

**KERRVILLE CITY COUNCIL AGENDA**  
**REGULAR COUNCIL MEETING, MARCH 13, 2018, 6:00 PM**  
**CITY HALL COUNCIL CHAMBERS**  
**701 MAIN STREET, KERRVILLE, TEXAS**

**CALL TO ORDER**

**INVOCATION OFFERED BY MAYOR BONNIE WHITE.**

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**1. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

Announcement of items of community interest, including expressions of thanks, congratulations, or condolences; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by city officials or employees; and announcements involving imminent threats to the public health and safety of the city. No action will be taken

**2. VISITORS/CITIZENS FORUM:**

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. City Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers will be limited to the first ten speakers and each speaker is limited to four minutes

**3. PRESENTATIONS**

- 3.A Proclamation declaring March 2018 as American Red Cross Month.  
[Red Cross Proclamation.pdf](#)
- 3.B Report from Mayor's Youth Advisory Council.  
[MYAC 3-13.pdf](#)

**4. CONSENT AGENDA:**

These items are considered routine and can be approved in one motion unless a Councilmember asks for separate consideration of an item. It is recommended that the City Council approve the following items which will grant the Mayor or City Manager the authority to take all actions necessary for each approval:

1

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The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the City hall of the City of Kerrville, Texas, and said notice was posted on the following date and time: and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

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Brenda Craig  
City Secretary, City of Kerrville, Texas

4.A Minutes of regular city council meeting held February 13, 2017.  
[2018 0213.docx](#)

## **END OF CONSENT AGENDA**

### **5. ORDINANCES, FIRST READING:**

5.A Ordinance No. 2018-07 amending Chapter 74 "Parks and Recreation", Article I "Rules and Regulations for City Park and Recreation Areas" of the Code of Ordinances of the City of Kerrville, Texas, by amending various sections to address the operation and use of the Kerrville Sports Complex; containing a cumulative clause; containing a savings and severability clause; providing a penalty; and providing other matters relating to the subject.

[AB - Ordinance Amending Chapter 74 and adding Sports Complex Regulations](#)

[3.13.2018.docx](#)

[Ordinance No. 2018-07.pdf](#)

5.B Ordinance No. 2018-10 Amending Chapter 102 "Traffic and Vehicles", Article IV "Operation of Vehicles", Division 1 "Generally", by adding a new section 102-118 to regulate the use of hand-held portable electronic devices while operating a vehicle; providing exemptions; providing affirmative defenses; providing an increasing penalty for subsequent offenses; containing a cumulative clause; containing a savings and severability clause; ordering publication; providing an effective date; and providing other matters related to the subject.

[AB\\_Ord.\\_2018-10\\_Hands-Free\\_Device II.docx](#)

[Ordinance No. 2018-10.pdf](#)

[Ordinance Analysis Memo.docx](#)

### **6. ORDINANCES, SECOND AND FINAL READING:**

6.A Ordinance No. 2018-08, an Ordinance approving a tariff authorizing an Annual Rate Review Mechanism ("RRM") as a substitution for the Annual Interim Rate Adjustment Process defined by Section 104.301 of the Texas Utilities Code, and as negotiated between Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company") and the Steering Committee of Cities Served by Atmos; requiring the Company to reimburse Cities' reasonable ratemaking expenses; adopting a savings clause; determining that this Ordinance was passed in accordance with the requirements of the Open Meetings Act; declaring an effective date; and requiring delivery of this Ordinance to the Company and Legal Counsel for the Steering Committee.

[AB Ord. 2018-08.pdf](#)

[Ordinance No. 2018-08.pdf](#)

6.B Ordinance No. 2018-09, an Ordinance amending Chapter 10, "Alcoholic Beverages" of the Code of Ordinances of the City of Kerrville, Texas; by amending Section

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Brenda Craig  
City Secretary, City of Kerrville, Texas

10-3 "Licensing Requirements; Fees"; by reducing the applicable fee for alcoholic beverage licenses; containing a cumulative clause; containing a savings and severability clause; providing for an effective date; ordering publication; and providing other matters relating to the subject..

[AB\\_Ord.\\_2018-09.docx](#)

[Ordinance No. 2018-09.pdf](#)

**7. CONSIDERATION AND POSSIBLE ACTION:**

7.A Resolution No. 16-2018 authorizing the waiver of various fees and authorizing a nonexclusive license and funding agreement regarding the use of the city's downtown pavilion for the Kerrville Farmers Market to be held in downtown Kerrville each Friday between April and October.

[AB\\_Farmers\\_Market II.docx](#)

[Resolution No. 16-2018.pdf](#)

[Farmers Market budget proposal.pdf](#)

**8. BOARD APPOINTMENTS**

8.A Appointments to the Parks and Recreation Advisory Board.

[AB PRAB 3-13-18.docx](#)

[Parks and Recreation Advisory Board.docx](#)

8.B Appointment to the Recovery Community Coalition.

[AB-RCC appointment 3-13-18.docx](#)

[Recovery Community Coalition.docx](#)

8.C Appointment to Mayor's Youth Advisory Council.

[AB MYAC 3-13-18.docx](#)

[Mayor's Youth Advisory Council.docx](#)

**9. CITY MANAGER'S REPORT**

**10. ITEMS FOR FUTURE AGENDAS**

**11. EXECUTIVE SESSION:**

City Council may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above including if they meet the qualifications in Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel/officers), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code, including the following:

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12A. Section 551.087:

Deliberation regarding economic development negotiations in accordance with the Texas Open Meetings Act, Section 551.087, discussion regarding commercial or financial information received from a business prospect(s) and/or to deliberate the offer of a financial or other incentive to a business prospect(s).

**12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY**

**ADJOURNMENT.**

4

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Brenda Craig  
City Secretary, City of Kerrville, Texas

# PROCLAMATION

**WHEREAS**, For more than 99 years, the American Red Cross of the Texas Hill Country has been the place where citizens join together and are always willing to take care of others in situations from home fires and windstorms to flooding and man-made disasters; and

**WHEREAS**, The Red Cross is dedicated to training our community in CPR, first aid, disaster preparedness, and other life-saving skills; and

**WHEREAS**, The Red Cross is a volunteer-led organization that relies on the generosity of the American people,

**NOW, THEREFORE**, I, Bonnie White, Mayor of the City of Kerrville, Texas, do urge all residents of Kerr County to volunteer their time and give generously to the American Red Cross and its local office, and do hereby proclaim March 2018; as



MONTH

**IN WITNESS WHEREOF,**  
I have hereunto set my hand  
and caused the Seal of  
the City of Kerrville to be affixed  
hereto, the 13 day of March, 2018.

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\_\_\_\_\_  
Bonnie White, Mayor



# MYAC

MAYOR'S YOUTH ADVISORY COUNCIL  
City of Kerrville

Report to City Council  
February 27, 2018

# What is MYAC?

**Number of Members:** Fifteen

## **Eligible Requirements:**

- High school student for the school year in which appointed
- Kerr County resident

**Term of Office:** One school year



2018-17 Mayor's Youth Advisory Council

# What does MYAC do?

- Provide youth perspectives on various community affairs and issues to the Mayor and City leadership.
- Develop youth leaders committed to learning about local government.
- Empower youth to become active members in their community.
- Participate in volunteerism and community events.

# Meetings

## Meeting Time & Place:

- Second Thursday of each month
- 4:30 p.m.
- City Hall upstairs conference room
- September 21, 2017 (Rescheduled)
- October 12, 2017
- November 9, 2017
- December 4, 2017 (Special Meeting)
- December 14, 2017
- January 11, 2018
- January 25, 2018 (Special Meeting)
- February 8, 2018
- February 22, 2018 (Special Meeting)

# Council Officers' Meetings

## Meeting Time:

- Once to twice a month
- October 1, 2017
- October 29, 2017
- November 26, 2017
- December 28, 2017
- January 6, 2017

# Tours and Guest Speakers

## Committee:

Trey Layton, Chair  
Kaleb McCutcheon  
Mason Roberts  
Zhenjun Li  
Roman Garcia

- Kerrville Municipal Airport Tour
- Kerr County Courthouse Tour
- Dalton Reid, Schreiner University Student Body President
- Peggy Schmidt, Chair of Caring for America
- Tom Whiting, President of the Kerrville Citizen Police Academy Alumni Association

# Tours and Guest Speakers

Committee:

Trey Layton, Chair  
Kaleb McCutcheon  
Mason Roberts  
Zhenjun Li  
Roman Garcia

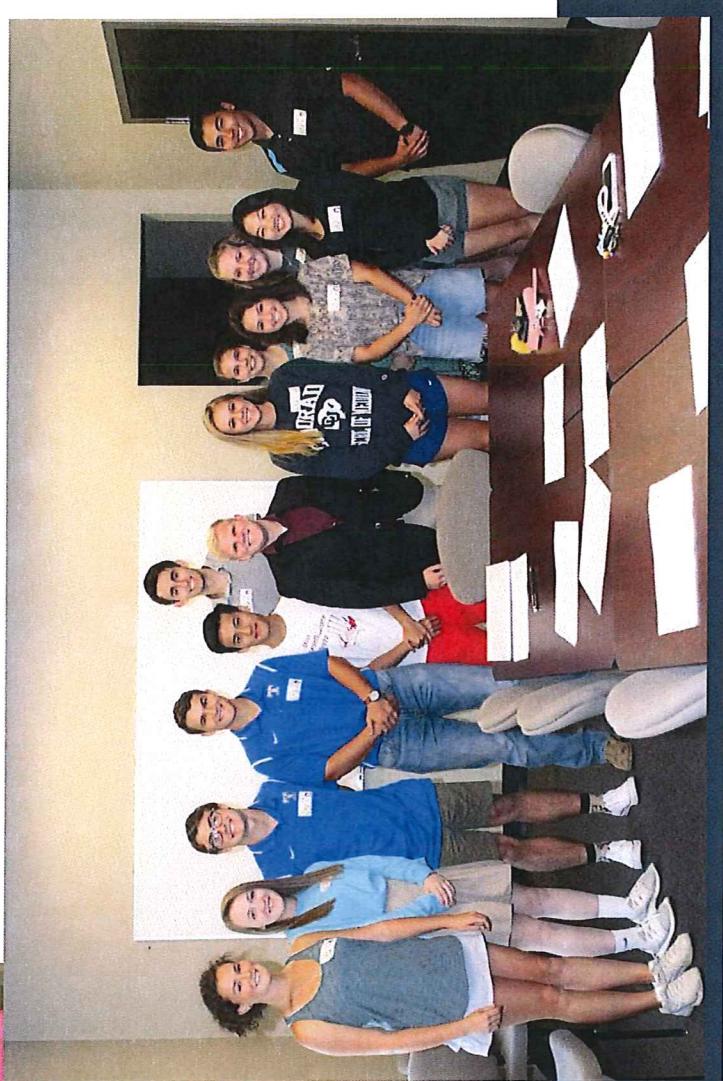
- Tina Woods, Executive Director of the Dietert Center
- Ashlea Boyle, City's Director of Parks and Recreation
- Paul Zohlen and Fred Vogt, Members of the Hill Country Chapter of the Military Order of World Wars

Tour:  
Kerrville Municipal Airport



Tour:  
Kerr County Courthouse

Guest Speaker:  
Dalton Reid



Guest Speaker:  
Tina Woods



Guest Speaker:  
Paul Zohlen



Guest Speaker:  
Ashlea Boyle

# Projects and Events

## Committee:

Sydney Garcia, Chair  
Jessica Tran  
Maria Hall  
Roman Garcia

- UGRA River Clean Up - July 22
- Kerrville Holiday Lighted Parade - November 17
- Kerrville 2050 Comprehensive Plan Steering Committee Community Retreat - November 18
- Ingram Christmas Parade - December 2
- Blue Santa Program - December 9

# Projects and Events

## Committee:

Sydney Garcia, Chair  
Jessica Tran  
Maria Hall  
Roman Garcia

- Wreaths Across America - December 16
- Gingerbread House Event - December 16
- National Salute to Veteran Patients - February 14
- Texas Youth Advisory Commission Summit - February 16 to 18
- Youth Community Survey - January to February 2018



UGRA River Clean Up



Kerrville 2050 Comprehensive Plan Steering Committee Community  
Retreat



Ingram Christmas Parade



Meeting with the Kerrville 2050 Comprehensive Plan Steering Committee Consulting Firm



Wreaths Across America at the Kerrville National Cemetery



Gingerbread House Event at the Butt-Holdsworth Memorial Library



National Salute to Veteran Patients at the VA Medical Center



Texas Youth Advisory Commission Summit in Cedar Hill, Texas

Questions or Comments?

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
FEBRUARY 13, 2018

On February 13, 2018, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor bonnie White in the city hall council chambers at 701 Main Street. The invocation was offered by Councilmember Mary Ellen Summerlin, followed by the Pledge of Allegiance led by Fire Chief Dannie Smith.

COUNCILMEMBERS PRESENT:

Bonnie White	Mayor
George Baroody	Mayor Pro Tem
Vincent Voelkel	Councilmember
Mary Ellen Summerlin	Councilmember
Warren Ferguson	Councilmember

COUNCILMEMBERS ABSENT: None.

CITY CORE STAFF PRESENT:

Mark McDaniel	City Manager
Mike Hayes	City Attorney
Brenda Craig	City Secretary
E.A. Hoppe	Deputy City Manager
Cheryl Brown	Deputy City Secretary
Sandra Yarbrough	Director of Finance
Amy Dozier	Asst. Director of Finance
Kim Meismer	Director of General Operations
David Knight	Police Chief
Stuart Cunyus	Public Information Officer
Drew Paxton	Executive Director of Development Services
Dannie Smith	Fire Chief
Guillermo Garcia	Executive Director of Strategic Initiatives
Charvy Tork	Director of Information Technology

VISITORS PRESENT: List on file in city secretary's office for the required retention period.

1. ANNOUNCEMENTS OF COMMUNITY INTEREST: were given.

2. VISITORS/CITIZENS FORUM:

2A. Carolyn Lipscomb questioned the construction of electric poles on Holdsworth Drive. Mr. Hoppe noted KPUB was installing poles similar to those on I-10.

3. PRESENTATION:

3A. Presentation of Officer of the Year Award to Officer Austin Beal, Police Commendation Award. Presented by Police Chief David Knight.

**4. CONSENT AGENDA:**

Ms. Summerlin moved for approval of the consent agenda Item 4A. Mr. Voelkel seconded the motion and it passed 5-0:

4A. Approval of minutes for the city council workshops held January 4 and January 9, 2018, and the regular city council meeting held January 9, 2018.

**END OF CONSENT AGENDA**

**5. PUBLIC HEARINGS AND ORDINANCES, FIRST READING:**

5A. Ordinance No. 2018-04, amending the "Zoning Code" for the City of Kerrville, Texas, by revising the definition of "home occupation" and adopting regulations for that use; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00) ordering publication; and providing other matters relating to the subject. Mayor White read the ordinance by title only.

Mr. Paxton noted the intent was to allow certain occupations as accessory uses in residential zones, and to establish provisions that would limit traffic, noise, health and nuisance issues that affect the residential character of neighborhoods. This ordinance would apply to all residential zoning districts, and allow staff to enforce restrictions already adopted.

Council discussed the following:

- Restricting uses where customers come to the home, i.e. sales in the residence, including retail sale of beauty products; breeding, boarding, or kenneling of animals; and operation of barber and beauty shops.
- Prohibiting the storage or use of hazardous materials in excess of normal residential volumes.
- Allowing one employee who does not live in the home to office there. Staff would clarify the definition of office in the ordinance.
- Section 4: The city manager, or designee, shall make determinations about compliance. Questioned why the city manager and not the city attorney or building official. Mr. Hayes noted this gives the city manager flexibility in making the decision or assigning it to staff.
- Section 4: Conditional use permit process. Mr. Hayes noted the ordinance would allow for an appeals process through the zoning code.
- Existing non-conforming home occupations would be grandfathered, with some exceptions.

Mayor White opened the public hearing at 6:35 p.m. and the following person spoke:

1. Michael Sigerman, member of PZC, noted PZC's goal was to create an ordinance that would protect residential neighborhoods. If persons purchased a home in a residential zone, they should not expect to have a business next door. The ordinance would allow the opportunity to have a home occupation under specific guidelines but not encroach on the character of residential neighborhoods.

Mayor White closed the public hearing at 6:30 p.m.

Mayor White polled the council on the following points and received majority consensus:

3A. Sales: language change; not to prohibit not allow continual sales.

2A. Change to one employee or full time employee.

2J. Agreed as is.

3C. Agreed as is.

3H. Agreed as stated.

Ms. Summerlin moved for approval of Ordinance No. 2018-04 on first reading subject to revisiting the items listed. Mr. Ferguson seconded the motion and it passed 4 to 1 with Councilmembers Summerlin, Ferguson, White, and Voelkel voting in favor of the motion; and Councilmember Baroody voting against the motion.

5B. Ordinance No. 2018-06 amending the city's "Zoning Code" by changing the zoning district for several properties making up an approximate 2.96 acres and more commonly known as 829, 837, and 851 Clay Street North and 619 Myrta Street North; by removing the area from the Residential Transition zoning district (RT) and placing it within the 21-N zoning district; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00); ordering publication; and providing other matters relating to the subject. Mayor White read the ordinance by title only.

Mr. Paxton noted the ordinance would rezone the subject property from Residential Transition (RT) to 21-N Commercial thereby allowing the two property owners to install parking on the subject property to serve adjacent commercial property. He reviewed uses allowed in the 21-N zone, which were consistent with adjacent property on Sidney Baker. The Future Land Use Plan showed the subject property as commercial. Staff mailed 24 letters to property owners within 200 ft., and 5 protests were received from persons within the notification area; in addition, 21 letters were received from persons outside the notification area in protest to the rezoning. The Planning and Zoning Commission (PZC) recommended denial of the rezoning from RT to 21-N. Further, PZC directed staff to bring forward a possible text amendment that would allow a conditional use permit for parking in any zoning district.

Mayor White declared the public hearing open at 6:51 p.m. and the following persons spoke:

1. Larry Eskridge was concerned that commercial parking would cause traffic problems and opined that Remschel Street was a traffic hazard.

2. Diane Fitch read a letter by Wayne Franklin in opposition to the rezoning as it would bring Sidney Baker commercial traffic to the Clay Street residential area. He opined that the parking on Sidney Baker was underutilized and more parking was not needed; also, this was not part of the vision of the 2050 Comprehensive Plan.

3. David Lipscomb opined that parking lots were not good neighbors in residential areas and cited litter, noise, trucks, traffic volume, lighting, and trash dumpsters become

an attraction to critters. Such a use would set a precedent that would adversely affect other areas in town. This subject should be vetted through the Comprehensive Plan.

4. Mary Stewart stated she lived on Clay Street and the proposal to expand parking on to Clay Street amounted to spot zoning and would adversely impact the neighborhood. Kerrville 2050 identified the need to incentivize older housing stock for affordable housing as a high priority.

5. Michael Sigerman read a letter from Julie Reeves in opposition to rezoning. The Kerrville 2050 comp plan indicated the desire to save residential neighborhoods close to downtown. Parking lots would allow commercial enterprise to extend from Sidney Baker to the residential area on Clay Street; parking belonged elsewhere.

No one else spoke and Mayor White closed the public hearing at 7:03 p.m.

Council also discussed the following:

- PZC denied the request 4 to 1.
- Approval of the request would set a precedent for allowing parking lots in residential areas.
- A parking lot does not retain residential appearance, which was the purpose of the RT zone.
- There may be a resolution for this type of situation in the future as PZC was considering a conditional use process for parking lots.

The following person also spoke:

1. Bruce Motheral, requestor, noted this property was shown as commercial use in the city's land use plan. The current RT zone did not allow for parking; therefore, he and Mr. Reeh applied for a zone change. Mr. Reeh's property was already in use as a parking area. He stated this was not strictly a residential area and noted other uses along Clay Street. He proposed a fenced parking area to be used by his tenants for parking and as an exit from his adjacent commercial property; this would not be used for thorough traffic.

Ms. Summerlin moved to approve the ordinance on first reading; Ms. Summerlin withdrew her motion.

Ms. Summerlin moved to deny the zone change and Ordinance No. 2018-06; Mr. Baroody seconded the motion and it passed 5-0.

## **6. ORDINANCE, SECOND AND FINAL READING:**

6A. Ordinance No. 2018-05, Amending Chapter 6 "Advertising", Article II "Signs" of the City of Kerrville Code of Ordinances, to add pole banner signs as an authorized sign and providing regulations therefor; containing a savings and severability clause; providing for penalties not to exceed \$2,000.00; ordering publication; providing an effective date; and providing other matters related to the subject. Mayor White read the ordinance by title only.

Mr. Paxton noted the definition of a pole banner as stated in Section 6-36 of the ordinance: 1) made of material designed to withstand the weather for at least 30 days; 2) mounted or secured to a pole that is anchored within concrete and within a durably constructed bracket of metal or similar material that secures the banner along both the top and bottom; 3) not greater than 12 sq. ft. in area; 4) mounted with a minimum height of seven ft. from the bottom of the banner and a maximum height of 30 ft.; and 5) remain in a condition that is not ripped, torn, or faded.

The following comments were discussed by council:

-Suggested amending the pole banner definition: a banner sign that is mounted to a private light pole or other commercially acceptable decorative metal pole that is at least 12 ft. in height, with a 4-5 inch base, at least 4 inches outer diameter, and at least .125 inch wall thickness.

-The ordinance was too restrictive; many businesses are on lots that are less than two acres and would be restricted to only one pole banner, but they have multiple light poles.

-Discussed the variance process in the sign code. Mr. Hayes noted the variance process in the sign code was for undue hardship.

-Flags and banners should be distinguished from pole banners and not fall under two different rulings.

Mr. Baroody moved to approve Ordinance No. 2018-05 on second reading with two amendments: 1) definition of banner: change the last sentence to flags and pole banners are distinguish from banners; and 2) definition of pole banner: A banner sign that is mounted to a private light pole or other commercially acceptable decorative metal pole that is at least 12 ft. in height, with a 4-5 inch base, 4 inch outer diameter, and at least .125 inch wall thickness. Mr. Voelkel seconded the motion and it passed 5-0.

## **7. CONSIDERATION AND POSSIBLE ACTION:**

### **7A. First Amendment to the Kerrville Public Utility Board (KPUB) loan agreement to extend the maturity date**

Mr. McDaniel noted that KPUB had taken action to restructure the city's loan agreement that would extend the maturity date three years and push the first principal payment back three years to begin in 2023. This amendment would allow the city to develop a funding plan for the Legion lift station and the trihalomethane (TTHM) projects and still remain within the city's self-imposed 35% debt cap.

Ms. Summerlin moved for approval of the amendment. Mr. Ferguson seconded the motion and it passed 5-0.

### **7B. Authorize the purchase of Packaged Pump Station System from Pump Mechanical Technical Services, LLC through Buyboard, a Local Government Purchasing Cooperative at a price of \$107,962.00 for the Sports Complex Reuse Pond and Pump Station Project.**

Mr. Hoppe noted staff had revised the project scope and made the project less complex by breaking the project into separate components. The item on this agenda was specifically for the purchase and installation of the pump station. He recommended

authorization to purchase the pump at this time in order to shorten the lead time (reduce by 60 days), and to eliminate the general contractor's markup, and he reviewed other components of the project. He reviewed the budget and expense of the overall reuse system project and noted change orders and quantity overruns and estimated an approximate \$1.2 million savings from the total project appropriation of \$23 million. Mr. Hoppe anticipated the pond construction and site work would be awarded at the February 27 meeting.

Council noted the electricity to site would be overhead, not underground by KPUB.

Mr. Ferguson moved for approval of the purchase; Mr. Baroody seconded the motion and it passed 5-0.

## **8. INFORMATION & DISCUSSION:**

### **8A. Regulating the use of portable electronic devices while driving.**

Chief Knight noted the state legislature passed HB 62 adding Section 545.4251, "Use of Portable Wireless Communication Device for Electronic Messaging" to the Texas Transportation Code, effective September 1, 2017. He reviewed the provisions of the law, noting it was an offense to engage in texting using a cell phone while operating a motor vehicle while moving. It is currently not illegal to use a cell phone to engage in conversation. He noted challenges to enforcement as the law required that the offense be in the presence or view of a peace officer, and prohibited an officer from inspecting a driver's cell phone to verify that it was in use. The law also established affirmative defenses to the texting statute. He reviewed the punishment under the law and noted that violations of the law were not considered a moving offense.

Chief Knight also noted that the National Transportation Safety Board recommended that all states enact complete bans of all portable electronic devices for all drivers, including banning the use of hands free devices. He reviewed possible provisions of an ordinance that would go beyond state law in regulating the use of portable electronic devices while driving.

Council noted only 43 Texas cities restricted hands free devices completely, and 102 cities were more restrictive than state law.

The following person spoke:

1. John Harrison asked if there was a policy in place for city and KPUB employees? Mr. Hayes noted the city had a policy with some exceptions for emergency situations.

The consensus of council was to direct staff to draft a hands free ordinance and to provide information as to what other cities were doing.

### **8B. Regulating the escort of oversized loads, including a fee structure for providing police escorts for commercial vehicles through the city.**

Chief Knight noted that vehicles and loads that exceeded legal size or weight limits required a permit and route from TXDOT. He reviewed the oversized movement restrictions, and notification and permitting requirements established by the state and

the San Antonio District prior to certifying a route to travel through the city limits. The mover must: 1) contact the Kerrville Police Department (KPD) for law enforcement escorts 24 hours in advance of entering the city limits; 2) provide front and rear escort vehicles; and 3) for loads higher than 16'6", furnish a minimum of two TXDOT-approved bucket trucks to lift utility lines and traffic signal lines. TXDOT also established curfew hours during high traffic times for routes permitted through cities.

Chief Knight reported the KPD provided escorts for oversized loads permitted by TXDOT on approved routes. In the past 28 months, KPD escorted 1,161 oversized loads through the city limits, requiring 1,113.5 staffing hours at a cost of \$29,238. He reviewed the fees charged by local utility companies. Chief Knight recommended an ordinance that would: 1) Provide for a police escort fee for oversized loads in the amount of \$100 per each police unit; and 2) Establish curfew hours consistent with TXDOT's curfew hours.

Council also discussed the following:

- City should not continue to subsidize these costs.
- Majority of oversized load traffic is pass through traffic; very little traffic terminated inside the city limits.

The consensus of the council was to direct staff to prepare an ordinance.

#### **8C. Code enforcement update.**

Mr. Paxton presented data regarding proactive (staff initiated) and reactive (complaints received) code enforcement for the past six-month period. He discussed the types of cases and complaints and reported 280 total cases, of which 53% were reactive and 47% were proactive. Staff focused on complaints received first before working on proactive cases. Staff did not focus on any one area for proactive cases, but cycled through the city.

#### **9. CITY MANAGER'S REPORT:**

Mr. McDaniel discussed the monthly capital improvement project report. He noted that the comprehensive plan committee and subcommittee meetings were continuing, and the open house events were well attended by the community. He discussed three issues that were already underway: 1) Study for possible creation of a tax increment reinvestment zone in downtown; 2) Hotel and conference center study; and 3) Scope for long range water planning.

#### **10. BOARD APPOINTMENTS:**

##### **10A. Appointments to the Recovery Community Coalition.**

Ms. Summerlin moved to appoint Dawn Elder, Position 8; and Kendall Young, Position 4 both with terms to expire December 31, 2019. Mr. Voelkel seconded the motion and it passed 5-0.

##### **10B. Appointments to the Zoning Board of Adjustment and Appeals.**

Mr. Ferguson moved to reappoint Sam Ligon and Robert Parks as regular members, both with terms to expire September 30, 2019; and to appoint William Morgan as an

alternate member with term to expire September 30, 2019. Ms. White seconded the motion and it passed 4-1 with Councilmembers Ferguson, White, Summerlin, and Voelkel voting in favor of the motion; and Councilmember Baroody voting against the motion.

11. **ITEMS FOR FUTURE AGENDAS:** None.

12. **EXECUTIVE SESSION:** None.

13. **ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:** None.

**ADJOURNMENT:** The meeting adjourned at 7:46 p.m.

APPROVED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Bonnie White, Mayor

\_\_\_\_\_  
Brenda G. Craig, City Secretary



## TO BE CONSIDERED BY THE CITY COUNCIL CITY OF KERRVILLE, TEXAS

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**SUBJECT:** Ordinance No. 2018-07 amending Chapter 74 "Parks and Recreation". Article I "Rules and Regulations for City Park and Recreation Areas" of the Code of Ordinances of the City of Kerrville, Texas, by amending various sections to address the operation and use of the Kerrville Sports Complex; containing an cumulative clause; containing a savings and severability clause; providing a penalty; and providing other matters relating to the subject.

**AGENDA DATE OF:** 3/13/2018

**DATE SUBMITTED:** 2/7/2018

**SUBMITTED BY:** Ashlea Boyle  
Director of Parks and Recreation

**EXHIBITS:** Ordinance No. 2018-07

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Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$0	\$0	\$0	N/A

**PAYMENT TO BE MADE TO:** N/A

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### SUMMARY STATEMENT:

This is the first reading of Ordinance No. 2018-07 amending the code of ordinances by adding language specific to the Kerrville Sports Complex. Staff worked with the Parks and Recreation Advisory Board, D-BAT, and researched other complexes to identify specific regulations related to the new complex. The proposed additions specific to the complex are summarized below. If approved, the second and final reading will be held on March 27, 2018.

Recommended amendments:

- 1) Add language specifying that the complex is by reservation only;
- 2) Add language prohibiting the sale, use, consumption, or possession of an alcoholic beverage;
- 3) Add language prohibiting pets or domesticated animals, except those trained to assist a person with a disability;
- 4) Add language prohibiting abusive, vulgar, threatening, or disruptive language or behavior;
- 5) Add language prohibiting artificial noise makers;
- 6) Add language prohibiting skateboards, scooters, roller blades, or roller skates;
- 7) Add language prohibiting bicycles anywhere other than within the parking lot and paved / improved surfaces; and

- 8) Add language prohibiting operating drones, generators, or grills unless pursuant to the appropriate form of approval from the director.

**RECOMMENDED ACTION:**

Approve Ordinance No. 2018-07.

**CITY OF KERRVILLE, TEXAS**  
**ORDINANCE NO. 2018-07**

**AN ORDINANCE AMENDING CHAPTER 74 “PARKS AND RECREATION”, ARTICLE I “RULES AND REGULATIONS FOR CITY PARK AND RECREATION AREAS” OF THE CODE OF ORDINANCES OF THE CITY OF KERRVILLE, TEXAS, BY AMENDING VARIOUS SECTIONS TO ADDRESS THE OPERATION AND USE OF THE KERRVILLE SPORTS COMPLEX; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A PENALTY; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT**

**WHEREAS**, City Council, pursuant to Ordinance 2004-24, previously adopted rules and regulations for the City parks and recreation areas, which as defined includes the City's athletic fields, accompanying facilities, and parking areas; and

**WHEREAS**, Ordinance 2004-24, as amended, was codified at Chapter 74 of the Code of Ordinances of the City of Kerrville, Texas, which is titled “Parks and Recreation” and contains separate articles concerning rules and regulations for the City's park and recreation areas and the Parks and Recreation Advisory Board; and

**WHEREAS**, the City Council now wishes to amend those rules and regulations by revising various sections to address the operation and use of the Kerrville Sports Complex; and

**WHEREAS**, the City's Parks and Recreation Advisory Board has considered all proposed revisions and voted to approve each one specified within this Ordinance; and

**WHEREAS**, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to amend Chapter 74 of the Code of Ordinances of the City of Kerrville, Texas, by revising and adding to sections regarding conduct within City parks and recreation areas;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** Chapter 74 “Parks and Recreation”, Article I “Rules and Regulations for City Park and Recreation Areas” of the Code of Ordinances of the City of Kerrville, Texas, is amended by revising Section 74-4 to add the language that is underlined (added) and deleting the language that is bracketed and stricken (~~deleted~~) as follows:

**“Sec. 74-4. - Special events, uses[~~, programs~~].**

~~[(a) Except as provided hereafter and with the exception of the pavilions within Louise Hays Park and Kerrville Schreiner Park, and the Boardwalk pavilion, and the Kerrville River Trail in areas located outside of Louise Hays Park and Kerrville Schreiner Park, all City parks and recreation areas shall be open daily to the public between dawn and 11:00 p.m. Each City park and recreation area shall be closed to the public from 11:00 p.m. to dawn, and also as otherwise closed by orders of the director for the purpose of rehabilitation, cleaning, general supervision, or to protect the health, safety, and welfare of the public.]~~

~~[(b)] (a) It shall be unlawful for any person to conduct or to participate in any organized assembly or public participation event except pursuant to [a permit] the appropriate form of approval issued by the director.~~

~~[(c)] (b) It shall be unlawful for any person to enter into or remain in an area or facility for which a public use limit has been established, by application of the fire code or otherwise, when such action will have the effect of exceeding the established limitations.”~~

**SECTION TWO.** Chapter 74 “Parks and Recreation”, Article I “Rules and Regulations for City Park and Recreation Areas” of the Code of Ordinances of the City of Kerrville, Texas, is amended by revising Section 74-5, subsection (a), to add the language that is underlined (added) and deleting the language that is bracketed and stricken (~~deleted~~) as follows:

**“Sec. 74-5. - Opening and closing hours.**

(a) ~~[(a) Except as provided hereafter and with the exception of the pavilions within Louise Hays Park and Kerrville Schreiner Park and the Boardwalk pavilion, all city parks and recreation areas shall be open daily to the public between dawn and 11:00 p.m. Each city park and recreation area shall be closed to the public from 11:00 p.m. to dawn, and also as otherwise closed by orders of the director for the purpose of rehabilitation, cleaning, general supervision, or to protect the health, safety, and welfare of the public.] Except as provided hereafter, all City parks and recreation areas are open daily to the public between dawn and 11:00 p.m. Each City park and recreation area shall be closed to the public from 11:00 p.m. to dawn, and as otherwise closed by orders of the director for the purpose of rehabilitation, cleaning, general supervision, or to protect the health, safety, and welfare of the public.~~

(b) The Kerrville Sports Complex (“KSC”) is open to the public from dawn to 10:00 p.m. Sunday through Thursday, and from dawn to 11:00 p.m. on Friday and Saturday. Field usage may only occur pursuant to reservation. Following closing time, no person is permitted to use or to remain within or enter the KSC. Violators shall be subject to trespassing and the issuance of a citation.”

**SECTION THREE.** Chapter 74 “Parks and Recreation”, Article I “Rules and Regulations for City Park and Recreation Areas” of the Code of Ordinances of the City of Kerrville, Texas, is amended by revising Section 74-23 to add the language that is underlined (added) as follows:

**“Sec. 74-23. - Additional rules applicable to the Kerrville Sports Complex.**

(a) The following rules and regulations apply to the Kerrville Sports Complex (“KSC”) and are in addition to the other rules and regulations in this chapter. Should a conflict arise between the provisions contained in this section and provisions found in the rest of this chapter, the rules and regulations found within this section control.

(b) The following activities are prohibited at the KSC:

- i. The sale, use, consumption, or possession of any alcoholic beverage.
- ii. Bringing any pet or domesticated animal onto the KSC, except those trained to assist a person with a disability.
- iii. Engaging in abusive, vulgar, threatening, or disruptive language or behavior.
- iv. Using artificial noise makers, such as air horns.
- v. Using a skateboard, scooter, roller blades, or roller skates.
- vi. Using a bicycle anywhere other than within a paved or improved surface.
- vii. Using or operating a drone, generator, or grill unless pursuant to the appropriate form of approval from the director.”

**SECTION FOUR.** The City Secretary is authorized and directed to submit this amendment to the publisher of the City’s Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendment adopted herein and to correct

typographical errors and to index, format, and number and letter paragraphs to the existing Code, as appropriate.

**SECTION FIVE.** The provisions of this Ordinance are to be cumulative of all other Ordinances or parts of Ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior Ordinances or parts of Ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION SIX.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Kerrville, Texas, declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION SEVEN.** The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7, Chapter 1 of the Code of Ordinances of the City of Kerrville, Texas.

**SECTION EIGHT.** Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

**PASSED AND APPROVED ON FIRST READING, this the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2018.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2018.**

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

\_\_\_\_\_  
Bonnie White, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Ordinance No. 2018-10 amending Chapter 102 "Traffic and Vehicles", Article IV "Operation of Vehicles", Division 1 "Generally", by adding a new Section 102-118 to regulate the use of hand-held portable electronic devices while operating a vehicle; providing exemptions; providing affirmative defenses; providing an increasing penalty for subsequent offenses; containing a cumulative clause; containing a savings and severability clause; ordering publication; providing an effective date; and providing other matters related to the subject.

**AGENDA DATE OF:** 3/13/2018

**DATE SUBMITTED:** 3/2/2018

**SUBMITTED BY:** Chief David Knight

**EXHIBITS:** Ordinance No. 2018-10

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

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**PAYMENT TO BE MADE TO:** N/A

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**SUMMARY STATEMENT:**

Council heard a presentation by the Police Chief at the February 13, 2018 City Council meeting on the possibility of an ordinance regulating the use of portable electronic devices while driving. The consensus of Council was to support the development of an ordinance containing regulations that are more restrictive than those currently contained in state law under Sec. 545.4251 of the Texas Transportation Code. The proposed ordinance provides for a complete ban on the use of portable electronic devices while operating a vehicle unless the device is used in conjunction with a hands-free device.

**RECOMMENDED ACTION:**

Approve Ordinance No. 2018-10 on first reading.

**CITY OF KERRVILLE, TEXAS**  
**ORDINANCE NO. 2018-10**

**AN ORDINANCE AMENDING CHAPTER 102 "TRAFFIC AND VEHICLES", ARTICLE IV "OPERATION OF VEHICLES", DIVISION 1 "GENERALLY", BY ADDING A NEW SECTION 102-118 TO REGULATE THE USE OF HAND-HELD PORTABLE ELECTRONIC DEVICES WHILE OPERATING A VEHICLE; PROVIDING EXEMPTIONS; PROVIDING AFFIRMATIVE DEFENSES; PROVIDING AN INCREASING PENALTY FOR SUBSEQUENT OFFENSES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT**

**WHEREAS**, the City Council finds it inherently distracting when a person operates a motor vehicle while using a hand-held portable electronic device for engaging in a call, texting, taking or viewing pictures, gaming, and any other purpose; and

**WHEREAS**, the Texas Legislature adopted House Bill 62 ("HB 62") during the 2017 Legislative Session, which created a new state-wide law essentially banning texting-while-driving; and

**WHEREAS**, HB 62, however, allows drivers to read, write, and send text messages on hand-held wireless communication devices such as cell phones, while the vehicle is stopped; and

**WHEREAS**, while HB 62 addresses one aspect of distracted driving, the Kerrville Police Department recommends prohibiting similar activities involving hand-held portable electronic devices in an effort to further reduce distracted driving; and

**WHEREAS**, City Council believes that adopting these reasonable restrictions on operators while driving is in furtherance of addressing the public's health, safety, and welfare;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** City Council finds that the findings and recitations set out in the preamble to this Ordinance are true and correct and are adopted and made a part hereof for all purposes.

**SECTION TWO.** Chapter 102, Article IV, Division 1 of the Code of Ordinance of the City of Kerrville, Texas, is amended by adding a new Section 102-118 to read as follows:

**“Sec. 102-118. - Regulating the use of hand-held portable electronic devices while driving.**

(a) The following definitions apply to this section:

“*Electronic message*” means data that is read from or entered into a wireless communication device for the purpose of communicating with another person.

“*Engaging in a call*” means talking, dialing, or listening on a hand-held portable electronic device, including holding a portable electronic device to activate or deactivate the device.

“*Hand-held portable electronic device*” means a text-messaging device or other electronic, two-way communication device that uses a commercial mobile service, as defined by 47 United States Code §332, that is designed to receive and transmit voice communication, text message or pictorial communication, whether by internet or other electronic means. The term includes devices such as mobile telephones, personal digital assistants (PDA), MP3 or other portable music players, electronic reading devices, laptop computers or tablets, portable computing devices, portable global positioning or navigation systems, pagers, electronic game devices and broadband personal communication devices.

“*Hands-free wireless communication device*” means a mobile telephone, a device with speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether or not permanently installed in a motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands, or prosthetic device or aid in the case of a physically disabled person.

“*Operating a vehicle*” means a vehicle that is moving, stopped, or standing on a public street, highway, or right-of-way, unless it is parked.

“Park or parked” means for the operator to completely cease movement of a vehicle in a lawful manner and location. For the purposes of this section, “parked” does not mean a vehicle stopped in a lane of traffic due to either a lawful traffic control device, roadway conditions, or existing traffic congestion.

“Text message” means a two-way communication, whether real-time or asynchronous, in which data, composed in whole or in part of text, numbers, images, or symbols, is sent, entered, or received by a method other than by voice and transmitted through either a short message service (SMS) or a computer network. This term includes instant messaging and email. The term does not include a communication transmitted through a global positioning or navigation system.

“Stop or stopped” means for the operator to completely cease movement of a vehicle while in traffic due to a traffic control device, roadway conditions, or existing traffic congestion.

“Vehicle” means a motor vehicle, motorcycle, quadricycle, or bicycle.

(b) It is an offense if a person uses a hand-held portable electronic device while operating a vehicle to:

(1) Engage in a call;

(2) Send, read or write an electronic message on a wireless communication device, unless the vehicle is stopped. To be prosecuted, the behavior must be committed in the presence of or within view of a peace officer or established by other evidence. The state law definitions of electronic message and wireless communication device will apply to this subparagraph (b)(2) and the reference to electronic messages in (b)(3), and (e);

(3) Take or view pictures or written text, excluding electronic messages referenced in subparagraph (b)(2) above, whether transmitted by internet or other electronic means, or access or view an internet website or software application;

(4) Engage in gaming; or

(5) Engage in any other use of the device while operating a vehicle, to include holding the hand-held portable electronic device.

(c) This section does not apply to an operator of a vehicle using a hand-held portable electronic device:

- (1) While the vehicle is parked or is being driven on private property;
- (2) With a hands-free wireless communication device;
- (3) If the operator is a law enforcement officer, firefighter, member of a governmental emergency medical services function, or member of a governmental emergency management function, and the operator is using the device to conduct official business related to the position; or
- (4) Who is licensed by the Federal Communications Commission while operating a radio frequency device, other than a hand-held portable electronic device; or an operator using a two-way radio communication.

(d) It is an affirmative defense to prosecution under subparagraphs (b)(1), (3), (4), and (5), above, that a person was using a hand-held portable electronic device for the purpose of:

- (1) Reporting illegal activity to a law enforcement agency;
- (2) Communicating with an emergency response operator, a fire department, a law enforcement agency, a hospital, a physician's office, or a health clinic regarding a medical or other emergency situation; or
- (3) In the reasonable belief that a person's life or safety is in immediate danger.

(e) Affirmative defenses applicable to prosecution under subparagraph (b)(2), above, are limited to those provided in the *Texas Transportation Code*, Section 545.4251(c), and are listed below. It is an affirmative defense to prosecution under this section that the operator used the hand-held portable electronic device:

- (1) in conjunction with a hands-free device as defined by Texas Transportation Code, Section 545.425;
- (2) to navigate a global positioning system or navigation system;
- (3) to report illegal activity, summon emergency help, or enter information into a software application that provides information relating to traffic and road conditions to users of the application;

(f) An offense under this section is not a moving violation and may not be made a part of a person's driving record or insurance record.

(g) To the extent that this section conflicts with Texas Transportation Code Section 545.424, as amended, regarding the use of wireless communication devices while operating a motor vehicle by minors, or Texas Transportation

Code Section 545.425, as amended, regarding use of wireless communication devices in school crossing zones, state law shall control.”

**SECTION THREE.** The City Secretary is authorized and directed to send this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the new Section 102-118, of Chapter 102, Article IV, Division 1 as adopted herein, to correct any typographical errors, and to index, format, number, and letter the paragraphs to the existing Code, as appropriate.

**SECTION FOUR.** The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

**SECTION FIVE.** If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding will not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION SIX.** A person convicted of an offense under this Ordinance, to exclude the state law provision specified above, shall be fined in accordance with the following:

- (a) First offense shall have a minimum fine of \$100.00 and a maximum fine of \$500.00;
- (b) Second offense shall have a minimum fine of \$200.00 and a maximum fine of \$500.00; and
- (c) Third and subsequent offenses shall have a minimum fine of \$500.00.

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

**SECTION SEVEN.** Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by law as an alternative method of publication.

**SECTION EIGHT.** This Ordinance will become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07b. of the City Charter.

**SECTION NINE.** Beginning on the effective date of this Ordinance and continuing for 90 days, the City's Police Department may only issue warnings for violations of this Ordinance. During this period, the City Manager, or designee(s), will engage in an educational effort to inform the public about this Ordinance and the importance of not driving distracted.

**PASSED AND APPROVED ON FIRST READING**, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2018.

**PASSED AND APPROVED ON SECOND AND FINAL READING**, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2018.

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\_\_\_\_\_  
Bonnie White, Mayor

ATTEST:

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\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

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\_\_\_\_\_  
Michael C. Hayes, City Attorney

At the February 13, 2018 City Council meeting information was presented regarding the state legislature passage of HB 62 adding Section 545.4251, "Use of Portable Wireless Communication Device for Electronic Messaging" to the Texas Transportation Code, effective September 1, 2017. We reviewed the provisions of the law, noting it was an offense to use a cell phone while operating a motor vehicle that was moving. We noted challenges to enforcement as the law required that the offense be in the presence or view of a peace officer, and prohibited an officer from inspecting a driver's cell phone to verify that it was in use. The law also established affirmative defenses to the texting statute. We reviewed the punishment under the law and noted that violations of the law were not considered a moving offense.

The presentation also noted that the National Transportation Safety Board recommended that all states enact complete bans of all portable electronic devices for all drivers, including banning the use of hands free devices. We reviewed possible provisions of an ordinance that would go beyond state law in regulating the use of portable electronic devices while driving.

Council moved to direct staff to draft an ordinance and requested to see what other cities were doing.

During the course of the discussion 102 municipalities were identified that have enacted ordinances with restrictions to the use of cellular phones and electronic devices while driving. Of those 102 municipalities 43 cities or 42% have enacted ordinances that specifically contain provisions that restrict the use of hand-held electronic devices while driving (Hands-Free ordinances).

59 municipalities or 58% have enacted ordinances that restrict the use of cellular phones and electronic devices while driving that do not rise to the level of regulation to be termed a Hands-Free ordinance. Council had requested to see what other cities were doing in regard to the regulations in communities where a Hands-Free ordinance had not been implemented.

We looked at a representative sample of 44 ordinances from the pool of cities listed below to identify the characteristics of the contents of their ordinances. The specific communities are:

Hereford	Angleton	Pecos
Jacksonville	Balcones Heights	Penitas
Liberty Hill	Bellaire	Pharr
Lockhart	Big Lake	Richwood
Magnolia	Brownsville	Rowlett
McAllen	Castle Hills	San Angelo
Meadowlakes	Conroe	Seagoville
Midland	Converse	Seguin

Mission	Farmers Branch	Selma
Missouri City	Fredericksburg	Stephenville
Mount Pleasant	Galveston	Sunnyvale
Mount Vernon	Grand Prairie	West University Place
Nacogdoches	Groesbeck	White Settlement
Overton	Harlingen	Windcrest
Pampa	Helotes	

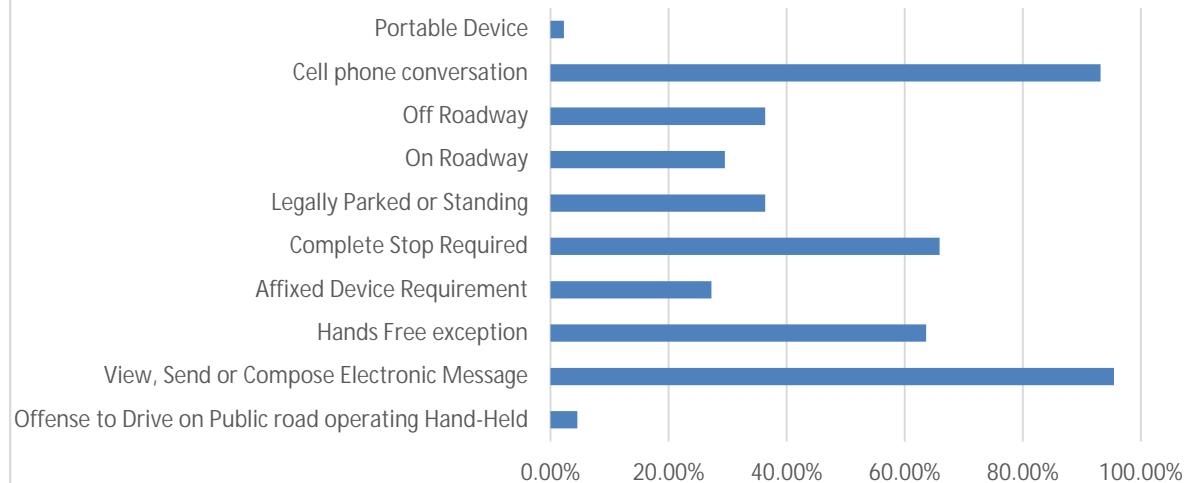
<b><u>TOTAL ORDINANCES SURVEYED</u></b>	<b>44</b>	
Offense to Drive on Public road operating Hand-Held	2	4.55%
View, Send or Compose Electronic Message	42	95.45%
Hands Free exception	28	63.64%
Affixed Device Requirement	12	27.27%
Complete Stop Required	29	65.91%
Legally Parked or Standing	16	36.36%
On Roadway	13	29.55%
Off Roadway	16	36.36%
Cell phone conversation	41	93.18%
Portable Device	1	2.27%

A near universal provision of the ordinances enacted in these cities provides that it shall be unlawful for an operator of a motor vehicle to use a wireless communication device to view, send or compose an electronic message or manually engage other application software while operating a motor vehicle upon any roadway in the city, including when stopped (with various exceptions).

In conjunction with this offense description, another common component of these ordinances is a commonly identified affirmative defense to prosecution that the device was being used to engage in a telephone conversation, including dialing or deactivating the call.

In many of the ordinances a defense to prosecution is provided if the device is being operated for texting or electronic messaging in a hands-free mode or in a fashion that does not require the manipulation of the device by hand.

## 44 City Ordinance Data Analysis



Another common component to the ordinances involves a defense to prosecution based on whether the vehicle is at a stop, stopped or standing on a public roadway, or off the public roadway.

In 36 % of the ordinances for the driver to be in compliance with the ordinance the operator of a motor vehicle using a wireless communication device would have to be stopped (not moving) or standing at a position parallel to and as close as possible to the right-hand edge or curb of a roadway where parking, standing or stopping in a nonemergency situation is not otherwise prohibited. In effect, parallel parked.



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** An Ordinance approving a tariff authorizing an annual Rate Review Mechanism ("RRM") as a substitution for the annual Interim Rate Adjustment process defined by Section 104.301 of the Texas Utilities Code, and as negotiated between Atmos Energy Corp., Mid-Tex Division and the Steering Committee of Cities served by Atmos (see *Ordinance for full caption*)

**AGENDA DATE OF:** 3/13/2018 **DATE SUBMITTED:** 3/6/2018

**SUBMITTED BY:** *MH* Mike Hayes, City Attorney

**EXHIBITS:** Ordinance No. 2018-08 (incl. attachments)

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	NA

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**PAYMENT TO BE MADE TO:** NA

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**SUMMARY STATEMENT:**

The following is a report from the attorneys representing the Atmos Cities Steering Committee:

The City, along with 171 other Mid-Texas Cities served by Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Steering Committee of Cities Served by Atmos ("Cities"). In 2007, the Cities and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism ("RRM"), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The Ordinance that resolved the Company's application under the RRM Tariff in 2017 also terminated the existing RRM Tariff and required a renegotiation of the terms of that tariff. Negotiations have taken place over the past several months and have resulted in a revised RRM Tariff that has been agreed to by the Company. The Cities' Executive Committee recommends acceptance of the revised RRM Tariff, which is attached to the Ordinance.

Cities strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues and rewarding the Company

for increasing capital investment. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission's review of annual GRIP filings or recover their rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In the Steering Committee's view, the GRIP process unfairly raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

The RRM Tariff on which the 2017 rates were based allowed a rate of return on equity of 10.50%. The revised RRM Tariff reduces that to 9.8%. The revised RRM Tariff also captures the reduction in federal income tax rates from 35% to 21%, and should result in a rate reduction effective by mid-March, 2018. Prior RRM tariffs allowed Cities only three months to review the Company's filing. The new revised Tariff expands that time period by two months. New applications by the Company should be made on or about April 1 of each year, with new rates effective October 1. A rate order from the Railroad Commission in an Atmos Texas Pipeline rate case adopted the position of Cities with regard to incentive compensation related to Atmos' Shared Services Unit that reduced allowed expenses, and that reduced level of expenses will be applicable under the new RRM Tariff.

**Explanation of "Be It Ordained" Sections:**

1. This section approves all findings in the Ordinance.
2. This section adopts the attached RRM Tariff and finds the adoption of the Tariff to be just, reasonable, and in the public interest. The prior tariff expired by its own terms.
3. This section requires the Company to reimburse the City for expenses associated with adoption of the Ordinance and RRM Tariff and in processing future applications pursuant to the Ordinance.
4. This section repeals any resolution or ordinance that is inconsistent with this Ordinance.
5. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
6. This section is a savings clause, which provides that if any section is later found to be unconstitutional or invalid, that finding shall not affect, impair, or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.
7. This section provides for an effective date upon passage.

8. This section directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for the Steering Committee.

**RECOMMENDED ACTION:**

Adoption and approval of Ordinance on 2<sup>nd</sup> reading.

**CITY OF KERRVILLE, TEXAS**  
**ORDINANCE NO. 2018-08**

**AN ORDINANCE APPROVING A TARIFF AUTHORIZING AN ANNUAL RATE REVIEW MECHANISM (“RRM”) AS A SUBSTITUTION FOR THE ANNUAL INTERIM RATE ADJUSTMENT PROCESS DEFINED BY SECTION 104.301 OF THE TEXAS UTILITIES CODE, AND AS NEGOTIATED BETWEEN ATMOS ENERGY CORP., MID-TEX DIVISION (“ATMOS MID-TEX” OR “COMPANY”) AND THE STEERING COMMITTEE OF CITIES SERVED BY ATMOS; REQUIRING THE COMPANY TO REIMBURSE CITIES’ REASONABLE RATEMAKING EXPENSES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE**

**WHEREAS**, the City of Kerrville, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

**WHEREAS**, the City and similarly-situated Mid-Tex municipalities created the Steering Committee of Cities Served by Atmos to efficiently address all rate and service matters associated with delivery of natural gas; and

**WHEREAS**, the Steering Committee formed an Executive Committee to direct legal counsel and to recommend certain specific actions to all aligned Mid-Tex Cities through resolution or ordinance; and

**WHEREAS**, pursuant to the terms of a November 2007 agreement between the Steering Committee and Atmos Mid-Tex that settled the Company’s interim rate filing under Section 104.301 of the Texas Utilities Code (a “GRIP” rate case), the Steering Committee and the Company collaboratively developed a Rate Review Mechanism (“RRM”) Tariff, ultimately authorized by the City in 2008, that allows for an expedited rate review process as a substitute for the GRIP process; and

**WHEREAS**, the City has kept some form of a RRM Tariff in place until 2017 when it adopted an ordinance approving an RRM Tariff filing settlement and specifically calling for termination of the existing RRM Tariff and negotiation of a

replacement RRM Tariff following the Railroad Commission's decision in a then-pending Atmos Texas Pipeline case (GUD No. 10580); and

**WHEREAS**, the Steering Committee's Executive Committee has recently approved a settlement with the Company on the attached RRM Tariff that contains certain notable improvements, from a consumer perspective, over the prior RRM Tariff, including a reduced rate of return on equity, acceptance of certain expense adjustments made by the Railroad Commission in the Order in GUD No. 10580, and the addition of two months to the time for processing a RRM Tariff application; and

**WHEREAS**, the RRM Tariff contemplates reimbursement of Cities' reasonable expenses associated with RRM Tariff applications; and

**WHEREAS**, the Steering Committee's Executive Committee recommends that all Steering Committee member cities adopt this ordinance and the attached RRM Tariff; and

**WHEREAS**, the attached RRM Tariff is just, reasonable and in the public interest;

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

**SECTION ONE.** The findings set forth in this Ordinance are hereby in all things approved.

**SECTION TWO.** The attached RRM Tariff re-establishing a form of Rate Review Mechanism is just and reasonable and in the public interest, and is hereby adopted.

**SECTION THREE.** Atmos Mid-Tex shall reimburse the Cities' reasonable expenses associated with adoption of this Ordinance and the attached RRM Tariff and in processing future RRM Tariff applications filed pursuant to the attached tariff.

**SECTION FOUR.** That to the extent any resolution or ordinance previously adopted by the City is inconsistent with this Ordinance, it is hereby repealed.

**SECTION FIVE.** The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**SECTION SIX.** If any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, and the remaining provisions

of this Ordinance shall be interpreted as if the offending section or clause never existed.

**SECTION SEVEN.** This Ordinance shall become effective from and after its passage.

**SECTION EIGHT.** A copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, Mid-Tex Division, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to Mid-Tex Cities, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

**PASSED AND APPROVED ON FIRST READING, this the 21<sup>st</sup> day of February, A.D., 2017.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_ day of \_\_\_\_\_, A.D., 2017.**

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\_\_\_\_\_  
Bonnie White, Mayor

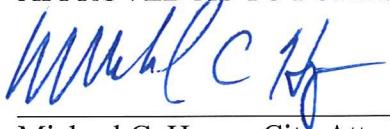
ATTEST:

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\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

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\_\_\_\_\_  
Michael C. Hayes, City Attorney

**ATMOS ENERGY CORPORATION**  
**MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on and after 04/01/2018</b>	<b>PAGE: 1</b>

**I.       Applicability**

Applicable to Residential, Commercial, Industrial, and Transportation tariff customers within the city limits of cities identified in Exhibit A that receive service from the Mid-Tex Division of Atmos Energy Corporation (“Company”). This Rate Review Mechanism (“RRM”) provides for an annual adjustment to the Company’s Rate Schedules R, C, I and T (“Applicable Rate Schedules”). Rate calculations and adjustments required by this tariff shall be determined on a System-Wide cost basis.

**II.      Definitions**

“Test Period” is defined as the twelve months ending December 31 of each preceding calendar year.

The “Effective Date” is the date that adjustments required by this tariff are applied to customer bills. The annual Effective Date is October 1.

Unless otherwise provided in this tariff the term Final Order refers to the final order issued by the Railroad Commission of Texas in GUD No. 10170 and elements of GUD No. 10580 as specified in Section III below.

The term “System-Wide” means all incorporated and unincorporated areas served by the Company.

“Review Period” is defined as the period from the Filing Date until the Effective Date.

The “Filing Date” is as early as practicable, but no later than April 1 of each year.

**III.     Calculation**

The RRM shall calculate an annual, System-Wide cost of service (“COS”) that will be used to adjust applicable rate schedules prospectively as of the Effective Date. The Company may request recovery of its total cost of service but will include schedules showing the computation of any adjustments. The annual cost of service will be calculated according to the following formula:

$$\text{COS} = \text{OM} + \text{DEP} + \text{RI} + \text{TAX} + \text{CD}$$

Where:

OM = all reasonable and necessary operation and maintenance expenses from the Test Period adjusted for known and measurable items and prepared

ATMOS ENERGY CORPORATION  
MID-TEX DIVISION

<b>RATE SCHEDULE:</b>	RRM – Rate Review Mechanism	
<b>APPLICABLE TO:</b>	ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE	
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consistent with the rate making treatments approved in the Final Order. Incentive compensation (Management Incentive Plan, Variable Pay Plan and Long Term Incentive Plan) related to Atmos' Shared Services Unit will be applied consistent with treatment approved in GUD 10580. Additionally, O&M adjustments will be incorporated and applied as modified by a final order, not subject to appeal, issued by the Railroad Commission of Texas in subsequent rate cases involving the Atmos Mid-Tex or West Texas divisions. Known and measurable adjustments shall be limited to those changes that have occurred prior to the Filing Date. OM may be adjusted for atypical and non-recurring items. Shared Services allocation factors shall be recalculated each year based on the latest component factors used during the Test Period, but the methodology used will be that approved in the Final Order in GUD 10580.

**DEP** = depreciation expense calculated at depreciation rates approved by the Final Order. Additionally, if depreciation rates are approved in a subsequent final order, not subject to appeal, issued by the Railroad Commission of Texas for the Mid-Tex division those rates would be applicable for subsequent RRM filings.

**RI** = return on prudently incurred investment calculated as the Company's pretax return multiplied by rate base at Test Period end. Rate base is prepared consistent with the rate making treatments approved in the Final Order, and as in GUD 10580 as specifically related to capitalized incentive compensation (Management Incentive Plan, Variable Pay Plan and Long Term Incentive Plan) for Atmos' Shared Services Unit. However, no post Test Period adjustments will be permitted. Additionally, adjustments will be incorporated and applied as modified by a final order, not subject to appeal, issued by the Railroad Commission of Texas in subsequent rate cases involving the Atmos Mid-Tex or West Texas divisions. Pretax return is the Company's weighted average cost of capital before income taxes. The Company's weighted average cost of capital is calculated using the methodology from the Final Order including the Company's actual capital structure and long term cost of debt as of the Test Period end (adjusted for any known and measurable changes that have occurred prior to the filing date) and the return on equity of 9.8%. However, in no event will the percentage of equity exceed 58%. Regulatory adjustments due to prior regulatory rate base adjustment disallowances will be maintained. Cash working capital will be calculated using the lead/lag days approved in the Final Order. With respect to pension and other postemployment benefits, the Company will record a regulatory asset or liability for these costs until the amounts are included in the next annual rate adjustment implemented under this tariff. Each year, the Company's filing under this Rider RRM will clearly state the level of pension

**ATMOS ENERGY CORPORATION**  
**MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
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and other postemployment benefits recovered in rates.

**TAX** = income tax and taxes other than income tax from the Test Period adjusted for known and measurable changes occurring after the Test Period and before the Filing Date, and prepared consistent with the rate making treatments approved in the Final Order. Atmos Energy shall comprehensively account for, including establishing a regulatory liability to account for, any statutory change in tax expense that is applicable to months during the Test Period in the calculation to ensure recovery of tax expense under new and old income tax rates.

**CD** = interest on customer deposits.

#### **IV. Annual Rate Adjustment**

The Company shall provide schedules and work papers supporting the Filing's revenue deficiency/sufficiency calculations using the methodology accepted in the Final Order. The result shall be reflected in the proposed new rates to be established for the effective period. The Revenue Requirement will be apportioned to customer classes in the same manner that Company's Revenue Requirement was apportioned in the Final Order. For the Residential Class, 50% of the increase may be recovered in the customer charge. However, the increase to the Residential customer charge shall not exceed \$0.60 per month in the initial filing and \$0.70 per month in any subsequent year. The remainder of the Residential Class increase not collected in the customer charge will be recovered in the usage charge. For all other classes, the change in rates will be apportioned between the customer charge and the usage charge, consistent with the Final Order. Test Period billing determinants shall be adjusted and normalized according to the methodology utilized in the Final Order.

#### **V. Filing**

The Company shall file schedules annually with the regulatory authority having original jurisdiction over the Company's rates on or before the Filing Date that support the proposed rate adjustments. The schedules shall be in the same general format as the cost of service model and relied-upon files upon which the Final Order was based. A proof of rates and a copy of current and proposed tariffs shall also be included with the filing. The filing shall be made in electronic form where practical. The Company's filing shall conform to Minimum Filing Requirements (to be agreed upon by the parties), which will contain a minimum amount of information that will assist the regulatory authority in its review and analysis of the filing. The Company and regulatory authority will endeavor to hold a technical conference regarding the filing within twenty (20) calendar days after the Filing Date.

**ATMOS ENERGY CORPORATION**  
**MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
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A sworn statement shall be filed by an Officer of the Company affirming that the filed schedules are in compliance with the provisions of this Rate Review Mechanism and are true and correct to the best of his/her knowledge, information, and belief. No testimony shall be filed, but a brief narrative explanation shall be provided of any changes to corporate structure, accounting methodologies, allocation of common costs, or atypical or non-recurring items included in the filing.

## **VI. Evaluation Procedures**

The regulatory authority having original jurisdiction over the Company's rates shall review and render a decision on the Company's proposed rate adjustment prior to the Effective Date. The Company shall provide all supplemental information requested to ensure an opportunity for adequate review by the relevant regulatory authority. The Company shall not unilaterally impose any limits upon the provision of supplemental information and such information shall be provided within seven (7) working days of the original request. The regulatory authority may propose any adjustments it determines to be required to bring the proposed rate adjustment into compliance with the provisions of this tariff.

The regulatory authority may disallow any net plant investment that is not shown to be prudently incurred. Approval by the regulatory authority of net plant investment pursuant to the provisions of this tariff shall constitute a finding that such net plant investment was prudently incurred. Such finding of prudence shall not be subject to further review in a subsequent RRM or Statement of Intent filing.

During the Review Period, the Company and the regulatory authority will work collaboratively and seek agreement on the level of rate adjustments. If, at the end of the Review Period, the Company and the regulatory authority have not reached agreement, the regulatory authority shall take action to modify or deny the proposed rate adjustments. The Company shall have the right to appeal the regulatory authority's action to the Railroad Commission of Texas. Upon the filing of an appeal of the regulatory authority's order relating to an annual RRM filing with the Railroad Commission of Texas, the regulatory authority having original jurisdiction over the Company's rates shall not oppose the implementation of the Company's proposed rates subject to refund, nor will the regulatory authority advocate for the imposition of a third party surety bond by the Company. Any refund shall be limited to and determined based on the resolution of the disputed adjustment(s) in a final, non-appealable order issued in the appeal filed by the Company at the Railroad Commission of Texas.

**ATMOS ENERGY CORPORATION**

**MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	RRM – Rate Review Mechanism	
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In the event that the regulatory authority and Company agree to a rate adjustment(s) that is different from the adjustment(s) requested in the Company's filing, the Company shall file compliance tariffs consistent with the agreement. No action on the part of the regulatory authority shall be required to allow the rate adjustment(s) to become effective on October 1. To the extent that the regulatory authority does not take action on the Company's RRM filing by September 30, the rates proposed in the Company's filing shall be deemed approved effective October 1. Notwithstanding the preceding sentence, a regulatory authority may choose to take affirmative action to approve a rate adjustment under this tariff. In those instances where such approval cannot reasonably occur by September 30, the rates finally approved by the regulatory authority shall be deemed effective as of October 1.

To defray the cost, if any, of regulatory authorities conducting a review of the Company's annual RRM filing, the Company shall reimburse the regulatory authorities on a monthly basis for their reasonable expenses incurred upon submission of invoices for such review. Any reimbursement contemplated hereunder shall be deemed a reasonable and necessary operating expense of the Company in the year in which the reimbursement is made. A regulatory authority seeking reimbursement under this provision shall submit its request for reimbursement to the Company no later than December 1 of the year in which the RRM filing is made and the Company shall reimburse regulatory authorities in accordance with this provision on or before December 31 of the year the RRM filing is made.

To the extent possible, the provisions of the Final Order shall be applied by the regulatory authority in determining whether to approve or disapprove of Company's proposed rate adjustment.

This Rider RRM does not limit the legal rights and duties of a regulatory authority. Nothing herein shall abrogate the jurisdiction of the regulatory authority to initiate a rate proceeding at any time to review whether rates charged are just and reasonable. Similarly, the Company retains its right to utilize the provisions of Texas Utilities Code, Chapter 104, Subchapter C to request a change in rates. The provisions of this Rider RRM are implemented in harmony with the Gas Utility Regulatory Act (Texas Utilities Code, Chapters 101-105).

The annual rate adjustment process set forth in this tariff shall remain in effect during the pendency of any Statement of Intent rate filing.

ATMOS ENERGY CORPORATION  
MID-TEX DIVISION

<b>RATE SCHEDULE:</b>	RRM – Rate Review Mechanism	
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**VII. Reconsideration, Appeal and Unresolved Items**

Orders issued pursuant to this mechanism are ratemaking orders and shall be subject to appeal under Sections 102.001(b) and 103.021, et seq., of the Texas Utilities Code (Vernon 2007).

**VIII. Notice**

Notice of each annual RRM filing shall be provided by including the notice, in conspicuous form, in the bill of each directly affected customer no later than forty-five (45) days after the Company makes its annual filing pursuant to this tariff. The notice to customers shall include the following information:

- a) a description of the proposed revision of rates and schedules;
- b) the effect the proposed revision of rates is expected to have on the rates applicable to each customer class and on an average bill for each affected customer;
- c) the service area or areas in which the proposed rates would apply;
- d) the date the annual RRM filing was made with the regulatory authority; and
- e) the Company's address, telephone number and website where information concerning the proposed rate adjustment can be obtained.

ATMOS ENERGY CORPORATION  
MID-TEX DIVISION

<b>RATE SCHEDULE:</b>	RRM – Rate Review Mechanism		
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## Exhibit A

### ACSC Cities

Abilene	Cleburne	Frost	Lincoln Park
Addison	Clyde	Gainesville	Little Elm
Albany	College Station	Garland	Lorena
Allen	Colleyville	Garrett	Madisonville
Alvarado	Colorado City	Grand Prairie	Malakoff
Angus	Comanche	Grapevine	Mansfield
Anna	Commerce	Groesbeck	Mckinney
Argyle	Coolidge	Gunter	Melissa
Arlington	Coppell	Haltom City	Mesquite
Aubrey	Copperas Cove	Harker Heights	Midlothian
Azle	Corinth	Haskell	Murphy
Bedford	Crandall	Haslet	Newark
Bellmead	Crowley	Hewitt	Nocona
Benbrook	Dalworthington Gardens	Highland Park	North Richland Hills
Beverly Hills	Denison	Highland Village	Northlake
Blossom	Denton	Honey Grove	Oak Leaf
Blue Ridge	Desoto	Hurst	Ovilla
Bowie	Draper	Hutto	Palestine
Boyd	Duncanville	Iowa Park	Pantego
Bridgeport	Eastland	Irving	Paris
Brownwood	Edgecliff Village	Justin	Parker
Buffalo	Emory	Kaufman	Pecan Hill
Burkburnett	Ennis	Keene	Petrolia
Burleson	Euless	Keller	Plano
Caddo Mills	Everman	Kemp	Ponder
Canton	Fairview	Kennedale	Pottsboro
Carrollton	Farmers Branch	Kerens	Prosper
Cedar Hill	Farmersville	Kerrville	Quitman
Celeste	Fate	Killeen	Red Oak
Celina	Flower Mound	Krum	Reno (Parker County)
Centerville	Forest Hill	Lake Worth	Rhome
Cisco	Forney	Lakeside	Richardson
Clarksville	Fort Worth	Lancaster	Richland
	Frisco	Lewisville	Richland Hills

**ATMOS ENERGY CORPORATION  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
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River Oaks	Temple
Roanoke	Terrell
Robinson	The Colony
Rockwall	Trophy Club
Roscoe	Tyler
Rowlett	University Park
Royse City	Venus
Sachse	Vernon
Saginaw	Waco
Sansom Park	Watauga
Seagoville	Waxahachie
Sherman	Westlake
Snyder	Westover Hills
Southlake	Westworth Village
Springtown	White Settlement
Stamford	Whitesboro
Stephenville	Wichita Falls
Sulphur Springs	Woodway
Sweetwater	Wylie



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Ordinance No. 2018-09 amending Chapter 10, "Alcoholic Beverages" of the Code of Ordinances of the City of Kerrville Texas; by amending Section 10-3 "Licensing Requirements; Fees"; by reducing the applicable fee for alcoholic beverage licenses; containing a cumulative clause; containing a savings and severability clause; providing for an effective date; ordering publication; and providing other matters relating to the subject.

**AGENDA DATE OF:** 3/13/2018

**DATE SUBMITTED:** 2/28/18

**SUBMITTED BY:** Sandra Yarbrough

**EXHIBITS:** Ordinance No. 2018-09

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

**PAYMENT TO BE MADE TO:** N/A

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**SUMMARY STATEMENT:**

During a recent review of Chapter 10, "Alcoholic Beverages" of the Code of Ordinances of the City of Kerrville it was proposed to change the current ordinance language from "one-half of permit or license fee paid to the state" to "one-half of permit or license fee paid to the state or \$500.00, whichever amount is lower". The attached ordinance reflects the proposed language change.

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**RECOMMENDED ACTION:**

Approve Ordinance No. 2018-09.

**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2018-09**

**AN ORDINANCE AMENDING CHAPTER 10, "ALCOHOLIC BEVERAGES" OF THE CODE OF ORDINANCES OF THE CITY OF KERRVILLE, TEXAS; BY AMENDING SECTION 10-3 "LICENSING REQUIREMENTS; FEES"; BY REDUCING THE APPLICABLE FEE FOR ALCOHOLIC BEVERAGE LICENSES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; ORDERING PUBLICATION; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT**

**WHEREAS**, pursuant to the authority found within Sections 11.38 and 61.36 of the Texas Alcoholic Beverage Code, the City, per Section 10-3 of its Code of Ordinances, levies and collects fees for each license or permit it issues for premises engaged in the sale of alcoholic beverages within the City; and

**WHEREAS**, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to amend Chapter 10, "Alcoholic Beverages" by amending the fee for alcoholic beverage licenses;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** Section 10-3, subsection (a) of Chapter 10 "Alcoholic Beverages," of the Code of Ordinances of the City of Kerrville, Texas, is amended by adding the language that is underlined (added) and deleting the language that is bracketed and stricken (~~deleted~~) as follows:

**"Sec. 10-3. Licensing Requirements; fees.**

(a) *Generally.* Before any permit or license required by this chapter shall be issued, the applicant shall be required to show a valid permit or license issued by the state, authorizing him to engage in such manufacture, sale, distribution, barter or sale of the class, or classes, of alcoholic beverage included in such application for such city license within the corporate limits of the city, and shall pay to the city, for the use and benefit of the general fund of the city, the applicable permit or license fees, as follows: One-half of permit or license fee paid to the state or \$500.00, whichever amount is lower ~~[, except for a brewer's permit, brewpub license, or license issued for a similar business, in which case the City shall charge the fee applicable for an on-premises retailer]~~.

**SECTION TWO.** The City Secretary is authorized and directed to submit this amendment to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendment adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code as appropriate.

**SECTION THREE.** The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION FOUR.** If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION FIVE.** In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), the City Clerk is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

**PASSED AND APPROVED ON FIRST READING, this the 27<sup>th</sup> day of February, A.D., 2018.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2018.**

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\_\_\_\_\_  
Bonnie White, Mayor

APPROVED AS TO FORM:



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\_\_\_\_\_  
Michael C. Hayes, City Attorney

ATTEST:

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\_\_\_\_\_  
Brenda G. Craig, City Secretary



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Resolution No. 16-2018 authorizing the waiver of various fees and authorizing a nonexclusive license and funding agreement regarding the use of the city's downtown pavilion for the Kerrville Farmers Market to be held in downtown Kerrville each Friday between April and October.

**AGENDA DATE OF:** 3/13/2018

**DATE SUBMITTED:** 2/27/2018

**SUBMITTED BY:** Ashlea Boyle  
Director of Parks and Recreation

**EXHIBITS:** Resolution  
License Agreement  
Farmers Market Budget Proposal

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$3,000	\$32,000	\$3,000	01-0190-4300

**PAYMENT TO BE MADE TO:** Kerrville Farmers Market

**SUMMARY STATEMENT:**

On September 26, 2017, City Council considered a draft non-exclusive license agreement between the City of Kerrville and Kerrville Farmers Market, DBA, and passed a resolution waiving fees associated with the Kerrville Farmers Market event.

This event began in October 2017 as a monthly Friday market in downtown Kerrville at the City's downtown pavilion and the privately owned adjacent parking lot. Permission has been granted by the property owner to Kerrville Farmers Market to use the parking lot for this purpose.

Kerrville Farmers Market is in the process of filing for a non-profit status. The event is a unique market offering a wide selection of quality products at a great price. The event offers an array of seasonal fresh and canned fruits and vegetables, fish and seafood, meat, farm eggs, honey, fresh baked goods, flowers, plants and gifts. The Kerrville Farmers Market mission is to support local producers, educate consumers, demonstrate healthy lifestyles and facilitate building a sustainable, regenerative community.

Due to its success, the event is expanding to be held weekly (every Friday), from April to October. In addition, the market is requesting a cash sponsorship of \$3,000 for assistance with covering some ongoing expenses and purchasing promotional merchandise. The resolution and license agreement have been updated to reflect these changes. Outlined below are the highlights of the final agreement.

As a co-sponsor for this event, under this license agreement the city will provide the following support:

- Waive associated fees such as pavilion rental fees and permit / application fees;
- Use of City's existing tents, tables, and chairs;
- Assist with in-kind marketing such as including the event in the annual activity guide, press releases, list the event on the City's website and water bills, etc.;
- Contribute to half the costs, maximum of \$250, for downtown lamppost banners;
- Provide barricades, access to electricity, and keep the downtown restrooms open late for event attendees.
- **Provide a sponsorship of \$3,000 to assist with promotional merchandise (new).**

This agreement does not waive associated fees if Police Officers are required to be hired for security.

**RECOMMENDED ACTION:**

Approve Resolution No. 06-2018.

**CITY OF KERRVILLE, TEXAS**  
**RESOLUTION NO. 16-2018**

**A RESOLUTION AUTHORIZING THE WAIVER OF VARIOUS FEES  
AND AUTHORIZING A NONEXCLUSIVE LICENSE AND FUNDING  
AGREEMENT REGARDING THE USE OF THE CITY'S DOWNTOWN  
PAVILION FOR THE KERRVILLE FARMERS MARKET TO BE HELD  
IN DOWNTOWN KERRVILLE EACH FRIDAY BETWEEN APRIL AND  
OCTOBER**

**WHEREAS**, organizers of the Kerrville Farmers Market (the "KFM") plan to hold a farmers market each Friday evening in downtown Kerrville from April through October, and thereafter, one Friday per month; and

**WHEREAS**, the organizers have requested that the City waive various fees for this event; that the City authorize the use of its downtown pavilion; that the City provide its tents, tables, and chairs; and that the City provide funding; and

**WHEREAS**, City Council determines that waiving applicable City fees; entering into an agreement for the use of the downtown pavilion; and providing the City's tents, tables, chairs, and funding, is in the public interest;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY  
OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** The above findings are found to be true and correct.

**SECTION TWO.** City Council authorizes the following:

- A. the waiver of various City fees for the organizers of the Kerrville Farmers Market, as specifically detailed in the attachment found at **Exhibit A**.
- B. the City Manager to enter into a *Nonexclusive License and Funding Agreement* with the organizers of the Kerrville Farmers Market for their use of the City's Downtown Pavilion; the use of City property, to include tents, tables, and chairs; and funding from the City in the amount of \$3,000.00, such agreement is attached as **Exhibit B**.

**SECTION THREE.** Resolution No. 40-2017 is hereby repealed.

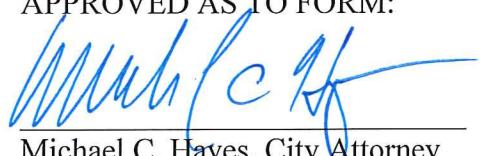
**PASSED AND APPROVED ON this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2018.**

*(signatures begin on following page)*

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Bonnie White, Mayor

APPROVED AS TO FORM:

A blue ink signature of Michael C. Hayes.

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Michael C. Hayes, City Attorney

ATTEST:

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Brenda G. Craig, City Secretary

# EXHIBIT A

## Kerrville Farmers Market

**Summary:** The *Kerrville Farmers Market* will be held each Friday evening April through October at the City's Downtown Pavilion and adjacent parking lot. Thereafter, the event will continue each month. The owners of the parking lot have given the farmers market authority to close and use the parking lot for this purpose.

### **City agrees to waive following fees:**

- Use permit for the Downtown Pavilion
- Special Event permit
- Health permit(s) for food vendors
- Fire department (Fire Marshal) permit(s), to include use of tents

EXHIBIT B

**NONEXCLUSIVE LICENSE AND FUNDING AGREEMENT BETWEEN THE  
CITY OF KERRVILLE, TEXAS AND THE KERRVILLE FARMERS MARKET**

This Nonexclusive License and Funding Agreement ("Agreement") is made and entered into by and between the **CITY OF KERRVILLE, TEXAS** ("City"), and the **KERRVILLE FARMERS MARKET** ("Licensee"), as follows:

**1. Grant of Nonexclusive License.** In consideration of and subject to the terms, provisions, and covenants herein contained, City hereby grants to Licensee a nonexclusive license to use the Downtown Pavilion in the City of Kerrville, Kerr County, Texas ("Licensed Premises"), as depicted on the survey attached as **Exhibit A**. The Licensee will use the Licensed Premises each Friday evening between April and the end of October, and then on one Friday evening of each of the remaining months. Licensee shall provide a specific schedule to City on or before April 1 of each year of this Agreement.

**2. Payment, Reports, Records.** City shall make a one-time payment to Licensee of \$3,000.00 as follows: the first payment of \$1500.00 will be made on or before April 1, 2018; with the second payment of \$1500.00 to be made on or before September 30, 2018. At the request of the City Manager, Licensee shall furnish any information concerning Licensee's operations and finances to City. Licensee shall provide such information to the City within thirty (30) days of its request.

**3. Term.** This Agreement shall become effective on March 14, 2018, and shall terminate on December 31, 2018 (Initial Term), subject to renewal or earlier termination as herein provided.

**4. Renewal.** This Agreement may automatically renew for a term not to exceed one year, for a maximum of three (3) such one-year terms. Not later than ninety (90) days prior to the end of the Initial Term, or any one-year term thereafter, the parties may agree in writing to extend the term an additional year. Any such renewal shall provide the same terms and conditions as the Initial Term, with this exception of the one-time payment specified in Section 2, above. If no renewal agreement is entered into prior to the end of the Initial Term or any annual term, this Agreement shall expire and terminate and be of no force and effect provided that Licensee is not in default hereunder.

**5. Termination Election.** City and Licensee each shall have the right, either with or without cause, to terminate this Agreement upon not less than thirty (30) days prior written notice to the other party. Upon such termination, City and Licensee shall be relieved of all further obligations hereunder except only for obligations accruing prior to the effective date of termination. Where City has cause to terminate this Agreement or should Licensee terminate this Agreement on or before the end of the Initial Term, Licensee, upon request from City, shall reimburse City the payment it mostly recently received from City pursuant to Section 2, above. In no case, however, will Licensee be required to reimburse City more than \$1500.00. Licensee shall reimburse City pursuant to this section within ten (10) days of City's request.

**6. Use.** Licensee shall comply with and perform the following with respect to its use of the Licensed Premises:

- a. Licensee shall use the Licensed Premises pursuant to activities associated with a farmers market, including the staging of vendor booths, product displays, and sales.
- b. Licensee agrees that at all times all persons and activities will be adequately supervised by an adult.
- c. Licensee shall provide City a schedule of its use, to include dates and hours.
- d. Licensee shall not permit smoking.
- e. Licensee shall abide by all rules that the City has adopted for use of the Licensed Premises. The City shall provide any such rules to the Licensee.

**7. City's Contributions.** City shall provide the following property and services to Licensee in conjunction with its operation of a farmers market:

- a. Pursuant to the schedule provided to City pursuant to Section 6, above, City shall allow the Licensee to use the following property of the City: ten (10) - 10 foot by 10 foot pop-up tents; five (5) – tables; thirty-five (35) – chairs; and five (5) - trash cans. City will make the equipment available to Licensee at the equipment loading station adjacent to the Louise Hays Park pavilion with enough time to allow for setup and staging by Licensee. Should the property be broken or destroyed in transit or during the event, City is not obligated to replace any such items or provide an equal amount to Licensee.
- b. City shall provide notice to the public of the farmers market, to include a press release, website notice, utility bills, and displays in downtown on property owned by City. The way(s) that City provides any such notice is in City's sole discretion.
- c. Should Licensee design and develop lamppost banners for the downtown area, the City shall contribute up to \$250.00 toward such cost. Thereafter, City shall be responsible for installing and taking down such banners.
- d. City shall make the public restrooms located at 715 Water Street available for use by operators, vendors, and customers of the farmers market.
- e. City shall provide barricades to prevent access to the parking lot used by Licensee. City shall deliver and allow Licensee to use the following existing property of City: fifteen (15) cones to block off parking spots. City will deliver the cones to the area around the Licensed Premises with enough time to allow for setup and staging by Licensee. City shall then pick up and remove the items the next day. Upon conclusion of the event, the Licensee shall place the cones in the designated location provided by City. Should the property be broken or destroyed in transit or during the event, City is not obligated to replace any such items or provide an equal amount to Licensee.
- f. City shall provide access to electricity as located at the Licensed Premises and at the east end of the boardwalk.

- g. Where necessary, City shall provide a letter of approval to Licensee pursuant to its application for a permit with the Texas Alcoholic and Beverage Commission.
- h. City's point of contact to Licensee is the Parks and Recreation Specialist. Where such person is unavailable, Licensee may contact the Recreation Coordinator. City shall provide Licensee with contact information for both.

**8. Insurance**. Licensee shall purchase public liability and casualty insurance from an insurance company licensed to do business in the State of Texas. The City of Kerrville Risk Manager must approve the policy. The policy shall be in the amount of \$500,000 per person and \$1,000,000.00 per occurrence and covering the Licensed Premises for the duration of Licensee's use of the Premises. Upon execution of this Agreement, Licensee shall provide the City's Director of Parks and Recreation with a copy of the insurance policies required hereby, showing premium prepaid for the period covered. In the event of failure by Licensee to keep such insurance in effect, the Agreement shall terminate without notice from City to Licensee. The public liability and casualty insurance policies shall name City as an "additional insured". All policies shall include a waiver of subrogation provision in favor of City. The policy and any renewal certificate shall provide that the City be notified thirty (30) days prior to cancellation or modification of any coverage. Language to the effect that the insurance company will "endeavor" or "attempt" to so notify the City is not sufficient. Renewal certificates must be received by the City at least ten (10) days prior to expiration date. Policies will be in effect for the entire term of this Agreement and any renewals.

**9. Alterations and Improvements**. Licensee shall not have the right to make any alterations, additions or improvements to the Licensed Premises, without the written approval of the City's Director of Parks and Recreation.

**10. Access**. City shall maintain access to the Licensed Premises at all times for any purpose.

**11. Termination for Safety Violation or Unlawful Use**. Licensee shall not use or occupy nor permit the Licensed Premises or any part thereof to be used or occupied for any unlawful purpose, or for any purpose or in any manner which is in violation of any present or future governmental laws or regulations. Licensee shall comply with all laws, ordinances, orders, rules and regulations of state, federal, municipal or other agencies or bodies having any jurisdiction thereof relating to the use, condition or occupancy of the Licensed Premises. Notwithstanding any other provision of this Agreement, any violation of this provision, or a gross violation of any safety-related provision herein, shall entitle City to terminate this Agreement immediately.

**12. INDEMNIFICATION**. LICENSEE AGREES TO INDEMNIFY, DEFEND, AND HOLD CITY, ITS OFFICIALS, EMPLOYEES AND AGENTS HARMLESS OF AND FROM ALL CLAIMS, DEMANDS, LIABILITY, LOSS, COST AND EXPENSE (INCLUDING ATTORNEY'S FEES AND COST OF LITIGATION) IN ANY MANNER ARISING OUT OF OR RESULTING FROM LICENSEE'S OPERATIONS, LICENSEE'S USE OF THE LICENSED PREMISES OR THE EXISTENCE OF LICENSEE AND LICENSEE'S IMPROVEMENTS AND PERSONALTY ON THE PREMISES,

**INCLUDING BUT NOT LIMITED TO ANY AND ALL LIABILITY, LOSS, COST AND EXPENSE ARISING FROM CLAIMS OR DEMANDS BY LICENSEE'S AGENTS OR PARTICIPANTS.**

**13. Assignment or Sublicense.** Licensee may not assign or sublicense the Licensed Premises or any of its rights hereunder, in whole or in part, without the express prior written consent of City.

**14. Casualty.** In the event of property damage caused by Licensee or its participants, Licensee shall restore all damaged improvements within thirty (30) days thereafter. Insurance proceeds will be made available for such repairs.

**15. Performance by City.** If Licensee fails to perform its obligation, City may (at its option) perform such obligations and Licensee shall pay to City upon demand all costs and expenses incurred by City.

**16. No Other Relationship/Termination of Previous Agreement.** This Agreement constitutes the entire agreement between City and Licensee. Nothing contained herein shall be construed to create any principal/agent, employer/employee, joint venture, partnership or other arrangement between City and Licensee. In addition, the Nonexclusive License Agreement authorized by the City on or about September 26, 2017, with Licensee and concerning the same subject matter, is hereby terminated in accordance with its provisions.

17. **Default.** If either party hereto shall fail to perform any obligation of such party as herein set forth, and such failure shall continue for a period of (10) days after written notice of default (except for Licensee's insurance obligations above provided, for which no notice or opportunity to cure shall be given) the party not in default shall have the right, at such party's option, and in addition to any other remedies available at law or in equity, to terminate this Agreement by notice to the party in default. The failure of either party to declare any default immediately upon the occurrence thereof or delay in taking any action in connection therewith shall not waive such default, but such party shall have the right to declare any such default at any time and take such action as might be authorized hereunder or that may be available at law or in equity.

**18. Notice.** Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States mail, postage prepaid, or certified mail, return receipt requested, addressed to the parties hereto at their respective addresses as set forth below or at such other address as they have heretofore specified by written notice delivered in accordance with the terms hereof:

City: City of Kerrville, Texas  
Attention: Director of Parks and Recreation  
City Hall, 701 Main Street  
Kerrville, Texas 78028  
(830) 258-1153  
[ashlea.boyle@kerrilletx.gov](mailto:ashlea.boyle@kerrilletx.gov)

Licensee: Kerrville Farmers Market  
Attention: Kayte Graham, Market Coordinator  
542 Kelly Street  
Center Point, Texas 78010  
(830)928-4161  
[kerrvillefm@gmail.com](mailto:kerrvillefm@gmail.com)

**19. Fee.** Licensee shall pay City the applicable fee for its use of the Licensed Premises. City Council may agree to waive the fee pursuant to a separate action.

**20. Approval Authority.** In this Agreement, wherever an act requires approval by or consent of the City, such approval or consent may be obtained from the City's Director of Parks and Recreation, or designee.

**21. Governing Law and Enforcement.** This Agreement shall be governed by the laws of the State of Texas and shall be performable in Kerr County. Venue for any dispute arising between the parties to this Agreement shall be in Kerr County, Texas.

SIGNED and agreed by the authorized representatives of City and Licensee on the dates indicated below.

**KERRVILLE FARMERS MARKET**

**CITY OF KERRVILLE, TEXAS**

By: \_\_\_\_\_  
Kayte Graham, Market Coordinator  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mark L. McDaniel, City Manager  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

  
Michael C. Hayes, City Attorney

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Ashlea Boyle, Director of Parks and Recreation

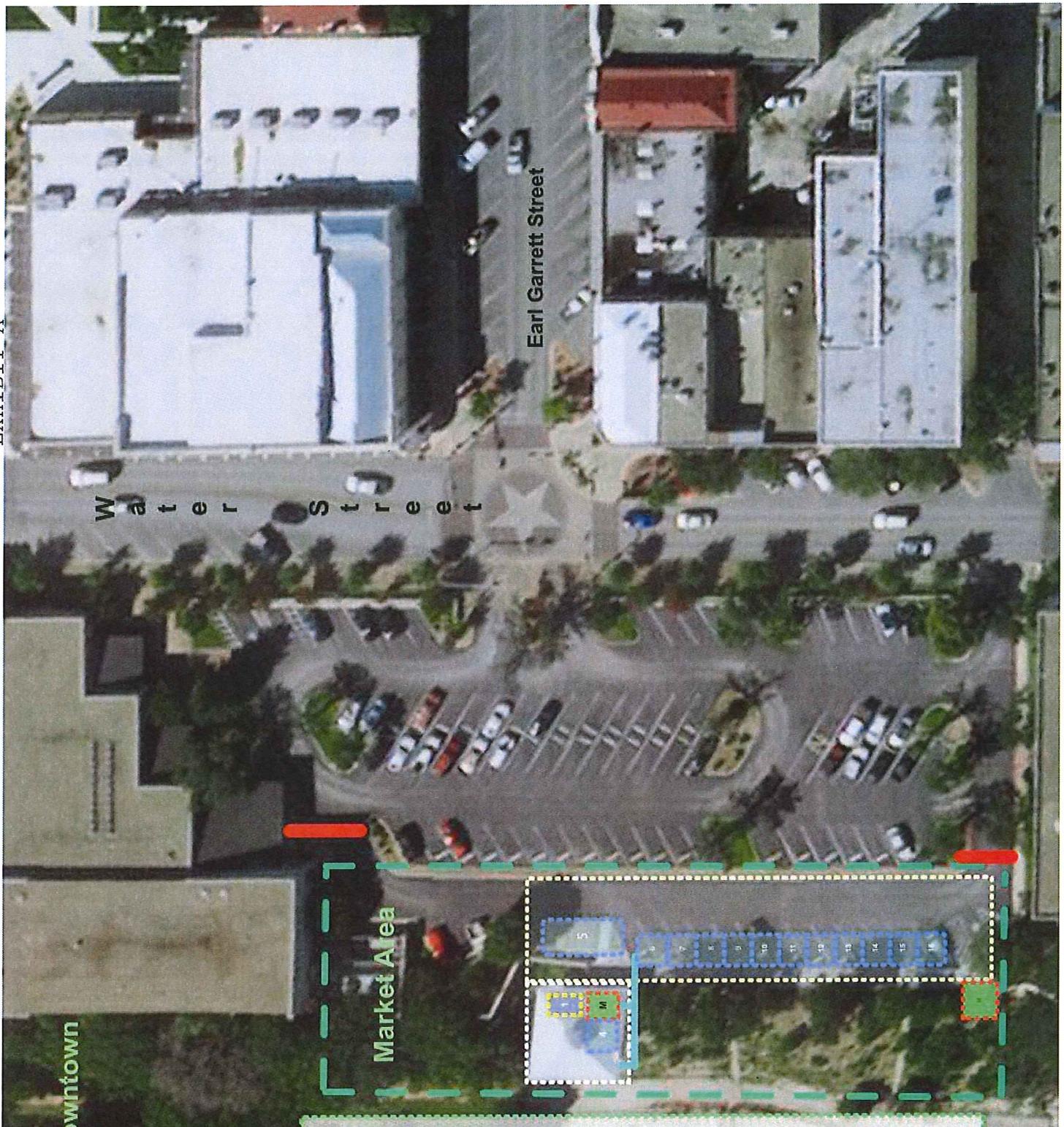
Kerrville Farmers Market Downtown  
Friday, October 6th, 2017  
3pm - 7pm  
Setup: 2pm - 3pm  
Take Down: 7pm - 8pm

**Legend:**

	- Dallas Daughtry Pavilion
	- Wine Vendor Area 1. Bending Branch Winery
	- Music Vendor
	- Featured Vendor
	- Bakery JoJu
	- Product Vendors
	- Market/Pedestrian Area
	- Auto Barricade
	- 110v Electrical Access

Water Street

Earl Garrett Street





## **BUDGET PROPOSAL CITY OF KERRVILLE, 2018 KERRVILLE FARMERS MARKET-DOWNTOWN**

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February 10, 2018

Through the first four First Friday markets, the Kerrville Farmers Market has gained positive and sustainable momentum from community, vendor, and City support. Due to vendor and customer demand, we intend to expand to a weekly market beginning April, 2018.

The attached budget is divided into three sections: 1) Projected Operating Budget for Weekly Activity; 2) Projected Operating Budget for Annual Activity; and 3) Community Donations Received by the Market, to date.

Weekly vendor booth fees will cover operating costs for each event, assuming a minimum of 20 paid vendors under the current fee structure. Additional revenue through merchandise sales will cover annual costs such as insurance, printing, website maintenance, and other marketing expenses. With these revenue strategies, our goal is to become completely self-sufficient within two years.

The Market requests financial support from the City to help with the initial investment of revenue-generating merchandise material plus one year of operating costs, for a total commitment of **\$3,000.00**. This support, along with financial support already received from local businesses, will add to gaining momentum needed for the Market to achieve sustainability. These funds will also allow the Market to expand efforts to engage downtown businesses and to increase visibility to customers throughout the Kerrville community.

**Kerrville Farmers Market**  
**2018 Budget (Calendar Year)**

Revenues	2017 Actual	2018 Proposed	2018 Year to Date
Booth Fees	\$ 645	\$ 9,405	\$ 315
Sponsorships			
Water	\$	1,650	
Mugs	\$	1,500	
Shirts	\$	1,500	
Donations	\$ 600	\$	1,325
Other			
<b>Total</b>	<b>\$ 1,245</b>	<b>\$ 14,055</b>	<b>\$ 1,640</b>
Expenditures	2017 Actual	2018 Proposed	2018 Year to Date
Ice	\$ 90	\$ 990	\$ 90
Bottled Water	\$ 50	\$ 825	
Beer	\$	3,780	
Cups	\$ 75	\$ 825	\$ 25
Music	\$	3,300	\$ 50
Mugs	\$	700	
Shirts	\$	800	
Insurance	\$ 500	\$ 1,500	
Website	\$ 160	\$ 500	\$ 40
Printing	\$	450	\$ 30
Security	\$	385	
Other	\$ 250		
<b>Total</b>	<b>\$ 1,125</b>	<b>\$ 14,055</b>	<b>\$ 235</b>
<b>Net Under (Over)</b>	<b>\$ 120</b>	<b>\$ -</b>	<b>\$ 1,405</b>
<u>Other Items (In Kind)</u>			
Beer	\$ 630	\$ 2,520	\$ 420
Logo Design	\$	\$ 750	\$ 750
Banner	\$	\$ 180	\$ 180
City (banners)	\$	\$ 250	\$ 250
City (pavilion)	\$ 1,200	\$ 9,600	\$ 800



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

---

**SUBJECT:** Appointments to the Parks and Recreation Advisory Board.

**AGENDA DATE OF:** 3/13/2018

**DATE SUBMITTED:** 03/06/2018

**SUBMITTED BY:** Brenda Craig

**EXHIBITS:** Board Sheet

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

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**PAYMENT TO BE MADE TO:** N/A

**SUMMARY STATEMENT:**

Consider appointments to the following board:

**Parks and Recreation Advisory Board:**

Three terms to expire on March 31, 2018.

**RECOMMENDED ACTION:**

Consider appointments to the Parks and Recreation Advisory Board.

**PARKS AND RECREATION ADVISORY BOARD**

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
BRADSHAW, ROSE 2132 Arcadia Loop	895-3248 (H) 377-8948 (C)	05-09-17		03-31-19
GARDNER, JAMES 123 Forest Circle	285-2129 (H)	09-23-14	05-09-17	03-31-19
HARRISON, JOHN 2911 Dry Hollow	257-2899 (H)	05-09-17		03-31-19
KAYNE, JACKLYN 3564 Fredericksburg Rd	895-7524 (W) 895-7962 (H)	03-11-14	03-22-16	03-31-18
McMAHON, DIANE 2311 Birkdale Lane	896-3195 (H) 370-6590 (C)	05-12-15	05-09-17	03-31-19
MITCHELL, BEDFORD 313 Lakewood Drive	896-4321 (H) 377-1114 (C)	05-12-15	05-09-17	03-31-19
MUNSON, JAY 501 Lucille St.	370-8344 (C)	03-11-14	03-22-16	03-31-18
NYE-SALLADIN, LISA 1015 Morningside Dr.	377-7198 (C)	05-09-17		03-31-19
GREG SHRADER 321 Englewood Dr. E.	739-9219 (C)	03-22-16		03-31-18

**CITY STAFF:**

Ashlea Boyle 258-1153 (O)  
Director of Parks & Recreation

Tina North 258-1156  
Parks & Recreation Office Manager

Qualifications: A majority shall be residents of the city of Kerrville, and all shall be residents of Kerr County.

Powers and Duties: Shall constitute an advisory board to the city council and shall periodically assist city staff in procedural matters. The board shall have authority to hold hearings in the city and to consider and make recommendations to the city council in writing on any and all matters pertaining to the city's parks and recreation system.

Term of Office: Two years with a maximum of two terms. No member shall serve more than two terms without having at least one full year off between terms.

Quorum: Five

Members: Nine

Meeting Time & Place: Quarterly, on the Third Thursday of the month, at 8:15 a.m., City Hall Upstairs Conference Room

Absences: Any member having three consecutive unexcused absences shall have his membership reviewed by the board. By majority vote, the board may recommend to the council that such member be removed from office. The council may then act upon such recommendation and either remove or retain such member.

Established by: Ordinance No. 1984-37, amended by Ordinance No. 1987-24; amended by Ordinance 2017-12.

Code of Ordinances: Chapter 74 - Article II – Sections 74-31 through 74-38

Revised: May 25, 2017



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Appointment to the Recovery Community Coalition.

**AGENDA DATE OF:** 3/13/2018

**DATE SUBMITTED:** March 5, 2018

**SUBMITTED BY:** Brenda Craig

**EXHIBITS:** Board Sheet

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

---

**PAYMENT TO BE MADE TO:** N/A

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**SUMMARY STATEMENT:**

Consider appointment to the following board:

**Recovery Community Coalition.** One term to expire December 31, 2018, due to the resignation of Julie Wood.

**RECOMMENDED ACTION:**

Consider appointment to the Recovery Community Coalition.

**DawnRECOVERY COMMUNITY COALITION**

	<u>Telephone</u>	<u>Appt.</u> <u>Date</u>	<u>Exp.</u> <u>Date</u>
(8) TREES, DALE Chairperson 115 Plaza Dr. #2007	928-5420 (H) 238-4222 (W) Ext. 510	1-10-17	12-31-2018
(3) WOOD, JULIE Vice-Chairperson 404 Meadowview Ln.	936-615-7844 (H) 792-5775 (W)	1-10-17	12-31-2018
(4) DRIGGERS, SHAWN 613 Wheless Ave.	285-4536 (H) 895-5969 (W)	1-10-17	12-31-2019
(4) ELDER, DAWN 14819 River Vista N. San Antonio, TX 78216	210-289-8662	2/13/18	12-31-2019
(3) GEISLER, BLAIR 381 A Guadalupe St.	713-972-5001 (C)	1-10-17	12-31-2019
(2) GODWIN, LAURA 312 Lytle St.	214-293-7353 (H)	1-10-17	12-31-2018
(1) LEICHT, CECIL CODY 134 Loop 13	377-4451 (H)	9-12-17	12-31-2018
(8) McCARRICK, CAROL 119 Fawn Ridge Trail	257-9487 (H) 238-4222 Ext. 363	9-12-17	12-31-2019
(6) PAUTLER, STEVE 113 Los Cedros Loop	258-7054 (W)	1-10-17	12-31-2019
(4) RICHNER, CLAUDIA 3864 Rock Barn Dr.	816-532-0078 (H)	1-10-17	12-31-2019
(7) ROBINSON, ROSS 3144 Double Eagle Cr. 512-983-7834 (C)	896-1752 (H) 792-3300 (W) Ext. 2025	1-10-17	12-31-2018
(3) STOLPMAN, RICHARD 115 Plaza Dr. #205	777-9153 (H) 320-304-0736 (C)	1-10-17	12-31-2019
(9) SUMMERLIN, MARY ELLEN 105 Turnberry Circle	459-8551 (C) 895-7982 (H)	5-23-17	05-31-2018
(9) VOELKEL, VINCENT 212 Clay Street	257-3313 (W) 370-4874 (C)	05-23-2017	05-31-2018

(8) YOUNG, KENDALL      257-2212 (W)      2-13-18      12-31-2019  
3509 La Cumbre Dr.      377-5911 (H)

Purpose: The purpose of the Coalition is to enhance the opportunities for the recovery community to become fully integrated into the fabric of Kerrville. The Coalition shall work toward considering and identifying strategies and techniques for reducing barriers for the recovery community to be fully integrated into the local community as well as to identify and advocate goals and ideas for enhancing positive relationships by and amongst the recovery community.

Qualifications: **At least one member from each of the following, but any of which may include more than one member:**  
(1) owner of a male boarding home facility with a valid permit issued by the City;  
(2) owner of a female boarding home facility with a valid permit issued by the City;  
(3) member of the recovering community;  
(4) citizen of Kerrville with interest in these issues;  
(5) representative of mental health support organizations such as Kerrville State Hospital;  
(6) representative of Peterson Health;  
(7) representative of Hill Country MHDD Centers;  
(8) representative from a residential addiction treatment facility located within Kerr County; and  
(9) two Councilmembers

Powers and Duties: On an annual basis, or more frequently as deemed proper by the Coalition or City Council, the Coalition should attend and report its conclusions, achievements, ideas, desires, and plans to the City Council. It is recommended that the initial issue with which the Coalition is charged to review is Ordinance No. 2013-06 (Chapter 30, Article I, Code of Ordinances), which addresses the operation of group homes and boarding home facilities operating within the City.

Term of Office: Each member shall be subject to two-year terms; provided, however, that at the Coalition's organizational meeting, the members shall draw lots to establish the duration of the initial terms, with an exact majority of the members serving an initial term of two years and the remaining members serving a one-year term. The expiration date of all terms shall be December 31 of the year corresponding with the results of the drawing of lots.

Quorum: Eight members

Number of Members: Fifteen

Absences: Any member who misses 25% of the regular meetings or three consecutive regular meetings may be replaced by City Council.

Meeting Time & Place: Meetings are to be held every other Monday at 4:00 p.m., but at least once each calendar quarter in the upstairs conference room at City Hall.

Established by: Resolution No. 26-2016

Revised Date: February 14, 2018



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Appointment to the Mayor's Youth Advisory Council.

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**AGENDA DATE OF:** 3/13/2018

**DATE SUBMITTED:** 03/06/2018

**SUBMITTED BY:** Brenda Craig

**EXHIBITS:** Board Sheet

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

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**PAYMENT TO BE MADE TO:** N/A

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**SUMMARY STATEMENT:**

Consider appointment to the following board:

**Mayor's Youth Advisory Council:**

One term to expire on May 31, 2018, to replace one non-attending member.

**RECOMMENDED ACTION:**

Consider appointment to the Mayor's Youth Advisory Council.

**MAYOR'S YOUTH ADVISORY COUNCIL**

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Exp. Date</u>
BUCHANAN, CATHARINE	970-630-7932	06-27-17	05-31-18
805 Loop 534 #138			
GARCIA, ROMAN	370-1649	06-13-17	05-31-18
934 Pecan Street			
GARCIA, SYDNEY	377-8411	06-13-17	05-31-18
118 Cedar Way			
GUERRIERO, GRACE	928-4909	06-27-17	05-31-18
307 Lakewood Dr.			
HALL, MARIA	285-9502	06-13-17	05-31-18
160 Stephen F. Austin Dr.			
KEEN, CHLOE	496-1040	06-13-17	05-31-18
3613 Ranch View Court			
LAYTON, ERNEST (TREY)	377-5513	06-27-17	05-31-18
110 Kerr Canyon Pass			
LI, ZHENGJUN	505-559-3993	06-13-17	05-31-18
717 Hill Country Dr. #3107			
McCUTCHEON, KALEB	895-0596	06-13-17	05-31-18
1257 Horizon Blvd.			
MURPHY, MOLLY	817-659-8513	06-13-17	05-31-18
246 Oak Wood Road			
OLMSTED, MASON	214-215-0220	06-13-17	05-31-18
P.O. Box 804, Hunt			
ROBERTS, MASON	928-9915	06-13-17	05-31-18
181 Beverly Hills Lane			
SCOCCIA, ILEANA	992-9084	06-13-17	05-31-18
1900 Summit Top Dr.			
TRAN, JESSICA	512-203-5715	06-13-17	05-31-18
1909 Summit Ridge Drive			
TRAYLOR, JONATHAN (JETT)	777-9935	06-13-17	05-31-18
509 Peterson Dr. #107			

**ALTERNATE:**  
SMITH, AIDAN 928-3227 06-13-17 05-31-18  
34 Antelope Trail

**COUNCIL Ex-OFFICIO:** Bonnie White, [Bonnie.White@kerrilletx.gov](mailto:Bonnie.White@kerrilletx.gov)

**City Staff:**  
Kaitlin Berry, (830) 258-1116, [kaitlin.berry@kerrilletx.gov](mailto:kaitlin.berry@kerrilletx.gov)

Qualifications: Resident of the county and current student in grades 9-12.

Purpose:

- Provide input from a youthful point of view for the Kerrville City Council on community affairs and issues.
- Provide an overview of the complexity and variety of opportunities through public service;
- Empower youth from various backgrounds to become active members in their community, encouraging them to have an everlasting effect on the future of the city;
- Develop youth leaders committed to learning about local government and the roles they can have in it;
- Make a difference in the community and in the lives of youth; and
- Provide valuable youth perspectives that will focus on volunteerism, community service and providing feedback to the Mayor and city leadership.

Term of Office: One School Year

Quorum: Eight

Number of Members: Fifteen and one alternate

Meeting Time & Place: Second Thursday of each month during the school year; 4:30 p.m.; City Hall Upstairs Conference Room.

Established by City Council vote on November 10, 2015

Revised: June 28, 2017