



**AUGUST 25, 2020**

**5:00 P.M.**

**CITY COUNCIL**

**MEETING AGENDA**





## NOTICE OF MEETING OF THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS

*The City of Harker Heights*  
305 Miller's Crossing  
Harker Heights, Texas 76548  
Phone 254/953-5600  
Fax 254/953-5614

*Mayor*  
Spencer H. Smith

*Mayor Protem*  
Michael Blomquist

*City Council*  
Jennifer McCann  
Jackeline Soriano Fountain  
John Reider  
Jody Nicholas

Notice is hereby given that, beginning at 5:00 p.m. on Tuesday, August 25, 2020, and continuing from day to day thereafter if necessary the City Council of the City of Harker Heights, Texas, will hold a meeting in the Kitty Young Council Chamber at 305 Miller's Crossing, Harker Heights, Texas 76548. The subjects to be discussed are listed in the following agenda:

### **I. Invocation:**

### **II. Pledge of Allegiance:**

I Pledge Allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Honor the Texas Flag. I pledge allegiance to thee Texas; one state under God, one and indivisible.

### **III. Roll Call:**

### **Mayoral Proclamations and Presentations:**

1. Proclamation declaring August 2020 as "Black Business Month".

### **V. Consent Items:**

1. Discuss and consider approving the minutes of the meeting held on August 11, 2020, and take the appropriate action.

### **VI. Presentations by Citizens:**

Citizens who desire to address the Council on any matter may do so during this item. Please understand that while the Council appreciates hearing your comments, State law (Texas Gov't Code §551.042) prohibits them from: (1) engaging in discussion other than providing a statement of specific factual information or reciting existing City policy, and (2) taking action other than directing Staff to place the matter on a future agenda. Please state your name and address for the record and limit your comments to three minutes.

### **VII. Public Hearings:**

1. Receive and discuss a presentation regarding the Voluntary Annexation of Right-Of-Way along Warriors Path described as approximately 65,820 square feet of the Right-Of-Way of Warriors Path Adjacent to the City of Harker Heights, Bell County, Texas. (Planning and Development Director)

2. Conduct a Public Hearing to discuss and consider approving an Ordinance of the City Of Harker Heights, Texas, setting forth Regulations for Mobile Food Vendors and Mobile Food Vendor Courts; providing a penalty clause; and providing for publication and an effective date; and take the appropriate action. (Planning and Development Director)
3. Conduct a Public Hearing to discuss and consider approving an Ordinance of the City Of Harker Heights, Texas, adopting and amending the 2017 National Technical Codes Section 150.02 (K), in relation to the National Electrical Code, and take the appropriate action. (Planning and Development Director)
4. Conduct a Public Hearing to discuss and consider approving an Ordinance of the City of Harker Heights, Texas, adopting and amending the 2015 General Technical Codes Section 150.02(I), in relation to Swimming Pools and Spas, and take the appropriate action. (Planning and Development Director)

**VIII. Old Business:**

1. Discuss and consider approving an Ordinance of the City of Harker Heights, Texas, amending Ordinance 2020-06 of the Harker Heights Code to extend the Public Health Emergency Declaration through September 30, 2020, and take the appropriate action. (City Manager)
2. Discuss and consider approving a Resolution of the City of Harker Heights, Texas, authorizing the City's Application for a Grant in the amount of \$86,130.44 through the Criminal Justice Division Grant Program; for the purchase of 38 Pro Tech DT 206C Level IIIA Plate Vests with Accessories; and 4 Ram1 Swat Heavy Vest; authorizing the City Manager to sign on behalf of the City, and take the appropriate action. (Police Chief)

**IX. New Business:**

1. Discuss and consider approving a request from April McCarty and Digital Domination Partners, LLC, for a Special Events Permit to host an outdoor event at the Harker Heights Walmart Supercenter, located at 2020 Heights Drive, Harker Heights, Texas, which will have in excess of ten (10) people on Friday, September 11, 2020, and Saturday, September 12, 2020, and take the appropriate action. (Parks and Recreation Director)
2. Discuss and consider the Preliminary Ad Valorem Tax Rate, Record the Vote, Schedule the Public Hearing and take the appropriate action. (Assistant Finance Director)

**X. Reports of Advisory Boards & Commissions:**

**XI. Items from Council:**

**XII. Staff Reports:**

1. Receive and discuss the City Manager's Report. (City Manager)

**XIII. Announcements:**

**XIV. Adjournment:**

I hereby certify that the above notice of meeting was posted on bulletin board of City Hall, City of Harker Heights, Texas, a place readily accessible to the general public at all times, on the 21<sup>st</sup> day of August 2020, by 4:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.



Juliette Helsham  
City Secretary

**The public may participate remotely in this meeting by dialing-in using the toll-free number: (866) 899-4679 and use Access Code: 811-171-773.**

**To join the meeting from your computer, tablet, or smartphone, use the following meeting link: <https://global.gotomeeting.com/join/811171773>**

**The public will be permitted to offer public comments telephonically as provided by the agenda. Written questions or comments may be submitted two hours before the meeting to the City Secretary's Office. When submitting your written questions or comments, you must include your Name and Address. Agenda packet and recording of the telephonic meeting will be available on the City of Harker Heights website at [www.ci.harker-heights.tx.us](http://www.ci.harker-heights.tx.us).**

*"This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 254-953-5600, or FAX 254-953-5614, or email [jhelsham@harkerheights.gov](mailto:jhelsham@harkerheights.gov) for further information."*

*"Pursuant to Chapter 551 of the Government Code the City Council reserves the right to go into Closed Meeting on any item listed above if deemed necessary."*





**WHEREAS**, National Black Business Month was founded in 2004 by Frederick E. Jordan Sr. and John William Templeton to recognize the vital contributions of Black-owned businesses throughout our country and to encourage their continued development; and

**WHEREAS**, Black Business Month is observed each August to highlight the significant impact businesses owned by Black entrepreneurs have on our national, state, and local economies; and

**WHEREAS**, Black-owned businesses comprise about 10 percent of all United States businesses and about 30 percent of minority-owned businesses; and

**WHEREAS**, it is estimated that there are 2.6 million Black-owned businesses that contribute \$187 billion annually to the American economy and employ millions of people; and

**WHEREAS**, nearly 40 percent of black-owned businesses are in health care and social assistance, repair and maintenance, and personal and laundry services; and

**WHEREAS**, Harker Heights recognizes Black-owned businesses for their positive impact on our local economy and to create awareness and inspire new generations of entrepreneurs.

**NOW THEREFORE**, I, Spencer H. Smith, Mayor of the City of Harker Heights, Texas, do hereby proclaim the month of August, 2020, to be

## **BLACK BUSINESS MONTH**

**IN WITNESS THEREOF**, I have signed this proclamation and have affixed the seal of the City of Harker Heights, this 25<sup>th</sup> day of August 2020.

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Spencer H. Smith, Mayor

Minutes of the of the City Council meeting held at 5:00 p.m. on Tuesday, August 11, 2020, by a telephonic meeting to contain the spread of COVID-19 in accordance with Governor Abbott's declaration of the COVID-19 public health threat and action to temporarily suspend certain provisions of the Texas Open Meetings Act issued on March 16, 2020:

<b>Roll Call:</b>	Spencer H. Smith	Mayor
	Michael Blomquist	Mayor Pro-tem
	Jennifer McCann	Councilmember Place 1
	Jackeline Soriano Fountain	Councilmember Place 3
	John Reider	Councilmember Place 4
	Jody Nicholas	Councilmember Place 5
	David Mitchell	City Manager
	Juliette Helsham	City Secretary

#### **Mayoral Proclamations and Presentations:**

1. Retired Chief Max Westbank, Director of the Texas Law Enforcement Recognition Program for the Texas Police Chief's Association, presented the "Recognized Law Enforcement Agency" award to the Harker Heights Police Department and gave an overview of the program.

#### **Consent Items:**

1. Council discussed and considered approving the minutes of the meetings held on July 28, 2020, and August 4, 2020. Reider made the motion to approve both as written. Seconded by Fountain. All in favor. Motion passed 5-0.

#### **Public Hearings:**

1. Council conducted a public hearing to discuss and consider supplanting Ordinance 2018-30 regarding a Conditional Use Permit (CUP) on property described as Five Feathers Addition, Block One (1), Lot Two (2), generally located at 2004 Warriors Path, Harker Heights, Bell County, Texas. Joseph Molis, Planning and Development Director, made the presentation. Larry Pilkey, applicant was present via telecommunication to represent the request. Fountain made the motion to approve. Seconded by McCann. Fountain, McCann and Nicholas in favor. Blomquist and Reider against. Motion passed 3-2.
2. Council conducted a public hearing to discuss and consider approving an Ordinance granting a Conditional Use Permit (CUP) to allow an Accessory Dwelling Unit on property described as Lot Sixteen (16), Block One (1), The Colony, acres .803, generally located at 3910 Walden Creek Crossing, Harker Heights, Bell County, Texas. Joseph Molis, Planning and Development Director, made the presentation. Mark McGee, applicant was present via telecommunication to represent the request. Blomquist made the motion to approve with the condition that no one resides in the RV on the premises. Seconded by Reider. Blomquist, McCann, Reider and Nicholas in favor. Fountain against. Motion passed 4-1.
3. Council conducted a public hearing to discuss and consider approving an Ordinance granting a Conditional Use Permit (CUP) to allow a Storage Container on property described as Lot Seven (7), Block Nine (9), Meadow Acres, First Extension, generally located at 906 S. Ann Blvd, Harker Heights, Bell County, Texas. Joseph Molis, Planning and Development Director, made the presentation. Nicholas made the motion to approve. Seconded by Reider. All in favor. Motion passed 5-0.

At 6:35 p.m. Mayor Smith called for a ten (10) minute break.

Mayor Smith reconvened the meeting at 6:43 p.m.

**Old Business:**

1. Council discussed and considered approving an Order of a General Election to be held on November 3, 2020, for the purpose of Electing a Mayor and Council Member, Place 4, for a three (3) year term (2020-2023) for the City of Harker Heights, Texas. Juliette Helsham, City Secretary, made the presentation. Reider made the motion to approve. Seconded by Nicholas. All in favor. Motion passed 5-0.
2. Council discussed and considered approving a Contract with the Election Officer of Bell County, Texas, to conduct a Joint Election on November 3, 2020, for the purpose of electing a Mayor and Council Member, Place 4, for the City of Harker Heights, Texas; and authorize the City Manager to sign the Agreement on behalf of the City. Juliette Helsham, City Secretary, made the presentation. Blomquist made the motion to approve. Seconded by Nicholas. All in favor. Motion passed 5-0.

**New Business:**

1. Council discussed and considered approving a request by Alex Jarbough for Concept Plan approval of the Escapology Addition for the proposed development on property described as a 7.07 acre tract of land situated in the Lucy O'Dell Survey, Abstract No. 644, generally located north east at the intersection of E. Knights Way (E. FM 2410) and Cedar Knob Road, Harker Heights, Bell County, Texas. Joseph Molis, Planning and Development Director made the presentation. Nicholas made the motion to approve. Seconded by Blomquist. All in favor. Motion passed 5-0.
2. Council discussed and considered approving a request by Alex Jarbough for Preliminary Plat Approval of the Escapology Addition on property described as a 7.07 acre tract of land situated in the Lucy O'Dell Survey, Abstract No. 644, generally located north east at the intersection of E. Knights Way (E. FM 2410) and Cedar Knob Road, Harker Heights, Bell County, Texas. Joseph Molis, Planning and Development Director, made the presentation. Reider made the motion to approve. Seconded by McCann. All in favor. Motion approved 5-0.
3. Council discussed and considered approving a request from Kassandra Flores for a Facility Rental at the Harker Heights Community Park Pavilion for an event in excess of ten (10) people on Sunday, August 16, 2020. Jeff Achee, Parks and Recreation Director, made the presentation. Fountain made the motion to approve. Seconded by McCann. All in favor. Motion passed 5-0.
4. Council discussed and considered approving a request from Vince Dy for a Facility Rental at the Carl Levin Park Pavilion in Harker Heights, Texas, for an event in excess of ten (10) people on Thursday, September 3, 2020. Jeff Achee, Parks and Recreation Director, made the presentation. McCann made the motion to approve. Seconded by Reider. All in favor. Motion passed 5-0.
5. Council discussed and considered approving a request from Clarence Rollins for a Facility Rental at the Carl Levin Park Pavilion in the City of Harker Heights, Texas, for an event in excess of ten (10) people on Friday, August 14, 2020. Jeff Achee, Parks and Recreation Director, made the presentation. Mr. Achee stated that the requestor has changed the date of the event to Saturday, August 29, 2020. Blomquist made the motion to approve the request for the new date of Saturday, August 29, 2020. Seconded by Nicholas. All in favor. Motion passed 5-0.
6. Council received and discussed the Fiscal Year 2020 – 2021 Budget. Ayesha Lealiiee, Assistant Finance Director made the presentation. No action taken.

**Items from Council:**

Mayor Pro-tem Blomquist stated that the Farmers' Market is starting to get a little bit better. The vendors are now able to cook out there and there were some vendors cooking this past Saturday. Mr. Blomquist encouraged everyone to come and take a look.

**Staff Reports:**

1. Council received and discussed the City Manager's Report. David Mitchell, City Manager, made the presentation. No action taken.

**Announcements:**

Mayor Smith stated that he had left a phone message for the Pastor of the First Baptist Church to thank him for hosting the COVID-19 mobile testing event in Harker Heights.

**Adjournment:**

There being no further business the City of Harker Heights City Council Meeting was adjourned at 7:33 p.m.

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Spencer H. Smith, Mayor

ATTEST:

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Juliette Helsham, City Secretary





## CITY COUNCIL MEMORANDUM

# AGENDA ITEM # VII-1

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FROM: THE OFFICE OF THE CITY MANAGER

DATE: AUGUST 25, 2020

**RECEIVE AND DISCUSS A PRESENTATION REGARDING THE VOLUNTARY ANNEXATION OF RIGHT-OF-WAY ALONG WARRIORS PATH DESCRIBED AS APPROXIMATELY 65,820 SQUARE FEET OF THE RIGHT-OF-WAY OF WARRIORS PATH ADJACENT TO THE CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS.**

### **EXPLANATION**

This is the first of two public hearings required by the Texas Local Government Code Section 43.063, the second of which will be held at **3:00 P.M. on Tuesday, September 1, 2020.**

### **History:**

Pursuant to Texas Local Government Code Section 43.056, on July 28, 2020, the City Council granted a Resolution for City staff to prepare a service plan for the property, and to schedule public hearings as required by law. City staff mailed written, certified notices of a voluntary right-of-way annexation to all service providers within the area proposed for annexation on July 31, 2020. On Friday, August 7, 2020, notice of public hearing was posted on the City's website and at City Hall's information board. On Sunday, August 9, 2020, a notice was posted in the legal section of the Killeen Daily Herald.

### **Service Plan:**

A copy of the service plan is included with this agenda item as Exhibit B. The service plan lays out services that will be provided immediately upon annexation and those services/infrastructure items that may be required within two and one-half years. The proposed voluntary annexation of a portion of the Warriors Path right-of-way includes Police Protection, Fire Protection and Emergency Medical Services, Maintenance of Water and Wastewater Facilities, Maintenance of Public Roads and Streets, Street Lighting, Traffic Engineering, and Storm Water Management.

### **RECOMMENDATION:**

None.

### **ACTION BY COUNCIL:**

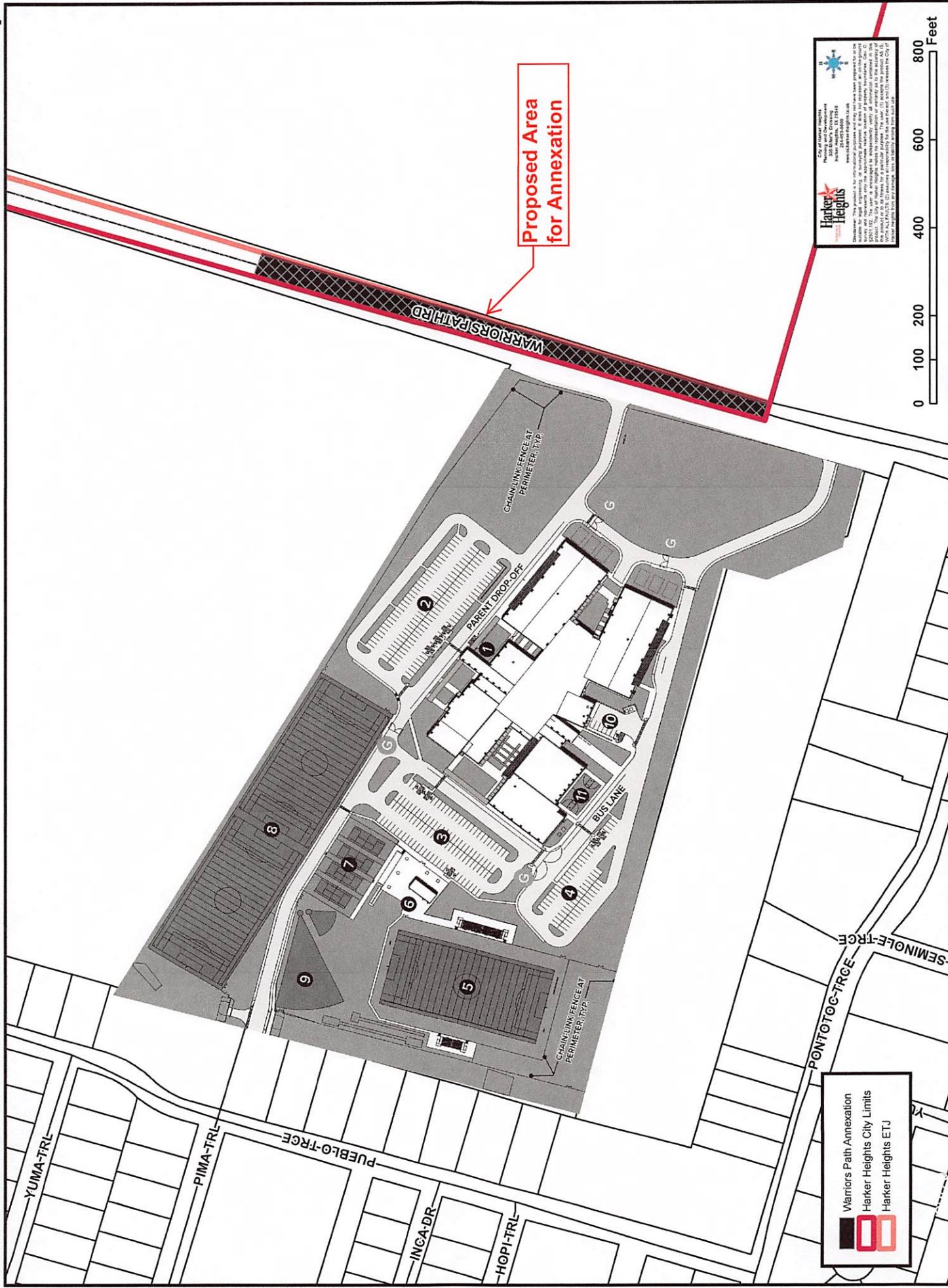
None. This agenda item is a public hearing only. Action will occur on September 8, 2020, at 5:00 P.M.

### **ATTACHMENTS:**

1. Exhibit A – Map of the Proposed Voluntary Annexation Area
2. Exhibit B – Service Plan for the Proposed Voluntary Annexation Area

# Warriors Path Annexation

# Location Map

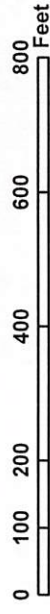


Proposed Area  
for Annexation

Warriors Path Annexation  
Harker Heights City Limits  
Harker Heights ETJ

**Harker Heights**  
City of Harker Heights  
Planning and Development  
1100 W. 1st Street  
Harker Heights, TX 76048  
www.ci.harkerheights.tx.us

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## **“Exhibit B”**

### **Service Plan**

### **For the Voluntary Annexation of an**

### **Approximate 65,820 Square-Foot Right Of Way**

Upon annexation of property, shown in Exhibit “A”, the City of Harker Heights, Texas will provide City services utilizing methods by which it extends services to any other equivalent area of the City.

#### **Proposed Annexation Description**

The proposed annexation area covered by this service plan is displayed on a map as contained in Exhibit “A”. Said Exhibit being made a part of this plan by reference herein.

### **SERVICES PROVIDED BY THE EFFECTIVE DATE OF ANNEXATION**

#### **1. Police Protection**

The City of Harker Heights, Texas, and its Police Department will provide police protection to newly annexed area at the same or similar level of service now being provided to other areas already incorporated in the City with like topography, land use and population density. The Police Department will have the responsibility to respond to all dispatched calls for service or assistance within the newly annexed area.

#### **2. Fire Protection and Emergency Medical Services**

The City of Harker Heights, Texas, and its Fire and Rescue Department will provide fire protection and EMS to the newly annexed area at the same or similar level of service now being provided to other areas already incorporated in the City, with similar topography, land use and population density. The Fire and Rescue Department will have the responsibility to respond to all dispatched calls and requests for service or assistance within the newly annexed area.

#### **3. Maintenance of Water, Stormwater and Wastewater Facilities**

Any and all water or wastewater facilities owned or maintained by the City of Harker Heights, Texas, at the time of the proposed annexation shall continue to be maintained by the City of Harker Heights. Any and all water and wastewater facilities which may be acquired subsequent to the annexation of the proposed area shall be maintained by the City of Harker Heights, Texas, to the extent of its ownership.

**4. Maintenance of Public Road and Streets**

The City of Harker Heights, Texas, will maintain any and all publicly owned roads, streets or alleyways in the newly annexed area to the extent and degree and to the same or similar level of service now being provided to other such areas within the corporate limits of the City with similar topography, land use and density.

**5. Maintenance of any Publicly Owned Facility, Building or Municipal Service**

The City of Harker Heights, Texas, is not aware of the existence of any publicly owned facility, building, or other municipal service now located in the proposed areas of annexation. In the event any publicly owned facility, building, or other municipal service does exist and is/are public facilities, the City will maintain such areas and facilities to the extent and degree and to the same or similar level of service now being provided to other such areas and facilities within the corporate limits of the City with similar topography, land use and density.

**6. Other Services**

The City of Harker Heights, Texas, finds and determines that such services as planning, issuing of building permits and related building inspection services, code enforcement, animal control, library, parks and recreation, court and general administration will be made available after the date of the annexation at the same or similar level of service now being provided to other areas already incorporated in the City with similar topography, land use and density.

**7. Code Enforcement Services**

The City of Harker Heights Code Enforcement Division will implement the enforcement of the City of Harker Heights, Texas ordinances and regulations on the effective day of the annexation.

**8. Street Lighting**

The City of Harker Heights, Texas will coordinate any request for improved street lighting with the local electric provider in accordance with standard policy.

**9. Traffic Engineering**

The City of Harker Heights, Texas Public Works Department will provide any additional traffic control devices in accordance with standard policy after the effective day of the annexation.

**10. Storm Water Management**

Developers will provide storm water drainage at their own expense, and all such improvements and facilities will be inspected by the City of Harker Heights City Engineer at the time of completion. The City of Harker Heights, Texas will then maintain the drainage upon approval.



## **CONSTRUCTION OF ANY CAPITAL IMPROVEMENTS TO BE COMPLETED WITHIN 2 ½ YEARS**

### **1. Policies and Fire Protection and Solid Waste Collection**

The City of Harker Heights, Texas, finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed area for the purposes of providing police protection, fire protection, emergency medical services or solid waste collection. The City finds and determines that it has at the present time adequate facilities and other resources to provide the same type, kind and level of service and protection which is presently being administered to other areas already incorporated in the City of Harker Heights, Texas with similar topography, land use and population density.

### **2. Water, Stormwater and Wastewater Facilities**

The annexed area is currently roadway and right-of-way. Therefore, the City of Harker Heights, Texas, finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed area. Per the City's subdivision regulations, any future development of the water and sanitary sewer infrastructure is the sole responsibility of the developer including the development of any lift stations required. The City of Harker Heights, Texas, agrees to provide water, handle sewer, and maintain the water and sewer lines once installed by the developer for the annexed area in the same type, kind and level incorporated in the City of Harker Heights, Texas, with similar topography, land use and population density.

### **3. Roads and Streets**

The annexed area is currently developed right-of-way along Warriors Path. Therefore, the City of Harker Heights, Texas, finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed area. Per the City's subdivision regulations, any road construction will be the sole responsibility of the developer. The City of Harker Heights, Texas, agrees to maintain constructed roads considered to be public in nature in the same type, kind and level of service and protection which is presently being administered to other areas already incorporated in the City of Harker Heights, Texas, with similar topography, land use and population density.

### **4. Maintenance of Parks, Playgrounds, and Swimming Pools and Any other Publicly Owned Facility, Building or Service**

The City of Harker Heights, Texas, finds and determines it is not necessary to acquire or construct any capital improvements within 2 ½ years of the effective date of the annexation of the particular annexed area for the purposes of parks maintenance, playgrounds, swimming pools and other publicly owned facility, building or service.

**SPECIFIC FINDINGS**

The City of Harker Heights, Texas, finds and determines that this proposed service plan will not provide any fewer services and will not provide a lower level of service in the area being considered for annexation than were in existence in the proposed annexation area's topography, land utilization and population density, the service levels to be provided in the newly annexed area will be equivalent to those provided to other areas of the City with similar characteristics.

**LEVEL OF SERVICE**

Nothing in this plan shall require the City to provide a uniform level of full municipal services to each area of the City, including the annexed area, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service.

**AMENDMENTS**

This service plan shall not be amended unless public hearings are held in accordance with Chapter of the Texas Local Government Code.



## COUNCIL MEMORANDUM

### AGENDA ITEM #VII-2

FROM: THE OFFICE OF THE CITY MANAGER

DATE: AUGUST 25, 2020

**CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, SETTING FORTH REGULATIONS FOR MOBILE FOOD VENDORS AND MOBILE FOOD VENDOR COURTS; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND TAKE THE APPROPRIATE ACTION.**

**EXPLANATION:**

Staff has drafted an Ordinance to regulate mobile food vendors and establish requirements for mobile food vendor courts based upon recommendations and guidance from the City Council during workshops on May 19, 2020 and July 21, 2020. This ordinance represents the culmination of input from the City Council, a Planning and Zoning Commission (P&Z) workshop on June 24, 2020, and comments from local mobile food vendors and brick-and-mortar restaurants by way of the Harker Heights Chamber of Commerce. The Chamber surveyed mobile food vendors and local restaurants to obtain their comments regarding proposed mobile food vendor regulations, mobile food vendor court regulations, and fair separation distances between mobile food vendors and existing brick-and-mortar restaurants.

A draft of the ordinance requirements was reviewed by the City Council on July 21, 2020, and staff was tasked with resolving the following issues:

1. Provide a flow chart showing the “how to” of obtaining all the necessary permits to operate a food truck in the City.

**This document will be drafted and disseminated with Mobile Food Vendor Permit Applications, posted on the City’s website upon adoption of the ordinance, and provided to the Chamber for their distribution to local and regional businesses.**

2. Increase the separation distance between mobile food vendors and local restaurants to 200 feet, provided the increased distance will allow mobile food vendors to locate adjacent to Carl Levin Park.

**The separation distance was increased to 200 feet in the ordinance, as the map provided as Attachment 2 indicates a 200-foot separation distance will allow ample street parking along the perimeter of Carl Levin Park. This value is within the 50 to 100 yard separation distance provided by the mobile food vendors surveyed by the Chamber. However, the Chamber's survey of local restaurants received limited responses and one indicated a preference to limit mobile food vendors to one area of town instead of utilizing a separation distance. Staff recommends the 200-foot separation distance as it better fits City Council recommendations regarding the operational locations of mobile food vendors and mobile food vendor courts.**

3. Have the Chamber review ordinance provisions with local restaurants and provide feedback.

**The Chamber received limited responses and those received were regarding the limitation of mobile food vendors to 1 location, as indicated above.**

4. Require some variety of foods among mobile food vendors and existing restaurants within close proximity.

**Staff added a recommendation into the ordinance for mobile food vendors to locate in areas with complimentary menus, but recommends it not be a requirement because this is typically a market-driven response, and in the interest of fairness and consistency, there is no such requirement for restaurants.**

5. Limit portable signs used by mobile food vendors to just two signs total; allowing 1 sandwich board sign and/or 1 feather flag.

**The ordinance has been updated to reflect the recommended portable sign requirement.**

6. In addition to limiting mobile food vendors to operating 15 minutes or fewer on public streets, limit the allowable size of the mobile food vending unit and disallow trailers.

**The ordinance has been updated to reflect the recommended limitations on mobile food vendor operations on public streets.**



7. Require mobile food vendors to carry liability insurance.

**The Chamber provided input from a mobile food vendor that some mobile food vendors carry insurance, but not all cities require it. Staff reached out to 13 known vendors and received responses from 6 of them:**

MOBILE FOOD VENDOR	COMMENT	HAS INSURANCE	INSURANCE COVERAGE AMOUNT
ALINAS DELICIAS	8/18/2020 - Busy		
ITS SNOGOOD		Yes	\$1 Million
LA PALAPA MEXICAN GRILL	8/18/2020 - Left voicemail		
SOUL DOGGONE GOOD	Not Contacted		
TACOS CHUY	8/18/2020 - Left voicemail		
TACO ORIGINALES GOVEA	Spanish Only		
TAQUERIA LOS PRIMOS	8/11/2020 - No voicemail Box Set Up		
THE HANGRY GIRL		Yes	\$299 a year; would not give coverage amount
TIC TAC SNOcone SHACK		Currently looking	
TWISTED SOULFOOD & CAJUN		Yes	\$50,000 on vehicle and a million dollars for personal injury
WHATS YOUR COFFEE		Yes	Her agent has that information
YUM YUM'S SECRET SAUCE		Yes	\$1 Million per occurrence and \$200 Million in the aggregate
ZARPANA'S ISLAND GRILL	8/18/2020 - No Answer		

**Those replies indicated they did carry insurance and the ordinance has been updated to reflect an insurance requirement consistent with others required in the Code of Ordinances.**

### **ANALYSIS**

Staff has developed an ordinance to regulate mobile food vendors and mobile food vendor courts that is organized as follows:

- General Provisions – provides the ordinance purpose and definitions
- Permits – Establishes the Mobile Food Vendor Permit requirements
- Regulations for Mobile Food Vendor Operation
  - Regulations for all Mobile Food Vendors
  - Regulations for Mobile Food Vendors Operating on Public Streets and Rights of Way
  - Regulations for Mobile Food Vendors Operating on Public Property (Other Than Streets or Rights of Way)
  - Regulations for Mobile Food Vendors Operating on Private Property
  - Regulations for Mobile Food Vendor Courts
- Enforcement – Provides the enforcement mechanisms and penalties for non-compliance

**STAFF RECOMMENDATION:**

Staff recommends approval of an ordinance of the City of Harker Heights setting forth regulations for mobile food vendors and mobile food vendor courts, providing a penalty clause, and providing for publication and an effective date, based upon the following findings:

1. There is a need to apply regulations for mobile food vendors and mobile food vendor courts;
2. The regulations outlined in the ordinance will clarify mobile food vendor requirements in the city; and
3. The ordinance provides a means of fairly applying regulations and penalties to the mobile food vendor business owners.

**ACTION BY CITY COUNCIL:**

1. Motion to APPROVE/DENY an Ordinance of the City of Harker Heights setting forth regulations for mobile food vendors and mobile food vendor courts, providing a penalty clause, and providing for publication and an effective date, based upon staff's recommendation and findings.
2. Any other action desired.

**ATTACHMENTS:**

1. Mobile Food Vendor/Restaurant Separation Distance Map
2. Highlighted Ordinance



# Carl Levin Buffers 150 and 200 feet

# Location Map





**City Council Recommendations**

1. Provide a flow chart showing the "how to" of obtaining all the necessary permits to operate a food truck in the City.  
 This document will be drafted and disseminated with Mobile Food Vendor Permit Applications, posted on the City's website upon adoption of the ordinance, and provided to the Chamber for their distribution to local and regional businesses.
2. Increase the separation distance between mobile food vendors and local restaurants to 200 feet, provided the increased distance will allow mobile food vendors to locate adjacent to Carl Levin Park.  
 The separation distance was increased to 200 feet in the ordinance, which will allow ample street parking along the perimeter of Carl Levin Park. This value is within the 50 to 100-yard separation distance provided by the mobile food vendors surveyed by the Chamber. However, the Chamber's survey of local restaurants received limited responses and one indicated a preference to limit mobile food vendors to one area of town instead of utilizing a separation distance. Staff recommends the 200-foot separation distance.

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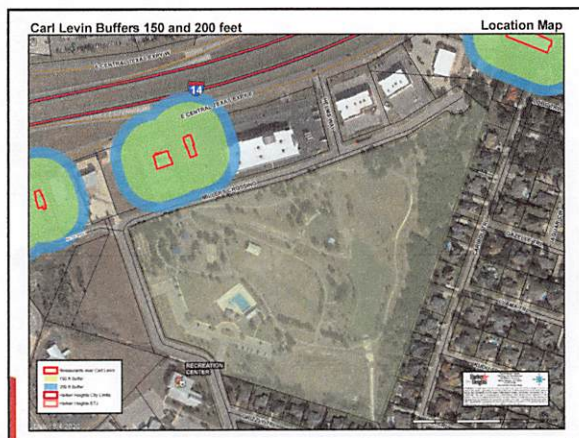
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**City Council Recommendations**

3. Have the Chamber review ordinance provisions with local restaurants and provide feedback.  
 The Chamber received limited responses and those received were regarding the limitation of mobile food vendors to 1 location, as indicated above.
4. Require some variety of foods among mobile food vendors and existing restaurants within close proximity.  
 Staff added a recommendation into the ordinance for mobile food vendors to locate in areas with complimentary menus, but recommends it not be a requirement because this is typically a market-driven response, and in the interest of fairness and consistency, there is no such requirement for restaurants.
5. Limit portable signs used by mobile food vendors to just two signs total; allowing 1 sandwich board sign and/or 1 feather flag.  
 The ordinance has been updated to reflect the recommended portable sign requirement.
6. In addition to limiting mobile food vendors to operating 15 minutes or fewer on public streets, limit the allowable size of the mobile food vending unit and disallow trailers.  
 The ordinance has been updated to reflect the recommended limitations on mobile food vendor operations on public streets.

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### City Council Recommendations

7. Require mobile food vendors to carry liability insurance.  
 The Chamber provided input that some mobile food vendors carry insurance, but not all cities require it. Staff reached out to 13 known vendors and received responses from 6 of them:

MOBILE FOOD VENDOR	COMMENT	HAS INSURANCE	INSURANCE COVERAGE AMOUNT
ALMAS DELICIAS	8/18/2020 - Busy		
ITS SNOCOD		Yes	\$1 Million
LA PALAPA MEXICAN GRILL	8/18/2020 - Left voicemail		
SOUL DOGGONE GOOD	Not Contacted		
TACOS CHIVY	8/18/2020 - Left voicemail		
TACO ORIGINALS GOWEA	Spanish Only		
TACUERA LOS FRIMOS	8/11/2020 - No voicemail Box Set Up		
THE HANGRY GIRL		Yes	\$250 a year; would not give coverage amount
TIC TAC SNOCONE SHACK		Currently looking	
TWISTED SOULFOOD & CAJUN		Yes	\$50,000 on vehicle and a million dollars for personal injury
WHATS YOUR COFFEE		Yes	Not agent has that information
YUM YUM'S SECRET SAUCE		Yes	\$1 Million per occurrence and \$200 Million in the aggregate
ZARFANA'S ISLAND GRILL	8/18/2020 - No Answer		

The ordinance has been updated to reflect an insurance requirement consistent with others required in the Code.

4

### Proposed Ordinance Structure

- General Provisions
  - Purpose
  - Definitions
- Permits
  - Application
  - Approval/Denial
  - Suspension/Revocation
  - Appeal
- Regulations for Mobile Food Vendor Operation
  - All Mobile Food Vendors
  - Operating on Public Streets
  - Operating on Public Property (Not a Street)
  - Operating on Private Property
  - Mobile Food Vendor Courts
- Enforcement

- Permit Required
  - Issued by Fire Department
- Permit Application
  - Inspection by Fire Marshal
  - Temporary Non-Contaminating Permit
- Permit Approval/Denial
  - Denials Must Be at Writing
- Permit Valid for 1 year
- Permit Suspension/Revocation
  - Can Request Hearing Before the Planning Director
- Appeal
  - Can Appeal Permit Denial, Suspension, or Revocation to the Board

5

### Proposed Ordinance Structure

- General Provisions
  - Purpose
  - Definitions
- Permits
  - Application
  - Approval/Denial
  - Suspension/Revocation
  - Appeal
- Regulations for Mobile Food Vendor Operation
  - All Mobile Food Vendors
  - Operating on Public Streets
  - Operating on Public Property (Not a Street)
  - Operating on Private Property
  - Mobile Food Vendor Courts
- Enforcement

- Model Code Requirements
  - Must Meet at Least Codes Book, Fire Marshal, Fire Code, Building Code, Fire Code, Planning Code, Food Code, etc.
- Placement
  - May Not Obstruct Fire Lane, Driveways, Handicap Parking
  - Separation of 10 ft from Buildings and Other Structures and 20 ft from Entrance and Exit
  - May Not Operate Within 200 Feet of a Restaurant Unless with Enclosures
- Signage
  - External Signage Limited to 2 Standard Board Signs or 1 Feather Flag

6

**Proposed Ordinance Structure**

- General Provisions
  - Purpose
  - Definitions
- Permits
  - Application
  - Approval/Denial
  - Suspension/Revocation
  - Appeal
- Regulations for Mobile Food Vendor Operation
  - All Mobile Food Vendors
  - Operating on Public Streets
  - Operating on Public Property (Not a Street)
  - Operating on Private Property
  - Mobile Food Vendor Courts
- Enforcement

- Must be in Compliance with the Requirements for All Mobile Food Vendors
- May Not Operate on a Public Street Unless:
  - Has a Weathering Surface
  - Less than or equal to 20 feet in height
  - Has a Utility
  - On site for 15 Minutes or Fewer
- Obtained Special Event Permit

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**Proposed Ordinance Structure**

- General Provisions
  - Purpose
  - Definitions
- Permits
  - Application
  - Approval/Denial
  - Suspension/Revocation
  - Appeal
- Regulations for Mobile Food Vendor Operation
  - All Mobile Food Vendors
  - Operating on Public Streets
  - Operating on Public Property (Not a Street)
  - Operating on Private Property
  - Mobile Food Vendor Courts
- Enforcement

- Must be in Compliance with the Requirements for All Mobile Food Vendors
- Must Obtain Special Event Permit
- May Only Operate at Approved Locations

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**Proposed Ordinance Structure**

- General Provisions
  - Purpose
  - Definitions
- Permits
  - Application
  - Approval/Denial
  - Suspension/Revocation
  - Appeal
- Regulations for Mobile Food Vendor Operation
  - All Mobile Food Vendors
  - Operating on Public Streets
  - Operating on Public Property (Not a Street)
  - Operating on Private Property
  - Mobile Food Vendor Courts
- Enforcement

- Must be in Compliance with the Requirements for All Mobile Food Vendors
- May Operate on Commercial Property
- May Operate on Residential Property If:
  - On site for 15 Minutes or Fewer
  - Obtained Special Event Permit
- Must Be Located on All-Weather Surface
- Only Temporary Seating Allowed
- If On Site for More Than 4 Hours, Must Provide Access to Restroom Facilities
- Must Provide Garbage Cans
- May Not Remain at Any Location for More Than 24 Hours

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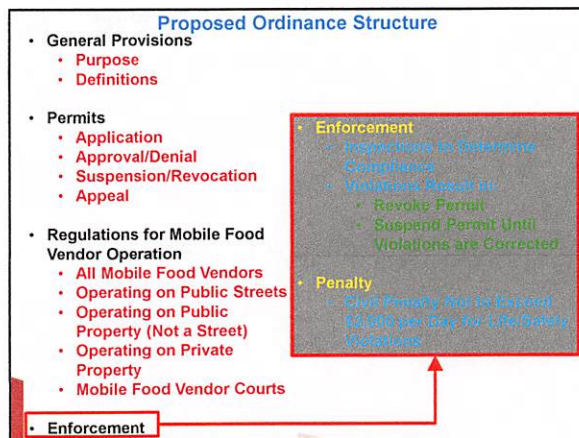
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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF HARKER HEIGHTS SETTING FORTH REGULATIONS FOR MOBILE FOOD VENDORS AND MOBILE FOOD VENDOR COURTS, PROVIDING A PENALTY CLAUSE, AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Council ("*Council*") of the City of Harker Heights ("*City*") finds that it is necessary and desirable to amend the Code of Harker Heights ("*Code*") as hereinafter provided in order to further clarify the standards for Mobile Food Vendors; and

**WHEREAS**, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

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

**SECTION 1:** The City Council officially finds and declares that the facts and recitations set forth in the preamble to this ordinance are true and correct.

**SECTION 2:** Title XI of the Code of Harker Heights is hereby supplemented by the addition of Chapter 126, to read as follows:

**CHAPTER 126: MOBILE FOOD VENDOR BUSINESS REGULATIONS.**

**GENERAL PROVISIONS**

**§ 126.01 SHORT TITLE AND PURPOSE**

- (A) This Chapter may be known and cited as "Mobile Food Vendor Regulation."
- (B) The purpose of this Chapter is to protect the welfare of the citizens of the City of Harker Heights by monitoring and regulating Mobile Food Vendor businesses. To this end, this Chapter establishes a permit program for Mobile Food Vendor businesses, imposes regulations of business operations of Mobile Food Vendor businesses, and imposes civil penalties for violations of this Chapter by Mobile Food Vendor businesses.

**§ 126.02 DEFINITIONS**

- (A) As used in this Chapter, these terms shall be defined as follows.
  - (1) **COMMISSARY.** A central preparation facility or other fixed food establishment that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption to mobile, temporary, and portable food vendors.

- (2) ***DIRECTOR***. The Director of Planning and Development.
- (3) ***EVENT***. Any occasion or activity where one or more vendors offer goods, services, entertainments, amusements or other like products or activities to the public for profit or for free.
- (4) ***FOOD BOOTH***. A food vending unit that is generally a temporary structure used to prepare and sell food to the public.
- (5) ***FRANCHISEE***. A business entity with whom the city has a current contractual agreement, which entitles the entity to use city rights-of-way or easements for the provision of the entity's services to citizens of the community.
- (6) ***HEALTH AUTHORITY***. The Bell County Health Department, or its designee, or any other agency charged with enforcement of regulations applicable to establishments regulated under this ordinance.
- (7) ***LOT DIAGRAM PLAN***. A diagramed plan that includes property lines, adjacent rights-of-way, location of all Mobile Food Vending Units, parking areas and surface material, maneuvering areas and surface material, seating areas, and any other information reasonably required by the Director of Planning and Development.
- (8) ***MOBILE CONCESSION TRAILER***. A vending unit selling items defined as edible goods, which is pulled by a motorized unit and has no power to move on its own.
- (9) ***MOBILE FOOD CART OR CONCESSION CART***. A mobile vending unit, selling items defined as edible goods, that must be moved by non-motorized means.
- (10) ***MOBILE FOOD TRUCK***. A self-contained motorized unit selling items defined as edible goods.
- (11) ***MOBILE FOOD VENDING UNIT***. A Mobile Food Truck, Mobile Food Cart, Concession Cart, or Mobile Concession Trailer.
- (12) ***MOBILE FOOD VENDORS***. Any business that operates or sells food for human consumption, hot or cold, from a Mobile Food Vending Unit.
- (13) ***MOBILE FOOD VENDOR FOOD COURT***. A site designed for the operation of one or more Mobile Food Vendors as the primary use.
- (14) ***MOBILE FOOD VENDOR PERMIT***. The document(s) issued by the city authorizing the peddling, soliciting, or vending activities, pursuant to this Chapter.



- (15) ***MOTOR VEHICLE.*** Any vehicle used for the displaying, storing, or transporting of articles for sale by a peddler, solicitor, and/or vendor, which is required to be permitted and registered by the state. The term also includes trailers, trucks, and automobiles.
  - (16) ***PERMITTEE.*** The holder of a permit issued by the city issued pursuant to this Chapter.
  - (17) ***TEXAS FOOD ESTABLISHMENT RULES OR THE RULES.*** Refers to 25 Texas Administrative Code Chapter 228, as amended.
- (B) Terms appearing in this ordinance but not defined herein shall have the meanings provided in the city's code of ordinances, or if not defined by the city, then the common meanings in accordance with ordinary usage.

### **§ 126.03 ADMINISTRATIVE RULES.**

The Director shall adopt administrative rules to implement, administer, and enforce this Chapter.

## **PERMITS**

### **§ 126.04 PERMIT REQUIRED**

- (A) All Mobile Food Vendors shall obtain a Mobile Food Vendor Permit issued by the Fire Department for a Mobile Food Vending Unit before the Mobile Food Vendor may operate in the city.
- (B) A Mobile Food Vendor must obtain a separate Mobile Food Vendor Permit for each Mobile Food Vending Unit.
- (C) A Mobile Food Vendor Permit is void if the applicant obtains the Mobile Food Vendor Permit by knowingly providing false information on the application.

### **§ 126.05 PERMIT APPLICATION**

- (A) A Mobile Food Vendor who seeks a Mobile Food Vendor Permit for a Mobile Food Vending Unit must submit an application to the Fire Department on a form provided by the Fire Marshal. The application must include:
  - (1) The names, mailing addresses, email addresses, and telephone numbers of all persons who have an ownership interest in, or who will manage the proposed Mobile Food Vending Unit;

- (2) The Mobile Vending Unit name and type;
- (3) The Mobile Vending Unit vehicle data, including make, model, VIN number, color, and license information;
- (4) A submitted Business Registration Application for the Mobile Food Vendor issued by the Director;
- (5) Information required by administrative rule; and
- (6) Other information reasonably required by the Fire Marshal or Director to confirm compliance with the requirements of this Chapter.

(B) The applicant shall pay the nonrefundable permit fee established by ordinance.

#### **§ 126.06 PERMIT APPROVAL OR DENIAL.**

(A) The Fire Marshal shall issue a Mobile Food Vendor Permit for a Mobile Food Vending Unit when:

- (1) The Mobile Food Vendor Permit application has been completed and submitted with all necessary information as required in this section to confirm compliance with the provisions of this Chapter;
- (2) The Mobile Food Vending Unit has passed an inspection by the Fire Marshal's Office to confirm compliance with the requirements of this Chapter including specifically the provisions of Section 126.15;
- (3) The Mobile Food Vendor is in compliance with all provisions of this Chapter, including specifically the provisions of Section 126.15; and
- (4) The Mobile Food Vending Unit has at minimum one (2A-10BC) portable fire extinguisher that has a current tag from a licensed extinguisher company that indicates that it has been serviced and inspected.

(B) The Fire Marshal shall deny a Mobile Food Vendor Permit application if the Fire Marshal determines that the Mobile Food Vendor or Mobile Food Vending Unit as proposed would not comply with the requirements of this Chapter.

(C) If the Mobile Food Vending Unit does not meet the provisions of this Chapter, including specifically the provisions of Section 126.15, the potential exists for it to be issued a Temporary Non-Conforming Mobile Food Vendor Permit to operate subject to the following conditions:

- (1) Upon a determination by the Fire Marshal that no risk or danger to public health or safety will result, some code requirements may be waived for a short duration; others such as exterior ¼ turn shut-off valves for fuel sources may not be waived. Due to the number of variables the waiver of established code

requirements for a Temporary, Non-Conforming Mobile Food Vendor Permit is a case by case review, based on health and safety risks and conditions.

- (2) If under the currently adopted code, a Mobile Food Vending Unit would normally be required to have a Type I hood and does not have one, the Mobile Food Vending Unit must then have the correct size and number of Class K fire extinguishers as defined by the current adopted model codes.
  - (3) Fuel sources for compressed gasses such as Liquefied Petroleum Gas (LPG) and Compressed Natural Gas (CNG) shall be limited to an aggregate total of forty (40) pounds.
  - (4) This Temporary Non-Conforming Mobile Food Vendor Permit is not applicable to Food Booths.
  - (5) Temporary Non-Conforming Mobile Food Vendor Permits issued shall be valid for only twenty-four (24) specified hours.
  - (6) Temporary Non-Conforming Mobile Food Vendor Permits may only be issued twice per calendar year.
  - (7) The Mobile Food Vending Unit must be placed with a separation distance of fifteen (15) feet from any permanent or temporary structures on all sides.
  - (8) A Fire Watch, as defined by current adopted code must be initiated and funded to monitor the Mobile Food Vending Unit during its entire operations, including setup and teardown, when two (2) or More Mobile Food Vending Units are operating at the same time and location.
  - (9) Granting of a Temporary Non-Conforming Mobile Food Vendor Permit by the City of Harker Heights does not exempt or excuse the applicant or responsible person from the consequences, damages, or injuries resulting from the operation listed above and does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations, and orders of governmental entities having jurisdiction, even though the above listed operation is otherwise conducted in compliance with this Chapter.
- (D) The Fire Marshal shall deny an application for a Temporary Non-Conforming Mobile Food Vendor Permit if the Fire Marshall determines that the Mobile Food Vending Unit as proposed would not comply with the requirements of this Chapter or the granting of a waiver to authorize a Temporary Non-Conforming Mobile Food Vendor Permit would pose a risk or danger to the public health or safety.
- (E) The Fire Marshal shall deny a Mobile Food Vendor Permit or Temporary Non-Conforming Mobile Food Vendor Permit application if the Fire Marshal determines that the applicant provided incorrect or incomplete information on the application.

- (F) If the Fire Marshal does not approve or deny an application within 45 days of the date it is filed, the application is denied.
- (E) The Fire Marshal shall give written notice of a denial of an application to the applicant.
- (F) An applicant may appeal to the Board of Adjustment a denial of a Mobile Food Vendor Permit application in accordance with § 125.13 (Appeal).

#### **§ 126.07 PERMIT NOT TRANSFERABLE.**

A Mobile Food Vendor Permit issued under this Chapter is not transferable to another person, Mobile Food Vendor, or Mobile Food Vending Unit.

#### **§ 126.08 PERMIT NOT A RIGHT.**

A Mobile Food Vendor Permit issued under this Chapter is a grant of a privilege and is not a property right.

#### **§ 126.09 PERMIT EXPIRATION; RENEWAL.**

A Mobile Food Vendor Permit issued under this Chapter expires one year after the date it is issued. A Mobile Food Vendor Permit holder shall file an application for Mobile Food Vendor Permit renewal not sooner than the 90th day and not later than the 45th day before the Mobile Food Vendor Permit expires.

#### **§ 126.10 REQUIREMENT TO SUPPLEMENT INFORMATION.**

While a Mobile Food Vendor Permit application is pending or a Mobile Food Vendor Permit is in effect, an applicant or permit holder shall immediately supplement the information provided to the Fire Marshal or Director in the Mobile Food Vendor Permit application if the information is or becomes inaccurate, incomplete, or misleading.

#### **§ 126.11 PERMIT SUSPENSION.**

- (A) The Fire Marshal or Director may suspend a Mobile Food Vendor Permit issued under this Chapter without prior notice or hearing if the Fire Marshal or Director determines that:
  - (1) The Mobile Food Vendor Permit holder, the manager, or an employee of the Mobile Food Vendor has violated a requirement of this Chapter;
  - (2) The Mobile Food Vendor or Mobile Food Vending Unit does not comply with this Chapter; or
  - (3) The Mobile Food Vendor Permit holder does not qualify for a permit under this Chapter.
- (B) If the Fire Marshal or Director suspends a Mobile Food Vendor Permit:

- (1) The Director shall give written notice to the Mobile Food Vendor Permit holder that the Mobile Food Vendor Permit is immediately suspended on receipt of the notice.
  - (2) The Mobile Food Vendor Permit holder shall immediately close the Mobile Food Vending Unit.
  - (3) Any Mobile Food Vendor Permit which has been suspended under this Chapter shall be surrendered upon demand to the Director. At the end of the period of suspension, in the absence of further violations, the surrendered Mobile Food Vendor Permit shall be returned to the Mobile Food Vendor Permit holder and shall be valid under the provisions of this code. If the period of suspension extends beyond the normal expiration date of the Mobile Food Vendor Permit, the Mobile Food Vendor Permit holder shall pay all Mobile Food Vendor Permit fees without proration in order to receive a valid Mobile Food Vendor Permit.
- (C) Suspension of a Mobile Food Vendor Permit is effective on receipt of notice.
- (D) A Mobile Food Vendor Permit holder may file with the Director a written request for a hearing on a Mobile Food Vendor Permit suspension. The request must be filed not later than the 10th day after the date of receipt of notice of suspension.
- (E) If a Mobile Food Vendor Permit holder timely files a hearing request:
- (1) The Director shall hold a hearing on the permit suspension not later than the 14th day after the date the hearing request is filed.
  - (2) At such hearing, the Mobile Food Vendor Permit holder may present information to the Director addressing the Director's suspension of a Mobile Food Vendor Permit and reasons, if any, that the Mobile Food Vendor Permit holder believes the suspension is not warranted.
- (F) If a hearing request is not timely filed, a suspension continues in effect.
- (G) After hearing, the Director shall give written notice to the Mobile Food Vendor Permit holder as to whether suspension is continued in effect after a hearing under Subsection (E).
- (H) The Director may reinstate a permit if the reason for suspension no longer exists.

#### **§ 126.12 PERMIT REVOCATION.**

- (A) The Fire Marshal or Director may revoke a Mobile Food Vendor Permit issued under this Chapter if the Fire Marshal or Director determines that:
- (1) The Mobile Food Vendor Permit holder, the manager, or an employee of the Mobile Food Vendor has engaged in serious or repeated violations of this



Chapter;

- (2) The Mobile Food Vendor or Mobile Food Vending Unit does not comply with this Chapter; or
  - (3) The Mobile Food Vendor Permit holder does not qualify for a permit under this Chapter.
- (B) Before revoking a Mobile Food Vendor Permit, the Director shall provide the Mobile Food Vendor Permit holder with written notice of the pending permit revocation. The written notice shall include:
  - (1) The reason the Mobile Food Vendor Permit is subject to revocation;
  - (2) The date on which the Mobile Food Vendor Permit is scheduled to be revoked; and
  - (3) A statement that the Mobile Food Vendor Permit will be revoked on the scheduled date unless the Mobile Food Vendor Permit holder files a written request for a hearing with the Director not later than the 10th day after the date the notice is received.
- (C) A Mobile Food Vendor Permit revocation becomes effective on expiration of the time period prescribed by the notice if the Mobile Food Vendor Permit holder does not file a written request for hearing with the Director not later than the 10th day after the notice is received.
- (D) If a Mobile Food Vendor Permit holder timely files a hearing request:
  - (1) The Director shall hold a hearing on the Mobile Food Vendor Permit revocation not later than the 14th day after the date the hearing request is filed.
  - (2) At such hearing, the Mobile Food Vendor Permit holder may present information to the Director addressing the Director's intent to revoke the Mobile Food Vendor Permit and reasons, if any, that the Mobile Food Vendor Permit holder believes the revocation is not warranted.
- (E) The Director shall give written notice to the Mobile Food Vendor Permit holder of a decision regarding the revocation of the Mobile Food Vendor Permit or a revocation that becomes effective under Subsection (C).

#### **§ 126.13 APPEAL.**

An applicant or a Mobile Food Vendor Permit holder may appeal to the Board of Adjustment a Mobile Food Vendor Permit application denial, a Mobile Food Vendor Permit suspension, or a Mobile Food Vendor Permit revocation. Such appeal must be made within 10 days after the applicant/Mobile Food Vendor Permit holder receives written notice of the decision that it is

appealing.

## **REGULATIONS FOR MOBILE FOOD VENDOR OPERATION**

### **§ 126.14 DOCUMENT POSTING REQUIRED.**

- (A) Each Mobile Food Vending Unit shall have displayed at all times in a conspicuous place where it can be read by the general public:
  - (1) City of Harker Heights Mobile Food Vendor Permit under this Chapter;
  - (2) A health permit for the Mobile Food Vendor from Bell County; and
  - (3) A copy of a Texas sales tax and use certificate for the Mobile Food Vendor.
- (B) If applicable, each Mobile Food Vending Unit shall display at all times in a conspicuous place where it can be read by the general public, a Texas Alcoholic Beverage Commission (TABC) authorization.
- (C) A copy of required records for the Mobile Food Vendor or Mobile Food Vending Unit shall be immediately available for inspection by the City.
- (D) A sign stating that the owner or operator has purchased liability insurance to cover activities at the Mobile Food Vending Unit.

### **§ 126.15 REGULATIONS FOR ALL MOBILE FOOD VENDORS**

- (A) Food Preparation.
  - (1) Any Mobile Food Vendors that prepare food outside of the Mobile Food Vending Unit must operate from an approved commissary in good standing as defined in and required by the Texas Food Establishment Rules. The commissary shall comply with all Food Establishment Rules and hold all current licenses and permits as required by the Rules. Mobile Food Vendors shall provide documentation of each visit to or service by the commissary and shall have that documentation immediately available for inspection by the City.
  - (2) All employees of the Mobile Food Vendor Permit holder must have a valid food handler's certificate.
  - (3) Except as shown on an approved lot diagram plan, the Mobile Food Vendor shall prepare, serve, store, and display food and beverages on or in the Mobile Food Vending Unit itself; and shall not attach, set up, or use any other device

or equipment intended to increase the selling, serving, storing, or displaying capacity of the Mobile Food Vending Unit.

**(B) Model Code Requirements.**

- (1) Mobile Food Vending Units must meet all applicable laws regarding Mobile Food Vendors as required by, but not limited to, the National Electric Code (NEC), International Building Code (IBC), International Fire Code (IFC), International Mechanical Code, International Plumbing Code, and International Fuel Gas Code as adopted and amended by the City or required by this Chapter.
- (2) Electricity shall be from a generator or permanent connection in a Mobile Food Court and the Mobile Food Vendor shall utilize electrical cords in conformance with the National Electrical Code and other Codes as adopted and amended by the City.
- (3) The Mobile Food Vending Unit must meet the following plumbing standards:
  - (a) All liquid waste shall be discharged to an approved sanitary sewage disposal system at the commissary or through an authorized service provider. All used fats, oil, or grease shall be discharged to an approved grease interceptor at the commissary or through an authorized service provider. Used fats, oils or grease shall not be directly discharged to any unauthorized food establishment grease interceptor.
  - (b) Liquid waste shall not be discharged from the retention tank when the Mobile Food Vending Unit is open to the public or in the process of preparing food.
  - (c) The waste connection shall be located below the water connection to preclude contamination of the potable water system.
  - (d) Connections to a water or sewage system on site is only allowed when the connections have been properly permitted and inspected by the Building Official or designee.

**(C) Placement.**

- (1) Mobile Food Vending Units shall not obstruct or set up in fire lanes, driveways, or parking spaces that are required for the use of an existing business.
- (2) Mobile Food Vending Units shall be separated from existing buildings and other mobile food vehicles by a minimum of ten (10) feet and separated from any building entrances or exits by twenty (20) feet.

- (3) A Mobile Food Vending Unit may not operate within two hundred (200) feet of any existing restaurant, when measured in a straight line, unless:
  - (a) The Mobile Food Vending Unit is owned by the restaurant; or
  - (b) The Mobile Food Vending Unit has acquired the written consent to operate by the owner or agent of the restaurant.
- (4) Mobile Food Vendors should attempt to avoid locating near restaurants or other Mobile Food Vendors which serve similar foods.

(D) Signage.

- (1) Each Mobile Food Vending Unit shall be clearly marked with the food establishment's name or a distinctive identifying symbol and shall display the name while in service within the City. All other signage on the Mobile Food Vending Unit shall be mounted flush to the surface of the Unit.
- (2) Each Mobile Food Vending Unit shall be permitted two (2) freestanding signs:
  - (a) Two (2) sandwich board signs not to exceed four (4) feet in height and eight (8) square feet; or
  - (b) One (1) sandwich board sign not to exceed four (4) feet in height and eight (8) square feet and one (1) feather flag not to exceed eight (8) feet in height.
- (3) Freestanding signs shall be for use on site and only during business operational hours.

(E) Insurance Requirement.

- (1) Each Mobile Food Vendor shall maintain a commercial general liability insurance policy providing minimum premises/operations coverage of \$500,000 per occurrence and \$1,000,000 in the aggregate on an occurrence basis.
- (2) The policy must be provided by an insurer licensed by the Texas Department of Insurance, and must be endorsed to name the City of Harker Heights as additionally insured.
- (3) Prior to opening for business, the Mobile Food Vendor Permit holder, manager, or owner shall deliver a certificate of insurance and copies of all endorsements for additional insured to the Director, and thereafter at least ten days prior to the expiration of such policies.



- (F) Drive-through service from Mobile Food Vending Units is prohibited.
- (G) Mobile Food Vending Units must be movable by motorized or non-motorized means.

**§ 126.16 REGULATIONS FOR MOBILE FOOD VENDORS OPERATING ON PUBLIC STREETS AND RIGHTS OF WAY.**

- (A) The Mobile Food Vendor and Mobile Food Vending Unit shall be in compliance with all provisions of this Chapter, including specifically the provisions of Section 126.14 and Section 126.15.
- (B) A Mobile Food Vendor may not operate on a public street or right of way unless:
  - (1) The Mobile Food Vending Unit is not obstructing pedestrian or vehicular traffic, is equal to or less than twenty (20) feet in length, is not a Mobile Concession Trailer, and is on site for fifteen (15) minutes or fewer; or
  - (2) The Mobile Food Vendor has obtained a Special Event Permit from the City Manager.

**§ 126.17 REGULATIONS FOR MOBILE FOOD VENDORS OPERATING ON PUBLIC PROPERTY (OTHER THAN STREETS OR RIGHTS OF WAY).**

- (A) The Mobile Food Vendor and Mobile Food Vending Unit shall be in compliance with all provisions of this Chapter, including specifically the provisions of Section 126.14 and Section 126.15.
- (B) A Mobile Food Vendor may not operate in a city park or on city property without a Special Event Permit or written permission from the City Manager or designee.
- (C) A Mobile Food Vendor may only operate within a city park or city property at locations approved by the City Manager or designee.

**§ 126.18 REGULATIONS FOR MOBILE FOOD VENDORS OPERATING ON PRIVATE PROPERTY.**

- (A) The Mobile Food Vendor and Mobile Food Vending Unit shall be in compliance with all provisions of this Chapter, including specifically the provisions of Section 126.14 and Section 126.15.
- (B) A Mobile Food Vendor may operate on private property in Commercial (B) or Industrial (M) zoning districts.
- (C) A Mobile Food Vendor may not operate in a residential (R) zoning district unless:
  - (1) The Mobile Food Vending Unit remains on site for fifteen (15) minutes or fewer; or



- (2) The Mobile Food Vendor has obtained a Special Event Permit from the City Manager.
- (D) A Mobile Food Vending Unit must be located on an improved, all-weather surface.
- (E) No permanent seating areas shall be established. Temporary seating which is removed and stored daily within the Mobile Food Vending Unit or existing permanent structure may be allowed.
- (F) Any Mobile Food Vendor that will operate in one location for more than four (4) hours shall provide access to restroom facilities for employees and customers.
  - (1) Written proof of a restroom facility agreement that provides the availability of a fixed establishment restroom located in a business establishment within one-hundred fifty (150) feet, along the path of travel, of each location where the Mobile Food Vending Unit will be in operation shall be required; and
  - (2) Such proof shall be provided to city employees when requested.
- (G) Mobile Food Vendors shall provide covered garbage and storage facilities for employee and customer use of sufficient size that refuse is fully contained in a manner that prevents litter and remains insect- and rodent-proof.
- (H) A Mobile Food Vending Unit may not remain at any location for more than twenty-four (24) consecutive hours at a time.

#### **§ 126.19 REGULATIONS FOR MOBILE FOOD VENDOR COURTS.**

- (A) A Mobile Food Vendor Food Court shall be located in a B-3 (Local Business District) zoning district or higher and requires a Conditional Use Permit (CUP) with an approved lot diagram plan.
- (B) The Mobile Food Vendor Court shall be considered a commercial business and shall meet all applicable state and local laws and regulations, including but not limited to the requirements of this Code and Chapter, or as governed by a Conditional Use Permit (CUP).
- (C) All Mobile Food Vendors and Mobile Food Vending Units operating in a Mobile Food Vendor Court shall be in compliance with all provisions of this Chapter, including specifically the provisions of Section 126.14 and Section 126.15.
- (D) Utility hookups for water, wastewater, and electric must be provided by the property owner for each Mobile Food Vending Unit.
- (E) The Mobile Food Vendor Food Court shall provide restroom facilities on site.

- (F) Any permanent structure will require a building permit and be subject to any applicable regulations.

## **ENFORCEMENT**

### **§ 126.20 ENFORCEMENT**

- (A) The City may inspect a Mobile Food Vending Unit during regular business hours and at other reasonable times to determine compliance with this ordinance.
  - (1) By accepting a Mobile Food Vendor Permit under this Chapter, the Mobile Food Vendor Permit holder consents that the City Manager, the City Manager's representative, law enforcement personnel, code enforcement personnel, and other on-duty governmental personnel may enter the Mobile Food Vending Unit during the hours of operation to conduct an investigation or inspect the Mobile Food Vending Unit to determine compliance with this Chapter.
  - (2) A Mobile Food Vendor Permit holder shall provide the City Manager, the City Manager's representative, law enforcement personnel, code enforcement personnel, and other on-duty governmental personnel with immediate access to all portions of the Mobile Food Vending Unit.
- (B) After conducting an inspection, the City shall inform the Mobile Food Vendor Permit holder of its findings in writing.
- (C) If a violation is found, the City is authorized to:
  - (1) Revoke the Mobile Food Vendor Permit; or
  - (2) Suspend the Mobile Food Vendor Permit until such time as the violation has been remedied. Re-inspections at prescribed time intervals will be conducted to determine whether required corrections have been made.

### **§ 126.99 PENALTY**

Penalty, see § 10.99

- (A) The City Council has determined that this Chapter is necessary to protect health, life, and property and to preserve the good government, order, and security of the city and its inhabitants.

- (B) A person who continues to violate this Chapter after being notified of the offense in writing by an authorized city representative is subject to a civil penalty not to exceed \$2,000 for each day or part of a day the violation occurs.
- (C) The city may file suit to enforce this Chapter to collect a civil penalty.
- (D) The city may seek to enjoin violations of this Chapter.

**SECTION 3:** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

**SECTION 4:** All regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this Ordinance, acting for the City in the discharge of official duties, shall not thereby become personally liable, and is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of said duties.

**SECTION 5:** The change in the law made by this Ordinance applies only to an offense committed on or after the effective date of this Ordinance. For purposes of this section, an offense is committed on or after the effective date of this Ordinance if every element of the offense occurs on or after that date.

**SECTION 6:** An offense committed before the effective date of this Ordinance is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

**SECTION 7:** This Ordinance shall be effective from and after the tenth day after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

PASSED AND APPROVED by the City Council of the City of Harker Heights on

\_\_\_\_\_.

\_\_\_\_\_  
Spencer H. Smith, Mayor

ATTEST:

\_\_\_\_\_  
Juliette Helsham, City Secretary





## CITY COUNCIL MEMORANDUM

### AGENDA ITEM # VII-3

FROM: THE OFFICE OF THE CITY MANAGER

DATE: AUGUST 25, 2020

**CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, ADOPTING AND AMENDING THE 2017 NATIONAL TECHNICAL CODES SECTION 150.02 (K), IN RELATION TO THE NATIONAL ELECTRICAL CODE, AND TAKE THE APPROPRIATE ACTION.**

**EXPLANATION:**

The Texas Electrical Safety and Licensing Act requires the Texas Department of Licensing and Regulation (TDLR) to adopt the revised National Electrical Code (NEC) as the electrical code for the state of Texas. On June 30, 2020, the TDLR adopted the 2020 NEC as the electrical code for the state of Texas and established it as the "minimum standard" for all electrical work in Texas covered by the Act. The effective date will be November 1, 2020 (delayed from the proposed date of September 1, 2020 due to COVID-19).

The City's Building Official and Building Inspector have attended updated training to understand and properly enforce the new requirements. Staff has met with local contractors and construction stakeholders to provide some clear guidance on how the City will implement and enforce the new State requirements.

**FINDINGS:**

This item was discussed and approved at a workshop of the City Council on August 18, 2020. Staff finds that it is necessary to adopt the ordinance as discussed to comply with State of Texas requirements.

**STAFF RECOMMENDATION:**

Staff recommends approval of an ordinance of the City of Harker Heights adopting and amending the 2017 National Technical Codes Section 150.02 (K).

**ACTION BY CITY COUNCIL:**

1. Motion to APPROVE/DENY an Ordinance of the City of Harker Heights, Texas, adopting and amending the 2017 National Technical Codes Section 150.02 (K), in relation to the National Electrical Code based upon staff's recommendation and findings.
2. Any other action desired.

**ATTACHMENTS:**

1. Ordinance

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

**AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, ADOPTING AND AMENDING THE 2017 NATIONAL TECHNICAL CODES SECTION 150.02(K).**

**WHEREAS**, the City of Harker Heights (“*City*”) has previously adopted various standard codes, including the 2017 National Technical Code; and

**WHEREAS**, Section 1305.101 of the Texas Occupations Code requires the adoption of the National Technical Codes as published by the International Code Council and NFPA (“*Technical Codes*”) as the technical codes for the state; and

**WHEREAS**, Occupations Code §1305.201(c) permits a municipality to adopt local amendments to the Technical Codes; and

**WHEREAS**, the City Council (“*Council*”) finds that to comply with applicable law, and to provide for greater uniformity in construction standards, and to promote the public health, safety and welfare, it is necessary and desirable to amend the Code of Harker Heights (“*Code*”) as hereinafter provided; and

**WHEREAS**, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

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

**SECTION 1:** The Council officially finds and declares that the facts and recitations set forth in the preamble to this Ordinance are true and correct.

**SECTION 2:** Section 150.02 of the Code is hereby amended to read as follows:

***(K) The National Electrical Code, 2020 Edition (NFPA 70), as promulgated by the National Fire Protection Association, except for the following, which shall amend and change said code only to the extent referenced:***

***(1) Article 230.70(A)(1) “Readily Accessible Location.” Amend to read: “The disconnecting means shall be installed at a readily accessible location outside of the building or structure served, and at the point of entrance of all conductors to the building. The main service disconnect switch shall not be located more than five (5) feet above finished grade.”***

***(2) Article 334.12(A) “Uses Not Permitted.” Amend to read:***

***“(A) Types NM, NMC, and NMS. Types NM and NMS cables shall not be***

*used as follows:*

*1. As open runs in dropped or suspended ceilings in other than one and two family and multi-family dwellings.*

*2. As service entrance cable.*

*3. In any of the following types of occupancies:*

*(a) Apartment houses of two stories of occupancies or greater;*

*(b) Any commercial building;*

*(c) Any industrial building;*

*(d) Educational buildings;*

*(e) Churches and church accessory structures;*

*(f) Public buildings.*

*4. Embedded in poured cement, concrete, or aggregate.”*

*(3) Annexes A, B, C, D, E, F, G., I, and J are adopted.*

*(4) Annex H is not adopted.*

**SECTION 3:** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

**SECTION 4:** All of the regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this Ordinance, acting for the City in the discharge of official duties, shall not thereby become personally liable, and is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of said duties.

**SECTION 5:** Effective date shall be November 1, 2020.

**SECTION 6:** The change in the law made by this Ordinance applies only to an offense committed on or after the effective date of this Ordinance. For purposes of this section, an offense is committed on or after the effective date of this Ordinance if every element of the offense occurs on or after that date.

**SECTION 7:** An offense committed before the effective date of this Ordinance is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

**SECTION 8:** This Ordinance shall be effective from and after the tenth day after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

**PASSED AND APPROVED** by the City Council of the City of Harker Heights on August 25, 2020.

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Spencer H. Smith, Mayor

ATTEST:

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Juliette Helsham, City Secretary





## CITY COUNCIL MEMORANDUM

### AGENDA ITEM # VII-4

FROM: THE OFFICE OF THE CITY MANAGER

DATE: AUGUST 25, 2020

**CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, ADOPTING AND AMENDING THE 2015 GENERAL TECHNICAL CODES SECTION 150.02(I), IN RELATION TO SWIMMING POOLS AND SPAS, AND TAKE THE APPROPRIATE ACTION.**

**EXPLANATION:**

The Texas legislature has passed HB 2858, which sets a model code for the construction of swimming pools and spas in the state. This means, starting September 1, 2020, any municipality that chooses to regulate the building and alteration of swimming pools and spas must adopt the 2018 ISPSC as its base code. The City of Harker Heights has adopted and currently enforces the 2015 ISPSC and is therefore required to update to the 2018 Code.

The City's Building Official and Building Inspector have attended updated training to understand and properly enforce the new requirements. Staff has met with local contractors and construction stakeholders to provide some clear guidance on how the City will implement and enforce the new State requirements.

**FINDINGS:**

This item was discussed and approved at a workshop of the City Council on August 18, 2020. Staff finds that it is necessary to adopt the ordinance as discussed to comply with State of Texas requirements.

**STAFF RECOMMENDATION:**

Staff recommends approval of an ordinance of the City of Harker Heights adopting and amending the 2015 General Technical Codes Section 150.02 (I).

**ACTION BY CITY COUNCIL:**

1. Motion to APPROVE/DENY an Ordinance of the City of Harker Heights, Texas, adopting and amending the 2015 General Technical Codes Section 150.02 (I), in relation to swimming pools and spas based upon staff's recommendation and findings.
2. Any other action desired.

**ATTACHMENTS:**

1. Ordinance

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

**AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, ADOPTING AND AMENDING THE 2015 GENERAL TECHNICAL CODES SECTION 150.02(I).**

**WHEREAS**, the City of Harker Heights ("**City**") has previously adopted various standard codes, including the 2015 International Swimming Pool and Spa Code; and

**WHEREAS**, House Bill 2858 of the Legislature of the State of Texas section 214.103 requires the adoption of the International Swimming Pool and Spa Code as published by the International Code Council as the technical codes for the state; and

**WHEREAS**, House Bill 2858 of the Legislature of the State of Texas 214.103 (d) permits a municipality to adopt local amendments to the Technical Codes; and

**WHEREAS**, the City Council ("**Council**") finds that to comply with applicable law, and to provide for greater uniformity in construction standards, and to promote the public health, safety and welfare, it is necessary and desirable to amend the Code of Harker Heights ("**Code**") as hereinafter provided; and

**WHEREAS**, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

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

**SECTION 1:** The Council officially finds and declares that the facts and recitations set forth in the preamble to this Ordinance are true and correct.

**SECTION 2:** Section 150.02 of the Code is hereby amended to read as follows:

***(1) The International Swimming Pool and Spa Code, 2018 Edition, as promulgated by the International Code Council Inc., and all subsequently published annual revisions issued, except for the following, which shall amend and change said code only to the extent referenced:***

***(1) Chapter 1; part 101.1 "Title." Insert "The City of Harker Heights."***

***(2) SECTION 103 "DEPARTMENT OF BUILDING SAFETY." Delete this section.***

***(3) Section 106.16 "Re-inspection and Testing." Amend to read: "Where any work or installation does not pass an inspection, the necessary corrections shall be made so as to achieve compliance with this code. The work or installation shall then be resubmitted to the code official for re-inspection. A fee shall be paid to the city for each re-inspection."***

***(4) Section 105.6.2 "Fee Schedule" Amend to read: "The fees for work shall be as indicated in the City adopted fee schedule"***

***(5) Section 105.6.3 "Fee Refund" 105.6.3 (2) add "50 percent" 105.6.3 (3) add "50 percent"***

***(6) SECTION 108 "MEANS OF APPEALS." Replace the text with the following: "See Section 113 of the International Building Code."***

**SECTION 3:** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

**SECTION 4:** All of the regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this Ordinance, acting for the City in the discharge of official duties, shall not thereby become personally liable, and is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of said duties.

**SECTION 5:** Effective date shall be September 1, 2020.

**SECTION 6:** The change in the law made by this Ordinance applies only to an offense committed on or after the effective date of this Ordinance. For purposes of this section, an offense is committed on or after the effective date of this Ordinance if every element of the offense occurs on or after that date.

**SECTION 7:** An offense committed before the effective date of this Ordinance is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

**SECTION 8:** This Ordinance shall be effective from and after the tenth day after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

**PASSED AND APPROVED** by the City Council of the City of Harker Heights on August 25, 2020.

---

Spencer H. Smith, Mayor

ATTEST:

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Juliette Helsham, City Secretary



## COUNCIL MEMORANDUM

### AGENDA ITEM # VIII-1

FROM: THE OFFICE OF THE CITY MANAGER

DATE: AUGUST 25, 2020

**DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, AMENDING ORDINANCE 2020-06 OF THE HARKER HEIGHTS CODE TO EXTEND THE PUBLIC HEALTH EMERGENCY DECLARATION THROUGH SEPTEMBER 30, 2020, AND TAKE THE APPROPRIATE ACTION.**

**EXPLANATION:**

The State of Texas and Bell County both have issued disaster declarations that cover Harker Heights in relation to the COVID-19 pandemic. Per TML's guidance on receiving reimbursements in relation to COVID-19 expenditures, Mayor Smith issued a disaster declaration for Harker Heights on March 20, 2020.

The City Council approved an Ordinance during a special called meeting on April 7, 2020, to extend the Public Health Emergency Declaration to April 30, 2020.

On April 28, 2020, the Council approved an extension to the Public Health Emergency Declaration until May 31, 2020.

On May 26, 2020, the Council approved an extension to the Public Health Emergency Declaration until June 30, 2020.

On June 23, 2020, the Council approved an extension to the Public Health Emergency Declaration until July 31<sup>st</sup>, 2020.

On July 28, 2020, the Council met again and approved another extension to the Public Health Emergency Declaration until August 31, 2020.

Action is now needed again by the Council to consider extending this declaration to match recent directives from the State and Bell County out to September 30, 2020.

This declaration continues to align with the City's COVID-19 response measures to those issued by Bell County and the State. If Bell County or the State modify their orders, then the City's requirements would automatically reflect these modifications, to include the Governor's staged initiatives of "Reopening Texas".

The Council is scheduled to meet again on September 8, 2020 and September 22, 2020, and may at that time choose to end, modify, and/or extend the declaration.

**STAFF RECOMMENDATION:**

Staff recommends approval of the extension.

**ACTION BY CITY COUNCIL:**

1. Motion to Approve/Disapprove an Ordinance amending Ordinance 2020-06 of the Harker Heights Code to extend the Public Health Emergency Declaration through September 30, 2020.
2. Any other action desired.

**ATTACHMENTS:**

1. Ordinance



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

**AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, AMENDING ORDINANCE 2020-06 OF THE HARKER HEIGHTS CODE TO EXTEND THE PUBLIC HEALTH EMERGENCY DECLARATION THROUGH SEPTEMBER 30, 2020.**

**WHEREAS**, the City Council ("**Council**") of the City of Harker Heights ("**City**") finds that it is necessary and desirable to amend the Code of Harker Heights ("**Code**") as hereinafter provided in order to extend the Public Health Emergency Declaration; and

**WHEREAS**, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

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

**SECTION 1:** The City Council officially finds and declares that the facts and recitations set forth in the preamble to this ordinance are true and correct.

**SECTION 2:** Ordinance 2020-06, 2, of the Code of Harker Heights is hereby appended with the following:

2. This declaration ratifies the disaster declaration issued by Harker Heights Mayor Spencer H. Smith on March 20, 2020, and this declaration shall run until September 30, 2020.

**SECTION 3:** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

**SECTION 4:** This ordinance shall be effective from and after its passage, and the City Secretary shall publish the caption or title of hereof within ten days as required by law.

**PASSED AND APPROVED** by the City Council of the City of Harker Heights on August 25, 2020.

\_\_\_\_\_  
Spencer H. Smith, Mayor

ATTEST:

\_\_\_\_\_  
Juliette Helsham, City Secretary



## COUNCIL MEMORANDUM

### AGENDA ITEM # VIII-2

FROM: THE OFFICE OF THE CITY MANAGER

AUGUST 25, 2020

**DISCUSS AND CONSIDER APPROVING A RESOLUTION OF THE CITY OF HARKER HEIGHTS, TEXAS, AUTHORIZING THE CITY'S APPLICATION FOR A GRANT IN THE AMOUNT OF \$86,130.44 THROUGH THE CRIMINAL JUSTICE DIVISION GRANT PROGRAM; FOR THE PURCHASE OF 38 PRO TECH DT 206C LEVEL IIIA PLATE VESTS WITH ACCESSORIES; AND 4 RAM1 SWAT HEAVY VEST; AUTHORIZING THE CITY MANAGER TO SIGN ON BEHALF OF THE CITY, AND TAKE THE APPROPRIATE ACTION.**

#### EXPLANATION:

The Harker Heights Police Department has prepared an application for a Criminal Justice Division Grant Program ("Grant") # 3998601 to equip the Department Patrol Officers with enhanced protection by purchasing thirty-eight (38) Pro Tech DT 206C Level IIIA plate vest and accessories which will give them more ballistic coverage over the vital organs than the rifle resistant body armor we are currently using for patrol. The Department is also requesting four (4) Point Blank RAM1 swat heavy vest. The RAM1 has BCIIIA Ballistics and one 10X12 Level III hard plate will be issued to the entry and inner perimeter teams.

The Grant would provide a total of \$86,130.44, with no requirement for a cash or in-kind match.

On February 25, 2020, a Resolution was approved by the Council for the application of this grant to purchase certain pieces of the rifle vest. The State rejected the application and requested a change be made on the application to reflect the full rifle vest and not just the pieces needed by the Department.

On March 24, 2020, an amendment to the Resolution was approved by the Council that reflects the recommendation to list the full rifle vest. The grant in the amount of \$87,925.09 was being requested.

The Police Department was notified by the State of a change in pricing and requested an amended Resolution to reflect the new grant amount of \$86,130.44 for the items requested. Action is now needed by the Council to approve a Resolution allowing the City to participate in this grant through the Criminal Justice Division Grant Program.

#### RECOMMENDATION

Staff recommends approval.

**ACTION BY COUNCIL**

1. Motion to Approve/Disapprove the Resolution of the City of Harker Heights, Texas, authorizing the City's application for a grant in the amount of \$86,130.44 through the Criminal Justice Division Grant Program, for the purchase of 38 Pro Tech DT 206C Level IIIA plate vests with accessories and 4 RAM1 SWAT Heavy Vests with no requirement for a cash or in-kind match; and authorize the City Manager to sign on behalf of the City.
2. Any other actions desired by the Council.

**ATTACHMENTS:**

1. Resolution

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

**A RESOLUTION OF THE CITY OF HARKER HEIGHTS, TEXAS, AUTHORIZING THE CITY'S PARTICIPATION IN THE CRIMINAL JUSTICE DIVISION GRANT PROGRAM FOR THE PURCHASE OF 38 PRO TECH DT 206C LEVEL IIIA PLATE VESTS WITH ACCESSORIES, AND 4 RAM1 SWAT HEAVY VEST.**

**WHEREAS**, the Harker Heights Police Department has prepared an application for a Criminal Justice Division Grant ("**Grant**") # 3998601 to equip the Harker Heights Police Department Patrol Officers with enhanced protection by purchasing 38 Pro Tech DT 206C Level IIIA plate vest and accessories. This will give them more ballistic coverage over the vital organs than the rifle resistant body armor we are currently using for patrol. The Department is also requesting four (4) Point Blank RAM1 ballistic vest which has BCIIIA Ballistics and one 10X12 Level III hard plate. The ballistic vest will be issued to the entry and inner perimeter teams; and

**WHEREAS**, the City Council finds and determines: ballistic body armor is essential in modern-day police work, having saved the lives of more than 3000 law enforcement officers in the past 30 years according to the National Institute of Justice. The Pro Tech 206C is lighter than the vest currently issued to Patrol Officers. The Pro Tech 206C will protect the patrol officers throat, neck, upper arms and groin area with the accessories. The four (4) SWAT heavy vest will update protection when they respond to high risk search warrants, high risk arrest warrants, armed barricaded subject, hostage rescue; and

**WHEREAS**, the Grant would provide a total of \$86,130.44, with no requirement for a cash or in-kind match; and

**WHEREAS**, the City Council finds it is in the public interest that the City participate in the Grant according to the terms and conditions thereof, and by means hereof the Council expresses its support for such participation; and

**WHEREAS**, the meeting at which this resolution was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Harker Heights, Texas:

1. The facts and recitations set forth above are hereby found and declared to be true and correct.
2. The submission of the application for the Grant is hereby approved.

3. The City Manager, David Mitchell, is hereby designated as the City's authorized official. He is authorized and empowered to act in the name and on behalf of the City to apply for, accept, reject, alter, or terminate the City's participation in the Grant, and to execute and deliver such agreements (and any changes therein and additions thereto as he shall determine to be necessary or advisable, such determination to be conclusively evidenced by the execution and delivery thereof), and any related consents, notices, certificates, acknowledgments, and other instruments, and to act as the representative of the City in any lawful way to perform or cause to be performed such other and further acts as may be reasonably necessary and appropriate to accomplish the purposes of these resolutions.
4. All actions taken or performed prior to the date hereof by the City Manager in respect to the matters referred to and approved in this Resolution be and hereby are ratified and confirmed in all respects.
5. The City Council agrees that in the event of loss or misuse of Grant funds, such funds will be returned to the Texas Office of the Governor in full.
6. Any person, corporation, partnership, limited partnership, association, joint venture or other business entity may presume upon the validity of the acts of any person authorized herein to act, without further recourse to the governing documents, minutes or other proceedings of the City, and without joinder of any other officer or employee of the City.

**PASSED AND APPROVED** on August 25, 2020, by the Harker Heights City Council.

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Spencer H. Smith, Mayor, City of Harker Heights

ATTEST:

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Julie Helsham, City Secretary, City of Harker Heights





# COUNCIL MEMORANDUM

## AGENDA ITEM # IX-1

FROM: THE OFFICE OF THE CITY MANAGER

DATE: AUGUST 25, 2020

**DISCUSS AND CONSIDER APPROVING A REQUEST FROM APRIL MCCARTY AND DIGITAL DOMINATION PARTNERS, LLC, FOR A SPECIAL EVENTS PERMIT TO HOST AN OUTDOOR EVENT AT THE HARKER HEIGHTS WALMART SUPERCENTER, LOCATED AT 2020 HEIGHTS DRIVE, HARKER HEIGHTS, TEXAS, WHICH WILL HAVE IN EXCESS OF TEN (10) PEOPLE ON FRIDAY, SEPTEMBER 11, 2020, AND SATURDAY, SEPTEMBER 12, 2020, AND TAKE THE APPROPRIATE ACTION.**

**EXPLANATION:**

On July 2, 2020, Governor Greg Abbott issued a proclamation giving Mayors and County Judges the ability to impose restrictions on some outdoor gatherings over ten (10) people. Outdoor gatherings in excess of ten (10) people that is not specifically granted by the Governor, is prohibited unless the Mayor of the City in which the gathering is held, (or the County Judge in the case of a gathering in an unincorporated area) approves the gathering, and such approval can be made subject to certain conditions or restrictions.

In accordance with this directive, April McCarty and Digital Domination Partners LLC is seeking approval for a request to hold two outdoor drive-in movie nights for Walmart staff and a limited number of guests invited by staff. The events will take place on Friday, September 11, 2020, and Saturday, September 12, 2020, from 7:00 p.m. - 9:30 p.m. at the Harker Heights Walmart Supercenter, located at 2020 Heights Drive, with approximately 75 vehicles (assuming 4 persons per vehicle) in attendance for each event.

The applicant was provided a written notification update on gatherings of more than ten (10) at the time the application was completed by Parks and Recreation Staff.

**STAFF RECOMMENDATION:**

None.

**ACTION BY CITY COUNCIL:**

1. Motion to Approve/Disapprove the request for a Special Events Permit to host an outdoor event at the Harker Heights Walmart located at 2020 Heights Drive, which will have in excess of ten (10) people on Friday, September 11, 2020 and Thursday, September 12, 2020.
2. Any other action desired.

**ATTACHMENTS:**

1. Notification Update on Gatherings More Than 10
2. City of Harker Heights Application for Special Events Permit
3. Governor's Proclamation Amending Executive Order GA-28
4. Texas Department of State Health Services Checklist for Outdoor Events
5. Walmart Drive-In Safety Plan
6. Walmart Drive-In Site Plan



Received 7/15/2020

*The City of Harker Heights*  
305 Miller's Crossing  
Harker Heights, Texas 76548  
Phone 254/953-5600  
Fax 254/953-5614

Effective as of July 3, 2020

#### **NOTIFICATION UPDATE ON GATHERINGS MORE THAN 10**

**Mayor**  
Spencer H. Smith

**Mayor Protem**  
Michael Blomquist

**City Council**  
Jennifer McCann  
Jackeline Soriano Fountain  
John Reider  
Jody Nicholas

Governor Greg Abbott has issued Executive Order 29 requiring all Texans to wear a face covering over the nose and mouth in public spaces, with few exceptions, in counties with 20 or more positive COVID-19 cases.

The Governor also issued a proclamation giving mayors and county judges the ability to impose restrictions on some outdoor gatherings of over 10. An excerpt of the proclamation is below:

**NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby amend paragraph numbers 5 and 12 of Executive Order GA-28, effective at 12:01 p.m. on July 3, 2020, to read as follows:**

**5. For any outdoor gathering in excess of 10 people, other than those set forth above in paragraph numbers 1, 2, or 4, the gathering is prohibited unless the mayor of the city in which the gathering is held, or the county judge in the case of a gathering in an unincorporated area, approves of the gathering, and such approval can be made subject to certain conditions or restrictions not inconsistent with this executive order.**

**12. Except as provided in this executive order or in the minimum standard health protocols recommended by DSHS, found at [www.dshs.texas.gov/coronavirus](http://www.dshs.texas.gov/coronavirus), people shall not be in groups larger than 10 and shall maintain six feet of social distancing from those not in their group.**

**All special events and rentals must be approved by the Harker Heights City Council. The requests are subject to the availability of the regular scheduled City Council meetings.**



**CITY OF HARKER HEIGHTS  
APPLICATION FOR SPECIAL EVENTS  
PERMIT**

**Applicant's Name:** April McCarty **Date:** 8/6/2020

\*If the event is to be conducted by an organization, the president/leader of the organization must show written documentation of the authority under which the applicant is applying for the permit on behalf of the organization.

**Organization Name:** Digital Domination Partners LLC  
**Organization Address:** 7004 Kennedy BLVD E, #25D **City** Guttenberg **St** NJ **Zip** 07093  
**Organization Phone:** 201-223-1602 **Mobile:** 201-679-7005

**Home Address:** \_\_\_\_\_ **City** \_\_\_\_\_ **St** \_\_\_\_\_ **Zip** \_\_\_\_\_  
**Home Phone:** \_\_\_\_\_ **Mobile** \_\_\_\_\_

**Name of Supervisor of event:** Andrew Klungland, Director, Demos & Retailtainment, Walmart  
**Business Address** 702 SW 8th St. , 702 SW 8th St. Bentonville, AR 72716 **Phone** (479) 273-4000  
**Home Address** \_\_\_\_\_ **Phone** \_\_\_\_\_

**Nature of the event:** Walmart Corporate is sponsoring 2 evenings of Drive-in Move entertainment in their parking lot.  
**Proposed Date(s) of the Event:** 9/11 & 9/12/2020 **Number of participants:** up to 75 cars  
**Starting / Ending time of the event:** 7:00 PM - 9:30 PM **Proposed location of event (Including its boundaries):** 2020 HEIGHTS DRIVE, HARKER HEIGHTS TX 76548

**Number/Types of Vehicles:** up to 75 cars PASSENGER VEHICLES  
**Number/Types of Animals:** N/A  
**Number/Types of Structures:** N/A

**Describe sound amplification equipment:** n/a sound will be broadcast over an FM radio frequency

**Describe parking requirements:** We will be using exisiting spots in the Walmart parking lot. Vehicles will be spaced a minimum of 8' apart on all sides.

**Describe advertising of event:** Walmart website for pre-registration

**For Parades Only:**

**Time when units will assemble:** \_\_\_\_\_ **Assembly point:** \_\_\_\_\_

**Proposed Parade Route:** \_\_\_\_\_

**Number/ type/size of floats:** \_\_\_\_\_

**Interval space between floats:** \_\_\_\_\_

**Number/composition/size of signs/banners:** \_\_\_\_\_

\*Please use the space provided for a drawing showing access routes for emergency vehicles, and the location of any food, water, sanitary facilities, or first aid stations to be provided at the event. (Need not be to scale)

Please see attached site plan.

---

**Supplemental Information:**

April McCarty  
Signature of Applicant

8/06/2020  
Date Signed

---

(FOR OFFICE USE ONLY)

\_\_\_\_\_  
Signature of City Manager

\_\_\_\_\_  
Date Approved

August 2, 2020

Walmart  
702 SW 8th St.  
Bentonville, AR 72716-0310

To the City of Harker Heights, TX,

This letter is to approve the authorization of the **Walmart Drive-In** parking lot events at Walmart Store #3319 located at 2020 Heights Drive Harker Heights, TX 76548 on September 11<sup>th</sup> -12<sup>th</sup> from 7:30pm-9:30pm.

Please note: The third-party agency, Momentum Worldwide (Momentum NA, Inc.), will be onsite managing the activation and will begin set-up one day prior to the event in preparation.

If you have any additional questions or concerns, please reach me at my email:

[Andrew.Klungland@walmart.com](mailto:Andrew.Klungland@walmart.com)

Thank you!

Regards,

**Andy Klungland**  
**Director, Demos & Retailtainment**  
479.321.6134  
[Andrew.Klungland@walmart.com](mailto:Andrew.Klungland@walmart.com)





GOVERNOR GREG ABBOTT

July 2, 2020

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2:30pm O'CLOCK

JUL 2 2020  
  
Secretary of State

The Honorable Ruth R. Hughes  
Secretary of State  
State Capitol Room 1E.8  
Austin, Texas 78701

Dear Secretary Hughes:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

A proclamation amending Executive Order GA-28 relating to mass gatherings in Texas during the disaster posed by the novel coronavirus (COVID-19).

The original proclamation is attached to this letter of transmittal.

Respectfully submitted,

Gregory S. Davidson  
Executive Clerk to the Governor  
GSD/gsd

Attachment

# PROCLAMATION

BY THE

## Governor of the State of Texas

---

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have renewed the disaster declaration for all Texas counties; and

WHEREAS, I issued Executive Order GA-28 on June 26, 2020, relating to the targeted response to the COVID-19 disaster as part of the reopening of Texas; and

WHEREAS, additional measures are needed to slow the spread of COVID-19 in Texas;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby amend paragraph numbers 5 and 12 of Executive Order GA-28, effective at 12:01 p.m. on July 3, 2020, to read as follows:

5. For any outdoor gathering in excess of 10 people, other than those set forth above in paragraph numbers 1, 2, or 4, the gathering is prohibited unless the mayor of the city in which the gathering is held, or the county judge in the case of a gathering in an unincorporated area, approves of the gathering, and such approval can be made subject to certain conditions or restrictions not inconsistent with this executive order;
12. Except as provided in this executive order or in the minimum standard health protocols recommended by DSHS, found at [www.dshs.texas.gov/coronavirus](http://www.dshs.texas.gov/coronavirus), people shall not be in groups larger than 10 and shall maintain six feet of social distancing from those not in their group;

This proclamation shall remain in effect and in full force for as long as Executive Order GA-28 is in effect and in full force, unless otherwise modified, amended, rescinded, or superseded by the governor.



IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 2nd day of July, 2020.

A handwritten signature in black ink, reading "Greg Abbott", is written over a horizontal line.

GREG ABBOTT  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2:30pm O'CLOCK

JUL 02 2020

*Governor Greg Abbott*  
July 2, 2020

*Proclamation*  
Page 2

ATTESTED BY:

A handwritten signature in black ink, appearing to read 'R. Hughs', is written over a horizontal line.

RUTH R. HUGHS  
Secretary of State

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2:30 PM O'CLOCK

JUL 02 2020





## ☒ **CHECKLIST FOR OUTDOOR EVENTS**

Page 1 of 2

*Outdoor events, such as July 4 celebrations and other large outdoor gatherings with estimated attendance of 10 or more, are permissible to hold in Texas. The county judge or the mayor, as appropriate, in coordination with the local public health authority, must give approval to such an outdoor gathering or event prior to it being held.*

**All individuals must wear a face covering (over the nose and mouth) wherever it is not feasible to maintain six feet of social distancing from another individual not in the same household or, for those engaging in physical activities outdoors, wherever the individual is not able to maintain a safe physical distance from others not in the same household.**

*The following are the minimum recommended health protocols for all outdoor events in Texas. These minimum health protocols are not a limit on the health protocols that individuals may adopt. Individuals are encouraged to adopt additional protocols consistent with their specific needs and circumstances to help protect the health and safety of all Texans.*

*The virus that causes COVID-19 can be spread to others by infected persons who have few or no symptoms. Even if an infected person is only mildly ill, the people they spread it to may become seriously ill or even die, especially if that person is 65 or older with pre-existing health conditions that place them at higher risk. Because of the hidden nature of this threat, everyone should rigorously follow the practices specified in these protocols, all of which facilitate a safe and measured reopening of Texas. The virus that causes COVID-19 is still circulating in our communities. We should continue to observe practices that protect everyone, including those who are most vulnerable.*

*Please note, public health guidance cannot anticipate every unique situation. Individuals should stay informed and take actions based on common sense and wise judgment that will protect health and support economic revitalization.*

### Health protocols for individuals:

- ☐ Individuals aged 65 or older are at a higher risk of COVID-19. To the extent possible, avoid contact within 6 feet with individuals aged 65 and older. Individuals aged 65 and older should stay at home as much as possible. Large gatherings, even those held outside, pose a significant risk to this population.
- ☐ Individuals may not be in a group larger than 10 individuals (including those within the individual's household). Within these groups, individuals should, to the extent possible, minimize in-person contact with others not in the individual's household. Minimizing in-person contact includes maintaining 6 feet of separation from individuals. When maintaining 6 feet of separation is not feasible, other methods should be utilized to slow the spread of COVID-19, such as washing or sanitizing hand frequently, and avoiding sharing utensils or other common objects.
- ☐ Individuals should maintain 6 feet of separation from others outside the individual's group. A group is defined as no more than 10 persons including the members of the household and those persons who traveled together to the event.
- ☐ Self-screen before going to an outdoor event for any of the following new or worsening signs or symptoms of possible COVID-19:
  - ☐ Cough
  - ☐ Shortness of breath or difficulty breathing
  - ☐ Chills
  - ☐ Repeated shaking with chills
  - ☐ Muscle pain
  - ☐ Headache
  - ☐ Sore throat
  - ☐ Loss of taste or smell
  - ☐ Diarrhea
  - ☐ Feeling feverish or a measured temperature greater than or equal to 100.0 degrees Fahrenheit
  - ☐ Known close contact with a person who is lab confirmed to have COVID-19



## **OUTDOOR EVENTS: Page 2 of 2**

- ☐ Wash or disinfect hands after any interaction with employees, other individuals, or items at the outdoor event.
- ☐ Clean and sanitize any items before and after use.

### **Local approval factors:**

- ☐ Local approval for large outdoor gatherings (those with an estimated attendance exceeding 10 individuals) is appropriate in this instance because a statewide standard is unable to take into account the various factors needed to ensure such a gathering in varied locations is safe and will minimize the spread of COVID-19. Further, business parity is not an issue at large outdoor events.
- ☐ In evaluating large gatherings (those with an estimated attendance exceeding 10 individuals), the county judge or the mayor, as applicable, should consider the following factors:
  - ☐ The overall number of projected attendees;
  - ☐ The likelihood of individuals over the age of 65 attending;
  - ☐ The density of the forum and the ability to ensure social distancing of 6 feet between individuals; and
  - ☐ The level of transmission in the county.
- ☐ Gatherings of less than 10 individuals may proceed consistent with all the health protocols above without approval of the county judge, local health authority, or mayor, as applicable.



## SAFETY PLAN

### EVENT CAPACITY

- Event Capacity will vary per store with an average of 75 - 100 vehicles
- The assumption is there will be up to 4 guests per vehicle

### EVENT CROWD & TRAFFIC MANAGEMENT

- There will be 2 Momentum Tour Managers on site that will serve as the Event Managers
- There will be 4 - 6 Security Guards stationed around various locations around the event site
- There will be 8 - 10 Traffic Managers directing traffic for the event and guiding cars into their respective viewing locations

### INCIDENT REPORTS

- The Event Managers will complete a written "incident report" for any infraction, accident, injury, etc.
- The Event Managers will have blank forms on them and we have electronic PDFs

### SECURITY

- Hired security (licensed and bonded) will be on site before, during, and after the hours of the event
- Security Posts and Responsibilities:
  - 1 guard at the entrance of main event site vehicle line
  - 1 guard near the video truck/screen
  - 1 guard by the event site parking entrance
  - 1 guard roaming within the event site parking area
  - 2 guards in the store for after store hour bathroom use (where applicable)
- Security will have radio communications for all guards on site and will communicate via radio to the event managers on site for any incidents
- Event managers, head of security, and on-site manager for venue will have cell phones on their persons
- Event coordinator will touch base with everyone prior

### MEDICAL

- There will be an EMT paramedic team at every event

### POLICE

- Local Police presence at every event is based on the permit requirements per city and are happy to cooperate and staff accordingly

### INTOXICATED OR DISORDERLY PERSONS OR ASSAULTS

- On site security will be stationed at various points around the event site
- Our event staff (traffic managers, brand ambassadors, etc.) will also be on the lookout for any disorderly behaviour to communicate to the security team if needed
- Security will intervene in any suspicious situations and have authority to ask person(s) to leave event
- For persons exhibiting intoxication, they will need to have a reliable ride on site or a taxi service will be called for them
- For any persons engaging in disorderly conduct, TBD Department of Public Safety will be called if deemed necessary by security or event managers
- Any assaults will be reported to TBD Department of Public Safety

### LARCENY / ROBBERY

- Any incidents should be reported immediately to a security guard or staff member, to relay the information to head of security and event managers
- There will be police presence on site to be involved as needed

### MISSING PERSONS

- Any reported missing person incidents will be directed to event managers or head of security to allow for announcement to be made over the sound system at event site
- Missing person will be asked to meet up with their party at designated location (closest store entrance to event site)
- If person is not found on site and reunited with party by the end of the event, incident will be reported to TBD Department of Public Safety to determine next steps and involvement

### BOMB THREAT

- In the case of a bomb threat, typically the TBD of Public Safety is the first to be notified

- They will contact the officials and officials will be asked to assess the location for anything that looks out of place or unusual
- At that time, it will be determined the next steps that could include evacuation of the site

### ACTIVE SHOOTER

- All efforts will be made to eliminate guns in the site, and under the rules, no guns are allowed in the event site and these rules will be explicitly stated in the rules section of the ticketing email confirmation and with signage at the event site
- If there is a situation with a gun, and the shooter is mobile, the best recommendation is to encourage everyone to stay in their vehicles
- Security and Public Safety will provide instructions from that point forward

### WEATHER MONITORING

- Momentum and Walmart deploy a strict weather policy and will utilize Weather Monitoring Services to determine safety of all attendees at all events
- Monitoring begins formally within 5 days of the event date
- The events are “Rain or Shine” unless there is threat of severe weather

### SEVERE WEATHER

- Severe weather reported in the direct track of the location is the primary reason for any cancellation of the event and based on monitoring
- This will be determined approximately 24 hours (or more) prior to the event and prior to any activation set up
- Severe weather is defined as hurricanes, tornadoes, gale force winds or extended sustained lightning storms

### WEATHER DELAYS

- If unsuspected lighting and high winds roll in the day of the event we will clear the location prior to event doors opening and send guests inside the Walmart location (pre-approved by Walmart) and/or ask them to stay in their cars to wait out the delay headed by the Tour Manager Team in conjunction with event and store security
- All clear will be announced if lighting/winds have moved farther than 12 miles and there must be a minimum of 30 minutes of clear air to proceed
- We will announce the delay through email, the FM transmitter, and/or our event staff depending on where the guests are in the process of entering and parking at the event



### EVENT CANCELLATION

- In the case of severe weather and the event is cancelled there will be a full Cancellation Communications Plan in place to inform the attendees and the Walmart location teams within 24 hours of the event time or more
- The Cancellation Communications Plan involves emails to attendees within 24 hours of the event time or more

### EVENT RESCHEDULING

- If an event is cancelled we might not be able to make it up as these events are part of a very busy tour with tight timelines
- There are various factors that will affect that decision and timing which will be managed and communicated by the Momentum Production Team
- The event is complimentary so no refunds need to be issued
- If we can reschedule the event, Momentum will send emails to the affected attendees and respective store teams with all the details

### LED SCREEN SAFETY PROTOCOLS

#### **Prep For Lowering Screens, All Staff on Alert**

- Storms forecasted to arrive within 45 minutes
- Wind speeds of 20mph+ at 3-5 second gusts

#### **Minimization of Surface Areas**

- Wind speeds of 25mph+ at 3-5 second gusts
- Banners collapsed (raised or lowered depending on mounting method)
- Canopy opened

#### **Screens Cradled**

- Lighting within 10 Miles
- Wind Speeds of 30mph+ at 3 second gusts
- 30 Minutes before the arrival of a severe weather event, based on NWS Alert System

#### **Total Shutdown**

- Wind Speeds of 50mph+
- Site and staff should be evacuated to a safe location

Store 3319

Harker Heights TX

# Walmart+ **Family Movie Night**

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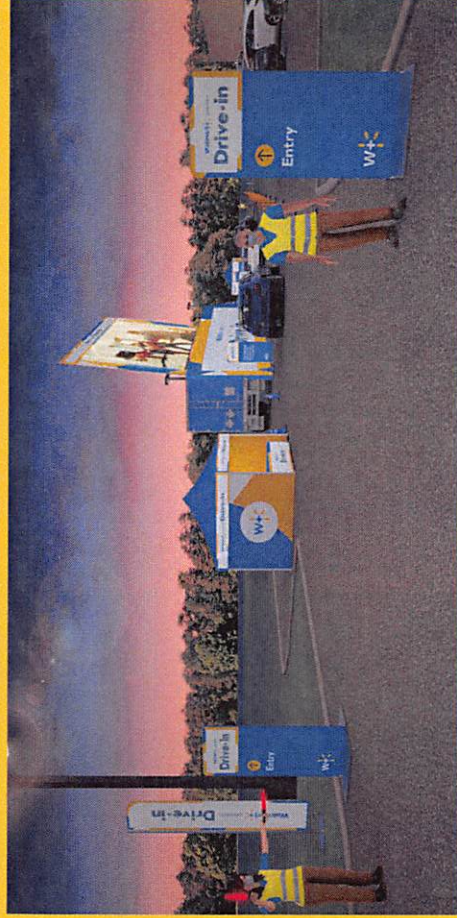
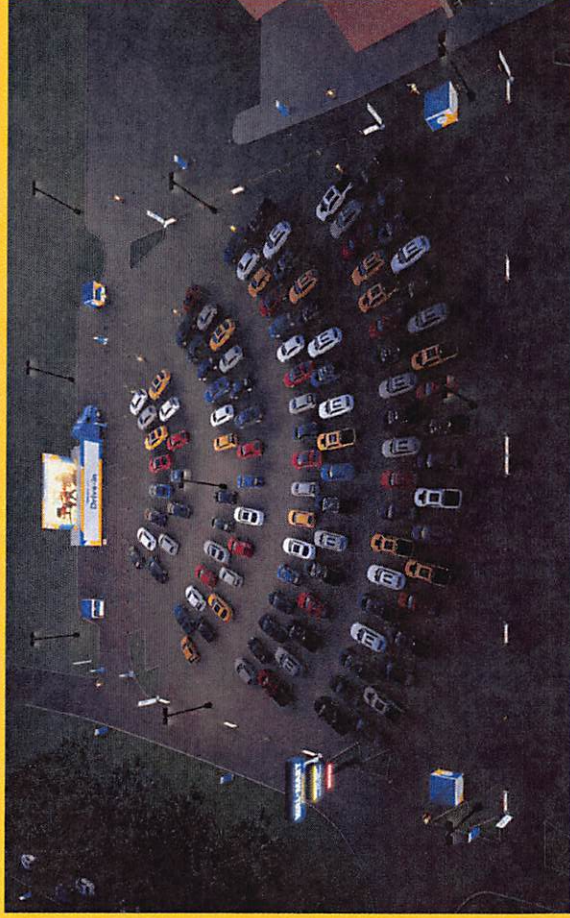
**2 nights**

**2 Family Friendly Movies**

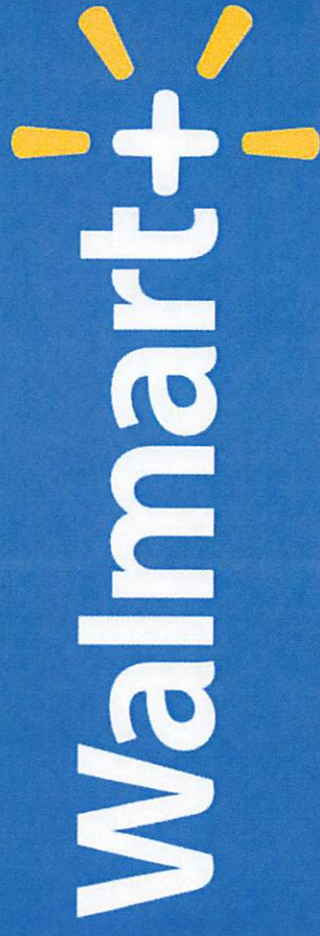
**All from the safety of your car.**



# Walmart Drive-In Visual Renderings







**The entire evening is CONTACTLESS and self-contained.**

**Everything takes place right on our property.**

**Even the "Big Screen" magically pops up out of  
the belly of our Walmart truck!**

**No muss. No fuss.**

---

**Just our huge parking lot and our  
really cool "Magic Movie Truck!"**





**Feel free to reach out to me with any questions  
about our 2-day Walmart Family Movie Night.**

---

**Stella Fitzpatrick**

**Stella@MagicalMovieNight.com**

**201-679-5880**



# Walmart Drive-In Movie Rules

## Movie Rules

- Every guest attending the movie **MUST** be in a vehicle to respect social distancing safety. There will be **NO** standing or sitting outside of vehicles allowed. Setting up chairs and sitting outside of the vehicle is **NOT** allowed.
- Each vehicle must have an electronic ticket to enter the movie viewing area.
- No tickets will be available at the gate, all tickets must be secured in advance of the movie.
- Each ticket will be on a per car basis and each vehicle should only have the number of passengers the vehicle is rated for (number of seat belts).
- Movie showings are “rain or shine” and any cancellations will be communicated via the ticketing system within 24 hours of the event.
- There will be Walmart Security / parking staff on-site to assist you with parking your vehicles and help with any questions or concerns.
- Cars will be parked randomly and/or may be placed based on your vehicle size.
- Early arrival will **NOT** have any effect on your parking location.
- Please arrive with plenty of time to be parked as entry will not be allowed once the show begins.
- Movie entrance will begin 90 minutes before the movie screening time.
- Audio for the movie will be broadcast through an FM transmitter and each vehicle will need a functioning FM radio.
- You will be instructed on a frequency to tune your radio upon arrival.



# Walmart Drive-In COVID-19 Mitigation Plan & Safety Rules

## COVID-19 Mitigation Plan & Safety Rules

- As the movie screening(s) will take place in our own parking lot, on commercial/private property, and as the attendees are not exiting their parked vehicles\* to watch the movie, this eliminates any possibility of there being a “gathering” or a “crowd formation” of any sort.
- We are counting safely closed cars - Not people. The people will all remain in their vehicles.
- This program has been **THOUGHTFULLY**, carefully and **SAFELY** designed to be **100% Contactless**.
- In order to *qualify* as **100% CONTACTLESS**, the experts advising Walmart’s Marketing and legal review teams are **proactively requiring** the following:
  - No physical contact of any type can occur.
    - This means there can be no physical “Crowd Gathering” or interaction of any type to occur within the parking lot footprint that has been designated to contain the parked cars that will be “watching” the movie. (Even the cars will be appropriately “social distanced” in our parking site plan. See attached.)
  - Every guest attending the movie **MUST** remain in a vehicle to respect social distancing safety regulations.
  - There will be NO standing or sitting outside of vehicles allowed. (Security to enforce)
  - Setting up chairs and sitting outside of the vehicle is NOT allowed. (Security to enforce)
  - Each vehicle must have an e-mailed electronic ticket to enter the movie viewing area.
  - E-tickets will be scanned via a contactless scanning procedure **through closed car windows**.
  - There will be Walmart Security / parking staff on-site to assist attendees with parking their vehicles and to help with any questions or concerns.
  - Should a family member require the need of using a bathroom\*, and as they are in our own Walmart parking lot, then they will be allowed to exit their vehicle to use our safe / clean / sanitized / ADA compliant, Walmart in-store restrooms, exactly as is they are already allowed to do so, by approved city and state health regulations.
  - The **ONLY** persons that will be allowed outside the vehicles are our 6 Walmart Security and 8 Walmart Greeters who will be scanning the e-tickets, and assisting with the exit procedure at 9:30
  - ALL Walmart Security and ALL Walmart Greeters will be supplied with and wearing approved PPE at all times.



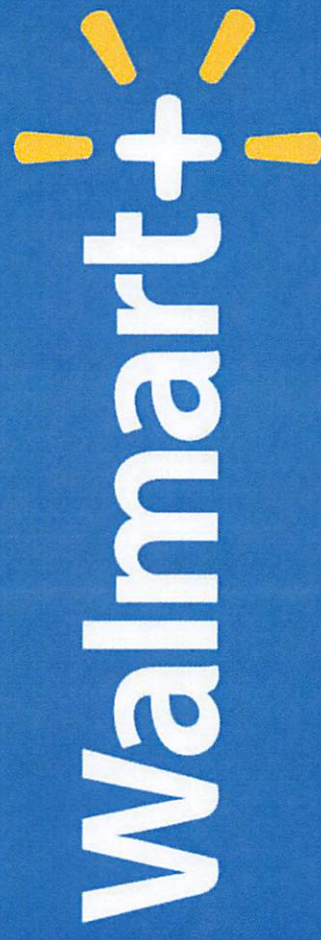
# Walmart



**Family Movie Night**

**Site Plans**





**Movie Night Dates: September 11 & September 12**

**Store Address:**

**STORE# 3319**

**2020 HEIGHTS DRIVE**

**HARKER HEIGHTS, TX 76548**



# Walmart Drive-In Site Plan

STORE# 3319  
2020 HEIGHTS DRIVE HARKER  
HEIGHTS, TX 76548



## Site Plan Location in Parking Lot



### Site Plan includes:

- ☒ Outline of Event Venue
- ☒ Dimensions (200' x 250')
- ☒ Enter/Exit points
- ☒ Emergency Access Points
- ☒ Tent Locations
- ☒ First Aid / EMS
- ☒ ADA Parking
- ☒ ADA Bathrooms
- ☒ Water Sources
- ☒ Bathrooms

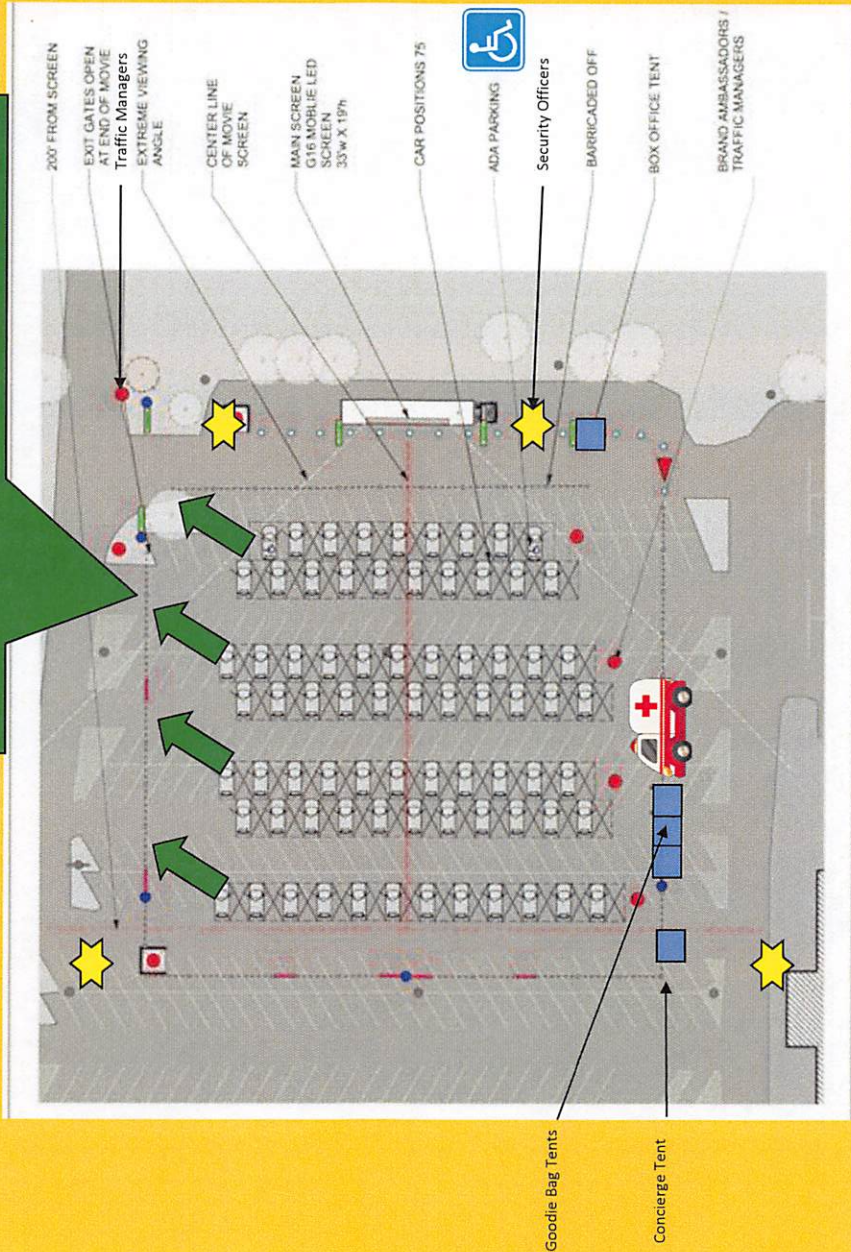


# Walmart Drive-In Site Plan

STORE# 3319  
2020 HEIGHTS DRIVE HARKER  
HEIGHTS, TX 76548

## Enter & Exit Plan

After the movie ends, traffic managers will move a few barricades and work row-by-row to release guests in sections for an orderly exit





# Directional Signage

Walmart  Drive In





# Directional Signage

Walmart  Drive-in

Be careful  
of your  
surroundings  
if you need to  
exit the vehicle  
for any reason.

Do not move  
your vehicle  
without  
notifying an  
attendant first.



Face coverings  
are required if  
you leave your  
vehicle for  
any reason.

Avoid close  
contact and  
maintain 6' of  
distance while  
wearing your  
face covering.



Please  
remain in  
your vehicle  
unless  
using the  
restroom.



Do not enter  
if sick.

Symptoms may include:

Fever or chills  
Cough  
Shortness of breath  
Fatigue  
Muscle or body aches  
Headache  
Loss of taste or smell  
Sore throat  
Congestion or runny nose





# Walmart+!

## Family Movie Night

---

**Safe. FUN. Contactless.**

**Family Friendly.**

**And all on our property.**



## COUNCIL MEMORANDUM

### AGENDA ITEM # IX-2

FROM: THE OFFICE OF THE CITY MANAGER

DATE: AUGUST 25, 2020

**DISCUSS AND CONSIDER THE PRELIMINARY AD VALOREM TAX RATE, RECORD THE VOTE, SCHEDULE THE PUBLIC HEARING AND TAKE THE APPROPRIATE ACTION.**

**EXPLANATION:**

On August 14, 2020, Staff went over the draft Fiscal Year 2020-2021 Budget which included the proposed tax rate of \$0.6770 per \$100 valuation. This rate is the same as the City's current property tax rate, is higher than the no new revenue rate of \$0.6391, and lower than the voter approval rate of \$0.6978.

Following is a comparison of the FY 2021 proposed property tax rates of surrounding cities:

City	Maintenance & Operations	Interest & Sinking	Total Rate
Belton	0.538900	0.101100	0.640000
Temple	0.309700	0.363000	0.672700
<b>Harker Heights</b>	<b>0.514300</b>	<b>0.162700</b>	<b>0.677000</b>
Killeen	0.515000	0.218000	0.733000
Copperas Cove	0.486147	0.300353	0.786500

Truth-in-Taxation laws require that when a proposed rate exceeds the lower of the voter approval rate or the no new revenue rate, the governing body must vote to place the proposal to adopt a rate on the agenda of a future meeting as an action item and must publish notices notifying the citizens of the public hearing.

The following have been tentatively scheduled to meet this requirement:

Notice of Public Hearing on Budget and Fee Schedule ..... August 30 and September 6, 2020  
Budget and Fee Schedule Public Hearing and Adoption.....September 8, 2020  
Ratification of Tax Increase.....September 8, 2020  
Notice of Public Hearing on Tax Rate.....September 13 and September 20, 2020  
Tax Rate Public Hearing and Adoption.....September 22, 2020

**RECOMMENDATION:**

Staff recommends the proposed ad valorem tax rate of \$0.6770 per \$100 valuation which is included in Fiscal Year 2020-2021 Budget.

**ACTION BY COUNCIL:**

1. Motion to place a proposal to adopt the tax rate of \$0.6770 (or other rate) per \$100 valuation on the September 22, 2020, Council Agenda.
  - a. For the motion to be valid, it must be approved by a “record” vote.
  - b. The proposed rate is the highest rate the Council will be able to approve at the September 22, 2020 Council Meeting.
2. Motion to schedule the public hearing for September 22, 2020.
3. Any other action desired.

**ATTACHMENTS:**

1. Tax Rate History of the City of Harker Heights.



Fiscal Year	Tax Rate	Difference
2020	0.6770	0.0000
2019	0.6770	0.0000
2018	0.6770	0.0000
2017	0.6770	0.0000
2016	0.6770	0.0000
2015	0.6770	0.0000
2014	0.6770	0.0000
2013	0.6770	0.0000
2012	0.6770	0.0000
2011	0.6770	0.0000
2010	0.6770	-0.0026
2009	0.6796	0.0000
2008	0.6796	0.0000
2007	0.6796	0.0000
2006	0.6796	-0.0100
2005	0.6896	-0.0100
2004	0.6996	-0.0003
2003	0.6999	0.0000
2002	0.6999	0.0000
2001	0.6999	0.0000
2000	0.6999	0.0000
1999	0.6999	0.0000
1998	0.6999	0.0000
1997	0.6999	0.0000
1996	0.6999	0.0000
1995	0.6999	0.0000
1994	0.6999	0.0009
1993	0.6990	0.1009
1992	0.5981	0.0000
1991	0.5981	0.0000
1990	0.5981	-0.0732
1989	0.6713	0.0013
1988	0.6700	0.0000
1987	0.6700	0.3000
1986	0.3700	0.0000
1985	0.3700	0.3700