

MINUTES
CITY COUNCIL MEETING

January 17, 2012

CALL TO ORDER – Roll Call and Determination of a Quorum

The Parker City Council met in a regular scheduled meeting on the above date at Parker City Hall, 5700 E. Parker Road, Parker, Texas 75002.

Mayor Cordina called the meeting to order at 6:30 p.m. with Councilmembers Leamy, Sumrow, Evans and Levine present. Marshall was absent. A quorum was present.

Staff Present: City Attorney James Shepherd, Interim City Administrator Jeff Flanigan, City Secretary Carrie Smith, Finance/HR Manager Johnna Boyd and Police Chief Tony Fragoso.

EXECUTIVE SESSION 6:30 – 7:00 PM

Pursuant to the provisions of Chapter 551, Texas Government Code, Vernon's Texas Codes Annotated the City Council may hold a closed meeting.

1. RECESS TO CLOSED EXECUTIVE SESSION IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN:
 - a. Govt. Code 551.074— Personnel--to deliberate the appointment and employment of a City Administrator.

Mayor Cordina recessed the regular meeting at 6:30 p.m.

2. RECONVENE REGULAR MEETING.

Mayor Cordina reconvened the regular meeting at 7:36 p.m.

3. ANY APPROPRIATE DELIBERATION AND/OR ACTION ON ANY OF THE EXECUTIVE SESSION SUBJECTS LISTED ABOVE.

No action.

PLEDGE OF ALLEGIANCE

AMERICAN PLEDGE: Councilmember Leamy led the pledge.

TEXAS PLEDGE: City Attorney Shepherd led the pledge.

PRESENTATION

4. PRESENTATION BY KIM DUFFY, STUDENT FROM ART INSTITUTE OF DALLAS WHO HAS DONE A PHOTOGRAPHIC SERIES ON PARKER.

Kim Duffy a Plano resident and senior in the photography department at the Art Institute of Dallas was in a documentary photography class and given a ten week assignment to choose a small town 'without a Wal-Mart'. Having grown up on the edge of Parker and Plano, she decided Parker would be a perfect town rich with scenery and history to document. Kim is set to graduate in June with her BFA in Photography and plans to go to graduate school this coming fall.

It was recommended that Ms. Duffy speak with Interim City Administrator Flanigan regarding the purchase of prints for City Hall.

PUBLIC COMMENTS The City Council invites any person with business before the Council to speak to the Council. No formal action may be taken on these items at this meeting. Please keep comments to 3 minutes.

Resident Ed Standridge requested the Council sign the last two copies of the Historical Society's 2012 Calendars for a special gift or auction item at the VFD fundraiser.

INDIVIDUAL CONSIDERATION ITEMS

5. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON MEETING MINUTES FROM JANUARY 3, 2012.

MOTION: Councilmember Leamy moved to approve the minutes as written. Councilmember Sumrow seconded with Councilmembers Leamy, Sumrow, Evans and Levine voting for. Motion carried 4-0.

6. DISCUSSION AND UPDATE ON THE 2012 JAPAN GRASSROOTS SUMMIT BY COORDINATOR SHARON HARGROVE.

Summit Coordinator Sharon Hargrove gave a brief update on the progress of the planning for the 2012 Japan Summit. Currently there are 7 to 8 host homes participating and the complete number is to be submitted by the end of March. The activities agenda is to be completed and submitted to the program committee by the end of January.

7. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON THE WAL-MART SITE IN THE CITY OF LUCAS.

Council was provided with a copy of the City of Allen and Wal-mart agreement for improvements to FM 2551, Lucas' Dark Sky Ordinance, and Wal-mart site plan. (Exhibit 7A)

The City of Allen and Wal-Mart have an agreement to improve FM 2551 north and south bound to 3-lanes. Also, 500-feet south of Lucas Road there will be a left turn stacking lane with the same from the north. FM 2551 is a State highway and is planned for improvement in the future, so the improvements will be asphalt. The City of Lucas is looking at plans to improve east of FM 2551 in front of Wal-Mart with a deceleration and an acceleration lane. The road improvements have not been approved by the Lucas Council.

Councilmember Levine feels the immediate problem is the roadway and the turn lane off W. Lucas Road will be a safety and traffic flow hazard. He requested Interim City Administrator Flanigan to find out if a traffic study has been completed.

The construction plans and permit have been submitted to the City of Lucas and are under review. The original site plan, approved in 2006, complied with the City's ordinances and was approved for commercial business.

The Mayor of Lucas told Councilmen Leamy that WalMart wants to be a "good neighbor" and the City of Lucas would help to schedule a meeting between City of Parker, Parker Lake Estates HOA, City of Lucas and WalMart to address issues that City of Parker and Parker Lake Estates HOA have, but the meeting is unscheduled as of this date.

City Attorney Shepherd recommended the Parker Lake Estates HOA prepare a list of wants, that are reasonable and attainable, to discuss with Lucas and then Wal-mart. Once the list is prepared a meeting will be scheduled with a few Parker representatives and Lucas to discuss the issues, and then meet with Wal-Mart.

8. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION 2012-361 AN INTERLOCAL AGREEMENT WITH LOVEJOY ISD FOR SEWER SERVICE.

There was discussion regarding the City of Lucas previously denying Lovejoy ISD's request for sewer. LISD Representative Donna Wasburn said the ISD has not gone back to the City of Lucas to request sewer service.

Council tabled this item to a future date to allow LISD to return to Lucas and discuss the possibility of Lucas providing sewer for the school site.

9. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON ELECTION EQUIPMENT, SUPPLIES AND SERVICE FOR THE MAY, 2012 ELECTION.

After reviewing the costs and services that would be provided by the County Elections office, staff now believes it to be most economical to go with Option 2 (see below), saving the City an estimated \$5,418.

Option 2) Renting Voting Equipment from Collin County will include:

- Renting voting equipment (includes all programming)
- City staff run the election
- City hire and appoint judges, clerks and Early Voting Ballot Board for the election

Estimated cost \$8,248.04

MOTION: Councilmember Leamy moved to approve Option 2 for the May 12, 2012 General Election. Councilmember Levine seconded with Councilmembers Leamy, Sumrow, Evans and Levine voting for. Motion carried 4-0.

10. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON THE ROLES AND DUTIES OF PARKER BOARDS AND COMMISSIONS.

MOTION: Councilmember Leamy moved to: 1) Adopt the three proposed summaries of the roles and duties; 2) Provide specific training to each board, and each new member, on at least a yearly basis; and 3) Provide copies of, or the online link to, the Parker code sections relevant to the boards. Councilmember Evans seconded with Councilmembers Leamy, Sumrow, Evans and Levine voting for. Motion carried 4-0.

ROUTINE ITEMS

11. FUTURE AGENDA ITEM REQUESTS.

Update on Lucas Wal-mart site.
LISD Sewer Service Agreement.

12. UPDATES

- a. November Department Reports – Finance, Police, Animal Control, Fire, Building, website
- b. Police Chief Fragoso noted the type of calls the City receives is changing. There have been 21 arrests, 8 DWI arrests, 2 burglaries (in the Knolls and Parker Village), recovery of a stolen vehicle and recovery of a stolen weapon. The two burglaries are un-related.

13. ADJOURN

Mayor Cordina adjourned the meeting at 9:12 p.m.

APPROVED:

Joe Cordina
Mayor

ATTESTED:

Carrie L. Smith, TRMC, CMC

APPROVED on the _____ day of
_____, 2012.

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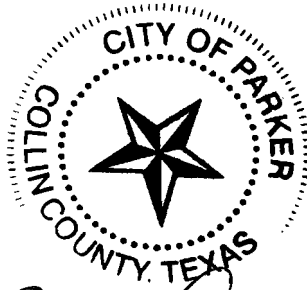
13. ADJOURN

Mayor Cordina adjourned the meeting at 9:12 p.m.

APPROVED:



Joe Cordina
Mayor



ATTESTED:



Carrie L. Smith, TRMC, CMC

APPROVED on the 7th day of
February, 2012.

STATE OF TEXAS §

FACILITIES AGREEMENT

COUNTY OF COLLIN §

This agreement ("Agreement") is made by and among the City of Allen, Texas (the "City"), and Wal-Mart Real Estate Business Trust, a Delaware statutory trust (the "Developer") (collectively, the "Parties"), acting by and through their duly authorized representatives.

RECITALS:

WHEREAS, the City has, as part of its Capital Project Program, had plans prepared to widen Bethany Road and improve the Intersection of Bethany Road and FM 2551 (the "City Project"); and

WHEREAS, Developer is the owner of real property in Lucas, Texas, described in Exhibit "A" (the "Developer Property") which property borders on the City limits and is immediately adjacent to the City Project; and

WHEREAS, Developer anticipates constructing a retail store on the Developer Property that will require access to FM 2551 at the location of the City Project; and

WHEREAS, inconvenience to the traveling public will be avoided and the public interest served if road construction by the City and improvements by Developer are coordinated in one construction project; and

WHEREAS, the City is willing to include improvements to FM 2551, which would otherwise occur at a future date with the construction of retail improvements to the Developer Property, with the City Project subject to City receiving reimbursement of one hundred percent (100%) of the additional costs attributable to the improvements for the benefit of the Developer Property as set forth herein; and

WHEREAS, Developer agrees to reimburse the City for such additional costs on the terms set forth herein;

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein and other valuable consideration the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

Article I

Term

1.1 The term of this Agreement shall commence on the last date of execution hereof (the "Effective Date") and shall continue until all Parties have fully satisfied all terms and conditions of this Agreement unless sooner terminated as provided herein.

1.2 This Agreement may be terminated by the mutual written agreement of the Parties. The City may terminate this Agreement if Developer breaches any of the terms and conditions of this Agreement, and such breach is not cured by such party within sixty (60) days after receipt of notice thereof. This Agreement shall terminate without further action by the Parties if Commencement of Construction (hereinafter defined) of the City Project, including the Developer Improvements, has not occurred by the Outside Commencement Date (hereinafter defined).

Article II

Definitions

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“Approved Plans” shall mean the plans and specifications for the construction of the City Project as approved by the City and including Developer Improvements approved by Developer.

“City Engineer” shall mean the City of Allen City Engineer, or designee.

“Commencement of Construction” shall mean that (i) the plans for the City Project, including the Developer Improvements, have been prepared and all approvals thereof required by applicable governmental authorities have been obtained; (ii) the contract for construction has been awarded by the City; (iii) all necessary permits for construction of the City Project, including the Developer Improvements, pursuant to the respective plans therefore having been issued by all applicable governmental authorities, and (iv) the grading and/or preparation of right-of-way, or land as applicable, for the construction of City Project, including the Developer Improvements, has commenced.

“Completion of Construction” shall mean: (i) the City Project, including the Developer Improvements, has been substantially completed in accordance with the Approved Plans; and (ii) the City Project, including the Developer Improvements, has been accepted by the City in writing.

“Developer Improvements” shall mean the improvements added to the City Project for the benefit of the Developer Property as listed and described in Exhibit “B”, attached hereto and in accordance with the sketch depicted in Exhibit “C”, which Developer Improvements include, without limitation, a continuous left turn lane, right turn lanes, drainage, signs and markings etc. on FM 2551. Upon approval of the sketch depicted, the City of Allen, through its Engineer, will develop final engineering plans and specifications for construction.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, terrorist act, or threat thereof, riot, civil commotion, insurrection, government action or inaction (unless caused by the intentionally wrongful acts or omissions of the party), fires, earthquake, tornado, hurricane, explosions, floods, strikes, slowdowns or work stoppages.

“Outside Commencement Date” shall mean July 1, 2012.

“Verified Developer Costs” shall mean the total actual costs of the Developer Improvements verified and approved by the City (including a proportionate share of costs for engineering services by the City Engineer, permitting through TxDOT, 3.2% City construction fee, construction management, legal fees, surveying, and materials testing, in no event exceeding fifteen percent (15%) of the unit bid amounts for the Developer Improvements), but in no event shall Developer be responsible for any Verified Developer Costs exceeding Three Hundred Thousand and No/100 Dollars (\$300,000.00). The City shall provide reasonable back-up documentation to Developer to verify the Verified Developer Costs, such as paid invoices for the Developer Improvements.

Article III Project Development

3.1 Project Construction. Subject to the terms and conditions set forth herein and events of Force Majeure, the City agrees to cause the Commencement of Construction to occur on or before Outside Commencement Date and the Completion of Construction of the City Project, including the Developer Improvements, as set forth herein to occur on or before March 13, 2013. The Verified Developer Costs associated with the Developer Improvements shall be paid by the Developer as set forth in Section 3.2 below. In the event that the City fails to complete the City Project, including the Developer Improvements, on or before March 13, 2013 (subject to Force Majeure), Developer shall have the right, but not the obligation, to complete the Developer Improvements at Developer’s sole cost and expense. In such event, the City agrees to cooperate with Developer in obtaining the permits, approvals and easements necessary to complete the Developer Improvements.

3.2 Temporary City Cost Participation. Developer agrees, within thirty (30) days, after Completion of Construction of the City Project, including the Developer Improvements, to pay to the City one hundred percent (100%) of the Verified Developer Costs. The City shall submit a written invoice to the Developer for the Verified Developer Costs (not to exceed \$300,000.00), which shall be paid by Developer to the City.

Article IV Miscellaneous

4.1 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter if sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for City, to:

City of Allen, Texas
Attn: Peter H. Vargas
City Manager
305 Century Parkway
Allen, Texas 75013
Facsimile: 214.509.4590

With a copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, LLP
1800 Lincoln Plaza
500 N. Akard
Dallas, Texas 75201
Facsimile: 214.965.0010

With a copy to Engineer:

City of Allen, Texas
Attn: City Engineer
305 Century Parkway
Allen, Texas 75013
Facsimile: 214.509.4590

If intended for Developer, to:

Wal-Mart Real Estate Business Trust (Store No. 5672-00)
Attention: Real Estate Manager, State of Texas
2001 S.E. 10th Street
Bentonville, AR 72716-0550

With a copy to:

Wal-Mart Real Estate Business Trust (Store No. 5672-00)
Attention: Legal Department, State of Texas
2001 S.E. 10th Street
Bentonville, AR 72716-0550

With a copy to:

Haynes and Boone, LLP
Attention: Susan A. Huddleston
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
Reference: Store No. 5672-00

4.2 Successors and Assigns. All obligations and covenants of the Developer under this Agreement shall be binding on the Developer, its respective successors and permitted assigns. The Developer may not assign this Agreement without the prior written consent of the City Manager, which shall not be unreasonably withheld, denied or delayed.

4.3 Severability. In the event any section, subsection, paragraph, sentence, phrase or word herein is held invalid, illegal or unconstitutional, the balance of this Agreement shall be

enforceable and shall be enforced as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

4.4 Governing Law. The Agreement shall be governed by the laws of the State of Texas, without giving effect to any conflicts of law rule or principle that might result in the application of the laws of another jurisdiction; and exclusive venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

4.5 Entire Agreement. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written, previous and contemporary agreements between the parties and relating to the matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement. Nothing herein shall be construed in any way to require Developer to construct or operate retail improvements on the Developer Property.

4.6 Agreement Personal to Owner. The interests, easements, and covenants contained in this Agreement shall be personal with respect to Developer and shall not run with and against the Developer Property.

4.7 Recitals. The recitals to this Agreement are incorporated herein.

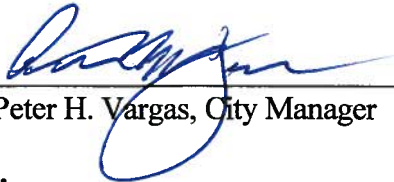
4.8 Exhibits. All exhibits to this Agreement are incorporated herein.

4.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

(Signature Page to Follow)

EXECUTED in duplicate originals this, the 14th day of December, 2011.

City of Allen, Texas

By: 
Peter H. Vargas, City Manager

ATTEST:


By: 
Shelley B. George, City Secretary

APPROVED AS TO FORM:

By: 
Peter G. Smith, City Attorney

EXECUTED in duplicate originals this, the 29 day of November, 2011.

Wal-Mart Real Estate Business Trust,
a Delaware statutory trust

By: 
Name: Brian Hooper
Title: Vice President - Real Estate

City Acknowledgment

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on 14 day of December, 2011, by Peter H. Vargas, City Manager of the City of Allen, Texas, on behalf of said municipality.



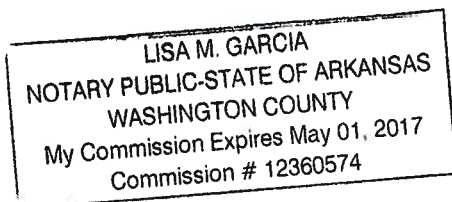
Julie W. Brock
Notary Public, State of Texas

My Commission Expires: 4-3-13

Wal-Mart Acknowledgment

STATE OF ARKANSAS §
 §
COUNTY OF BENTON §

This instrument was acknowledged before me on the 29 day of November, 2011, by Brian Hooper, Vice President of Wal-Mart Real Estate Business Trust, a Delaware statutory trust, on behalf of said statutory trust.



Lisa M. Garcia
Notary Public, State of Arkansas

My Commission Expires: May 01, 2017

EXHIBIT "A"

(Developer Property)

LEGAL DESCRIPTION

BEING a tract of land situated in the William Snider Survey, Abstract No. 821, City of Lucas, Collin County, Texas and being part of a tract of land described in deed to Roberta O. Crumpton recorded in Volume 897, Page 39, Deed Records of Collin County, Texas and part of a tract of land described in Special Warranty Deed to SC Lucas Road, LP, recorded in Instrument No. 20060410000467670, Land Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at a 5/8" iron rod with aluminum cap found at the northernmost end of a right-of-way corner clip at the intersection of the east right-of-way line of F.M. 2551 (a variable width right-of-way) and the north right-of-way line of West Lucas Road (a variable width right-of-way);

THENCE with said east right-of-way line, North 00°46'08" West, at a distance of 449.06 feet passing the northwest corner of said Crumpton tract, continuing in all a total distance of 1266.29 feet to a 5/8" iron rod with aluminum cap found at the southeast corner of a tract of land described in Special Warranty Deed to SC Lucas Road, LP, recorded in Instrument No. 20070604000748030, Land Records of Collin County, Texas;

THENCE departing said east right-of-way line and with the south line of said second reference SC Lucas Road, LP, tract, North 89°44'30" East, a distance of 955.59 feet to a point for corner;

THENCE with the west line of said Ahmandi tract, South 00°42'39" East, a distance of 548.98 feet to a 5/8" iron rod with "KHA" cap set at the southwest corner of said Ahmandi tract and the northwest corner of a tract of land described in deed to Billy James Stratton recorded in Volume 770, Page 183, Deed Records of Collin County, Texas;

THENCE with the west line of said Stratton tract, South 01°08'43" East, a distance of 398.40 feet to a 3/8" iron rod found at the southwest corner of said Stratton tract and the northwest corner of a tract of land described in deed to Patti Stratton Frie recorded in Volume 1745, Page 556, Land Records of Collin County, Texas;

THENCE with the west line of said Frie tract, South 01°01'20" East, a distance of 347.33 feet to a 5/8" iron rod with aluminum cap found in said north right-of-way line of West Lucas Road at the northeast corner of a tract of land described in Right-Of-Way Deed to County of Collin, recorded in Volume 3465, Page 272, Land Records of Collin County, Texas;

THENCE with said north right-of-way line, South 89°33'32" West, at a distance of 454.46 feet, passing a 5/8" iron rod with aluminum cap found at the southeast corner of said Crumpton tract, continuing in all a total distance of 926.37 feet to a 5/8" iron rod with aluminum cap found at the southernmost end of said right-of-way corner clip;

THENCE with said right-of-way corner clip, North 46°48'54" West, a distance of 45.55 feet to the **POINT OF BEGINNING** and containing 28.448 acres or 1,239,197 square feet of land.

EXHIBIT "B"

(Developer Improvements)

OPINION OF PROBABLE COST COMPARISON
FM 3551 WIDENING NORTH OF BETHANY DRIVE

Item No.	Unit	Item	Original Quantity	Original Unit Price	Original Item Price	Revised Quantity	Revised Unit Price	Revised Item Price	Additional Quantity	Additional Cost
Section B - North of Bethany Dr										
1	LS	Mobilization	1	4,000.00	4,000.00	1	6,000.00	6,000.00	0	1,000.00
2	LF	Barrel	1,500	9.00	13,500.00	4,370	3.00	13,110.00	2,770	8,310.00
3	LS	Remove Existing Pavement Markings	1	2,000.00	2,000.00	1	3,000.00	3,000.00	0	1,000.00
4	CY	Borrow Material	406	20.00	8,120.00	1,050	20.00	21,000.00	844	12,880.00
5	CY	Channel Excavation	81	12.00	972.00	210	12.00	2,520.00	129	1,548.00
6	SY	6" Type B Asphalt Base	1,858	28.00	52,024.00	4,025	28.00	112,700.00	2,167	60,676.00
7	SY	2" Type D Asphalt Overlay	4,500	14.00	63,000.00	9,280	14.00	129,920.00	4,780	66,920.00
8	SY	Subgrade Preparation	2,000	5.00	10,000.00	4,340	5.00	21,700.00	2,340	11,700.00
9	LF	4" Yellow Stripe	2,000	2.00	4,040.00	4,900	2.00	9,800.00	2,900	5,760.00
10	LF	4" White Stripe	1,650	2.00	3,300.00	3,750	2.00	7,500.00	2,200	4,400.00
11	LF	24" White Stripe	30	6.00	180.00	30	5.00	150.00	0	0.00
12	EA	Traffic Arrow	2	200.00	400.00	9	200.00	1,800.00	7	1,400.00
13	EA	Roadside Traffic Signs	2	750.00	1,500.00	4	750.00	3,000.00	2	1,500.00
14	SY	Soil	1,350	5.00	6,750.00	3,500	5.00	17,500.00	2,150	10,750.00
15	LS	Erosion Control	1	2,000.00	2,000.00	1	4,000.00	4,000.00	0	2,000.00
16	LS	Traffic Control	1	5,000.00	5,000.00	1	10,000.00	10,000.00	0	5,000.00
Subtotal:					\$107,856.00			\$362,700.00	Subtotal:	\$104,944.00
20% Contingency:					\$33,571.20			\$72,540.00	20% Contingency:	\$38,968.80
Total Section B:					\$201,427.20			\$435,240.00	Total Additional:	\$233,612.80

EXHIBIT "C"
(Approved Plans for Project)

CITY OF LUCAS

LIGHTING ORDINANCE

Division 7. Lighting

Sec. 14.04.251 Purpose and intent

It is the intent of this division to preserve, protect, and enhance the lawful nighttime use and enjoyment of any and all property through the use of appropriate lighting practices and systems. Such individual fixtures and lighting systems are designed, constructed, and installed to: control glare and light trespass, minimize obtrusive light, conserve energy and resources while maintaining safety, security and productivity, and curtail the degradation of the nighttime visual environment.

Sec. 14.04.252 Definitions

Cut-off angle (of a luminaire). The angle, measured up from the nadir, between the vertical axis and the first line of sight at which the bare source is not visible.

Footcandle. A unit of illuminance amounting to one lumen per square foot.

Full cut-off type fixture. A luminaire or light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a 90-degree horizontal plane from the base of the fixture. Full cut-off fixtures must be installed in a horizontal position as designed, or the purpose of the design is defeated.

Fully shielded. A fully shielded luminaire is a luminaire constructed or shielded in such a manner that all light emitted by the luminaire, either directly from the lamp or indirectly from the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part as determined by photometry test or certified by the manufacturer. Fixtures will be installed in a horizontal position as designed, or disability glare will result.

Glare. The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.

Illuminance. The quantity of light, or luminous flux, arriving at a surface divided by the area of the illuminated surface, measured in lux or footcandles.

Light trespass. Light emitted by a lighting installation which falls outside the boundaries of the property on which the installation is sited.

Luminaire. A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

Luminance. The physical quantity corresponding to the brightness of a surface (e.g., a lamp, luminaire, sky, or reflecting material) in a specified direction. It is the luminous

intensity of a area of the surface divided by that area. The unit is candela per square meter.

Lux (lx). The SI unit of illuminance. One lux is one lumen per square meter.

Obtrusive light. Spill light which, because of quantitative, directional or spectral context, gives rise to annoyance, discomfort, distraction or a reduction in the ability to see essential information.

Spill light. Light emitted by lighting installation that falls outside the boundaries of the property on which the installation is sited.

Up-lighting. Any light source that distributes illumination above a 90-degree horizontal plane.

(Ordinance 1999-12-00426.1 adopted 12/6/99)

Sec. 14.04.253 General provisions

(a) Curfew. All nonessential lighting in any district will be required to be turned off after business hours in the commercial zones and after midnight in residential areas, leaving only the necessary lighting for site security. The nonessential lighting shall remain off until dawn or one-half hour before a business opens, whichever is earlier. ("Nonessential" can apply, but is not limited to: display, aesthetic, parking, sign lighting, playground, or yard lights) excluding seasonal lighting in residential.

(b) Light trespass limits. No use or operation in any district shall be located or concentrated so as to produce intense glare or direct illumination across the bounding property line for a visible source of illumination nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property. The pre-curfew illuminance level measured on the property line at eye height on a plane perpendicular to the line of sight shall be no greater than 3 lux. The post-curfew illuminance level measured on the property line at eye height on a plane perpendicular to the line of sight shall be no greater than 1 lux.

(c) Streetlights. All street or other common or public area pole-mounted lights shall be fully shielded.

General requirements applicable to all outdoor lighting.

(1) When the outdoor lighting installation or replacement is part of a development proposal for which a site plan or plat is required under these regulations, the planning and zoning commission shall review and recommend approval or disapproval to the city council for the lighting installation as part of its site plan or platting process. All other lighting installations or

replacements shall be reviewed for compliance with this chapter, and approved or denied by the city administrator or his or her designee.

(2) Exterior lighting fixtures, whether attached to a building and/or freestanding, shall be of harmonious design.

(3) The applicant shall submit to the city sufficient information, in the form of an overall exterior lighting plan, to enable the city to determine that the applicable provisions will be satisfied. The lighting plan shall include subsections (A) through (E) below and also conform to subsections (F) through (N) below:

(A) A site plan, drawn to a scale of one-inch equaling 20 feet, showing buildings, landscaping, parking area, and all proposed exterior fixtures including lamps, supports, reflectors and other devices.

(B) Specifications for all proposed lighting fixtures including photometric data, designation as IESNA full cut-off fixtures where required, and other descriptive information on the fixtures.

(C) Proposed mounting height of all exterior mounting fixtures.

(D) Luminance level diagrams showing that the proposed installation conforms to the lighting level standards in this chapter.

(E) Drawings of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the illuminance levels of the walls, and the aiming points for any remote light fixtures.

(F) All exterior floodlights, pole lights, and carriage lights should be designed or retrofitted with shielding in a manner such that all of the luminous flux falls upon either the surface of the structure to be illuminated or on the ground wholly within the property on which it is installed.

(G) All new lighting installations shall include timers, dimmers, and/or sensors to reduce overall energy consumption, and eliminate unneeded lighting when required by the planning and zoning commission and city council.

(H) When an outdoor lighting installation is being modified, extended, expanded, or added to, the entire outdoor lighting installation shall be subject to the requirements of this section, and shall be reviewed by the city administrator or his or her designee.

(I) Expansions, additions, or replacements to outdoor lighting installations shall be designed to avoid harsh contrasts in color and/or lighting levels.

(J) Electrical service to outdoor lighting fixtures shall be underground.

(K) Proposed lighting installations that are not covered by the special provisions in this chapter may be approved only if the planning and [zoning] commission and city council find they are designed to minimize glare, do not direct light beyond the boundaries of the area being illuminated or onto adjacent properties or streets, and do not result in excessive lighting levels.

(L) In the case of flags, statues, or other top-of-pole mounted objects which cannot be illuminated with down-lighting, upward lighting may be used only in the form of one narrow-cone spotlight which confines the illumination to the object of interest.

(M) Shielding requirements. Full cut-off shielding is required on undirected light sources of 150 watts or greater, and for directed or focused light sources with spot output of 100 watts or greater, not to exceed 1800 lux.

(N) Light trespass. No use or operation in any district shall be located or concentrated so as to produce intense glare or direct illumination across the bounding property line for a visible source of illumination nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property. The pre-curfew illuminance level measured on the property line at eye height on a plane perpendicular to the line of sight shall be no greater than 3 lux. The post-curfew illuminance level measured on the property line at eye height on a plane perpendicular to the line of sight shall be no greater than 1 lux.

(4) Lighting plans, written according to the requirements listed in subsections (3)(A), (B), (C) and (D) of this section, shall contain descriptive data sufficiently complete to enable the plans examiners to readily determine whether compliance with this chapter has been met. If such plans do not enable this ready determination by reason of the nature or configuration of the proposed devices, fixtures or lamps, the applicant may be required to submit analyses and data performed and certified by a recognized testing laboratory as evidence of compliance.

(5) Should any outdoor light fixtures or the type of light source therein be changed after the plan has been filed and approved, a change request must be submitted to the city for approval. The lighting plan change request must be

received by the city prior to the change and it must contain adequate information to assure compliance with this chapter.

(d) Security lighting.

(1) For the purposes of this section, security lighting is defined as lighting primarily designed to illuminate a fence line, barn or outdoor building which is intended to reduce the risk (real or perceived) of personal attack, to discourage intruders, vandals, or burglars, and to protect property.

(2) All lighting districts.

(A) All security lighting fixtures shall be shielded and aimed so that illumination is directed only within the owner's property boundaries and not cast on other areas. In no case shall lighting be directed above a horizontal plane through the top of the lighting fixture, and the fixture shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways. The use of general floodlighting fixtures shall be prohibited unless it meets the shielding requirements of this chapter.

(B) Security lighting may illuminate vertical surfaces (e.g. building facades and walls) up to a level eight feet above grade or eight feet above the bottoms of doorways or entries, whichever is greater.

(C) Security lighting fixtures may be mounted on poles located no less than ten feet from the perimeter of the property boundary.

(D) Security lights intended to illuminate a perimeter (such as a fence line) shall include motion sensors and be designed to be off unless triggered by an intruder located within five feet of the perimeter. The zone of activation sensors must be within the property boundaries of the property wishing to be illuminated.

(E) Security lights shall combine timers with dusk-to-dawn photocells to ensure lights are on only when it is dark.

(F) Security lighting standards in the various lighting districts are as shown in appendix A, the Illuminating Engineering Society of North America (IESNA).

(G) In addition to the application materials set forth in the general provisions of this chapter, applications for security lighting installations shall include a written description of the need for and purposes of the security lighting, a site plan showing the area to be secured and the location of all security lighting fixtures, specifications of all fixtures, the

horizontal and vertical angles in which light will be directed, and adequate cross-sections showing how light will be directed only onto the area to be secured.

Sec. 14.04.254 Special provisions

Lighting installed and maintained by a public utility company or a public cooperative installed prior to the effective date of the ordinance amending this section [chapter] 14 shall be exempt.

(Ordinance 2007-08-00595 adopted 8/2/07)

Sec. 14.04.255 Nonresidential provisions

The following provisions shall apply to all nonresidential land uses including, but not limited to, commercial, light industrial, industrial, open space and public/municipal.

- (1) All parking area lighting shall be full cut-off type fixtures. Pole-mounted lights shall be a maximum height of 25 feet, measured from ground level to the base of the light fixture.
- (2) All building lighting for security or aesthetics will be full cut-off or a shielded type, not allowing any upward distribution of light, and shall not exceed a height of 25 feet, measured from ground level. Floodlighting is discouraged, and if used, must be shielded to prevent:
 - (A) Disability glare for drivers or pedestrians.
 - (B) Light trespass beyond the property line.
 - (C) Light above a 90-degree horizontal plane.
- (3) Unshielded wall-pack type fixtures are unacceptable.
- (4) Adjacent to residential property, no direct light source will be visible at the property line at ground level or above.
- (5) Externally lit signs, display, building and aesthetic lighting must be lit from the top and shine downward. The lighting must be shielded to prevent direct glare and/or light trespass. The lighting must also be, as much as physically possible, contained to the target area. Internally lighted signs are acceptable. (See article 3.16 of chapter 3 for further restrictions on lighted signs.)
- (6) The “maintained horizontal illuminance recommendations” set by the Illuminating Engineering Society of North America (IES) shall be observed.

(Ordinance 1999-12-00426.1 adopted 12/6/99)

Sec. 14.04.256 Site plan standards

(a) A photo-metric light plan shall be included in all site plans and shall include, but not [be] limited to, locations, size, height, orientation, wattage, design and plans of all outdoor lighting and lighted signs. For site plans showing a high level of illumination, the commission may require an isolux plan indicating levels of illumination in footcandles, at ground level. The plan shall adhere to the “maintained horizontal illuminance recommendations” set by the Illuminating Engineering Society of North America (IESNA). (See appendix A.)

(b) Should any outdoor light fixture or the type of light source be changed after the site plan has been approved, a change request must be submitted in writing to the building inspector for his approval, together with adequate information to assure compliance with this division, which must be received prior to substitution.

(Ordinance 2007-08-00595 adopted 8/2/07)

Sec. 14.04.257 Temporary lighting exemption

(a) Any person may submit a written request, on a form prepared by the city, to the building inspector for a temporary lighting exemption request. A temporary exemption shall contain the following information:

- (1) Specific exemption or exemptions requested.
- (2) Duration of time requested for exemption.
- (3) Type of lamp(s), fixture(s) and shielding provided.
- (4) Total wattage of lamp or lamps.
- (5) Proposed location on premises of the outdoor light fixture(s), including height.
- (6) Such other data and information as may be required by the building official.

(b) The building inspector shall have five business days from the date of submission of the request for temporary exemption to act, in writing, on the request. If approved, the exemption shall be valid for not more than thirty days from the date of issuance of the approval. The approval shall be renewable at the discretion of the building official upon a consideration of all the circumstances. Each such renewed exemption shall be valid for not more than thirty days.

Sec. 14.04.258 Nonconforming lighting

- (a) Existing lighting in conflict with this division shall be classified as nonconforming.
- (b) Nonconforming lighting shall not be altered, rebuilt, enlarged, extended, or relocated, unless doing so brings it into conformance.
- (c) Nonconforming lighting shall not be permitted to remain after cessation or change of the business or activity to which the lighting pertains.

Sec. 14.04.259 Administration

The duties and responsibilities of administering this division shall be vested in the building inspector of the city, the planning and zoning commission, or such other person as may be designated from time to time by the mayor.

Sec. 14.04.260 Penalty

Any person, firm or corporation violating any of the provisions of this division shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty or fine not to exceed the sum of one thousand dollars (\$1,000) for each offense, and each and every day such offense is continued shall constitute a new and separate offense.

Sec. 14.04.261 Variances

The board of adjustment shall have authority to grant variances from the provisions of this division in accordance with article 14.02, division 2, of this chapter.

Appendix A. IES Maintained Horizontal Illuminance Recommendations

<u>Parking Lot Levels of Activity</u> <u>(examples)</u>	<u>General Parking and</u> <u>Pedestrian (footcandles)</u>			<u>Vehicle Use Area Only</u> <u>(footcandles)</u>		
	<u>Ave.</u>	<u>Min.</u>	<u>U.</u> <u>Ratio</u>	<u>Ave.</u>	<u>Min.</u>	<u>U.</u> <u>Ratio</u>
HIGH	3.6	0.9	4:1	2.0	0.67	3:1
Major league athletic events						
Major cultural or civic events						
Regional shopping centers						
Fast food facilities						
MEDIUM	2.4	0.6	4:1	1.0	0.33	3:1

Community shopping centers

Cultural, civic or recreational
events

Office parks

Hospital parking

Transportation parking

Residential complex parking

LOW	0.8	0.2	4:1	0.5	0.13	4:1
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Neighborhood shopping

Industrial employee parking

Educational facility parking

Church parking

(Ordinance 1999-12-00426.1 adopted 12/6/99)

