City and otherwise desirable to issue certificates of obligation in an aggregate principal amount not to exceed \$3,000,000 for the purposes set forth herein and in **Exhibit A**; and

WHEREAS, in connection with the issuance of the certificates of obligation, the City Council intends to publish a notice of intention to issue the certificates of obligation in a newspaper of general circulation in the City as described herein. NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS:

Section 1. The recitals of this Resolution are hereby approved by the City Council and incorporated into and made a part hereof.

Section 2. The City Secretary is hereby authorized and directed to cause to be published a notice of intention to issue certificates of obligation in the manner required by law and in substantially the form attached hereto as **Exhibit A**.

Section 3. The notice authorized herein shall be published once a week for two (2) consecutive weeks in a newspaper (as such term is defined by Subchapter C, Chapter 2051, Government Code) that is of general circulation in the City. The date of the first publication shall be at least thirty-one (31) days before the date tentatively set in said notice for the passage of the ordinance authorizing the issuance of such certificates of obligation.

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Section 4. The Mayor, City Secretary, and other officers, employees and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this Resolution.

Section 5. This Resolution shall take effect immediately upon its passage, and all resolutions and ordinances of the City Council, or parts thereof, inconsistent with this Resolution are hereby repealed to the extent of such inconsistency.

Section 6. The notice and agenda for the meeting at which this Resolution was adopted and that was heretofore posted by the City Secretary, and the posting thereof, are hereby authorized, approved, and ratified. It is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public, and public notice of the time, place and purposes of the meeting were given, all as required by the Texas Open Meetings Act.

PASSED AND APPROVED the 14th day of January, 2019.

Mayor
City of Wharton, Texas

ATTEST:

City Secretary
City of Wharton, Texas

Councilmember Steven Schneider seconded the motion. All voted in favor.

The seventeenth item discussed on the agenda was to review and consider a resolution of the Wharton City Council expressing intent to finance expenditures to be incurred by the City of Wharton for: (i) the construction and rehabilitation of City streets and related drainage,; (ii) the purchase of vehicles and equipment; (iii) the costs associated with Hurricane Harvey Recovery; (iv) the construction and rehabilitation of City hangars at the airport; (v) the construction and rehabilitation of City water and sewer systems; (vi) building and facility improvements,; (vii) technology upgrades: (viii) the purchase of materials, supplies, equipment, machinery, buildings, land and/or rights-of-way in connection with any of the foregoing; (ix) the costs of professional services incurred in connection with any of the foregoing; and (x) the costs and expenses of issuing the certificates of obligation. City Manager Andres Garza, Jr. stated the City of Wharton was moving forward with the issuance of the bonds for the various projects listed above. City of Wharton Finance Director Joan Andel stated a resolution expressing the City's intent to finance expenditures to be incurred

(reimburse itself) for the costs associated with the projects until the bonds have been issued was required. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Resolution No. 2019-09, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-09**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, EXPRESSING INTENT TO FINANCE EXPENDITURES TO BE INCURRED BY THE CITY OF WHARTON FOR: (I) THE CONSTRUCTION AND REHABILITATION OF CITY STREETS AND RELATED DRAINAGE; (II) THE PURCHASE OF VEHICLES AND EQUIPMENT; (III) THE COSTS ASSOCIATED WITH HURRICANE HARVEY RECOVERY; (IV) THE CONSTRUCTION AND REHABILITATION OF CITY HANGARS AT THE AIRPORT; (V) THE CONSTRUCTION AND REHABILITATION OF CITY WATER AND SEWER SYSTEMS; (VI) BUILDING AND FACILITY IMPROVEMENTS; (VII) TECHNOLOGY UPGRADES; (VIII) THE PURCHASE OF MATERIALS, SUPPLIES, EQUIPMENT, MACHINERY, BUILDINGS, LAND AND/OR RIGHTS-OF-WAY IN CONNECTION WITH ANY OF THE FOREGOING; (IX) THE COSTS OF PROFESSIONAL SERVICES INCURRED IN CONNECTION WITH ANY OF THE FOREGOING; AND (X) THE COSTS AND EXPENSES OF ISSUING THE CERTIFICATES OF OBLIGATION.

**THE STATE OF TEXAS §
COUNTY OF WHARTON §
CITY OF WHARTON §**

WHEREAS, the City of Wharton, Texas (the “City”), is authorized to finance its activities by issuing obligations pursuant to the Texas Government Code and Texas Local Government Code, which may include obligations the interest on which is excludable from gross income for federal income tax purposes (“tax-exempt obligations”), pursuant to Section 103 of the Internal Revenue of 1986, as amended (the “Code”); and

WHEREAS, the City will make or has made, not more than 60 days prior to the date hereof, payments with respect to the projects listed on Exhibit A attached hereto (the “Financed Facilities and Improvements”); and

WHEREAS, the City desires to reimburse itself for the costs associated with the Financed Facilities and Improvements listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof; and

WHEREAS, the City reasonably expects to issue one or more series of tax-exempt obligations to reimburse itself for the costs associated with the Financed Facilities and Improvements listed on Exhibit A attached hereto.

NOW, THEREFORE, be it resolved that:

35. The City hereby declares its intent to reimburse itself for capital expenditures that have been paid within the last 60 days or that will be paid subsequent to the date hereof in connection with the Financed Facilities and Improvements listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof.

36. The City reasonably expects that the maximum principal amount of tax-exempt obligations issued to reimburse the City for costs associated with the Financed Facilities and Improvements listed on Exhibit A attached hereto will not exceed \$3,000,000.

PASSED AND APPROVED THIS 14th DAY OF JANUARY, 2019.

By: _____
Mayor
City of Wharton, Texas

ATTEST:

City Secretary
City of Wharton, Texas

Councilmember Russell Machann seconded the motion. All voted in favor.

The eighteenth item discussed on the agenda was to review and consider 19-20 CDBG Grant Program Project Recommendation:

A. Southeast Avenue Sewer Improvement.

City Manager Andres Garza, Jr. stated the City Public Works Department inspected the main sewer trunk lines from Milam Street to Wastewater Plant No. 1 along Southeast Avenue to determine its condition, since there had been repairs done to the line in prior years. City Manager Garza said the City Staff and grant consultant engineer, Jones & Carter, identified sections of the lines that were in current need of replacement. Community Development Director Gwyn Teves stated that since the City would be eligible to apply for the CDBG 2019-2020 Grant Program this would be an eligible project. Mrs. Teves said the Public Works Committee met on January 8, 2019 and voted to recommend this project for submittal. After some discussion, Councilmember Al Bryant moved to approve the submittal of an application to the CDBG 2019-2020 Grant Program for the Southeast Avenue Sewer Improvement. Councilmember Don Mueller seconded the motion. All voted in favor.

The nineteenth item discussed on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 2, Administration, Article V, Division 2, Beautification Commission, Section 2-122 to 2-123. City Manager Andres Garza, Jr presented a copy of a memorandum from Code Enforcement Officer Jimmy Nickolyn stating the Beautification Commission was requesting the City Council consider amending the number of commissioners on the Beautification Commission from nine (9) to seven (7). Mr. Nickolyn stated the Commission often experienced an issue with meeting a quorum of the members and

were requesting the City Council consider amending the number from nine to seven. After some discussion, Councilmember Don Mueller moved to approve City of Wharton Ordinance No. 2019-04, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-04**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE V, DIVISION 2, BEAUTIFICATION CITY COMMISSION, SECTIONS 2-122 AND 2-123.

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that Chapter 2, Administration, Article V, Division 2, Beautification City Commission, Sections 2-122 and 2-123 be amended to read as follows:

Sec. 2-122. - Membership.

- (a) The beautification city commission shall be comprised of seven members to be appointed by the city council and shall be residents of the city or shall have businesses in the city.
- (b) Members of the commission shall serve for two-year staggered terms.

Sec. 2-123. - Organization; meetings.

- (a) Four members of the beautification city commission shall constitute a quorum for the conduct of business. The members of the commission shall regularly attend meetings and public hearings of the commission and shall serve without compensation except for reimbursement for authorized expenses attendant to the performance of their duties.
- (b) The commission shall hold an organizational meeting in July of each year and shall elect a chairman and vice-chairman from among its members before proceeding to any other matters of business. The commission shall meet regularly and shall designate the time and place of its meetings.
- (c) The commission shall adopt its own rules of procedure and keep a record of its proceedings in accordance with the provisions of this division and the Charter of the city. Newly appointed members shall be installed at the first regular meeting after their appointment.
- (d) Each month a report shall be submitted to the city council showing the cumulative attendance of each member with notation of members who have been absent from three consecutive meetings.

Severability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 14th day 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Terry Freese seconded the motion. All voted in favor.

The twentieth item discussed on the agenda was to review and consider the Lower Colorado River Authority for the 2019 Community Development Partnership Grant Program:

- A. **Resolution:** A resolution of the Wharton City Council authorizing the submission of an application to the to the Lower Colorado River Authority for the 2019 Community Development Partnership Grant Program and authorizing the Mayor of the City of Wharton to execute all documents related to said submission.

City Manager Andres Garza, Jr. stated the LCRA and its wholesale electric customers award grants of up to \$50,000 to worthy community projects through the Community Development Partnership Program which help local governments, emergency responders and nonprofit organizations fund capital improvement projects that might otherwise not be possible. City Manager Garza said the Grant-funded projects must be located within LCRA's service area. Community Development Director Gwyn Teves stated the grants were awarded twice a year to volunteer fire departments, emergency responders, cities and counties, schools, libraries, civic groups, museums, and other nonprofit organizations and the City Staff was requesting the City Council consider approving the submission of the application. After some discussion, Councilmember Russell Machann moved to approve the City of Wharton Resolution No. 2019-02, which read as follows:

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE LOWER COLORADO RIVER AUTHORITY FOR THE 2019 COMMUNITY DEVELOPMENT PARTNERSHIP GRANT PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID SUBMISSION.

WHEREAS, The City of Wharton City Council wishes to submit an application to the Lower Colorado River Authority for the 2019 Community Development Partnership Grant Program; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents relating to said grant application.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS:

SECTION I. The Wharton City Council hereby approves the submittal of the application to the Lower Colorado River Authority for the 2019 Community Development Partnership Grant Program.

SECTION II. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said grant application.

SECTION III. That this resolution shall become effective immediately upon its passage.

PASSED, APPROVED, and ADOPTED this 14th day of January 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Terry Freese seconded the motion. All voted in favors.

The twenty-first item discussed on the agenda was to review and consider Boys & Girls Club:

A. Resolution: A resolution of the Wharton City Council authorizing a deed without warranty to the Boys & Girls Club of Wharton and authorizing the Mayor of the City of Wharton to execute said deed without warranty.

City Manager Andres Garza, Jr. stated the Boys & Girls Club of Wharton met with City Staff regarding the donation of the property that it was currently utilizing with a reversionary clause. City Manager Garza said the item was taken to City Council and no action was taken due to the Council wanting further clarification from legal and after further discussions with the Boys & Girls Club of Wharton, their plan was to merge with the Boys & Girls Club of Greater Houston. He said the Boys & Girls Club of Wharton also originally discussed providing a clause in the merger for the City of Wharton to have a buyback and first refusal option in the agreement if the property was ever to be sold. Community Development Director Gwyn Teves stated the Finance Committee met on January 8, 2019 and voted to recommend this item to the City Council for consideration. City Attorney Paul Webb stated the deed would be surface rights only. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Resolution No. 2019-03, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-03**

A RESOLUTION OF THE WHARTON CITY COUNCIL AUTHORIZING A DEED WITHOUT WARRANTY TO THE BOYS & GIRLS CLUB OF WHARTON AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE SAID DEED WITHOUT WARRANTY.

WHEREAS, The Wharton City Council wishes to deed the following to the Boys & Girls Club of Wharton:

Property (including any improvements):

SURFACE ONLY:

Lots One (1), Two (2), Three (3), Four (4), and Five (5), Block B, Burr Subdivision in the City of Wharton, Wharton County, Texas, as shown by Plat thereof recorded in Volume 152, Page 2 of the Wharton County Deed Records.

Lots Six (6), Seven (7), Eight (8), Nine (9), Ten (10), and Eleven (11), Block B, Burr Subdivision, City of Wharton, Wharton County, Texas. **LESS SAVE AND EXCEPT** the South 10.78 ft (S/10.78') of Lot Eleven (11), of the Burr Subdivision, as per Plat thereof, recorded in Volume 153, Page 2, of the Wharton County Deed Records.

Lots Sixteen a (16a) and Fifteen a (15b) of the Ahldag Addition, City of Wharton, Texas.

.0731 acre of land, more or less, being the North 300' of the West 106.27 of Block Fifteen (15) of the Ahldag Addition to the City of Wharton, Wharton County, Texas, as shown by Plat thereof recorded in Volume 92, Page 204 of the Wharton County Deed Records, the North line of said tract being the South line of Ahldag Avenue and being the same real property specifically described

in Deed dated January 22, 1944 from J.M. Burr, Jr. et al to A.B. Stavinoha, recorded in Volume 168, Page 350 of the Wharton County Deed Records.

THE SURFACE ONLY of 0.73 acre of land, more or less, out of Block Sixteen (16), Ahldag Addition to the City of Wharton, Wharton County, Texas, as shown by Plat thereof recorded in Volume 92, Page 204 of the Deed Records of Wharton County, Texas, said 0.73 acre being the Southwest 317.36' of that certain 1.48 acre tract (called Block 16B) described in Deed dated March 18, 1942 from George R. Hawes to George Legler, et ux, recorded in Volume 157, Page 352 of the Deed Records of Wharton County, Texas.

THE SURFACE ONLY of 0.73 acre of land, more or less, out of Blocks Sixteen (16) and Seventeen (17), Ahldag Addition to the City of Wharton, Wharton County, Texas, as shown by Plat thereof recorded in Volume 92, Page 204 of the Deed Records of Wharton County, Texas, being the Southwest 317.37' of Block Seventeen (17) and the Southwest 317.37' of the Southeast 33' of Block Sixteen (16), and being part of that same real property specifically described in Deed dated March 31, 1988 from George Legler, et ux to Clara L. Heintschel, recorded in Volume 787, Page 699 of the Deed Records of Wharton County, Texas.

0.582 ACRE OF LAND, more or less, being the Southwest 317.37' of Block Eighteen (18), Ahldag Addition in the City of Wharton, Wharton County, Texas, as shown by Plat thereof recorded in Volume 92, Page 204 of the Deed Records of Wharton County, Texas, and being that same real property specifically described in Deed dated June 14, 2006 from Russell A. Jurasek and wife, Jacqueline to Team Wharton, Inc., recorded in Volume 658, Page 1 of the Official Records of Wharton County, Texas.

South ½ of Lot Fifteen a-1 (15a-1), Ahldag Addition, City of Wharton, Texas.

Reservations from Conveyance and Exceptions to Conveyance and Warranty:

1) Easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded instruments, other than liens and conveyances, that affect the property; taxes for the current year, the payment of which Grantee assumes; and

WHEREAS, The City of Wharton by donation is adhering to Local Government Code Sec. 253.011; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the Deed Without Warranty.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute Deed without Warranty for the above-mentioned properties to the Boys & Girls Club of Wharton.

Section II. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 14th day of January 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Terry Freese seconded the motion. All voted in favor.

The twenty-second item discussed on the agenda was to review and consider City of Wharton Housing Project:

- A. **Resolution:** A resolution of the Wharton City Council declaring certain City of Wharton properties as surplus properties and to designate these properties as affordable housing programs for City of Wharton residents.
- B. **Resolution:** A resolution of the Wharton City Council approving the receipt of properties from the Wharton Housing Finance Corporation that have been deemed unsuitable for development at this time.

Community Development Director Gwyneth Teves stated that some lots that were selected for the City of Wharton Housing Project were not suitable for construction and other lots would have to be utilized. After some discussion, Councilmember Al Bryant moved to approve the following City of Wharton Resolutions No. 2019-04 and 2019-05, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-04**

A RESOLUTION OF THE WHARTON CITY COUNCIL DECLARING CERTAIN CITY OF WHARTON PROPERTIES AS SURPLUS PROPERTIES AND TO DESIGNATE THESE PROPERTIES FOR AFFORDABLE HOUSING PROGRAMS FOR CITY OF WHARTON RESIDENTS.

WHEREAS, The Wharton City Council received certain City of Wharton properties from taxing entities and the City Council determined that there was a need to declare certain City of Wharton properties for affordable housing; and,

WHEREAS, The City Council determined that certain properties could be utilized by the City of Wharton in a new construction housing development program; and,

WHEREAS, The properties identified to be included in the new construction housing development program are as follows:

All that certain tract or parcel situated in the City of Wharton, William Kincheloe Survey, Wharton County, Texas; being designated as Lot 129A, Block 63, City of Wharton, according to the map or plat thereof recorded in Volume 163, Page 3, Map Records of Wharton County, Texas; said Tract as described by metes and bounds in deed dated March 28, 1911, from Wharton Bank and Trust to R.E. Vineyard (Volume 30, Page 17, Deed Records of Wharton County, Texas) 1017 W CANEY, Account #R018497 (Bid in Trust 6/7/2001)
Lot 22, Block 64, City of Wharton, Being Lot 136-C, City of Wharton, Wharton County, Texas (Volume 415, Page 472 of the Deed Records, Wharton County, Texas) W MILAM, Account #R018509 (Bid in Trust 5/1/2012)

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS, as follows:

Section I. That the Wharton City Council hereby designates the afore-mentioned properties for affordable housing program.

Section II. That the Wharton City Council hereby authorizes that these properties be dedicated for the construction of affordable homes.

Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 14th day of January 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2019-05**

A RESOLUTION OF THE WHARTON CITY COUNCIL REMOVING THE DECLARATION OF CERTAIN CITY OF WHARTON PROPERTIES AS SURPLUS PROPERTIES AND TO REMOVE THE DESIGNATION OF THESE PROPERTIES FOR AFFORDABLE HOUSING PROGRAMS.

WHEREAS, The Wharton Housing Finance Corporation has relinquished their ownership in certain City of Wharton properties due to them being not suitable for development at this time; and

WHEREAS, The Wharton Housing Finance Corporation determined that the properties could be utilized by the City of Wharton,

Legal Description, Deed Reference, Approximate Address, Account # and Bid in Trust Date (all properties located in Wharton County, Texas unless otherwise noted)
Lot 15 of Elizabeth Branch Subdivision out of the A. Jackson League in Wharton County, Texas, being the same property described in deed from Little Green to Lillie Mae Green, dated May 6, 1968 (Volume 390, Page 592 of the Deed Records of Wharton County, Texas) 1511 GOODE, Account #R011833(Bid in Trust 10/2/2011)
Lot 25, Elizabeth Branch Subdivision, a subdivision in Wharton County, Texas (Volume 169, Page 1, Deed Records of Wharton County, Texas) GOODE, Account #R011844 (Bid in Trust 7/5/2011)

NOW, THEREFORE, BE IT RESOLVED by the Wharton City Council that:

Section I. That the Wharton City Council hereby accepts the properties.

Section II. That the Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute all documents related to said property transfer.

Section III. That this resolution shall become effective immediately upon its passage

Passed, Approved, and Adopted this 14th day of January 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

Councilmember Steve Schneider seconded the motion. All voted in favor.

The twenty-third item discussed on the agenda was to review and consider The Texas Colorado River Floodplain Coalition:

- A. Resolution:** A resolution of the Wharton City Council approving an Interlocal Cooperation Agreement between the City of Wharton and the Texas Colorado River Floodplain Coalition and authorizing the Mayor of the City of Wharton to execute said agreement.
- B. Resolution:** A resolution of the Wharton City Council and the Texas Colorado River Floodplain Coalition to appoint members of the Executive and Technical Committees of the Texas Colorado River Floodplain Coalition.

City Manager Andres Garza, Jr. stated the TCRFC provided important mapping services, Hazard Mitigation Grant Program (HMGP) services by assisting in the development of the City's HMGP Mitigation Plan, which was recently approved by FEMA, and other services. Community Development Director Gwyn Teves stated the last update to the agreement and appointment was in 2013 and appointing members to the TCRFC Executive and Technical Committees was recommended. City Manager Garza presented a draft Interlocal Agreement with the TCRFC and a draft resolution approving the agreement. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolutions No. 2019-06 and 2019-07, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019 - 06**

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF WHARTON AND THE TEXAS COLORADO RIVER FLOODPLAIN COALITION.

WHEREAS, An Interlocal Agreement between the City of Wharton, Texas Colorado River Floodplain Coalition and other cities, counties, special districts and other legally constituted political subdivision of the State of Texas relating to the creation and implementation of the Texas Colorado River Floodplain Coalition for the pursuit of common goals for the lower Colorado River basin including flood protection and damage reduction and other appropriate floodplain management goals; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute an interlocal agreement effective January 14, 2019 between the City of Wharton and the Texas Colorado River Floodplain Coalition.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS hereby:

SECTION I. The Wharton City Council hereby authorizes the Mayor of the City of Wharton to execute an interlocal agreement between the City of Wharton and the Texas Colorado River Floodplain Coalition.

SECTION II. That this resolution shall become effective immediately upon its passage.

PASSED, APPROVED, and ADOPTED this 14th day of January 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
RESOLUTION NO. 2019-07**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPOINTING MEMBERS OF THE EXECUTIVE AND TECHNICAL COMMITTEES OF THE TEXAS COLORADO RIVER FLOODPLAIN COALITION.

WHEREAS, The City of Wharton has agreed to participate in the Texas Colorado River Floodplain Coalition; and,

WHEREAS, The Interlocal Agreement creating the Texas Colorado River Floodplain Coalition provided for each participating community to appoint representatives to the Executive and Technical Committees of the Coalition; and,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS hereby:

Section I. Appoints the following City of Wharton representatives to serve on two committees, one executive and one technical, to carry out the duties and responsibilities of these committee members as provided when the Interlocal Agreement creates the Texas Colorado River Floodplain Coalition:

Executive Committee
Elected Officials

Russell Machann
(Primary Member)

Alice Heard
(Alternate Member)

Technical Committee
Floodplain Manager/EMC

Ronnie Bollom
(Primary Member)

Steve Johnson
(Alternate Member)

Section II. Assures the other committee members that the above representatives will strive to diligently represent the City and will faithfully attend and contribute to the scheduled working committee meetings of the Coalition.

NOW THEREFORE, on this the 14th day of January, 2019, in a meeting of the City Council of Wharton, Texas, duly convened and acting in its capacity as governing body of the City of Wharton, on motion of Councilmember Al Bryant and seconded by Councilmember Terry Freese, duly put and carried, this Resolution is hereby adopted.

Passed, Approved, and Adopted this 14th day of January 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST: _____
PAULA FAVORS
City Secretary

Councilmember Terry Freese seconded the motion. All voted in favor.

The twenty-fourth item discussed on the agenda was to review and consider a request from Brooks at Caney Creek. City Manager Andres Garza, Jr. stated that Ms. Laura Clemons who was working with Lance Lurker, Principal of Chapel Creek Investments, LLC to provide low income housing to the residents of Wharton at 2 sites. City Manager Garza presented a copy of the request, which read as follows:

Site 1:

398 Hamilton Street and 309 N Richmond Road.

Vacant property next to the Chamber of Commerce for new construction of 6 residential units and 2 retail units.

Requesting to be provided by City:

1. Waiving of all city-related fees: to include, but not limited to replatting, permit, variance fees, etc.
2. Tree removal: 2 large (24" trunk with 40' canopy) and scrubs.
3. Residential and commercial water taps with a master meter on the residential and 1 tap with a U-branch on the commercial.
4. Ability to purchase all individual meters at cost from City.
5. Sidewalk reconstruction along street front as needed.
6. Landscape beautification grant along street front (including gazebo).

Site 2:

1111 and 1113 College Street.

Existing Harvey-damaged homes for repair/renovation/reconstruction and potential new construction of 2 units.

Requesting to be provided by City:

1. Waiving of all city-related fees: to include, but not limited to replatting, permit, variance fees, etc.
2. Tree removal: 1 large (24" trunk with 40' canopy) and scrubs.
3. Residential master meter.
4. Ability to purchase all individual meters at cost from City.

After some discussion, Councilmember Al Bryant moved to approve the following from the request submitted from Brooks at Caney Creek:

Site 1:

1. Waiving of all city-related fees: to include, but not limited to replatting, permit, variance fees, etc.
3. Residential and commercial water taps with a master meter on the residential and 1 tap with a U-branch on the commercial.
4. Ability to purchase all individual meters at cost from City.

Site 2:

1. Waiving of all city-related fees: to include, but not limited to replatting, permit, variance fees, etc.
3. Residential master meter.
4. Ability to purchase all individual meters at cost from City.

Councilmember Terry Freese seconded the motion. All voted in favor.

The twenty-fifth item discussed on the agenda was to review and consider a resolution of the Wharton City Council approving a Joint Election Agreement with Wharton County Elections Department for the City Election; and authorizing the Mayor of the City of Wharton to execute the agreement. City Manager Andres Garza, Jr. presented a copy of the Joint Election Agreement with Wharton County Elections Department for the City Election, which was to be held May 4, 2019. City Secretary Paula Favors stated the changed to the agreement where due to the purchase of new voting equipment. City Attorney Paul Webb stated he reviewed the Joint Election Agreement and was recommending City Council consider approving the agreement. After some discussion, Councilmember Al Bryant moved to approve City of Wharton Resolution No. 2019-08, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-08**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING A JOINT ELECTION AGREEMENT WITH WHARTON COUNTY ELECTIONS DEPARTMENT FOR THE CITY ELECTION; AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, The Wharton City Council wishes to approve the joint agreement with Wharton County Elections Department for the City election; and,

WHEREAS, The City of Wharton and Wharton County Elections Department wishes to be bound by the conditions set forth in the agreement; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute the agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS as follows:

Section I. That the Wharton City Council hereby approves an agreement between the City of Wharton and Wharton County Elections Department for the City election.

Section II. That the City of Wharton and Wharton County Elections Department are hereby bound by the conditions set forth in the agreement.

Section III. That the Wharton City Council hereby authorizes the Mayor of the Wharton to execute the agreement.

Section. IV. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this the 14th day of January 2019.

CITY OF WHARTON

By: _____
Tim Barker
Mayor

ATTEST:

Paula Favors
City Secretary

Councilmember Russell Machann seconded the motion. All voted in favor.

The twenty-sixth item discussed on the agenda was to review and consider a request by the Wharton County Recovery Team for a variance to place a travel trailer at 621 West Colorado for the resident to stay in while home is treated for mold. City Manager Andres Garza, Jr. stated the Wharton Long Term Recovery Team was requesting a variance for a travel trailer to be placed at 621 West Colorado for the resident to stay in while the home was being remediated for mold and contaminates. Community Development Director Gwyneth Teves stated the home was flooded in 2017 during Harvey and the variance would be for six months. After some discussion, Councilmember Don Mueller moved to approve the variance from the Wharton County Recovery Team to place a travel trailer for six months at 621 West Colorado

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for the resident to stay in while their home is treated for mold. Councilmember Al Bryant seconded the motion. All voted in favor.

The twenty-seventh item on the agenda was to review and consider the City Manager's Travel Reimbursement. City Manager Andres Garza, Jr. presented his request for Travel Reimbursement. After some discussion, Councilmember Russell Machann moved to approve the City Manager's Travel Reimbursement. Councilmember Don Mueller seconded the motion. All voted in favor.

The twenty-eighth item discussed on the agenda was to review and consider appointments & resignations to the City of Wharton Boards, Commissions and Committees:

- A. Beautification Commission.
- B. Building Standards Commission.
- C. Plumbing and Mechanical Board.
- D. Mayor's Committee on People with Disabilities.

After some discussion, Councilmember Russell Machann moved to appoint the following:

D. Mayor's Committee on People with Disabilities.	<u>Term Expiring</u>
Jessica Dittrich	June 30, 2019

Councilmember Al Bryant seconded the motion. All voted in favor.

The twenty-ninth item discussed on the agenda was to review and consider City Council Boards, Commissions and Committee Reports:

- A. Public Works Committee meeting held January 8, 2019.
- B. Finance Committee meeting held January 8, 2019.

After some discussion, no action was taken.

The thirtieth item on the agenda was adjournment. There being no further discussion, Councilmember Don Mueller moved to adjourn. Councilmember Al Bryant seconded the motion. All voted in favor.

The meeting adjourned at 8:37 p.m.

CITY OF WHARTON, TEXAS

By: _____
Tim Barker
Mayor

ATTEST:

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Paula Favors
City Secretary