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**CITY OF PALACIOS
CITY COUNCIL MEETING**

AGENDA

**THURSDAY, DECEMBER 15, 2022
6:00PM**

REGULAR CITY COUNCIL MEETING

**City of Palacios Council Chambers
311 Henderson
Palacios, Texas 77465**

CALL TO ORDER:

- a. Quorum Call.
- b. Invocation. Councilmember Dotson.
- c. Pledge of Allegiance to the United States Flag.
- d. Pledge of Allegiance to the Texas Flag.
- e. Pledge of Allegiance to the Palacios Flag.

ANNOUNCEMENTS:

With respect to items not listed on this agenda, Council Members may announce community events, may announce community recognitions, may request specific factual information or a recitation of existing policy from staff, or may request placement of items on the Board agenda for discussion or action at a following meeting.

- a. Mayor's Announcements
- b. Council Member's Announcements

CITIZEN COMMUNICATION FORUM:

The public is invited to address the City Council and speak on any matter. Please note Council Members may not deliberate on topics not included on this agenda. The presentation shall be no longer than three (3) minutes.

PRESENTATIONS:

- HIF (Highly Innovative Fuels)
- EDC Board Member Application Update ~ City Manager, Cynthia Raleigh
- Planning and Zoning Yearly Activity Report ~ Planning and Zoning Chairman, Joe Monk

REPORTS AND DISCUSSION

1. Performance Indicators for October and November 2022 ~ City Manager, Cynthia Raleigh
2. November 2022 Financials ~ City Manager, Cynthia Raleigh

DISCUSSION AND ACTION ITEMS:

1. **City Council Regular Meeting Minutes** ~ December 01, 2022, ~ Discuss and consider approving the minutes from the December 1st regular council meeting.
2. **Support of Chamber of Commerce** ~ Mayor Gardner ~ Discuss and consider HOT Tax support for the Chamber of Commerce.
3. **First Reading Vacant Building Ordinance No. 2022-O-13** ~ EDC President, Dannielle Krouse ~ Discuss and consider approving first reading of Vacant Building Ordinance.
4. **First Reading Demolition Moratorium Ordinance No. 2022-O-20** ~ Councilmember Mike Dotson and Councilmember Sharon Trainor ~ Discuss and consider approving first reading Demolition Moratorium Ordinance.
5. **Final Reading Golf Cart Ordinance No. 2022-O-14** ~ Ryan Adams, Code Compliance ~ Discuss and consider approving final reading of Golf Cart Ordinance.
6. **Final Reading Street Vendor Ordinance No. 2022-O-15** ~ Ryan Adams, Code Compliance ~ Discuss and consider approving final reading of Street Vendor Ordinance.
7. **Final Reading RV Ordinance No. 2022-19** ~ Ryan Adams, Code Compliance ~ Discuss and consider approving final reading of RV Ordinance.

CLOSED EXECUTIVE SESSION:

- Pursuant to Texas Government Code §551.071(1) to discuss pending litigation styled Cause No. 22-F-0245, in the 130th Judicial District Court of Matagorda County, Texas, Joseph Monk and Mark Rusk, Contestants v. James L. Gardner as Mayor and City of Palacios, Contestees.

RECONVENE TO OPEN/ REGULAR SESSION

- City Council shall reconvene in Open Session and may discuss, consider, and take possible action on any item listed above that was considered and discussed in Executive/Closed Session (If necessary).

ADJOURNMENT

AGENDA NOTICES:

Action by Council Authorized: The City Council may vote and act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person or appear in executive session by conference call in accordance with applicable state law.

Attendance By Other Elected or Appointed Officials: It is anticipated that members of other city boards, commissions, and committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions, and committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions, and committees of the City, whose members may be in attendance. The members of the boards, commissions, and committees may participate in discussions on the same items listed on the agenda, which occur at the meeting. Still, such in attendance will not take any action unless such item and action are expressly provided for on the agenda for that board, commission, or committee subject to the Texas Open Meetings Act.

Executive Sessions Authorized: This agenda has been reviewed and approved by the City's legal counsel, and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally addressed in the closed portion of the meeting considering public views of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c). The meeting is conducted by all participants in reliance on this opinion.

Certification of Posting: This is to certify that the above notice of a Regular Called Council Meeting was posted on the front bulletin board of the City Hall of the City of Palacios, Texas, on **Monday, December 12, 2022, before**

6:00 PM. If you have any questions concerning the above items, please contact City Manager Cynthia Raleigh at (361) 972-3605. This Notice was posted under the Texas Open Meeting Act (TEX.REV.CIV.STAT.ANN. Chapter 551) and recent guidelines from the Texas Attorney General.

Aleisha C. Galvan

Aleisha C. Galvan, City Secretary

This facility is accessible in accordance with the Americans with Disabilities Act. Accessible parking spaces are available. If you require special assistance or have a request for sign interpretative services or other services, please call 361-972-3605 at least 24 hours before the meeting.

The next City Council Workshop meeting will be
held on January 05, 2023, at 6PM.

CITY OF PALACIOS, TEXAS
REGULAR CITY COUNCIL MEETING

MINUTES

December 01, 2022

REGULAR CITY COUNCIL MEETING

A regular City Council meeting was held by the City Council of the City of Palacios on December 01, 2022, at 6:00 p.m., in Council Chambers located at 311 Henderson, Palacios, Texas 77465.

CALL TO ORDER

Mayor Pro Tem, Chip Woolf called the City Council meeting to order at 6:01PM.

CERTIFICATION OF A QUORUM

Mayor Pro Tem Woolf certified a quorum was present.

ATTENDANCE ROLL CALL

*Mayor, Jim Gardner, Absent
Councilmember Place 6, Michael Dotson, Present
Councilmember Place 5, Raylynn Samora, Absent
Councilmember, Place 4, Troy Lewis, Present
Councilmember Place 3, Chip Woolf, Present
Councilmember, Place 2, Sharon Trainor, Present
Councilmember Place 1, Larry Glenn, Present*

CITY STAFF IN ATTENDANCE:

*Cynthia Raleigh, City Manager
Thomas Gwosdz, City Attorney
Tammy McDonald, HR/ Finance
Tobie Bias, Police Chief
Aleigha Galvan, City Secretary
Ryan Adams, Code Compliance and Developmental Services
Christy Adams, Public Works Assistant
Manuel Guevara, Parks and Streets Superintendent*

INVOCATION & PLEDGES

Councilmember Dotson led the Council, Staff, and Citizens in prayer and pledges to the U.S., Texas, and Palacios Flags.

ANNOUNCEMENTS:

- i. Mayor’s Announcements ~ Mayor Pro Tem, Chip Woolf, announced the Christmas festivities to take place in Palacios over the weekend.*
- ii. Councilmember’s Announcements~ None*

Councilmember Raylynn Samora joined the meeting and was announced at 6:06pm.

CITIZEN COMMUNICATION FORUM: ~ Public Comments

- i. Susan Summers ~ spoke about the Luther Hotel and her wish to prevent demolition. Ms. Summers shared a poem and told the story of how she came to know the Luther Hotel.*
- ii. Edith Gower ~ spoke about the importance of preserving the Luther Hotel and shared reviews from previous visitors of the hotel.*
- iii. Margaret Doughty ~ Ms. Doughty spoke about the Luther Hotel and requested Council step in to help extend the deadline for demolition of the hotel. She thanked Council, the Ed Rachal Foundation, and City Manager, Cynthia Raleigh.*
- iv. Anna Sac Dao ~ Ms. Dao spoke about the Luther Hotel and requested an extension on future demolition of the hotel. She thanked the Ed Rachal Foundation and asked that the groups work together to come to a solution.*
- v. Esmeralda Salinas ~ on behalf of PAHA, Salinas spoke about the Luther Hotel, and requested a 60 day hold on demolition of the hotel.*
- vi. Katie Hutto ~ spoke about the Luther Hotel, the importance of preserving the past for future generations, and requested the demolition deadline be extended. Hutto passed around a map of Palacios with pins showing the historic buildings currently in Palacios. Hutto hopes to have a historic district in Palacios.*
- vii. Cynthia Garrett ~ Garrett thanked Council for putting an ordinance on the agenda regarding golf carts. She spoke about the Luther Hotel and how different her neighborhood would look if the hotel was gone. Garrett thanked City staff and Council for their hard work.*
- viii. Joe Monk ~ requested to speak at agenda items 3 and 4.*
- ix. Norma Salinas ~ spoke about a past visit to the Luther Hotel with her grandchildren, and the history lesson from previous owner, Jack Findlay. Salinas thanked the Ed Rachal Foundation for their donations to the community and asked for an extension on the deadline for demolition of the hotel.*
- x. Dr. Sandra Davidson ~ read a letter on behalf of her friend Sarah in regard to saving the Luther Hotel.*
- xi. Elissa Emmons ~ spoke about the great financial benefits of keeping the Luther Hotel in Palacios. Emmons spoke about the ship she was named after that came from a junk yard and was restored to what it is today.*

DISCUSSION AND ACTION ITEMS:

- i. **Minutes** ~ November 17, 2022, Regular City Council Meeting. *APPROVED BY MOTION. MOTION: LEWIS. SECONDED: DOTSON. PASSED UNANIMOUSLY WITH THE EXCEPTION OF MAYOR GARDNER.*
- ii. **First Reading Golf Cart Ordinance No. 2022-O-14** ~ Ryan Adams, Code Compliance ~ Discuss and consider approving the first reading of the Golf Cart Ordinance. *Council discussed concerns with sections of the ordinance. Mayor Pro Tem Woolf asked council to have their amendment suggestions ready at the final reading. PASSED BY MOTION. MOTION: DOTSON. SECONDED: GLENN. PASSED UNANIMOUSLY. MAYOR GARDNER ABSENT. YEA: COUNCILMEMBER GLENN, COUNCILMEMBER TRAINOR, MAYOR PRO TEM WOOLF, COUNCILMEMBER LEWIS, COUNCILMEMBER SAMORA, COUNCILMEMBER DOTSON.*
- iii. **First Reading Street Vendor Ordinance No. 2022-O-15** ~ Ryan Adams, Code Compliance ~ Discuss and consider approving the first reading of the Street Vendor Ordinance. *Joe Monk took to the podium to address Council for Citizen Forum. Monk asks Council why vendors need to register with the City of Palacios if they are required to register with Matagorda County. Ryan Adams answers questions from Council regarding sections of the ordinance that pertain to a surety bond requirement and background check for vendors. MAIN MOTION MADE BY COUNCILMEMBER DOTSON. SECONDED: COUNCILMEMBER SAMORA. MOTION TO AMEND TO STRIKE PARAGRAPH C OUT OF SECTION 4.03.047 REGARDING BACKGROUND CHECKS BY POLICE DEPARTMENT: DOTSON. SECONDED: TRAINOR. VOTE TO APPROVE THE MOTION TO AMEND: ABSENT: MAYOR GARDNER. YEA: COUNCILMEMBER TRAINOR, MAYOR PRO TEM WOOLF, COUNCILMEMBER LEWIS, COUNCILMEMBER SAMORA, COUNCILMEMBER DOTSON. NAY: COUNCILMEMBER GLENN. VOTE TO APPROVE THE MAIN MOTION AS AMENDED: PASSED UNANIMOUSLY. MAYOR GARDNER ABSENT. YEA: COUNCILMEMBER GLENN, COUNCILMEMBER TRAINOR, MAYOR PRO TEM WOOLF, COUNCILMEMBER LEWIS, COUNCILMEMBER SAMORA, COUNCILMEMBER DOTSON.*
- iv. **First Reading RV Ordinance No. 2022-O-19** ~ Ryan Adams, Code Compliance ~ Discuss and consider approving the first reading of the RV Ordinance. *Joe Monk took to the podium to address Council for Citizen Forum. Monk requests the portion of the ordinance regarding two-week parking of an RV be changed to thirty days. Council discussed portions of the ordinance regarding parking time outside of an RV park and permit costs. PASSED BY MOTION. MOTION: GLENN. SECONDED: LEWIS. PASSED UNANIMOUSLY. MAYOR GARDNER ABSENT. YEA: COUNCILMEMBER GLENN, COUNCILMEMBER TRAINOR, MAYOR PRO TEM WOOLF, COUNCILMEMBER LEWIS, COUNCILMEMBER SAMORA, COUNCILMEMBER DOTSON.*
- v. **Final Reading TMRS Rate Change Ordinance No. 2022-O-18** ~ Tammy McDonald ~ Discuss and consider options regarding the palacios Retirement Program for City employees and consider approving final reading of TMRS Rate Change Ordinance. *McDonald wrote the options on the white board for councilmembers to see. Council asked*

questions and voiced concern about the best options for employees. PASSED BY MOTION. MOTION: GLENN. SECONDED: DOTSON. VOTE TO APPROVE MOTION: ABSENT: MAYOR GARDNER. NAY: COUNCILMEMBER TRAINOR. YEA: COUNCILMEMBER GLENN, MAYOR PRO TEM WOOLF, COUNCILMEMBER LEWIS, COUNCILMEMBER SAMORA, COUNCILMEMBER DOTSON.

- vi. **Establish Terms for EDC Board Members Resolution No. 2022-R-31** ~ City Attorney, Thomas Gwosdz ~ Discuss and consider establishing terms for EDC Board Members. *City Attorney explained the process to Council. MOTION TO POSTPONE MADE BY COUNCILMEMBER LEWIS. SECONDED: COUNCILMEMBER SAMORA. MOTION PASSED.*
- vii. **Citizen Participation Plan** ~ Tammy McDonald ~ Discuss and consider approving the required next step to qualify for the CDBG-MIT-MOD Grant; stating Palacios participates in Fair Housing. *No discussion by Council. MAYOR PRO TEM ASKED ALL IN FAVOR TO SAY AYE: PASSED UNANIMOUSLY WITH THE EXCEPTION OF MAYOR GARDNER'S ABSENCE.*

ADJOURNMENT

Meeting Adjourned by Mayor Pro Tem at 7:58PM.

Chip Woolf, MAYOR PRO TEM

ATTEST:

Aleigha Galvan, CITY SECRETARY

CITY COUNCIL MEMORANDUM

City Council Meeting: December 1, 2022
Department: Mayor
Subject: Chamber of Commerce HOT Tax Support

BACKGROUND

Historically, the City of Palacios has supported the Palacios Chamber of Commerce with HOT funds for advertising and promotional efforts of the City. Over the last five years, the City has contributed \$63,000 in HOT Funds to the Chamber of Commerce.

The Chamber of Commerce presented to Council in October regarding their request for continued funding. The Mayor indicated that it be best for City Council to have this as a discussion/action item before approving any expenditures.

The HOT Tax Two Step Test (TML.org)

Step one – Heads in Beds – Every funded project must attract overnight tourists to the city’s hotels and motels.

Step two – The Nine Categories

Every expenditure of HOT Taxes must fit into one of these nine categories:

- Convention & Visitors Centers
- Convention Registration
- Advertising the City
- Promotion of the Arts
- Historical Restoration & Preservation
- Sporting Events (in a county under one-million)
- Enhancing or Upgrading Existing Sports Facilities or Sports Fields in certain cities
- Tourist Transportation Systems
- Signage Directing the Public to Sights and Attractions that are visited frequently by hotel guests in the city

Must meet both steps

GOALS

To decide on funding the Chamber of Commerce through HOT funds.

FISCAL IMPACT

If approved, the impact of the HOT funds is \$10,000 for FY 2022-23

RECOMMENDATION

The staff has no recommendation; the City Council shall decide and direct accordingly.

ATTACHMENT

The Hotel Tax “Two Step” by TML

THE HOTEL TAX “TWO-STEP”

By **Bill Longley**, TML Legislative Counsel



In the grand scheme of things, city hotel occupancy taxes account for just a small amount of city revenue. Property taxes and sales taxes are far more important to most cities. Why does it seem, then, that hotel taxes generate so much confusion and controversy?

The answer is this: Hotel taxes, unlike most other taxes, are levied on a specific category of businesses—hotels. As a result, these businesses tend to pay close attention to how cities expend these funds. Spend city sales taxes in a controversial way, and no particular category of business feels singled out enough to raise a fuss. Perceived misuses of hotel taxes, on the other hand, are a different story.

Fortunately, it's very easy for a city official to remember how to legally spend hotel taxes. A city simply needs to remind itself to always follow the "two-part test." The key element of a two-part test is – surprise – that it has two parts! Cities frequently remember to meet one element of the test, but then entirely forget the other part. This article will succinctly describe the two-part test, and then describe some common situations to which we can apply the test.

Part 1: Heads in Beds

The first element of the two-part test is this: Every expenditure of hotel taxes must put "heads in beds." What this means is that every funded project must attract overnight tourists to the city's hotels and motels, thus promoting the city's hotel industry.

For example, how about a weekend-long arts and crafts show? There's a very good chance that out-of-town guests might come to visit such an event, so expenditure of hotel tax money on that event would likely qualify.

On the other hand, how about a quilting bee at a local nursing home? While a worthy cause, the quilting bee is unlikely to attract overnight tourists and, therefore, probably wouldn't qualify to receive hotel tax funds.

Part 2: The Nine Categories

Once a project has cleared the first part of the test, it's time for – you guessed it – the second part of the test. Here it is: Every expenditure of hotel taxes must also fit into one of nine statutorily authorized categories. These are the nine categories: (1) convention and visitor centers; (2) convention registration; (3) advertising the city; (4) promotion of the arts; (5) historical restoration and preservation; (6) sporting events in a county under one million in population; (7) enhancing or upgrading existing sports facilities or sports fields (only in certain cities); (8) tourist transportation systems; and (9) signage directing the public to sights and attractions that

are visited frequently by hotel guests in the city.

Thus, even if an event puts heads in beds, it cannot receive hotel tax money unless it also fits into one of the nine categories. For instance, what about a livestock auction that will attract attendees from surrounding counties? While that event is likely to attract overnight tourists, it doesn't fit neatly into one of the nine categories. Therefore, it's likely not a valid recipient of hotel tax money.

It's not enough to meet one of the two prongs of the two-part test. A city must meet both! The following are some real-life examples that have been the focus of inquiries received by the Texas Municipal League (TML) Legal Department.

Fireworks, Anyone?

The prototype hotel tax controversy is an event like a fireworks show or a parade. Cities frequently ask if they can fund a fireworks show with hotel tax money.

Let's subject a fireworks show to the two-part test. Does a fireworks show put heads in beds? The answer is "probably not," unless it is a truly spectacular event. But let's give it the benefit of the doubt. Suppose the Town of Pyrotechnic, Texas, truly does put on a fireworks extravaganza that attracts tourists from around the state. So far, so good.

But what about the second part of the test – the nine categories? Do fireworks shows fit neatly into any of the nine? Not really. Some may argue that such shows "advertise" the city, but this is likely not what that category means. Advertising the city literally means some sort of print or other media that explicitly promote the city. Otherwise, a city could simply say that any popular event "advertises" the city that holds it. Direct funding of fireworks displays and the like are, usually, not a very good fit.

Signs of the Times?

Another frequent question concerns highway signs promoting the city. May a city fund a billboard touting the city's attractions, restaurants, and hotels? Let's put it to the two-part test. Heads in beds? Well, why not? If a billboard encourages motorists to stop in town, those motorists might stay the night, whereas without the sign they would have driven on to the next city. This is exactly what the statute intends. The nine categories? How about advertising? Prior to 2009, a convincing argument could be made that because a billboard literally advertises the city it refers to, that it would fit within the advertising category. All doubt was erased in 2009, when the Texas Legislature added the ninth category – signage directing the public to



sights and attractions. Travel signs are a perfect fit for hotel occupancy tax expenditures.

Chambers of Commerce?

Cities frequently wonder if they can fund the local chamber of commerce using hotel tax money. Do chambers put heads in beds? Maybe, maybe not. Chambers of commerce are typically charged with promoting economic development, not tourism. Even assuming a chamber does promote tourism though, how about the nine categories? Funding a chamber doesn't, in itself, fall into any of the nine categories.

Fortunately, there is an easy solution. The laws governing hotel tax expenditures permit the city to delegate expenditure of hotel tax money to another entity, typically a chamber or convention and visitor bureau. As long as the chamber spends the money on projects that otherwise meet the two-part test mentioned above, it's fine to delegate some funds to them. There must be a written contract laying out the duties of the chamber, though. Also, the chamber must keep the hotel funds in an account separate from its general operating fund.

Arts Organizations

City arts organizations are a common trouble area. It seems that every arts council in the state knows that promotion of the arts is one of the nine categories on which city hotel taxes may be expended. Cities know this because these

arts groups frequently come asking for the money.

The thing to remember about arts groups is this: Direct funding of the organization's operations does nothing in and of itself to put "heads in beds." Put another way, funding the operating budget of an arts council meets the second part of the test (promotion of the arts) but not necessarily the first.

The solution? The city should encourage the group to seek funding only for its festivals and shows that do, in fact, attract tourists to the city. By limiting the expenditure to such events, the city meets both parts of the test.

Don't Forget to Report

Legislation passed in 2017 that requires cities to annually report hotel occupancy tax information to the comptroller, including information on how the funds are spent. Not later than February 20 of each year, a city that imposes a hotel occupancy tax must submit to the comptroller information that includes the city's hotel occupancy tax rate, the amount of revenue generated by the tax, and the amount and percentage of the revenue spent for each of the following purposes:

- Convention or information centers
- Convention delegates registration
- Advertising to attract tourists
- Arts promotion and improvement
- Historical restoration and preservation projects
- Signage directing the public to sights and attractions

Cities must comply with the annual reporting requirements by either submitting the report to the comptroller on a form prescribed by the comptroller, or alternatively providing the comptroller a direct link to, or a clear statement describing the location of, the information required to be reported that is posted on the city's website.

What Else?

There are numerous other technical details about how to legally expend hotel tax funds. In truth, by simply learning and remembering the two-part test, city officials are 99 percent of the way toward full compliance with hotel tax laws. City officials with questions about the hotel occupancy tax should call the TML Legal Department at 512-231-7400. ★

CITY COUNCIL MEMORANDUM

City Council Meeting: December 1, 2022
Department: Palacios Economic Development Corporation
Subject: Vacant Buildings Ordinance

BACKGROUND

Vacant buildings and properties are linked to declining property values, increased crime rates, devalued community and tourism perceptions and a lack of potential tax income for the city. Vacant buildings that are not being utilized is an outward sign of our city's declining economic status and perceived municipal disinvestment in the efforts to reduce and prevent the vacancies. These vacancies did not happen overnight and have become vacant for a variety of reasons, but the basis of the cause is that the property owner has abandoned the basic responsibilities of ownership such as routine maintenance, mortgage/property tax payments or the ability the property is able to be physically inhabitable at all. Historical disinvestment of the CITY managing their legal right to enforce ordinances as well as the lack of basic ownership management by the property owner has led to the increased number of vacant buildings in the Palacios area. These properties add ZERO value to our city, and they DEVALUE the active properties in which they share their footprint with.

GOALS

How do we foster the return of these vacant buildings and properties back into productive use? How can the properties be returned to their previous use, or a new use? Such as owner-occupied residences, mixed-use residential/commercial use, a thriving retail business, a commercial kitchen/restaurant, a short term or long-term vacation rental, etc. As we start to learn of current and potential vacant properties, we can turn to code enforcement to encourage property owners to return these properties back to productive use. Code enforcement officials CAN issue citations and fines on problem properties.

FISCAL IMPACT

Vacant properties negatively impact neighboring properties via property values, increase crime reduction efforts, increased risk to public health as well as increased cost for municipal government. Studies have shown that the effect of foreclosures/vacant buildings/etc. have depressed the overall sales price of nearby properties from as little as 0.9% to as much as 8.7%. Regarding the fiscal impact of potential crime is the broken window theory which has shown that one sign of vacancy and disorder (such as a broken window) can breed further vacancy and disorder, which in turn requires attention and effort of our city police. Not only this, but these vacant buildings cost the city the SAME police & fire protection as well as city infrastructure services as buildings that are NOT vacant. The fees collected from the below proposed ordinance can help to offset the costs of the vacant buildings until they are returned to use.

RECOMMENDATION

Enact a vacant property ordinance and/or registration ordinance that requires owners to register their property and pay a fee to incentivize the property owner to return the vacant property into use and/or sell the property to someone who will. When a property starts costing the property owner more than just the nominal property tax, only then will the property owner have a reason to take action.

ATTACHMENT

Proposed Vacant Building Ordinance

ORDINANCE NO. 2022-O-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS, AMENDING CHAPTER 22 "BUILDINGS AND BUILDING REGULATIONS," OF THE CODE OF ORDINANCES IS AMENDED BY ADOPTING A NEW ARTICLE XI "VACANT BUILDINGS" TO THE CITY OF PALACIOS' CODE OF ORDINANCES TO PROVIDE FOR THE REGULATION OF VACANT BUILDINGS AND PROPERTY; REPEALING ALL RELATED ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND PRESCRIBING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Palacios finds that buildings that are vacant and unsecured and/or not properly maintained are a blight and cause deterioration and preservation and financial instability in the City; and

WHEREAS, buildings that are vacant and unsecured and/or not properly maintained are declared to be public nuisances and pose serious threats to the public's health and safety; and

WHEREAS, buildings that are vacant and unsecured and/or not properly maintained are vulnerable to being set on fire; and

WHEREAS, abatement and rehabilitation of buildings that are vacant and unsecured and/or not properly maintained is necessary; and

WHEREAS, after careful consideration by this City Council, it is of the opinion that vacant buildings and property in the City are in need of regulation; and

NOW THEREFORE, BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS,

SECTION ONE: That Chapter 22 "Buildings and Building Regulations," of the Code of Ordinances is amended by adopting a new Article XI "Vacant Buildings" which shall read as follows, to wit:

Vacant Buildings and Property

Sec. 22-480 Purpose.

The City of Palacios focuses on the revitalization of the city through marketing, promotions, events and historic preservation. As such, the city council finds that:

- (a) Buildings that are vacant and unsecured and/or not properly maintained are a blight and cause deterioration and preservation and financial instability in the City.
- (b) Buildings that are vacant and unsecured and/or not properly maintained are declared to be public nuisances and pose serious threats to the public's health and safety.
- (c) Buildings that are vacant and unsecured and/or not properly maintained are vulnerable to being set on fire.
- (d) Buildings that are vacant and unsecured and/or not properly maintained attract vagrants, gang

- members and criminals as prime locations to conduct illegal criminal activities.
- (e) Abatement and rehabilitation of buildings that are vacant and unsecured and/or not properly maintained is necessary.

Sec. 22-481 Definitions.

Unless otherwise expressly stated, the following words, terms, and phrases, when used in this article, have the meanings ascribed to them in this section, unless the context of their usage clearly indicates a different meaning: The word "shall" is mandatory; the word "may" is permissive. All public officials, bodies, and agencies to which reference is made are those of the City, unless otherwise indicated.

Administrator means the city's City Manager.

Board when used as a verb means to cover an opening with lumber, wood panels or other material.

Boarded building means a building on which any opening to the outside is covered with lumber, wood panels, or other materials.

Building means any structure used or intended for supporting or sheltering any use or occupancy to which this article applies, and includes an enclosed building, open building, and partially open building.

Owner means the owner of record in the county where the real property is situated; anyone identified as the owner on a registration form; the holder of an unrecorded contract for deed; a mortgagee or vendee in possession; a mortgagor or vendor in possession; and an assignee of rents, receiver, executor, trustee, lessee, or other person in possession or with the right to control of the premises or a portion of the premises. Any person who is included in this definition as an owner has joint and several obligations for compliance with the provisions of this article. A tenant who does not have the right of possession or control of a portion of the building that is unoccupied is not an owner for the purposes of this article.

Properly maintained means taking measures to:

- (a) Prevent the physical deterioration of the building;
- (b) Prevent a decline in the appearance of the building, including keeping painted surfaces with a secure and intact coating and preserving signage without physical deterioration;
- (c) Keep a building in a clean, safe, secure, and sanitary condition, compliant with all applicable codes; and
- (d) Prevent the building from becoming an attractive nuisance.

Residential use means the primary use of property is limited to one of the following:

- (a) Apartment means a room or a group of related rooms, among similar sets in one building, designed for use as a dwelling; or a multi-family building type that is comprised of three or more dwelling units, each having an entrance to a hallway, stairway, or balcony in common with at least one other dwelling unit. Apartments may be leased, rented, or owned in a condominium style of ownership;
- (b) Attached single-family dwelling;
- (c) Detached single-family dwelling; or
- (d) Duplex means a single-family attached building which contains two dwelling units, each of which is totally separated from the other by:

- (1) An unpierced wall extending from foundation to roof ("side-by-side" duplex); or
- (2) A ceiling / floor that extends from exterior wall to exterior wall, pierced only by a stairway that is not in side of either dwelling unit ("over-under" duplex).

Secure means to take measures to ensure that the building is weatherproof and watertight and that the interior of the building cannot be accessed by:

- (a) Unauthorized persons; or
- (b) Birds, rodents or other animals through broken windows or other openings in the structure.

Secured by normal measures means the use of structural components of a building, including fixtures, such as doors, unbroken windows, locks, latches, electronic security systems, storm shutters, and security shutters which were installed while the building was constructed or added to the building while the building was occupied and being used for lawful purposes.

Secured by other than normal measures means a building secured by means other than those used in the design of a building or that are normally installed and utilized while a building is occupied and being used for lawful purposes. The term includes boarding any window or door opening.

Unoccupied means not being used for a lawful occupancy.

Vacant building means a building that is any of the following:

- (a) Occupied by an unauthorized person[s] and unsecured;
- (b) Unoccupied and unsecured;
- (c) Unoccupied and/or utilities have not been provided to the building space for a continuous period of time over six (6) months; or
- (d) Unoccupied and has had two or more violations of property maintenance ordinances within the previous twelve (12) month period.

Sec. 22-482 - PROCEDURES

Notice of vacant building:

- (a) Upon reasonable observation that a building may be a vacant building as determined by the Administrator, or receipt of a complaint about a vacant building, the Administrator may, upon their discretion, inspect or cause an inspection of the property, by the Administrator or their designee, in order to determine if the building should be classified as a vacant building.
- (b) If the Administrator determines that a building may be classified as a vacant building under this article, the Administrator:
 - (1) Shall direct the attempt to contact the owner or an agent of the owner, identified by any sign posted on the property, or as identified in the Matagorda County Appraisal District records, by telephone or electronic and written communication, and advise the owner or agent that the building is a vacant building in the City and provide them with written property and building maintenance options and financial grant opportunity information from the City to bring the property and building into compliance. The property owner will be advised that they have twenty-four (24) days to contact the Administrator (or designee) with a plan to remediate maintenance items and advise on lease or sale proceedings. If the property owner fails to provide the Administrator with an acceptable remediation plan within the twenty-four (24) days, then the Administrator will require the following measures to be taken by the owner:
 - (A) File a completed Vacant Building Registration within fourteen (14) days from receipt of the notice given, pursuant to Sec. 22-483 of this section;
 - (B) Pay the registration fee required by Sec. 22-484;
 - (C) Take action to correct any code violations; and
 - (D) Take measures to secure the building temporarily by normal or other than normal measures within fourteen (14) days from receipt of the notice given pursuant to Sec. 22-

482 and by normal measures within ninety-days

(90) from receipt of the notice given, in accordance with the Design Standards set-forth in Sec. 22-487 (b) (1) (2) (3);

(2) May post notice on the building that it appears that the building is a vacant building and that the following measures need to be taken by the owner:

(A) File a completed vacant building registration as more particularly described in Sec. 22-483 within fourteen (14) days from the receipt of the notice given pursuant to section (b)(2) of this section;

(B) Pay the registration fee required by Sec. 22-484;

(C) Take action to correct any code violations; and

(D) Take measures to secure the building temporarily by normal or other than normal measures within fourteen (14) days from receipt of the notice given pursuant to Sec. 22-482 of this section, and by normal measures within ninety-days (90) from receipt of the notice given, in accordance with the Design Standards set-forth in Sec. 22-487 (b) (1) (2) (3); and

(3) May issue a citation or file a complaint in municipal court for any violations of this article or other applicable provisions of this Code. The notice under Sec. 22-482 must comply with the applicable requirements of the V.T.C.A., Local Government Code§ 54.005.

(4) If the owner disputes the Administrator's determination that the building should be classified as a vacant building under this article, the owner shall file a written notice of appeal with the Administrator within fifteen (15) days from receipt of the notice provided in this section. The Administrator shall schedule a hearing before the City Council to determine whether the building should be classified as a vacant building. The appeal shall be placed on the city council's first available agenda. The city council shall hear the appeal in open session and shall render a decision at the conclusion of the hearing. Said decision shall be final.

(5) Exceptions: Upon an owner' s written request to the Administrator for an exception to the registration fee requirement, and a finding by the Administrator that a vacant structure qualifies as described below, the following shall be exceptions from the registration fee requirements of this chapter:

(A) A vacant structure that has a City building permit issued for remodel /repair, which complies with the City of Palacios code of ordinances, as follows:

(1) If the work described in any building permit has not begun within 90 days from the date of issuance, the building permit shall expire and be canceled by the Building Official. Written notice shall be given to the persons affected.

- (2) If the work described in any building permit has not been substantially completed within one year of the date of issuance, the building permit shall expire and be canceled by the Building Official. Written notice shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a special building permit has been obtained.
- (B) A vacant structure that is being actively marketed for sale or lease for less than twelve (12) months by a licensed real estate broker or an owner who is regularly advertising the property; or
- (C) A vacant structure that is under a contract for sale or lease for less than twelve (12) months.

Sec. 22-483 - Registration.

Registration. The owner of a vacant building, or a vacant portion of the building, shall register with the City Secretary, in accordance with this subsection, no later than fourteen (14) days after the owner receives written notice under Sec. 22-482.

- (a) The registration must be verified under a Notary Public, shall be on a form prescribed by the City Secretary, and shall at a minimum contain the following information:
 - 1. A description of the premises, including its address and legal description;
 - 2. The names, addresses, and telephone numbers of all owners with a right of control over the property;
 - 3. If the owner does not reside within Matagorda County, the owner shall designate an agent who resides within Matagorda County;
 - 4. If owner designates an agent with the authority to independently act on the owner's behalf to repair or maintain the property, the contract, notarized affidavit or power of attorney reflecting such authority and the ability for the agent to receive and accept notices from the city on behalf of the owner shall be submitted;
 - 5. The name, address, and telephone number of the owner's property manager or agent, and whether the property manager or agent has the authority to independently act on the owner's behalf to repair or maintain the property;
 - 6. The name, address, and telephone number of the owner's property manager or agent authorized to respond to any emergency or alleged violation relating to the vacant building;
 - 7. Identify a time frame the building will remain vacant and a plan for maintenance of the building during the period of vacancy with certification from the Administrator that the building is compliant with all applicable codes;
 - 8. Measures the owner will employ to secure the building, which may include one or more of the methods as required pursuant to the Design Guidelines, under Sec. 22-487 (b).
- (b) Term. A registration is valid for one year from January 1 to December 31 of the given year, which will also apply if the ownership of the vacant building changes; new registration required.
- (c) Annual registrations. The owner of a vacant building shall be required to annually register until such time as the building is returned to an authorized occupancy. The annual registration must be verified under a Notary Public, shall be on a form prescribed by the Administrator and contain a certification from the owner that the information on file with the Administrator is true and correct.
- (d) Change in ownership. The owner of a registered vacant building shall be required to disclose to any buyer that the property is under registration with the city as a vacant building. The owner shall also disclose the requirement for the buyer to advise the Administrator of a

proposed development plan within ninety (90) days of closing.

- (e) Updates. If a change other than described in subsection (e) of this section occurs during the period that a registration is otherwise valid, the owner shall be required to update the information with the city secretary in writing within fourteen (14) days of the change.

Sec. 22-484 - Fees.

Registration fee. The owner of each vacant building shall pay to the Administrator a vacant building registration fee in accordance with the below referenced chart:

- (a) Annual Registration Fee: \$250.00 To be paid on the date of registration of the vacant building. The registration fee shall be paid annually each year thereafter for as long as the registration remains valid. The first year shall be prorated if registration occurs after February 1.
- (b) Annual Inspection fee. The Administrator shall assess an inspection fee of \$50.00 for inspections of a vacant building against the owner of the vacant building. This fee will be charged annually for inspections associated with registration and thereafter as inspections are warranted in accordance with this article.
- (c) Late payment charge. Any fee required by subsections (a) or (b) of this section, which is not timely received by the City Secretary, shall be assessed an additional fee of:
 - (1) Late Registration fee if the Annual Registration fee is not paid on the date of registration of the vacant building or by January 15 of each year thereafter during such time as said registration is valid: \$50.00.
 - (2) Late Inspection fee if Annual Inspection Fee is not paid on the date of registration of the vacant building or by January 15 of each year thereafter during such time as said registration is valid: \$50.00.

Sec. 22-485 - Inspections.

- (a) The Administrator shall provide for the building inspection and coordinate a Fire Marshal, Code Enforcement, and Building Inspector's inspection of each registered vacant building at the time of registration and in accordance with the schedule set forth below. The number of years a building has been vacant shall be measured starting on the effective date of this ordinance.

Vacant Building Inspections	
Years Vacant	Frequency
1-3	Annually
4-6	Bi-Annually
7 +	Quarterly

- (b) In addition to the inspection referenced in subsection (a) of this section, if there is probable cause to believe that a code violation may be present in the vacant building or on the premises where the vacant building is located, the Administrator shall provide for an additional Fire Marshal, Code Enforcement Officer, and/or Building Inspector's inspection of the vacant building and/or premises.
- (c) All inspections shall be conducted to determine compliance with this article and all applicable

codes.

(d) The results of the inspection shall be provided to the owner of the vacant building and the person designated by the owner to facilitate a response to any emergency or alleged violation related to the vacant building.

Sec. 22-486 - Standards

Maintenance of vacant building and premises:

(a) Compliance with applicable laws. Any repairs, improvements, or alterations to the vacant building or on the property must comply with all applicable laws, codes, and regulations, and as further defined under Sec. 22-481, Property Maintenance Ordinances.

(b) Duty to clean.

(1) The owner of a vacant building shall remove any garbage and/or rubbish from the interior of the building.

(2) The owner of a vacant building shall remove any garbage, rubbish, high weeds and/or brush from the premises on which the vacant building is located.

(3) The owner shall keep the premises on which the vacant building is located properly maintained until the building is returned to an authorized occupancy or demolished.

(c) Duty to secure.

(1) The owner of a vacant building shall lock or secure all doors, windows, and other openings to the vacant building.

(2) The owner shall keep a vacant building secured, safe, and properly maintained.

(3) If securing a vacant building by normal measures fails to keep the vacant building secure, the owner must use other than normal measures to secure the building, including boarding the vacant building in accordance with the Design Guidelines, under Sec. 22-487 (b) (1) (2) (3).

(4) Failure of the owner to maintain a vacant building in a secured condition, which failure results in abatement by the city, is subject to lien placement and/or any applicable penalties.

(d) Duty to remove or repair. The owner of a vacant building shall promptly remove or repair any element of the building or on the premises that is in a condition of decay or partial ruin by reason of neglect, misuse, or deterioration.

Sec. 22-487-- Standards for boarding a vacant building.

(a) The owner shall take measures to secure the building temporarily by normal or other than normal measures within fourteen (14) days from receipt of the notice given pursuant to Sec. 22-482 of this section, in accordance with the following:

(1) All unsecured doorways, windows, or other exterior openings must be covered by exterior grade wooden structural panels or other means as approved in writing by the Administrator in order to ensure that such doorways, windows and other exterior openings are secured and not easily penetrated.

(2) The materials used to secure the building shall be:

(A) Flat, square, and level; and

(B) In a manner accepted as good workmanship.

The Administrator has the sole discretion to determine if the work was performed in a manner that meets the requirements and intent of this Code.

(3) All exterior materials used to board a vacant building must be painted or coated the same color that is the predominant color of the building.

(4) All broken glass and any other loose material must be removed from the opening before the covering systems are installed.

(5) Exterior access to floor areas above the first floor, such as fire escapes and ladders,

must also be secured.

(6) Fascia signs, overhanging signs, roof signs, and all other appurtenances, such as sun visors or awnings must be removed if they are in a dangerous condition or could create such a condition.

(7) All loose or defective materials, trim, or structural elements on the exterior of the building must be removed.

(8) Any condition which may become a hazard or danger to the public must be corrected.

(b) The owner shall secure the building by normal measures within ninety-days (90) from receipt of the notice as described, in part, below:

(1) Doors:

(A) Maintain and/or repair original location, design, surrounds, frames, sill, transoms, and sidelights of doors to preserve the building's historic integrity.

(B) Maintain the original amount of glazing in the door appropriate to the period of the building's construction.

(C) If repair is not possible, replacement doors and surrounds on primary facades should be designed to duplicate the original as closely as possible. (D) Any inappropriately designed, non-original door or surround should be replaced with a more appropriate door or surround based on documentary or photographic evidence. If evidence of the original is lacking, the design of the replacement door or surround should be compatible with the character of the facade in which it is located.

(2) Windows:

(A) Maintain and/or repair original location, design, sash, light- configuration and other defining characteristics of the building's original windows.

(B) If repair is not possible due to advanced deterioration, replacement windows should duplicate the original in design, material, sash and light- configuration as closely as possible.

(C) Any inappropriately designed, non-original windows should be replaced with appropriately designed ones based on documentary or photographic evidence. If evidence of the original is lacking, the design of the replacement windows should be compatible with the character of the facade in which it is located.

(D) Uncover any original windows that have been covered or filled in over time.

(E) Upper story windows should never be painted over or filled in with any material. If the original windows no longer exist in the window opening, replacement windows that match the originals should be added.

(F) Stabilize deteriorated or damaged windows as a preliminary measure prior to undertaking appropriate preservation work.

(G) Protect and maintain the wood and architectural metals which comprise the window frame, sash, muntins, and surrounds through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and re-application of protective coating systems.

(H) Make windows weather tight by re-caulking and replacing or installing weather stripping. These actions also improve thermal efficiency.

(3) Awnings and Canopies:

(A) Maintain and/or repair any appropriately designed existing canopies or awnings.

(B) When repair or replacement is required, the canopy should align with the architectural features of the building.

(C) Newly constructed canopies should be a structural canopy built of steel or wood rather than of cloth or canvas. Such structural canopies should be suspended, cantilevered, or column supported.

(D) Maintain canopy depth with adjacent historic canopies.

Sec. 22-488 -- Abatement Notice and order to abate.

- (a) Upon finding a violation of this article, the Administrator shall serve, in person or by certified mail, return receipt requested, a written notice and order to abate upon the owner.
- (b) The notice must advise the owner of the violation and comply with the requirements of V.T.C.A., Local Government Code § 54.005.
- (c) If the owner fails to abate the violation within the period stated in the notice or within any additional time as the Administrator may grant, the Administrator may, without further notice, enter upon the property and abate the violation. The owner is liable for the costs incurred by the city to secure the premises and to abate the violation, including any administrative expenses, materials, and labor.

Sec. 22-489 - Notice of costs incurred by city; lien.

- (a) The Administrator shall mail a notice to the owner and lienholder of the property upon which the nuisance has been abated of the costs incurred or expended by the city to abate the nuisance.
- (b) The notice must advise the owner and lienholder that the city proposes to assess its costs against the property and place a lien on the property to collect the costs incurred by the city.
- (c) The Administrator shall file a lien against the property for the city's costs.
- (d) Any lien filed pursuant to this section shall be security for the expenditures made.

Sec. 150.60 -- Enforcement authority.

- (1) The Administrator is authorized to enforce the provisions of this chapter and to make all necessary inspections, to issue citations, to give notice, to file applicable charges and to otherwise cooperate in the enforcement of this article, pursuant to section 1-16 or the City of Palacios Code of Ordinances.

Section Two: Other than as amended herein, all remaining sections of Chapter 22 remain in full force and effect. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section Three. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section Four. Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

Council Member:	Voted Aye	Voted No	Absent
Jim Gardner, Mayor	_____	_____	_____
Larry Glenn	_____	_____	_____
Sharon Trainer	_____	_____	_____
Chip Woolf Mayor Pro Tem	_____	_____	_____
Troy Lewis	_____	_____	_____
Raylynn Samora	_____	_____	_____
Michael Dotson	_____	_____	_____

PASSED AND APPROVED on this _____ day of December, 2022.

 Jim Gardner, Mayor City of
 Palacios, Texas

ATTEST:

APPROVED AS TO FORM:

 Aleigha Galvan,
 City Secretary
 City of Palacios, Texas

 Anne Marie Odefey, City Attorney

CITY COUNCIL MEMORANDUM

City Council Meeting: December 15, 2022
Department: Council Requested
Subject: Ordinance No. 2022-O-20 Demolition Moratorium

BACKGROUND: The Luther Hotel, a privately owned property, was contracted for sale to the Ed Rachal Foundation (ERF) with the condition that it would be demolished. Given that the hotel had the state designation as a historical landmark, some citizens of Palacios thought that meant it was protected from demolition. Then it became publicly disclosed at the Nov. 17 City Council meeting that there was a 90-day moratorium on demolition when the historical protection would end. This 90-day period had already begun, and its end date is Dec. 19, 2022.

GOALS: Extend the moratorium on demolition so the growing number of concerned citizens can become more informed and involved to reach an amicable solution. These citizens seek communication from the potential buyer to inform the general population of their plans. Perhaps negotiation can occur. The City needs to remain neutral, represent the general population, and avoid ownership in private real estate transactions.

FISCAL IMPACT: None. There will be no obligations or commitment to action by the City of Palacios.

RECOMMENDATION: Staff recommends council debate and decide on the approval of the Ordinance on its first reading.

ATTACHMENT: Ordinance No. 2022-O-20

ORDINANCE NO. 2022-O-20

AN ORDINANCE REGULATING THE DEMOLITION OF STRUCTURES WITHIN THE CORPORATE LIMITS AND THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF PALACIOS, TEXAS AND PROVIDING FOR A MORATORIUM ON ALL DEMOLITION OF STRUCTURES FOR A FIXED PERIOD OF TIME; PROVIDING FOR A GRANDFATHER CLAUSE; PROVIDING FOR WAIVER BY CITY COUNCIL; FIXING A PENALTY FOR FAILURE TO COMPLY WITH SUCH ORDINANCE; REPEALING ANY CONFLICTING ORDINANCES; AND SETTING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS.

SECTION 1. For a period of sixty (60) days from the effective date of this Ordinance, there shall exist a moratorium to and it shall be unlawful for any person to demolish a structure within the Corporate Limits or the Extra-territorial jurisdiction of the City of Palacios, Texas.

SECTION 2. If a person is in the process of demolishing a structure contemplated herein on the effective date of this Ordinance, the person shall have sixty (60) days from the effective date of this Ordinance to complete said demolition. Further, since the buyer of 408 Commerce and 205 4th Street have previously received permission from the City to demolish the structures located on that property, it shall not be a violation for the buyer to demolish those two buildings.

SECTION 3. A person may appear at a regularly scheduled City Council meeting in order to request a waiver of the application of this Ordinance. The City Council may waive the terms of this Ordinance.

SECTION 4. Upon a finding that said Defendant is in violation of this ordinance, said Defendant shall be deemed guilty of a misdemeanor and subject to a fine in accordance with the penalty provisions hereinafter set forth.

SECTION 5. Failure to comply with any provision of this ordinance shall be punished by a fine not to exceed Five Hundred and No/100 (\$500.00) per day that said person is in violation of this Ordinance.

SECTION 6. If any part of this ordinance is, or should be held invalid for any reason, then that fact shall not invalidate the entire ordinance, but the balance thereof shall remain in full force and effect.

SECTION 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8. The City Secretary shall publish this Ordinance as required by City Charter.

SECTION 9. This ordinance shall become effective upon the final passage date shown below.

First Reading this the _____ day of _____ 20____.

Jim Gardner, Mayor

Second Reading this the _____ day of _____ 20____.

Jim Gardner, Mayor

PASSED AND APPROVED this _____ day of _____, 20____.

Jim Gardner, Mayor

ATTEST:

Aleigha Galvan, City Secretary

APPROVED AS TO FORM AND CONTENT:

Anne Marie Odefey, City Attorney

CITY COUNCIL MEMORANDUM

City Council Meeting: December 15, 2022
Department: Code Compliance
Subject: Golf Cart Ordinance

BACKGROUND

At the first reading of the Golf Cart Ordinance at the December 1 City Council Meeting, council members requested some changes to the Ordinance.

GOALS

Our goal is to have guidelines for these vehicles and allow them to be used safely in our beautiful city.

FISCAL IMPACT

The Fiscal impact for a golf cart or Neighborhood Vehicle (NV) would be a registration fee of \$20.00 per year per vehicle.

RECOMMENDATION

Approval of the final reading of the golf cart/NV ordinance.

ATTACHMENT

Ordinance No. 2022-O-14

ORDINANCE NO. 2022-O-14

AN ORDINANCE REGULATING THE USE OF GOLF CARTS, NEIGHBORHOOD VEHICLES, AND OTHER TYPES OF RECREATIONAL OFF-HIGHWAY VEHICLES; PROVIDING FOR CODIFICATION; FIXING A PENALTY FOR FAILURE TO COMPLY WITH SUCH ORDINANCE; REPEALING ANY CONFLICTING ORDINANCES; AND SETTING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS.

SECTION 1. Chapter 12 of the City of Palacios Code of Ordinances is hereby amended to add new Article 12.11, Golf Carts, Neighborhood Electric Vehicles and other Types of Recreational Off-Highway Vehicles, as follows:

ARTICLE 12.11 GOLF CARTS, NEIGHBORHOOD ELECTRIC VEHICLES AND OTHER TYPES OF RECREATIONAL OFF-HIGHWAY VEHICLES

Sec. 12.11.001. Definitions.

These terms shall have the following meanings:

All-terrain vehicle means a motor vehicle that is:

1. Equipped with a seat or seats for the use of:
 - a. The rider; and
 - b. A passenger(s), if the motor vehicle is designed by the manufacturer to transport a passenger(s);
2. Designed to propel itself with three or more tires in contact with the ground;
3. Designed by the manufacturer for off-highway use;
4. Not designed by the manufacturer primarily for farming or lawn care; and
5. Not more than 50 inches wide.

City means the City of Palacios, Texas.

Daytime means the period beginning one-half hour before sunrise and ending one-half hour after sunset.

Driver's license means an authorization issued by the Department of Public Safety for operation of a motor vehicle. The term includes a temporary license or instruction permit and an occupational license.

Golf cart shall have the meaning assigned by Texas Transportation Code § 502.001, as amended, which currently defines it as a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course. It must have a minimum of four wheels and have an attainable top speed not greater than 25 miles per hour on a paved level surface and be manufactured primarily for transporting persons on a golf course and in compliance with those federal motor vehicle safety standards for low-speed vehicles. The term "Golf cart" shall not include those motorized conveyances commonly referred to as All-terrain vehicles ("ATVs"), off-road vehicles (also known as "ROVs"), four-wheelers, mules, gators, and design-

altered Golf carts which have been altered to allow them to travel at a speed greater than 25 miles per hour.

Neighborhood vehicle (NV) (includes low speed vehicles "LSV") means a vehicle that can attain a maximum speed of 35 miles per hour on a paved level surface and otherwise complies with the definition of a "Neighborhood Electric Vehicle" as defined by Tex. Transp. Code §551.301 or with Federal Motor Vehicle Safety Standard No. 500; Low-Speed Vehicles (Effective Sept. 5, 2017). This standard specifies requirements for low-speed vehicles. A low-speed vehicle is a gasoline or electric powered four-wheeled motor vehicle, other than a truck, whose attainable speed is more than 32 km/h (20 mph) and not more than 40 km/h (25 mph). The standard requires ten specific items of safety equipment. [Not listed. See Texas Transportation Code § 551.301] ** Has a normal maximum speed of 20—25 mph (LSV) or 20—35 mph (NEV). The term "Neighborhood vehicle" shall not include those motorized conveyances commonly referred to as All-terrain vehicles ("ATVs"), off-road vehicles (also known as "ROVs"), four-wheelers, mules, or gators.

Nighttime means the period beginning one-half hour after sunset and ending one-half hour before sunrise.

Operate shall mean driving.

Operator means any person driving and having physical control over the motor vehicle.

Park or *Parking* means the standing or stopping of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Parking area means those areas accessible to the public by motor vehicular traffic and which are designated for temporary Parking of motor vehicles, usually in places referred to as Parking lots.

Recreational off-highway vehicle means a motor vehicle that is:

1. Equipped with a seat or seats for the use of:
 - a. The rider; and
 - b. A passenger or passengers, if the vehicle is designed by the manufacturer to transport a passenger or passengers;
2. Designed to propel itself with four or more tires in contact with the ground;
3. Designed by the manufacturer for off-highway use by the Operator only; and
4. Not designed by the manufacturer primarily for farming or lawn care.

Street means a public roadway in the City of Palacios, Texas by whatever name (e.g., road, alley, avenue, highway, route, boulevard, etc.) that is open to vehicular traffic.

Sec. 12.11.002. Limited operation.

- A. Golf carts and NV's are permitted to be Operated on:
 1. Streets where the posted speed limit is 35 miles per hour or less,
 2. A Parking area as defined by this article.
- B. The operation of a Golf cart shall be prohibited on any Street in the state highway system, regardless of the speed limit. ~~The state highway system~~

~~includes, but is not limited to, Hwy 35, Henderson Street, Main Street, and 1st Street.~~

- C. A Golf cart may not be driven across intersections where the cross Street has a posted speed limit of more than 35 miles per hour.
- D. Nighttime driving of Golf carts is prohibited. Golf carts may only be driven during the Daytime.
- F. An NV may drive across intersections where the cross-Street has a posted speed limit of more than 35 miles per hour, even if the cross-Street is otherwise a prohibited Street under this article.
- G. Notwithstanding anything in this section 12.11.002 to the contrary, Golf Carts and Neighborhood Vehicles may be operated on public streets for activities related to parades permitted under this chapter and events organized or sponsored by the City of Palacios.
- H. The operation of a Golf Cart shall be prohibited on any sidewalk, seawall, or beach.

Sec. 12.11.003. Required equipment—Golf cart.

- A. A Golf Cart Operated under this article must be equipped, at a minimum, with the following equipment as mandated by the Texas Transportation Code § 551.404(b), as amended, and/or required by the City to Operate on permitted locations:
 - 1. Operational headlamps;
 - 2. Operational tail lamps;
 - 3. Side reflectors;
 - 4. Operational Parking brake; and
 - 5. Rearview mirror(s).
 - 6. Turn signals;
 - 7. Horn;
 - 8. Brake lights;
 - 9. Seat belts;
 - 10. A safety-orange flag on a six-foot fiberglass whip pole; and
 - 11. Windshield
- B. A Golf cart that is Operated at a speed of not more than 25 miles per hour shall display a "slow-moving-vehicle emblem" as defined by Texas Transportation Code § 547.703.
- C. Equipment, and its installation and maintenance, must meet standards provided by the Texas Transportation Code, as amended.
- D. Golf Carts must be inspected by the Palacios Police Department not less than once per year for compliance with this section. The fee for inspection is \$10.00, to be paid by the owner prior to the inspection, such fee shall not be refunded if the golf cart fails the inspection. Upon verification of compliance with this section, the Palacios Police Department shall affix a decal to the vehicle, indicating the date of inspection, the inspector's name and signature, and a statement that the vehicle complies with this section.

Sec. 12.11.004. Required equipment—Neighborhood vehicle.

- A. A Neighborhood vehicle (NV), whether gasoline- or electric-powered must be equipped with the following equipment as mandated by Texas Transportation Code § 551.301, as amended, and/or required by the City, to Operate on permitted locations:
 - 1. Operational headlamps;
 - 2. Operational tail lamps;
 - 3. Side reflectors;
 - 4. Operational Parking brake;
 - 5. Rearview mirror(s);
 - 6. Turn signals;
 - 7. Horn;
 - 8. Brake lights;
 - 9. Seat belts;
 - 10. Windshield; and
 - 11. Vehicle identification number.
- B. Equipment, and its installation and maintenance, must meet standards provided by the Texas Transportation Code, as amended.
- C. Neighborhood Vehicles must be inspected by the Palacios Police Department not less than once per year for compliance with this section. The fee for inspection is \$~~10~~20.00, to be paid by the owner prior to the inspection, such fee shall not be refunded if the Neighborhood Vehicle fails the inspection. Upon verification of compliance with this section, the Palacios Police Department shall affix a decal to the vehicle, indicating the date of inspection, the inspector's name and signature, and a statement that the vehicle complies with this section.

Sec. 12.11.005. Operator regulations.

- A. All Operators of Golf carts or NVs shall:
 - 1. Be licensed to Operate a motor vehicle as provided by Texas Transportation Code § 521.021, as amended, and carry a valid Driver's license as provided by Texas Transportation Code § 521.025, and all state law Driver's license permissions and restrictions shall apply to the operation of a Golf cart or NV;
 - 2. Abide by all state and local traffic regulations applicable to vehicular traffic;
 - 3. Not Operate or park on a sidewalk or hike and bike trails at any time;
 - 4. Not use the vehicle to pull any object or person at any time;
 - 5. Not exceed the seating capacity of the vehicle as designed by the manufacturer;

6. Remain seated at all times while the vehicle is in motion, and ensure the same for passengers. Passengers can be issued a citation for not remaining seated while vehicle is moving;
7. Maintain financial responsibility as defined in Texas Transportation Code § 601.051; and
8. Not intentionally or knowingly allow an unlicensed Operator to Operate the vehicle.
9. Use headlights at an time the Golf Cart or Neighborhood Vehicle is in operation.

Sec. 12.11.006. All-terrain vehicles, Recreational off-highway vehicles.

It shall be unlawful for a person to Operate an ATV or ROV on a Public Street or location except as provided by state law and this section. A person may only drive across a public Street or highway that is not an interstate or limited-access highway, if done so in accordance with state law. (See Texas Transportation Code § 663.037, and as amended.)

Sec. 12.11.009. Penalties.

Only warning citations may be issued for the first 60 days following the effective date of this article so that an educational effort by the City may be conducted to inform the public about the importance and requirements of this article. In addition to traffic violations for which the owner or driver of the Golf cart or NV may be subject to pursuant to state law, any person who violates this article shall be guilty of a misdemeanor punishable by a fine of \$200.00;

Each day's violations shall constitute a separate and distinct offense. Any prior conviction under this article will count towards a second and third charge regardless of when it occurred.

SECTION 2. It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Palacios, Texas, and it may be renumbered and codified therein accordingly, in the manner approved by the City Attorney.

SECTION 3. Failure to comply with any provision of this ordinance shall be punished by a fine not to exceed Two Hundred and No/100 (\$200.00) per day that said person is in violation of this Ordinance.

SECTION 4. If any part of this ordinance is, or should be held invalid for any reason, then that fact shall not invalidate the entire ordinance, but the balance thereof shall remain in full force and effect.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. The City Secretary shall publish this Ordinance as required by City Charter.

SECTION 7. This ordinance shall become effective upon the final passage date shown below.

First Reading this the 1st day of December 2022.

Chip Woolf, Mayor Pro Tem.

RECORD OF VOTE

Council Member:	Voted Aye	Voted No	Absent
Jim Gardner, Mayor	_____	_____	_____
Larry Glenn	_____	_____	_____
Sharon Trainor	_____	_____	_____
Chip Woolf	_____	_____	_____
Troy Lewis	_____	_____	_____
Raylynn Samora	_____	_____	_____
Michael Dotson	_____	_____	_____

Second Reading this the 15th day of December 2022.

Jim Gardner, Mayor

RECORD OF VOTE

Council Member:	Voted Aye	Voted No	Absent
Jim Gardner, Mayor	_____	_____	_____
Larry Glenn	_____	_____	_____
Sharon Trainor	_____	_____	_____
Chip Woolf	_____	_____	_____
Troy Lewis	_____	_____	_____
Raylynn Samora	_____	_____	_____
Michael Dotson	_____	_____	_____

PASSED AND APPROVED this 15th day of December 2022.

Jim Gardner, Mayor

ATTEST:

Aleigha Galvan, City Secretary

APPROVED AS TO FORM AND CONTENT:

Anne Marie Odefey, City Attorney

ORDINANCE NO. 2022-O-14

AN ORDINANCE REGULATING THE USE OF GOLF CARTS, NEIGHBORHOOD VEHICLES, AND OTHER TYPES OF RECREATIONAL OFF-HIGHWAY VEHICLES; PROVIDING FOR CODIFICATION; FIXING A PENALTY FOR FAILURE TO COMPLY WITH SUCH ORDINANCE; REPEALING ANY CONFLICTING ORDINANCES; AND SETTING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS.

SECTION 1. Chapter 12 of the City of Palacios Code of Ordinances is hereby amended to add new Article 12.11, Golf Carts, Neighborhood Electric Vehicles and other Types of Recreational Off-Highway Vehicles, as follows:

ARTICLE 12.11 GOLF CARTS, NEIGHBORHOOD ELECTRIC VEHICLES AND OTHER TYPES OF RECREATIONAL OFF-HIGHWAY VEHICLES

Sec. 12.11.001. Definitions.

These terms shall have the following meanings:

All-terrain vehicle means a motor vehicle that is:

1. Equipped with a seat or seats for the use of:
 - a. The rider; and
 - b. A passenger(s), if the motor vehicle is designed by the manufacturer to transport a passenger(s);
2. Designed to propel itself with three or more tires in contact with the ground;
3. Designed by the manufacturer for off-highway use;
4. Not designed by the manufacturer primarily for farming or lawn care; and
5. Not more than 50 inches wide.

City means the City of Palacios, Texas.

Daytime means the period beginning one-half hour before sunrise and ending one-half hour after sunset.

Driver's license means an authorization issued by the Department of Public Safety for operation of a motor vehicle. The term includes a temporary license or instruction permit and an occupational license.

Golf cart shall have the meaning assigned by Texas Transportation Code § 502.001, as amended, which currently defines it as a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course. It must have a minimum of four wheels and have an attainable top speed not greater than 25 miles per hour on a paved level surface and be manufactured primarily for transporting persons on a golf course and in compliance with those federal motor vehicle safety standards for low-speed vehicles. The term "Golf cart" shall not include those motorized conveyances commonly referred to as All-terrain vehicles ("ATVs"), off-road vehicles (also known as "ROVs"), four-wheelers, mules, gators, and design-

altered Golf carts which have been altered to allow them to travel at a speed greater than 25 miles per hour.

Neighborhood vehicle (NV) (includes low speed vehicles "LSV") means a vehicle that can attain a maximum speed of 35 miles per hour on a paved level surface and otherwise complies with the definition of a "Neighborhood Electric Vehicle" as defined by Tex. Transp. Code §551.301 or with Federal Motor Vehicle Safety Standard No. 500; Low-Speed Vehicles (Effective Sept. 5, 2017). This standard specifies requirements for low-speed vehicles. A low-speed vehicle is a gasoline or electric powered four-wheeled motor vehicle, other than a truck, whose attainable speed is more than 32 km/h (20 mph) and not more than 40 km/h (25 mph). The standard requires ten specific items of safety equipment. [Not listed. See Texas Transportation Code § 551.301] ** Has a normal maximum speed of 20—25 mph (LSV) or 20—35 mph (NEV). The term "Neighborhood vehicle" shall not include those motorized conveyances commonly referred to as All-terrain vehicles ("ATVs"), off-road vehicles (also known as "ROVs"), four-wheelers, mules, or gators.

Nighttime means the period beginning one-half hour after sunset and ending one-half hour before sunrise.

Operate shall mean driving.

Operator means any person driving and having physical control over the motor vehicle.

Park or *Parking* means the standing or stopping of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Parking area means those areas accessible to the public by motor vehicular traffic and which are designated for temporary Parking of motor vehicles, usually in places referred to as Parking lots.

Recreational off-highway vehicle means a motor vehicle that is:

1. Equipped with a seat or seats for the use of:
 - a. The rider; and
 - b. A passenger or passengers, if the vehicle is designed by the manufacturer to transport a passenger or passengers;
2. Designed to propel itself with four or more tires in contact with the ground;
3. Designed by the manufacturer for off-highway use by the Operator only; and
4. Not designed by the manufacturer primarily for farming or lawn care.

Street means a public roadway in the City of Palacios, Texas by whatever name (e.g., road, alley, avenue, highway, route, boulevard, etc.) that is open to vehicular traffic.

Sec. 12.11.002. Limited operation.

- A. Golf carts and NV's are permitted to be Operated on:
 1. Streets where the posted speed limit is 35 miles per hour or less,
 2. A Parking area as defined by this article.
- B. The operation of a Golf cart shall be prohibited on any Street in the state highway system, regardless of the speed limit.

- C. A Golf cart may not be driven across intersections where the cross Street has a posted speed limit of more than 35 miles per hour.
- D. Nighttime driving of Golf carts is prohibited. Golf carts may only be driven during the Daytime.
- F. An NV may drive across intersections where the cross-Street has a posted speed limit of more than 35 miles per hour, even if the cross-Street is otherwise a prohibited Street under this article.
- G. Notwithstanding anything in this section 12.11.002 to the contrary, Golf Carts and Neighborhood Vehicles may be operated on public streets for activities related to parades permitted under this chapter and events organized or sponsored by the City of Palacios.
- H. The operation of a Golf Cart shall be prohibited on any sidewalk, seawall, or beach.

Sec. 12.11.003. Required equipment—Golf cart.

- A. A Golf Cart Operated under this article must be equipped, at a minimum, with the following equipment as mandated by the Texas Transportation Code § 551.404(b), as amended, and/or required by the City to Operate on permitted locations:
 - 1. Operational headlamps;
 - 2. Operational tail lamps;
 - 3. Side reflectors;
 - 4. Operational Parking brake; and
 - 5. Rearview mirror(s).
 - 6. Turn signals;
 - 7. Horn;
 - 8. Brake lights;
 - 9. Seat belts;
 - 10. A safety-orange flag on a six-foot fiberglass whip pole; and
 - 11. Windshield
- B. A Golf cart that is Operated at a speed of not more than 25 miles per hour shall display a "slow-moving-vehicle emblem" as defined by Texas Transportation Code § 547.703.
- C. Equipment, and its installation and maintenance, must meet standards provided by the Texas Transportation Code, as amended.
- D. Golf Carts must be inspected by the Palacios Police Department not less than once per year for compliance with this section. The fee for inspection is \$10.00, to be paid by the owner prior to the inspection, such fee shall not be refunded if the golf cart fails the inspection. Upon verification of compliance with this section, the Palacios Police Department shall affix a decal to the vehicle, indicating the date of inspection, the inspector's name and signature, and a statement that the vehicle complies with this section.

Sec. 12.11.004. Required equipment—Neighborhood vehicle.

- A. A Neighborhood vehicle (NV), whether gasoline- or electric-powered must be equipped with the following equipment as mandated by Texas Transportation Code § 551.301, as amended, and/or required by the City, to Operate on permitted locations:
 - 1. Operational headlamps;
 - 2. Operational tail lamps;
 - 3. Side reflectors;
 - 4. Operational Parking brake;
 - 5. Rearview mirror(s);
 - 6. Turn signals;
 - 7. Horn;
 - 8. Brake lights;
 - 9. Seat belts;
 - 10. Windshield; and
 - 11. Vehicle identification number.
- B. Equipment, and its installation and maintenance, must meet standards provided by the Texas Transportation Code, as amended.
- C. Neighborhood Vehicles must be inspected by the Palacios Police Department not less than once per year for compliance with this section. The fee for inspection is \$20.00, to be paid by the owner prior to the inspection, such fee shall not be refunded if the Neighborhood Vehicle fails the inspection. Upon verification of compliance with this section, the Palacios Police Department shall affix a decal to the vehicle, indicating the date of inspection, the inspector's name and signature, and a statement that the vehicle complies with this section.

Sec. 12.11.005. Operator regulations.

- A. All Operators of Golf carts or NVs shall:
 - 1. Be licensed to Operate a motor vehicle as provided by Texas Transportation Code § 521.021, as amended, and carry a valid Driver's license as provided by Texas Transportation Code § 521.025, and all state law Driver's license permissions and restrictions shall apply to the operation of a Golf cart or NV;
 - 2. Abide by all state and local traffic regulations applicable to vehicular traffic;
 - 3. Not Operate or park on a sidewalk or hike and bike trails at any time;
 - 4. Not use the vehicle to pull any object or person at any time;
 - 5. Not exceed the seating capacity of the vehicle as designed by the manufacturer;
 - 6. Remain seated at all times while the vehicle is in motion, and ensure the same for passengers. Passengers can be issued a citation for not remaining seated while vehicle is moving;

7. Maintain financial responsibility as defined in Texas Transportation Code § 601.051; and
8. Not intentionally or knowingly allow an unlicensed Operator to Operate the vehicle.
9. Use headlights at an time the Golf Cart or Neighborhood Vehicle is in operation.

Sec. 12.11.006. All-terrain vehicles, Recreational off-highway vehicles.

It shall be unlawful for a person to Operate an ATV or ROV on a Public Street or location except as provided by state law and this section. A person may only drive across a public Street or highway that is not an interstate or limited-access highway, if done so in accordance with state law. (See Texas Transportation Code § 663.037, and as amended.)

Sec. 12.11.009. Penalties.

Only warning citations may be issued for the first 60 days following the effective date of this article so that an educational effort by the City may be conducted to inform the public about the importance and requirements of this article. In addition to traffic violations for which the owner or driver of the Golf cart or NV may be subject to pursuant to state law, any person who violates this article shall be guilty of a misdemeanor punishable by a fine of \$200.00;

Each day's violations shall constitute a separate and distinct offense. Any prior conviction under this article will count towards a second and third charge regardless of when it occurred.

SECTION 2. It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Palacios, Texas, and it may be renumbered and codified therein accordingly, in the manner approved by the City Attorney.

SECTION 3. Failure to comply with any provision of this ordinance shall be punished by a fine not to exceed Two Hundred and No/100 (\$200.00) per day that said person is in violation of this Ordinance.

SECTION 4. If any part of this ordinance is, or should be held invalid for any reason, then that fact shall not invalidate the entire ordinance, but the balance thereof shall remain in full force and effect.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. The City Secretary shall publish this Ordinance as required by City Charter.

SECTION 7. This ordinance shall become effective upon the final passage date shown below.

First Reading this the 1st day of December 2022.

RECORD OF VOTE

Council Member:	Voted Aye	Voted No	Absent
Jim Gardner, Mayor	_____	_____	_____
Larry Glenn	_____	_____	_____
Sharon Trainor	_____	_____	_____
Chip Woolf	_____	_____	_____
Troy Lewis	_____	_____	_____
Raylynn Samora	_____	_____	_____
Michael Dotson	_____	_____	_____

Second Reading this the 15th day of December 2022.

Jim Gardner, Mayor

RECORD OF VOTE

Council Member:	Voted Aye	Voted No	Absent
Jim Gardner, Mayor	_____	_____	_____
Larry Glenn	_____	_____	_____
Sharon Trainor	_____	_____	_____
Chip Woolf	_____	_____	_____
Troy Lewis	_____	_____	_____
Raylynn Samora	_____	_____	_____
Michael Dotson	_____	_____	_____

PASSED AND APPROVED this 15th day of December 2022.

Jim Gardner, Mayor

ATTEST:

Alegha Galvan, City Secretary

APPROVED AS TO FORM AND CONTENT:

Anne Marie Odefey, City Attorney

CITY COUNCIL MEMORANDUM

City Council Meeting: December 1, 2022

Department: Code Compliance

Subject: Street Vendor Ordinance

BACKGROUND

At the first reading of this ordinance on December 1, the Council suggested changes to the ordinance before the final reading. The ordinance has been modified with these changes and renamed to the Commercial Activities with No Permanent Structure Ordinance. The staff has decided that no fee will be associated with business registration to help promote activity in town.

GOALS

Our goal in this ordinance is to help make it easier to understand and allow the use of these vendors throughout the city.

FISCAL IMPACT


No Fiscal Impact

RECOMMENDATION

Approval of Final Reading of Ordinance 2022-O-15

ATTACHMENT

Ordinance 2022-O-15

 Sec. 4.01.001 Prohibited commercial activities

(a) Permanent structure required for commercial activities. It shall be unlawful for any person to sell, lease, rent, barter or exchange any goods, wares, merchandise or services on a commercial or retail basis or to offer to do so except out of a permanent structure complying with all applicable construction codes, ordinances and regulations of the city, including but not limited to parking requirements. This subsection is not applicable to the following:

- (1) [Other Commercial activities Peddlers](#), as defined and regulated by other provisions of this code;
- (2) Activities upon the public beach which are regulated by other provisions of this code;
- (3) A sale of used, consumer, household goods by an individual who is not regularly engaged in the business of such sales, said sale being commonly known as a garage sale;
- (4) A nonprofit, charitable or fundraising event for a charitable purpose; or
- (5) The display of merchandise on the sidewalk in front of a business operating from a permanent structure complying with all applicable construction codes, ordinances and regulations of the city, provided the sidewalk is not blocked to pedestrian traffic.

(b) Commercial activities prohibited on public property. It shall be unlawful for any person to sell, lease, rent, barter or exchange goods, wares, merchandise or services on a commercial retail basis or to engage in any other commercial activity or to offer to do so from, out of, or upon public property, roadways or rights-of-way. The terms and provisions of this subsection shall not be applicable to the following:

- (1) Activities upon the public beach regulated under other provisions of this code;
- (2) [Other Commercial activities Concessionaires or licensees granted a license under other provisions of this code to operate upon said public property, as defined and regulated by other provisions of this code](#)
- (3) Newsracks, provided:
 - (A) Such racks shall be no larger than 6' high x 4' wide x 2' deep;
 - (B) Such racks shall be kept and maintained in a clean, attractive, and good operating condition;
 - (C) Such racks shall not be placed in a location or in such a way that causes or could cause interference with vehicular traffic on walkways or with the ingress or egress of persons to or from a building; or
- (4) The display of merchandise on the sidewalk in front of a business operating from a permanent structure complying with all applicable construction codes, ordinances and regulations of the city, provided the sidewalk is not blocked to pedestrian traffic.

(1996 Code, secs. 4.501, 4.502)

  Sec. 4.01.002 Business registration required

Any person establishing a business or commercial enterprise of any type within the corporate limits of the city after January 1, 1985, shall register such business or commercial enterprise with the city secretary. Such registration shall include the name of the business, [the name and address of the business owner](#), the principal commercial activities to be conducted by the business, and the address of the business location. (1996 Code, art. 4.600)

ARTICLE 4.03 Commercial Activities with no Permanent Structure PEDDLERS AND SOLICITORS*

Division 1. Generally

Sec. 4.03.001 Definitions

For the purposes of this article the following definitions shall apply:

Commercial traveler. A person who is employed by or who represents a manufacturer, wholesaler, or importer who sells or exhibits goods to parties who engage in the business of purchasing such goods for the purpose of resale to the general public.

Door-to-Door Salesperson. A person, or the agent, consignee or employee of a person, who within the city engages in the temporary business of exhibiting, delivering, selling or offering for sale any goods or exhibiting brochures, sales literature, or price lists for the purpose of taking orders for the sale of goods and who has no fixed place of business within the city that is used, occupied, hired, rented, or leased for a period of at least one month for the purpose of operating or conducting such business

Mobile Vendor A person who operates a vehicle mounted, self or otherwise propelled, self-contained ~~food service~~**commercial** operation, designed to be readily moveable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors)

Goods. Tangible chattels of every kind and character.



~~Itinerant merchant. A person, or the agent, consignee, or employee of a person, who moves stocks of goods or samples of goods into the city for the purpose of selling or offering for sale or taking orders for the sale of such goods with the intention of removing such samples or the unsold portion of such goods away from the city before the expiration of one (1) month and who has no fixed place of business within the city for which definite arrangements have been made for the use, occupancy, hire, rental or lease of such place for a term of at least one (1) month.~~

~~Peddler. A person, or the agent, consignee, or employee of a person, who carries goods upon a truck or other vehicle on the streets of the city for the purpose of exhibiting, selling, or offering for sale such goods from such truck or other vehicle or who within the city goes from door to door of residences, offices or places of business to display, sell, offer for sale, or take orders for the sale of goods or to exhibit brochures, sales literature or price lists for the purpose of taking orders for the sale of goods from a vacant lot, parking lot, tent, boat, storage bin, stall or unenclosed structure.~~

Person. An individual natural person and does not include any corporation, firm, association, partnership or joint venture.

~~Transient vendor. A person, or the agent, consignee or employee of a person, who within the city engages in the temporary business of exhibiting, delivering, selling or offering for sale any goods or exhibiting brochures, sales literature, or price lists for the purpose of taking orders for the sale of goods and who has no fixed place of business within the city that is used, occupied, hired, rented, or leased for a period of at least one month for the purpose of operating or conducting such business thereon.~~



~~(1996 Code, sec. 4.202)~~

  Sec. 4.03.002 Exceptions

This article shall not apply to any of the following:

- (1) Commercial travelers;
- (2) Sales or exhibits at fairs, rodeos, conventions, or events sponsored by one or more city civic organizations, schools, churches or the Chamber of Commerce;
- (3) Charitable solicitation.

(1996 Code, sec. 4.203)

  Sec. 4.03.003 Penalty

(a) A violation shall constitute a misdemeanor and, upon conviction thereof, punishable by a fine in accordance with the general penalty in [section 1.01.009](#) of this code. Each day of violation constitutes a separate offense.

(b) A conviction for the violation of [section 4.03.008](#) shall result in the automatic revocation of such convicted person's peddlers and solicitor's license.

(c) The police department for the city shall enforce this section, sections [4.03.005](#) through [4.03.008](#) and section [4.03.041](#)(a).

(1996 Code, sec. 4.226)

  ~~Sec. 4.03.004 — Service, warranties and claims~~

~~Any person required to obtain a license under the provision of this article who, for the purposes of selling or offering for sale or soliciting orders for the sale of goods, hires, rents, leases or occupies any room or space in any building, structure, enclosure, vacant lot, parking lot or any other property of whatever kind or character shall display at all times during which such person is doing business on such premises a sign lettered in two-inch letters and visible to the public setting out the place where any purchaser can obtain service for the goods offered for sale on such premises and specifying the type and duration of any warranties made on such goods and the address where any purchaser may make a claim for breach thereof. (1996 Code, sec. 4.220)~~

  Sec. 4.03.005 Property owner violations

Any property owner who knowingly allows his property to be used or occupied [for commercial activities by a peddler, transient merchant, or itinerant vendor who conducts thereon a business operation or who exhibits or offers for sale goods](#) without first [obtaining a license registering](#) as required by the provisions of this article shall be guilty of a misdemeanor. (1996 Code, sec. 4.221)

  Sec. 4.03.006 Hours and places of solicitations

All solicitations to private residences, including but not limited to homes, duplexes, mobile homes, roominghouses and apartments, shall occur between the hours of 9:00 a.m. and 8:00 p.m., unless otherwise posted by the property owner or by someone with apparent authority to act for the owner. This regulation does not apply where the solicitor is on the property by express, prior invitation of the person residing on the premises. (1996 Code, sec. 4.222)

  Sec. 4.03.007 ~~Unlawful use of streets and sidewalks~~ [Use of public property and streets](#)

[Mobile vendors must disclose intention to set up on public property or streets at the time of registration and agree in writing to to comply with written City policy regarding such use.](#)

~~(a) — Streets. No peddler or any other person or corporation or association or organization shall have or maintain, in a stationary location, any truck, trailer, booth or any other kind of structure on any public street, or alley in the city for the purpose of selling, exhibiting, or soliciting orders for any goods, wares, or merchandise, or cold drinks, hot drinks or food, nor for the purpose of exhibiting any kind of exhibit.~~

~~(b) — Sidewalks. It shall be unlawful for any person to sell or offer for sale any of the goods on the sidewalks of the city unless such goods are offered for sale or sold by a person owning, occupying or controlling the premises adjoining or adjacent to the sidewalk, and then such goods shall be exposed and sold in the usual course of trade in accordance with all municipal laws of the city.~~

~~(c) — Unlawful parking on streets. It shall be unlawful for any person to stop, stand or park any motor vehicle, truck, trailer or vehicle of any kind on any public street or alley in the city for the purpose of selling, exhibiting, or soliciting orders for any goods, wares, merchandise, cold drinks, hot drinks, or food, for a period of longer than ten (10) minutes.~~

~~(1996 Code, sec. 4.223)~~



Sec. 4.03.008 Trespass

(a) It shall be unlawful ~~for the holder of any license issued~~ under this article to enter upon the land or premises of another after receiving, immediately before such entry, notice from the owner, resident, occupant or adult person acting for such person exercising possession that such entry is forbidden.

(b) A sign on the premises stating approximately “no solicitors - commercial or charitable” or “no solicitors except for nonprofit organizations based in Matagorda County, Texas” shall constitute notice.

(c) Further, it shall be unlawful for any such license holder to remain on the premises of another after receiving notice from the owner, resident, occupant or adult person acting for such person exercising possession to depart such premises.

(1996 Code, sec. 4.225)



Secs. 4.03.009–4.03.040 Reserved



Division 2. License Registration



~~Sec. 4.03.041 -Any person establishing a business or commercial enterprise of any type within the corporate limits of the city after January 1, 1985, shall register such business or commercial enterprise with the city secretary. Such registration shall include the name of the business, the name and address of the business owner, the principal commercial activities to be conducted by the business, and the address of the business location. (1996 Code, art. 4.600)~~

Registration requests for business activities to be conducted without a permanent structure must be accompanied by written permission from the property owner to use private property if applicable.

Registration requests for mobile business activities offering food products must be accompanied by appropriate health department permits.

Required

~~(a) — It shall be unlawful for any person, required by this article to secure a license, to engage in the~~

activities set forth in this article without a license.

~~(b) — Before any person engages in the occupation of a peddler, itinerant merchant, or transient vendor within the city, such person shall first obtain from the city secretary or her designated representative a license to engage in such occupation. Any such license granted to any person is issued with the express provision that the licensee shall not make any false or fraudulent representation as to the goods to be sold or his authority to sell such goods or his identity. A separate license and application shall be required for each person who engages in the activities described in the definitions of the term “transient vendor,” “itinerant merchant” or “peddler” in section 4.03.001, including each employee, agent, or consignee who engages in such activity.~~

~~(1996 Code, secs. 4.201, 4.224)~~



Sec. 4.03.042 — Contents of application

~~The application for a license required hereunder shall be made in person by the person requesting such license upon forms available in the office of the city secretary or her designated representative.~~

~~Such~~ Business registration required

Any person establishing a business or commercial enterprise of any type within the corporate limits of the city after January 1, 1985, shall register such business or commercial enterprise with the city secretary. Such registration shall include the name of the business, the name and address of the business owner, the principal commercial activities to be conducted by the business, and the address of the business location. (1996 Code, art. 4.600) application form shall provide a space for the following information which must be furnished by the applicant:

~~(1) — The name, current and former residence and business addresses, current residence and business telephone numbers, and occupation of applicant. If applicable, the local address and telephone number where the applicant may be reached.~~

~~(2) — The social security number and birth date of the applicant, valid driver's license number, expiration date and state issuing it.~~

~~(3) — A physical description of the applicant which includes race, sex, height, weight, hair and eye color.~~

~~(4) — Two (2) recent photograph likenesses of the applicant's face, which photographs shall not be less than one inch (1") square or larger than two inches (2") square in size. (One photograph to be kept with the application and one photograph to be attached to the license.)~~

~~(5) — A valid state driver's license. Only nondrivers may submit other positive identification issued to the applicant by a governmental agency and the state issuing it (i.e., birth certificate).~~

~~(6) — A description of the goods to be sold, including brand name if any. If the goods are to be shipped, the name, address and telephone number of the manufacturing location and/or shipping location.~~

~~(7) — The address of the location from which such goods shall be displayed to the public or offered for sale or a statement that the applicant will travel from door to door for the purpose of exhibiting or offering goods for sale.~~

~~(8) — The name, address and telephone number of the owner of the property at such location.~~

~~(9) — If the goods to be sold are transported in or displayed from a vehicle, the vehicle owner's name, address and telephone number and the vehicle's make, model, color, description, identification number and license number.~~

~~(10) — A statement that the applicant has not been convicted within the last five (5) years of an offense:~~

~~(A) — Involving narcotics, dangerous drugs or crimes with dangerous weapons;~~

~~(B) — Involving the use of force and violence upon the person of another when the offense is designated as a felony in the state;~~

~~(C) — Of fraud, misrepresentation, embezzlement, forgery, or theft when such offense is designated as a felony in the state;~~

~~(D) — In a court of proper jurisdiction of violating this article at any time.~~

~~(11) — Such other information as may be required to complete an investigation as to the fitness of the applicant to conduct such business operation.~~

~~(1996 Code, sec. 4.209)~~



~~Sec. 4.03.043 — Other documents attached to application~~

~~(a) — Permit from landowner. If the applicant proposes to display goods to the public or to offer such goods for sale from a designated location, such applicant's application form hereunder shall be accompanied by a written permit signed by the owner or the duly authorized agent of the owner of the property at the location from which the applicant proposes to display or to offer for sale any goods. Such permit shall state that said owner consents that the applicant may use and occupy such property for the purpose of selling or offering for sale such goods.~~

~~(b) — State sales tax permit. If a state statute requires that sales tax must be paid upon the purchase of such goods as the applicant proposes to offer for sale, the application for the license shall be accompanied by a valid sales tax permit issued by the office of the comptroller of public accounts of the state.~~

~~(1996 Code, sec. 4.211)~~



~~Sec. 4.03.044 — Bond~~

~~(a) — Surety bond. Prior to the issuance of any license under the provisions of this division, the person making application therefor shall secure and furnish a surety bond with a penalty sum of three thousand dollars (\$3,000.00) executed by such person as principal and a corporate surety authorized to transact business in the state who has appointed a resident agent for purposes of notice and service of process with a permanent location and mailing address within the county.~~

~~(b) — Cash bond. The applicant may post a cash bond in lieu of a surety bond but under the same terms. Said cash bond to be held by the city in a non-interest-bearing escrow account strictly for cash bonds under this article.~~

~~(c) — Breach. Upon the breach of principal's obligation on such bond, the surety thereon shall be liable to any obligee thereon for damages, court costs and attorney's fees not to exceed the face amount of said bond caused by or arising from any act or omission of the principal that constitutes the Deceptive Trade Practices and Consumer Protection Act, V.T.C.A., Business and Commerce Code, section 17.41 et seq., as now enacted or hereafter amended, hereinafter called the act, in connection with goods sold, offered, exhibited or delivered by the principal, or any employee, agent or consignee of the principal.~~

~~(d) — Term. The obligation of said surety shall continue for a period of two years from the date of sale or delivery of such goods, whichever is later, and as long thereafter as required to bring to a final conclusion any litigation pending at the expiration of said two-year period instituted by an obligee on such bond for a claim under said act, or by the district attorney of the county or the attorney general of the state for violation of said act in connection with such sale or delivery of goods by said principal.~~

~~(e) — Approval. Such surety bond shall be approved by the city attorney or an authorized assistant city~~

attorney as to form and condition, and such approval shall be written on the face of such bond, which shall thereafter be filed with the city secretary.

(1996 Code, secs. 4.204–4.208)

  ~~Sec. 4.03.045 — Applicant's oath~~

Each person making application for a license required hereunder shall swear or affirm that the information given on the application form is true and correct. (1996 Code, sec. 4.210)

  ~~Sec. 4.03.046 — Fee and duration~~

(a) ~~Fee.~~ Any person who is required to obtain a license by the provisions of this division may apply for either a thirty-day license or a twelve-month license. When a thirty-day license is issued to any such person, such licensee shall pay to the city secretary or her designated representative a license fee as provided for in ~~section A4.03.046~~ of the fee schedule in appendix A to this code, which sum shall be used to defray part of the expense of administration and enforcement of this article. When a twelve-month license is issued to any such person, such licensee shall pay to the city secretary or her designated representative a license fee as provided for in ~~section A4.03.046~~ of the fee schedule in appendix A to this code, which sum shall be used to defray part of the expense of administration and enforcement of this article.

(b) ~~Duration.~~ No license issued under the provisions of this division shall be issued for a longer period than twelve (12) months.

(c) ~~Exemption from fee for persons engaged in interstate commerce.~~ Persons engaged in interstate commerce shall not be required to pay the license fee, but shall be subject to all other requirements of this article.

(1996 Code, sec. 4.217)

  ~~Sec. 4.03.047 — Official approval required~~

(a) ~~Building code compliance.~~ Each application form for a license required hereunder shall bear the signature of the city secretary or her designated representative indicating that the applicant's proposed use of property complies with the occupancy requirements of the city building codes or that such requirement is inapplicable because the applicant will be authorized by said license only to travel from door to door.

(b) ~~Health.~~ Each applicant who proposes to sell or offer for sale goods consisting of any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption shall secure on the application form for the license hereunder the signature of the public health officer of the city and/or county indicating that such goods meet minimum food standards of the state.

(c) ~~Security check by police.~~ Each application for a license required hereunder shall be approved by the chief of police or his authorized representative before such license is granted. The chief of police shall have a reasonable time to conduct an investigation of an applicant for such license, but such an investigation shall not be longer than three (3) business days. After inspection or investigation, the chief of police shall either approve or disapprove the application for the license and, if disapproved, shall give the applicant, upon request, a written statement setting forth the reasons for such disapproval and notifying said applicant of his right to appeal.

(d) ~~Acceptable photograph identification.~~ Upon approval of the license and prior to issuance, each applicant shall be required to secure photo identification from a designated city representative, if the

~~photographs submitted are not acceptable to the city secretary.~~

~~(1996 Code, sec. 4.212)~~

~~  Sec. 4.03.048 — Contents~~


~~A license issued under the provisions of this division shall contain the following:~~

- ~~(1) — The name of the applicant and his address;~~
- ~~(2) — A physical description of the applicant;~~
- ~~(3) — A photographic likeness furnished with the application;~~
- ~~(4) — The date the license was issued and the date it expires with the signature of the city secretary;~~
- ~~(5) — The location from which such person is licensed to conduct the business operation authorized by such license;~~
- ~~(6) — The fact that the licensee is a peddler who is authorized to go from door to door of residences, offices, or places of business to display, sell, offer for sale or take orders for the sale of goods or to exhibit brochures, sales literature, or price lists of goods.~~

~~(1996 Code, sec. 4.215)~~

~~  Sec. 4.03.049 — Assignability~~

~~Such license shall not be assignable and shall not authorize more than one person to engage in the occupation of peddler, itinerant merchant, or transient vendor within the city. (1996 Code, sec. 4.218)~~

~~  Sec. 4.03.050 — Display~~

~~Any licensee must exhibit the license and the photo identification issued under the provisions of this division, upon his outer clothing and upon demand, to the mayor, the city secretary or her designated representative, to any police officer of the city or to any person to whom a sale or solicitation is attempted to be made. In addition to the exhibiting of the license and the photo identification, any licensee must also exhibit upon demand identification of and authorization from the company represented by such licensee. (1996 Code, sec. 4.219)~~

~~  Sec. 4.03.051 — Grounds for revocation or denial~~

~~The city secretary or her designated representative may deny or revoke a license for a peddler, itinerant merchant or transient vendor for any of the following reasons:~~

- ~~(1) — The applicant does not present a valid state driver's license or, if allowed, other positive identification by a governmental agency;~~
- ~~(2) — The applicant does not complete the application form and procedure;~~
- ~~(3) — The applicant or the proposed activity of the applicant does not comply with applicable city ordinances and codes, including building codes and health codes, or county or state health laws;~~
- ~~(4) — The applicant makes false or fraudulent statements on the application form;~~
- ~~(5) — The applicant or licensee is found, after investigation by the chief of police, to be misrepresenting or making false statements in regard to his authority to sell such goods;~~
- ~~(6) — Within the last five (5) years, the applicant or licensee has been convicted of an offense involving narcotics, dangerous drugs or crimes with dangerous weapons;~~
- ~~(7) — Within the last five (5) years, the applicant or licensee has been convicted of an offense involving~~

~~the use of force and violence upon the person of another when the offense is designated as a felony in the state;~~

~~(8) Within the last five (5) years, the applicant or licensee has been convicted of an offense of fraud, misrepresentation, embezzlement, forgery, or theft when such offense is designated a felony in the state;~~

~~(9) Within the last five (5) years, the applicant or licensee has been convicted in a court of proper jurisdiction of violating this article at any time;~~

~~(10) Upon recommendation from the chief of police that the license be revoked because the conduct of the licensee or the manner in which the licensee is conducting his business operation endangers the health or safety of a citizen of the city.~~

~~(1996 Code, sec. 4.213)~~



~~Sec. 4.03.052 Appeals from decisions~~

~~(a) Written notice of appeal by applicant. If the applicant for a license under this division or the holder of such a license is dissatisfied with any holding or finding of the city secretary or chief of police, he shall have the right to appeal to the city council by filing a written notice of such appeal with the city secretary within ten (10) days from the decision by the city secretary.~~


~~(b) Hearing by city council. Upon the filing of such notice of appeal, the application for the permit and all papers possessed by the city secretary in connection with such application and such permit may be delivered to the city council, and such matters as may be in controversy shall be heard by the council at its next regular meeting after the filing of the notice of appeal. The city council shall have the same powers and authority at such hearing on such appeal as is vested in the city secretary by this article.~~

~~(1996 Code, sec. 4.214)~~



~~Sec. 4.03.053 Records~~

~~The city secretary or her designated representative shall keep a record of each such license registration issued. (1996 Code, sec. 4.216)~~

 Sec. 4.01.001 Prohibited commercial activities

(a) Permanent structure required for commercial activities. It shall be unlawful for any person to sell, lease, rent, barter or exchange any goods, wares, merchandise or services on a commercial or retail basis or to offer to do so except out of a permanent structure complying with all applicable construction codes, ordinances and regulations of the city, including but not limited to parking requirements. This subsection is not applicable to the following:

- (1) Other Commercial activities , as defined and regulated by other provisions of this code;
- (2) Activities upon the public beach which are regulated by other provisions of this code;
- (3) A sale of used, consumer, household goods by an individual who is not regularly engaged in the business of such sales, said sale being commonly known as a garage sale;
- (4) A nonprofit, charitable or fundraising event for a charitable purpose; or
- (5) The display of merchandise on the sidewalk in front of a business operating from a permanent structure complying with all applicable construction codes, ordinances and regulations of the city, provided the sidewalk is not blocked to pedestrian traffic.

(b) Commercial activities prohibited on public property. It shall be unlawful for any person to sell, lease, rent, barter or exchange goods, wares, merchandise or services on a commercial retail basis or to engage in any other commercial activity or to offer to do so from, out of, or upon public property, roadways or rights-of-way. The terms and provisions of this subsection shall not be applicable to the following:

- (1) Activities upon the public beach regulated under other provisions of this code;
- (2) Other Commercial activities , as defined and regulated by other provisions of this code
- (3) Newsracks, provided:
 - (A) Such racks shall be no larger than 6' high x 4' wide x 2' deep;
 - (B) Such racks shall be kept and maintained in a clean, attractive, and good operating condition;
 - (C) Such racks shall not be placed in a location or in such a way that causes or could cause interference with vehicular traffic on walkways or with the ingress or egress of persons to or from a building; or
- (4) The display of merchandise on the sidewalk in front of a business operating from a permanent structure complying with all applicable construction codes, ordinances and regulations of the city, provided the sidewalk is not blocked to pedestrian traffic.

(1996 Code, secs. 4.501, 4.502)

  Sec. 4.01.002 Business registration required

Any person establishing a business or commercial enterprise of any type within the corporate limits of the city after January 1, 1985, shall register such business or commercial enterprise with the city secretary. Such registration shall include the name of the business, the name and address of the business owner, the principal commercial activities to be conducted by the business, and the address of the business location. (1996 Code, art. 4.600)

↓ ↓ ARTICLE 4.03 Commercial Activities with no Permenant Srtucture

🌐 ↓ Division 1. Generally

🌐 ↓ Sec. 4.03.001 Definitions

For the purposes of this article the following definitions shall apply:

Commercial traveler. A person who is employed by or who represents a manufacturer, wholesaler, or importer who sells or exhibits goods to parties who engage in the business of purchasing such goods for the purpose of resale to the general public.

Door-to-Door Salesperson. A person, or the agent, consignee or employee of a person, who within the city engages in the temporary business of exhibiting, delivering, selling or offering for sale any goods or exhibiting brochures, sales literature, or price lists for the purpose of taking orders for the sale of goods and who has no fixed place of business within the city that is used, occupied, hired, rented, or leased for a period of at least one month for the purpose of operating or conducting such business

Mobile Vendor A person who operates a vehicle mounted, self or otherwise propelled, self-contained commercial operation, designed to be readily moveable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors)

Goods. Tangible chattels of every kind and character.

Person. An individual natural person and does not include any corporation, firm, association, partnership or joint venture.

🌐 ↓ Sec. 4.03.002 Exceptions

This article shall not apply to any of the following:

- (1) Commercial travelers;
- (2) Sales or exhibits at fairs, rodeos, conventions, or events sponsored by one or more city civic organizations, schools, churches or the Chamber of Commerce;
- (3) Charitable solicitation.

(1996 Code, sec. 4.203)

🌐 ↓ Sec. 4.03.003 Penalty

(a) A violation shall constitute a misdemeanor and, upon conviction thereof, punishable by a fine in accordance with the general penalty in [section 1.01.009](#) of this code. Each day of violation constitutes a separate offense.

(b) A conviction for the violation of [section 4.03.008](#) shall result in the automatic revocation of such convicted person's peddlers and solicitor's license.

(c) The police department for the city shall enforce this section, sections [4.03.005](#) through [4.03.008](#) and section [4.03.041\(a\)](#).


(1996 Code, sec. 4.226)



 Sec. 4.03.005 Property owner violations


Any property owner who knowingly allows his property to be used or occupied for commercial activities without first registering as required by the provisions of this article shall be guilty of a misdemeanor. (1996 Code, sec. 4.221)



 Sec. 4.03.006 Hours and places of solicitations


All solicitations to private residences, including but not limited to homes, duplexes, mobile homes, roominghouses and apartments, shall occur between the hours of 9:00 a.m. and 8:00 p.m., unless otherwise posted by the property owner or by someone with apparent authority to act for the owner. This regulation does not apply where the solicitor is on the property by express, prior invitation of the person residing on the premises. (1996 Code, sec. 4.222)



 Sec. 4.03.007 Use of public property and streets

Mobile vendors must disclose intention to set up on public property or streets at the time of registration and agree in writing to comply with written City policy regarding such use.




 Sec. 4.03.008 Trespass

- (a) It shall be unlawful under this article to enter upon the land or premises of another after receiving, immediately before such entry, notice from the owner, resident, occupant or adult person acting for such person exercising possession that such entry is forbidden.
- (b) A sign on the premises stating approximately “no solicitors - commercial or charitable” or “no solicitors except for nonprofit organizations based in Matagorda County, Texas” shall constitute notice.
- (c) Further, it shall be unlawful for any such license holder to remain on the premises of another after receiving notice from the owner, resident, occupant or adult person acting for such person exercising possession to depart such premises.

(1996 Code, sec. 4.225)




 Secs. 4.03.009–4.03.040 Reserved





 **Division 2. Registration**



 Sec. 4.03.041 Any person establishing a business or commercial enterprise of any type within the corporate limits of the city after January 1, 1985, shall register such business or commercial enterprise with the city secretary. Such registration shall include the name of the business, the name and address of the business owner, the principal commercial activities to be conducted by the business, and the address of the business location. (1996 Code, art. 4.600)

Registration requests for business activities to be conducted without a permanent structure must be accompanied by written permission from the property owner to use private property if applicable.

Registration requests for mobile business activities offering food products must be accompanied by appropriate health department permits.



  Business registration required

Any person establishing a business or commercial enterprise of any type within the corporate limits of the city after January 1, 1985, shall register such business or commercial enterprise with the city secretary. Such registration shall include the name of the business, the name and address of the business owner, the principal commercial activities to be conducted by the business, and the address of the business location. (1996 Code, art. 4.600)



  Sec. 4.03.051



  Sec. 4.03.053 Records

The city secretary or her designated representative shall keep a record of each such registration issued. (1996 Code, sec. 4.216)

CITY COUNCIL MEMORANDUM

City Council Meeting: December 15, 2022
Department: Code Compliance
Subject: Recreational Vehicle Ordinance No. 2022-O-19

BACKGROUND

At the first reading of this Ordinance on December 1, the Council recommended changes to the Ordinance to include more leniency towards the use of an RV for housing visitors and to establish a fee for a permit.

One piece of major recreational or utility equipment owned by an out-of-town guest may be temporarily parked, stored, and used at an occupied residence by permit only and for a maximum period not to exceed 10 consecutive days.

A maximum of three such permits shall be issued per 12-month period per occupied residence.

The permit fee will be \$40 per permit, each permit is for a maximum of 10 consecutive days.

GOALS

To regulate RV use in town and limit use for out-of-town guests only and not become a permanent residence outside any RV Park.

FISCAL IMPACT

\$40 per permit.

RECOMMENDATION

Approval of the final reading of the ordinance

ATTACHMENT

Ordinance No. 2022-O-19

ORDINANCE NO. 2022-O-19

AN ORDINANCE REGULATING RECREATIONAL VEHICLES;
PROVIDING FOR CODIFICATION; FIXING A PENALTY FOR
FAILURE TO COMPLY WITH SUCH ORDINANCE;
REPEALING ANY CONFLICTING ORDINANCES; AND
SETTING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS,
TEXAS.

SECTION 1. Subpart C of Division 12 of Article 10.02 of the City of Palacios Code of Ordinances is hereby repealed in its entirety and replaced amended as follows:

Subpart C. Recreational Vehicle Compliance

Sec. 10.02.441 Recreational vehicle placement

(a) It is an offense for any person to place, use or occupy a recreational vehicle within the city unless such placement, use or occupancy is specifically authorized by this division. Furthermore, it is an offense for any person to permit, allow or suffer the placement, use or occupancy of a recreational vehicle on any property under his ownership or control unless such placement, use or occupancy is specifically authorized by this division.

Sec. 10.02.442 Recreational vehicles inside RV parks

(a) A motor home, a truck camper, camping trailers, or travel trailer may be placed in a manufactured home park or a recreational vehicle park and may be used for sleeping and living purposes during the time that it is so placed in a park if it is currently licensed, built to RVIA standards, and if:

- (1) The park in which it is placed is licensed by the city as a recreational vehicle park or a manufactured home park;
- (2) It is placed on a lot in the park which was shown on the park's application and approved by the building inspector for use of the specific type of recreational vehicle being placed thereon; and
- (3) Any truck camper for sleeping or living purposes that has been dismantled from the truck has been specifically designed and manufactured for that use.

(b) In addition to any other authorized placement or use of a recreational vehicle, it may be utilized as provided in section [10.02.389](#) of this code upon a site authorized by the building inspector for temporary disaster assistance organizations in accordance with the rules and regulations issued under that section.

Sec. 10.02.442 Recreational vehicles outside parks

- (a) A recreational vehicle may not be occupied outside a park.
- (b) A recreational vehicle may not be parked in any public street, highway, or right-of-way overnight or for longer than one day.

(c) A recreational vehicle may not be used as a permanent residence or commercial office space regardless of the purpose or situation.

(d) A recreational vehicle may be parked or stored, unoccupied, on a lot with another residential structure, so long as it complies with the following limitations:

- (1) Only electricity is connected to the recreational vehicle;
- (2) Neither water or sanitary sewer is connected to the vehicle;
- (3) The vehicle is not parked on or extending over public property unless parked on a street or a parking lot in full compliance with the laws; and
- (4) The parking or storage of the vehicle is not in violation of any other law or any valid and applicable deed restrictions or covenants running with the land.

(c) A recreational vehicle may be temporarily occupied on a lot with another residential structure, so long as it complies with the following limitations:

(1) The proposed site is a lot or tract which already has a residence on the same lot, and the owner of said residence consents in writing to such placement.

(2) The recreational vehicle prominently displays on the exterior door of the RV or the window nearest the exterior door of the RV, temporary placement permit from the City.

i. The proposed occupant of the recreational vehicle may apply to the City for such permit by providing to the City Permit Department written consent from the property owner of the lot on which the recreational vehicle is proposed to be occupied.

ii. Upon finding that the proposed occupant complies with the requirements of this section, the City Permit Department shall issue a temporary placement permit for a maximum of 10 days which includes, at a minimum, the address of the approved location, the expiration date of the permit, and the signature of an employee of the City Permit Department.

iii. **The City Permit Department may not issue more than three permits for a maximum of 10 consecutive days per permit in a 12-month period. The permit fee is \$40.**

SECTION 2. It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Palacios, Texas, and it may be renumbered and codified therein accordingly, in the manner approved by the City Attorney.

SECTION 3. Failure to comply with any provision of this ordinance shall be punished by a fine not to exceed Five Hundred and No/100 (\$500.00) per day that said person is in violation of this Ordinance.

SECTION 4. If any part of this ordinance is, or should be held invalid for any reason, then that fact shall not invalidate the entire ordinance, but the balance thereof shall remain in full force and effect.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. The City Secretary shall publish this Ordinance as required by City Charter.

SECTION 7. This ordinance shall become effective upon the final passage date shown below.

First Reading this the 1st day of December, 2022.

Chip Woolf, Mayor Pro Tem

RECORD OF VOTE

Council Member:	Voted Aye	Voted No	Absent
Jim Gardner, Mayor	_____	_____	_____
Larry Glenn	_____	_____	_____
Sharon Trainor	_____	_____	_____
Chip Woolf	_____	_____	_____
Troy Lewis	_____	_____	_____
Raylynn Samora	_____	_____	_____
Michael Dotson	_____	_____	_____

Second Reading this the 15th day of December 2022.

Jim Gardner, Mayor

RECORD OF VOTE

Council Member:	Voted Aye	Voted No	Absent
Jim Gardner, Mayor	_____	_____	_____
Larry Glenn	_____	_____	_____
Sharon Trainor	_____	_____	_____

Chip Woolf _____
Troy Lewis _____
Raylynn Samora _____
Michael Dotson _____

PASSED AND APPROVED this 15th day of December 2022.

Jim Gardner, Mayor

ATTEST:

Aleigha Galvan, City Secretary

APPROVED AS TO FORM AND CONTENT:

Anne Marie Odefey, City Attorney