

**MINUTES
OF
CITY OF WHARTON
CITY COUNCIL REGULAR MEETING
AUGUST 26, 2019**

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

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

Councilmember absent were: None.

Staff members present were: City Manager Andres Garza, Jr, City Attorney Paul Webb, Finance Director Joan Anandel, City Secretary Paula Favors, TRMC, CPM, Community Development Director Gwyn Teves, Building Official Ronnie Bollom, Assistant to the Building Official Claudia Velasquez and Facilities Maintenance Director Bob Baker.

Visitors present were: Doris Huddleston, Arnold Amaro, Rosemary Rust, Pastor Janice Blair, Mary A. Barnes, Wharton Chamber of Commerce Director Ron Sanders and Albert Villegas with the Wharton Journal Spectator.

Roll Call and Excused Absences. All members were present.

Public Comments.

Mr. Arnold Amaro thanked the Mayor, City Council and City Manager Andres Garza, Jr. for their efforts in the Wharton Flood Reduction Project. Mr. Amaro cited an article in the Wharton Journal Spectator which outlined a Wharton Public Works Committee meeting that was held to discuss the project which included an invite to the Wharton County Commissioners.

Councilmember Alice Heard-Robert arrived at 7:03 p.m.

Wharton Moment.

Mayor Tim Barker stated his condolences to Councilmember Clifford Jackson on the recent loss of his father. Councilmember Don Mueller requested continued prayers for EMS Director John Kowalik's son who was involved in a pipeline explosion accident. City Manager Andres Garza, Jr. thanked Councilmember Terry Freese for his assistance in the creation of the "Take Me Home" Program through the Wharton Police Department which was featured on Channel 13 News.

Public Hearing

Mayor Tim Barker opened the Public Hearing at 7:05 p.m.

Proposed annexation to enlarge and extend the boundary limits of said city for areas in the City of Wharton's Extra-Territorial Jurisdiction (ETJ) for Annexation:

A. A METES & BOUNDS description of a 121.92 acre tract of land in the George Singleton Survey, Abstract 58, and the William Kincheloe Survey, Abstract 38, Wharton County, Texas, and being an approximate 1000-foot wide strip of land along U. S. Highway 59 extending northerly from the northern existing City Limits of the City of Wharton, with all bearings based upon a portion of the westerly right-of-way line of U. S. Highway 59 as being North 18 degrees 04 minutes 55 seconds East (called North 18 degrees 04 minutes 55 seconds East).

Ms. Rosemary Rust stated she was a landowner that would be affected by the proposed annexation and asked questions regarding the width of the annexation and the changes from the first maps that were presented which included her property on both sides of Highway 59.

There being no further discussion, Mayor Tim Barker closed the Public Hearing at 7:08 p.m.

The first item on the agenda was to review and consider the City of Wharton Financial Report for July 2019. Finance Director Joan Andel presented the financial report for the month of July 2019. Mrs. Andel stated that the TexPool balance for July was \$5,857,703.96 with an average monthly yield of 2.39%. She said the Prosperity Bank balance for July 2019 was \$3,194,167.08 with an average monthly yield of .25%. After some discussion, Councilmember Steve Schneider moved to approve the City of Wharton Financial Report for the month of July 2019. Councilmember Russell Machann seconded the motion. All voted in favor.

The second item on the agenda was to review and consider a request by Mr. Ron Sanders, Executive Director of the Wharton Chamber of Commerce & Agriculture, for City of Wharton assistance by approving the following for the Party Under the Bridge to be held Thursday, October 24, 2019:

- A. Closing to traffic from 4 pm to 8 pm a portion Colorado Street from Dinosaur Park to underneath the southbound lane of Business 59.
- B. Closing to traffic from 4 pm to 8 pm the U-shaped access road from the south side of the Dinosaur parking lot to Colorado Street.
- C. Traffic control as needed.
- D. Access to electrical power in close proximity as possible to the entrance to the park at Colorado Street.
- E. Trash cans, and if possible, clean up assistance.
- F. Labor to pick up, set up and return rented tables and chairs from Simply Devine Event Center.

G. Allow open containers within the confines of the event area coordinated with the Wharton Police Department.

City Manager Andres Garza, Jr. presented a copy of a letter dated August 16, 2019 from Wharton Chamber of Commerce Executive Director Ron Sanders regarding the Party Under the Bridge. City Manager Garza stated the event was set for Thursday, October 24, 2019 from 5:00 p.m. to 8:00 p.m. After some discussion, Councilmember Russell Machann moved to approve afore mentioned items A. through G. Councilmember Don Mueller seconded the motion. All voted in favor.

The third item on the agenda was to review and consider City of Wharton Code of Ordinances:

A. Ordinance: An ordinance amending the City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article III Construction Codes, Sections 18-66 through Section 18-77; removing Section 18-78 Exterior Building (Façade) Design Standards, providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; providing for separability and setting an effective date.

B. Ordinance: An ordinance amending the City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article V. Electrical Codes, Sections 18-256 through Section 18-300; providing that a violation of the ordinance or any part of the code as adopted hereby shall constitute a penalty upon conviction of a fine; providing for separability and setting an effective date. City Manager Andres Garza, Jr. stated the Code Enforcement Department was requesting the adoption and revision of the City of Wharton Code of Ordinances, Chapter 18, Building and Construction, Article III, Construction Code and Chapter 18, Building and Construction, Article V, Electrical Code as follows:

Article III- Construction Code:

- Sec. 18-66. Adopting 2018 International Code Editions with appendices
- Sec. 18-69. Revising: Amendments to International Building Code
- Sec. 18-69.1 Deleting: Additions to International Building Code
- Sec. 18-70 Revising: Amendments to International Residential Code
- Sec. 18-70.1 Deleting: Additions to International Residential Code
- Sec. 18-70.2 Revising: Amendments to International Property Maintenance Code
- Sec. 18-72 Revising: Amendments to International Plumbing Code
- Sec. 18-73 Revising: Amendments to International Fuel Gas Code
- Sec. 18-74 Revising: Amendments to International Mechanical Code
- Sec. 18-75 Revising: Amendments to International Fire Code
- Sec. 18-77 Revising: Building line setback requirements definition for single family resident
- Sec. 18-78 Deleting: Exterior building (façade) design standards

Article V- Electrical Code:

- Sec. 18-254 Deleting: Services and feeders.
- Sec. 18-257 Deleting: Aluminum cable, conductors or wire
- Sec. 18-258 Deleting: Type UF cable.

- Sec. 18-259 Revising: Back wired wiring devices.
Sec. 18-260 Deleting: Use of 14-gauge conductor or wire in residential applications.

Assistant to the Building Official Claudia Velasquez stated the requested changes were needed after recent law changes from the Texas Legislature. After some discussion, Councilmember Russell Machann moved to approve City of Wharton Ordinances 2019-19 and 2019-20, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-19**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 18, BUILDING AND CONSTRUCTION, ARTICLE III. CONSTRUCTION CODES, SECTIONS 18-66 THROUGH SECTION 18-77; REMOVING SECTION 18-78 EXTERIOR BUILDING (FAÇADE) DESIGN STANDARDS; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

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

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

ARTICLE III. CONSTRUCTION CODES

Sec. 18-66. - Codes adopted.

(a) The following International Codes, to be enforced by the building official, are hereby adopted:

- (1) International Building Code, 2018 Edition, with the latest revisions, including Appendices C, D, E, F, G, H, I, J, and K.
- (2) International Residential Code for One- and Two-Family Dwellings, 2018 Edition, with the latest revisions, including Appendices A, B, C, D, E, G, H, J, K, M, N, O, and P.
- (3) International Property Maintenance Code, 2018 Edition, with its latest revisions, including Appendix A.
- (4) International Plumbing Code, 2018 Edition, with its latest revisions including Appendices B, C, D, and E.
- (5) International Fuel Gas Code, 2018 Edition, with its latest revisions including Appendices A, B, C and D.
- (6) International Mechanical Code, 2018 Edition, with its latest revisions including Appendix A.
- (7) International Fire Code, 2018 Edition, with its latest revisions including Appendices B, C, D, E, F, G, H, I, J, K, and N.

- (8) International Energy Conservation Code, 2018 Edition, with its latest revisions.
- (9) International Swimming Pool and Spa Code, 2018 Edition, with latest revisions.
- (b) Within said codes, when reference is made to the duties of a certain official named therein, that designated official of the city who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.
- (c) The above codes and revisions are hereby adopted and incorporated herein as fully as they are set out at length herein, and from the date on which this action shall take effect, the provisions hereof shall be controlling and except as may hereinafter be deleted, modified or amended by further action of the city council.

Sec. 18-67. - Copies filed; penalty for violation.

- (a) One copy of the codes adopted in this article shall be filed at Wharton City Hall.
- (b) It shall be unlawful for any person to cause or allow any building or structure within the city to be constructed or altered or to continue to exist or be maintained in any manner that does not comply with the codes adopted in this article.
- (c) Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be subject to punishment as provided in section 1-5, City of Wharton Code of Ordinance for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

Sec. 18-68. - Building permit fees and inspection fees.

The city provides for and establishes fees for building permits and inspection fees, which the city will provide in accordance with the fees set forth by council. These fees will be adopted by council in the form of a resolution at such times as deemed necessary.

Sec. 18-69. - Amendments to the International Building Code.

The building code adopted by reference in this article is amended as follows:

- (1) Section 105.2 Work exempt from permit. Building: (1), (2) Fences not over seven feet high (7'), (3), (4),(6), and (12) are deleted.
- (2) Section 113 Board of Appeals is deleted. The City of Wharton, Code of Ordinances, Chapter 18, Article IV, Building Standards Commission shall administer appeals.

Sec. 18-70. - Amendments to the International Residential Code.

The residential code adopted by reference in this article is amended as follows:

- (1) Section 105.2 Work Exempt from Permit Building: (1), (2) Fences not over seven feet (7') high, (3), (5), (9), and (10) are deleted.
- (2) Section R112. Board of Appeals is deleted. The City of Wharton, Code of Ordinances, Chapter 18, Article IV, Building Standards Commission shall administer appeals.
- (3) Section R313 Automatic Fire Sprinkler Systems. No Provision of this article shall be contradictory to Texas State Law.

Sec. 18-70.2. - Amendments to the International Property Maintenance Code.

The property maintenance code adopted by reference in this article is amended as follows:

- (1) Section 111 Means of Appeal is deleted. The City of Wharton, Code of Ordinances, Chapter 18, Article IV, Building Standards Commission shall administer appeals.

Sec. 18-71. - Plumbing Code.

Applicability. The provisions of the plumbing code adopted in this article shall be controlling in all plumbing contained within or without the city wherever the city water and/or sewer system is furnished.

Sec. 18-72. - Amendments to the International Plumbing Code.

The plumbing code adopted by reference in this article is amended as follows:

- (1) Section 109, Means of Appeal is deleted. The City of Wharton, Code of Ordinances, Chapter 18, Article VII, Division I, Plumbing and Mechanical Appeals and Advisory Board shall administer the appeals.

Sec. 18-73. - Amendments to the International Fuel Gas Code.

The fuel gas code adopted by reference in this article is amended as follows:

- (1) Section 109. Means of Appeal is deleted. The City of Wharton, Code of Ordinances, Chapter 18, Article VII, Division I, Plumbing and Mechanical Appeals and Advisory Board shall administer appeals.
- (2) Addition of Section 406.4.3 Line and System Test. Upon completion of repairing or replacing a gas line, the Code Official has the authority to require a test on all gas lines and systems during a gas pressure test inspection.

Sec. 18-74. - Amendments to the International Mechanical Code.

The mechanical code adopted by reference in this article is amended as follows:

- (1) Section 109 Means of Appeal is deleted. The City of Wharton, Code of Ordinances, Section 18, Article VI, Plumbing and Mechanical Appeals and Advisory Board shall administer appeals.

Sec. 18-74.1. - Addition to the International Mechanical Code.

The mechanical code adopted by reference in this article is added as follows:

(1) Require the mechanical contractor to mark the air handler legend plates or clearly mark access panel with the appropriate voltage/kw and phase of the installed components at the time of installation. If modifications are made, mark the appropriate electrical information at that time.

Sec. 18-75. - Amendments to the International Fire Code.

The fire code adopted by reference in this article is amended as follows:

(1) Section 108 Board of Appeal is deleted. The City of Wharton, Code of Ordinance. Section 18, Article IV, Building Standards Commission will administer appeals.

(2) Section 315.1 has the following addition, which is to read as follows:

a. Section 315.1.1 Tank Storage-Restricted Locations.

1. The storage of flammable or combustible liquids in above ground tanks outside of buildings is prohibited within the limits of the fire districts.

2. The location and installation of outside above ground tanks for the storage of flammable or combustible liquids shall be in accordance with NFPA 30.

b. Section 315.1.2 Bulk Plants-Location of Plants.

No new bulk plants shall be constructed within the limits of the Fire District.

c. Section 315.1.3 Installation of Containers.

Within the limits of the fire district established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested commercial areas, the aggregate capacity of any one installation shall not exceed 2,000 gal (7.57 m³) water capacity, except that in particular installations this capacity limit may be altered at the discretion of the fire official, after consideration of special features such as topographical conditions, nature of occupancy and proximity to buildings, capacity of proposed containers, degree of private protection to be provided, and capabilities of the local fire department.

Sec. 18-76. - Appeals procedures.

The building standards commission shall serve as the board of appeals;

(1) The building standards commission shall administer appeals, which may arise from decisions made by the building official.

(2) Any person, firm or corporation aggrieved by any interpretation of this code or by any decision or ruling by the building official under this code shall have the right to make an appeal to the building standards commission.

(3) Within a period of ten days from the filing of the appeal, the commission shall hear the appeal, together with the testimony of all parties concerned, and render a decision thereon within three days thereafter. In hearing such an appeal, the building standards commission shall not have the power to waive or set aside the requirements of this code. The building standards commission

shall have the power to interpret its provisions, in case of alternate types of construction or material, shall determine whether or not such alternate types of construction or material is in fact equal to the standards of this code, considering adequacy, stability, strength, sanitation and safety to the public's health and welfare.

(4) Any person, firm or corporation who may be aggrieved by the decision of the building standards commission shall have the right to appeal. Such appeal shall be submitted by written notice addressed to the mayor and city council within ten days after the action appealed from, stating such person's desire to appeal from such action. Upon receipt of notice of such appeal, the city council shall set the appeal for a hearing, and the city secretary shall notify the appellant and also the chairman of the building standards commission of the date of such hearing. The city council shall have the right to affirm, modify or reverse the action and/or decision complained of. The action of the city council shall be final. If no appeal is taken within the time and in the manner provided in this section, the ruling of the building standards commission shall be final.

Sec. 18-77. - Building line setback requirements.

(a) *Definitions:*

(1) *Abut/abutting* shall mean to physically touch or border upon; or to share a common property line or border. This term implies a closer proximity than the term "adjacent."

(2) *Accessory building* shall mean a building, the use of which is incidental to that of the principal building and which is located on the same lot. An accessory building is not an unattached residential vehicular garage that supports the use of the principal building.

(3) *Adjacent* shall mean lying near or close to. (See "abut/abutting")

(4) *Building/yard setback line* shall mean a line or lines within a property defining the minimum horizontal distance between a building/structure outermost projection and property line.

(5) *Commercial* shall mean a building(s)/structure(s) where the occupation, employment or enterprise is carried on for profit generally located on a smaller site than industrial. (A business, non-residential).

(6) *Duplex/two-family dwelling* shall mean a building containing two dwelling units designed to be occupied by two families living independently of each other.

(7) *Dwelling* shall mean a building, or portion thereof, which is used exclusively for human habitation. An unattached residential vehicular garage is considered to be part of the dwelling.

(8) *Exterior side building/yard setback line* shall mean a line or lines within a property defining the minimum horizontal distance between a building/structure outermost projection and an exterior property line. (See "setback measurements")

(9) *Front building/yard setback line* shall mean a line or lines within a property defining the minimum horizontal distance between a building/structure outermost projection and the property line facing a street right-of-way. The front of a building/structure is the primary access to it as

originally intended by the builder/architect and inherent to the style and design of the building structure.

(10) *Industrial* shall mean a building(s)/structure(s), which is used to engage in the basic processing and manufacturing of materials or products predominantly from extracted, or raw materials. Engaged in the manufacture, predominately from previously prepared materials of finished parts, including processing, fabrication, assembly, treatment, packaging, storage, sales and distribution of such products; or engaged in storage, wholesale and distribution of manufactured products, supplies and equipment. An industrial building(s)/structure(s) may generate high levels of noise, vibrations, smoke, dust, odors or light.

(11) *Interior side building/yard setback line* shall mean a line or lines within a property defining the minimum horizontal distance between a building/structure outermost projection and the interior property line. (See "setback measurements")

(12) *Lot* shall mean a plot of land having frontage on at least one public street, which is or in the future may be offered for sale, conveyance, transfer or improvement.

(13) *Multi-family residential* shall mean buildings designed to contain three or more complete separate living facilities for single family occupancy. Multi-family dwellings shall include apartments and condominiums.

(14) *Parcel* shall mean a contiguous area of land in the possession of or owned by, or recorded as the property of, the same person or persons. Parcels of land generally are large enough to be subdivided into lots.

(15) *Principal building* shall mean the building in which the principal use of the lot, which it is located on, is conducted.

(16) *Property line* shall mean the surveyed line(s) bounding the property to form a legal boundary.

(17) *Rear building/yard setback line* shall mean a line or lines within a property defining the minimum horizontal distance between a building/structure outermost projection and the rear property line.

(18) *Setback measurements* shall be measured from the outermost projection of the structure to the appropriate property line. An exterior side property line is one, which abuts or is adjacent to a street right-of-way. An interior side property line has no street frontage and is one which abuts another lot(s) or parcel(s) boundary. A rear property line is one which abuts another lot(s) or parcel(s), or a street right-of-way.

(19) *Single-family residential* shall mean a building/structure containing one dwelling designed to be occupied primarily by one family and with the total of all habitable areas not to be less than 700 square feet excluding the garage.

(20) *Street* shall mean a public right-of-way, however designated, which provides vehicular circulation and access to adjacent property.

a. A major thoroughfare means a principal traffic artery or trafficway, usually of more or less continuous routing over long distances, whose function is to serve as a principal connecting street with state and federal highways, and shall include each street designated as a major thoroughfare on the current major thoroughfare plan formally adopted and designated by the planning commission and city council. Minimum width of right-of-way shall be 100 feet.

b. A collector street means a street whose function is to collect and distribute traffic between major thoroughfares and minor streets. It is not necessarily of continuous routing for long distances, has intersections at grades, provides direct access to abutting property, and shall include each street designated as a collector street on the thoroughfare plan formally adopted and designated by the planning commission and city council. Minimum width of right-of-way shall be 80 feet.

c. A minor street means a street whose function is to provide access to abutting residential property within neighborhoods, with all intersections at grade, and not of continuous routing for any great distance so as to discourage heavy, through traffic. Minimum width of right-of-way shall be 60 feet.

(21) *Utility easement* shall mean an area for restricted use on private property upon which a public or private utility shall have the right to remove and keep removed; all or part of any permanent or portable building; obstructing fences without proper gate configuration to allow reasonable ingress or egress; trees, shrubs, or other improvements or growths which in any way endanger, tend to endanger, or significantly interfere with the construction or maintenance, or efficiency of its respective utility systems on any of these easements. The public utility shall at all times have the right of ingress and egress to, from, over, under and upon the said easement for the purposes of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective systems without the necessity of procuring the permission of anyone. The ownership or title to the land encompassed by the easement is retained by the owner, while the dominant right to use the area is retained by the public or private and encumbered utility. Private owners may only make temporary and incidental use of the easement surface area in ways that do not interfere with the superior rights of the utility.

(22) *Variance* shall mean a deviation from the required norm that may be granted following certain procedures specified herein.

(b) *Single-family residential*:

(1) Minimum front yard setback shall be twenty-five (25) feet from the front property line except where abutting or adjacent to a major thoroughfare, in which event the minimum setback for the principal building shall be thirty-five (35) feet. This shall also apply for accessory buildings.

(2) Minimum interior side yard setback shall be five (5) feet for the principal building. Accessory buildings shall be permitted to maintain a minimum of five feet setback from the property line to the accessory building line.

(3) Minimum exterior side yard setback shall not be less than fifteen (15) feet, except that where the lot is adjacent or abuts on a major thoroughfare, the building line shall not be less than twenty-five (25) feet from the side property line. Where the side of a corner lot is across from, or adjacent

to the front yards of other lots, the building line shall be at the same setback distance from the street as the front building line of the opposite or adjacent lots.

(4) Minimum rear yard setback for the principal building shall be five feet from the rear property line. Accessory buildings shall be permitted to maintain a minimum of five feet setback from the rear property line. When the rear yard abuts any street, a minimum of 15 feet shall be required from the rear property line to the building line of the principal buildings and accessory buildings. If the rear public right-of-way is a major thoroughfare, a minimum (25)-foot setback from the rear property line to the building line shall be required.

(5) Principal buildings and accessory buildings shall not be allowed to encroach upon public or private utility easements even if such buildings are portable.

(c) *Duplex/two-family dwellings*: Same requirements as single-family residential.

Exception: Duplex buildings may either be constructed entirely on one lot; or two lots, in which case when on two lots the two units shall be separated by a common fire-resistive wall on the common property line.

(d) *Multiple-family residential*:

(1) Same requirements as single-family residential.

Exception: Multiple-family buildings on the same lot shall maintain a minimum separation of ten (10) feet between outermost projection of the structures.

(2) Where interior side yard setback is abutting existing or proposed single family or duplex residential uses, the minimum interior side yard setback shall be ten feet.

(e) *Commercial*:

(1) Minimum front building line setback: 25 feet, except that where abutting or adjacent to major thoroughfare, the minimum front building line setback requirement shall be 35 feet.

(2) Minimum interior side building line setback: Ten feet, except where abutting existing or proposed residential uses, in which case the minimum interior side building line setback shall be 20 feet.

(3) Minimum exterior side building line/street setback: Abutting or adjacent to a major thoroughfare, a minimum 25-foot setback shall be maintained. Abutting or adjacent to other streets, fifteen (15) feet minimum setback shall be maintained.

(4) Minimum rear building line setback: Ten feet, except where abutting existing or proposed residential uses, in which event the rear building line setback shall be 20 feet. Also, if the building is abutting or adjacent to a major thoroughfare, the minimum rear building line setback shall be 25 feet. Other streets shall require a minimum 15 feet rear building line setback.

(f) *Industrial*:

- (1) Minimum front building line setback: 25 feet, except that where abutting or adjacent to major thoroughfare, the minimum front building line setback requirement shall be 35 feet.
 - (2) Minimum interior side building line setback: Ten feet, except where abutting existing or proposed residential uses, in which case the minimum interior side building line setback shall be 20 feet.
 - (3) Minimum exterior side building line/street setback: Abutting or adjacent to a major thoroughfare, a minimum 25-foot setback shall be maintained. Abutting or adjacent to other streets, 15 feet minimum setback shall be maintained.
 - (4) Minimum rear building line setback: Ten feet, except where abutting existing or proposed residential uses, in which event the rear building line setback shall be 20 feet. Also, if the building is abutting or adjacent to a major thoroughfare, the minimum rear building line setback shall be 25 feet. Other streets shall require a minimum 15-foot rear building line setback.
- (g) *Building permits required:* No building permit shall be issued for the construction, exterior alteration, enlargement, or location of any building which does not conform to the building line setback requirements herein.
- (h) *Variances:* When an applicant can show that a provision of these regulations would cause excessive regulatory hardship if strictly adhered to and where, because of some unique condition peculiar to the site (e.g. multiple boundaries, irregular shaped lot, three sided lot, etc.), which in the sole opinion of the planning commission would warrant a limited departure from standard application of the regulations without destroying the general intent of such provisions, the planning commission may authorize a specified variance. An application for a variance shall be obtained through the Planning Department for a non-refundable fee and submitted to the planning commission for consideration. If the application is approved by the planning commission, then the application will be submitted to the city council for final approval. Upon approval, the variance shall be effective for six months from that date. A new variance application and fee must be submitted if no work has commenced by the expiration date. If the applicant is denied, the applicant may appeal the decision of the planning commission to the city council within ten days from the date the planning commission decision. If the city council denies the application, the applicant may appeal to the district court and, upon perfection of the appeal, such appeal shall be by a trial de novo. The person appealing the decision of the city council must also file an original petition in the appropriate district court within 20 days from the date of the city council's decision; otherwise, the decision of the city council shall be final.
- (i) *Application:* These building line setbacks established herein shall apply to or supersede the following:
- (1) Unplatted property;
 - (2) Property platted but not yet built upon including undeveloped properties with deed restriction self-imposing setback requirements and undeveloped subdivisions platted with setback requirements.

(j) The developer or owner pays an application for variance fee as established by the city council of the City of Wharton under separate resolution.

Sec. 18-79. - Off-street parking requirements.

(a) *Off-street parking required.* At the time that any building, use or structure is initiated, erected, enlarged or converted from one land use to another land use which requires an increase in the number of parking spaces, off-street parking facilities shall be provided in accordance with these regulations for the use of occupants, employees, visitors and patrons. Off-street parking facilities shall be maintained and continued as long as the building, use or structure is continued. No person shall utilize such building, use or structure without providing the required off-street parking facilities. In addition, it shall be unlawful to discontinue or dispense with, or cause the discontinuance or reduction of, the required parking facilities apart from the discontinuance of the building, use or structure, without establishing alternative off-street parking facilities which meet these requirements. The provisions of this section may not apply to properties located in the downtown business area. These properties shall be evaluated separately by the building official for applicability.

(b) *Amount of off-street parking spaces required.* The required number of off-street parking spaces for any building, use or structure shall be determined by the list of land use classifications and corresponding parking standards contained in Table 3.1, of this section. Such parking standards shall be applied subject to the following subsections:

(1) *Seating capacity.* Where requirements are established on the basis of the number of seats, such requirements shall be based on the seating capacity permitted by the fire code and approved by the fire marshall's office. When determining seating capacity for a building, use or structure utilizing bench seating, each 22 inches of bench shall be considered one seat.

(2) *Fractions.* Fractional numbers shall be increased to the next whole number if the fraction is five-tenths or more, and when the fraction is less than five-tenths, the next lower whole number shall apply.

(3) *Unlisted uses.* The off-street parking requirements for any use not specifically listed in Table 3.1 shall be the same as those for the use most similar to the proposed use, as determined by the building official.

Table 3.1
Off-Street Parking Standards

LAND USE	NUMBER OF PARKING SPACES
Single-family, patio-cluster, townhouse, condominium, manufactured home	2.0 spaces per dwelling unit

Multifamily apartments	Per dwelling unit:
	Efficiency: 1.0 per space
	1 Bedroom: 1.5 spaces
	2 Bedrooms: 2.0 spaces
	3 or more bedrooms: 2.5 spaces Where offices are provided on-site, visitor parking must be provided as per the office parking requirements outlined in this section and where clubhouses are provided on-site, appropriate off-street parking must be provided as per the community centers/club requirements outlined in this section
Two-, three-, and four-family duplex, etc., apartments	2.0 spaces per unit
Rooming, lodging or boarding houses	1.5 spaces per rental sleeping room
Bed and breakfast	1 space per guestroom, plus 2 spaces per owners unit
Churches, temples, synagogues	1 space per 4 seats in auditorium/chapel
Community centers, clubs, lodges, etc.	1 space per 4 seats or 1 space per 300 square feet of gross floor area, whichever is greater
Game courts (tennis, racquetball, etc.)	4 spaces per court
Golf courses	6 spaces per hole + 1 space per 200 square feet of gross floor area of public building(s)
Hospitals and sanitariums	1.5 spaces per bed + 1 space per 500 square feet of gross floor area of emergency room and outpatient care (where such care is specifically provided)
Libraries and museums	1 space per 400 square feet of gross floor area

Nursing home, rest home, convalescent center	1 space per 3 beds + 1 space per administration and staff
Parks, playgrounds, play-fields	2 spaces per acre
Kindergarten and elementary	1 space per faculty and staff + 1 space per 12 seats in auditorium/assembly area
Junior high or middle	1 space per faculty and staff + 1 space per 8 seats in auditorium/assembly area
High schools	1 space per faculty and staff + 1 space per 4 students
College education facilities	1 space per faculty and staff + 1 space per 3 students
Swimming pools	1 space per 150 square feet of pool area
Automobile and equipment sales and rentals:	
For showroom, office area	1 space per 300 square feet of gross floor area
For outside lot	1 space per 2,500 square feet of paved storage/display area
For service area and body shop	4 spaces per bay and working area
Auto repair shop	4 spaces per bay and working area
Convenience store	1 space per 250 square feet of gross floor area (not in shopping center)
Day care center	1 space per 10 children enrolled + 1 space per employee
Flea market	1 space per 150 square feet of display area
Funeral homes or mortuaries	1 space per 4 seats in the chapel(s) or auditorium(s)
Furniture store	1 space per 500 square feet of gross floor area

Horticulture, nursery	1 space per 300 square feet of gross floor area + 1 space per 2,500 square feet of greenhouse and yard storage area
Kennel	1 space per 400 square feet of kennel area
Laundry and dry cleaning services	1 space per 300 square feet of customer service area + 1 space per 500 square feet of remaining gross floor area
For office	1 space per 300 square feet of gross floor area
For manufactured home sales, display area	1 space for 10,000 square feet of area devoted to the sale, display or storage of manufactured homes
Motel or hotel	1.5 spaces per motel/hotel unit + the number of spaces required by this section for any bar, restaurant or other related facility
Nightclubs, bars, etc.	1.5 spaces per 100 square feet
Business, professional, governmental	1 space per 350 square feet of gross floor area
Banks	1 space per 300 square feet of gross floor area
Medical	1 space per 250 square feet of gross floor area
Personal services (beauty salons, barber shops, etc.)	3 spaces per chair or work station
Arcades	1 space per 300 square feet of gross floor area
Dance halls	1 space per 4 seats
Golf driving range	1 space per driving station
Health clubs	1 space per 250 square feet of gross floor area
Rental, general	1 space per 250 square feet of gross floor area
Retail, outdoor sales	1 space per 500 square feet of outdoor sales area
Sports arenas, stadiums, gymnasiums, etc.	1 space per 4 seats

Theaters	1 space per 4 seats
Restaurant	1 space per 3 seats, w/bar add 1.5 per 100 square feet of gross floor area
Restaurant, fast-food	1 space per 100 square feet of gross floor area
Discount store	1 space per 300 square feet of gross floor area
Hardware, paint, home improvement stores and lumber yards	1 space per 400 square feet of gross floor area
Shopping center	1 space per 300 square feet of gross floor area
Supermarket	1 space per 250 square feet of gross floor area
Self-storage, mini-storage (climate control only)	1 space per 20 storage stalls + 1 space per 300 square feet of gross floor area of office space
Service station, oil change shop	4 spaces per bay and working area
Veterinarian office, pet grooming, etc.	1 space per 200 square feet of examining, operating or grooming areas, plus 1 space per 400 square feet of additional floor area
Industrial, manufacturing, fabricating, finishing, printing	1 space per 650 square feet of gross floor area
Recycling operations	1 space per 500 square feet, with a minimum of 3 spaces
Scrap operations, junk yards	1 space per employee + 2 spaces per acre
Warehousing, shipping, receiving	1 space per 1,000 square feet of gross floor area
Wholesaling, storage distribution	1 space per 1,000 square feet of gross floor area

(4) *Mixed uses.* For mixed uses, the parking requirements shall be tabulated separately for each use within the development, using the specific standards listed in Table 3.1. Mixed uses regulated

under separate parking requirements shall not be combined to achieve a larger square footage total that would result in a reduced parking requirement. If any part of a mixed use is converted to another use category, then the parking requirements shall be recalculated based on the new square footage figure.

(5) *Large-scale developments.* When the developer of a large-scale development can demonstrate that such development will require fewer parking spaces than required by the standards contained herein, the building official may allow a reduction in the number of required parking spaces for the development. Such a reduction in parking spaces shall be justified through the development of a parking study prepared by a professional traffic engineer or professional transportation planner and submitted to the building official. The building official shall forward the study to the planning commission for consideration. This provision shall not be used as a means to reduce the size of a parcel of land needed to accommodate a development. The balance of the land necessary to meet these requirements shall be held in reserve as an undeveloped area, to meet any future needs generated by an expansion of the business, a change in land use, or under-estimated parking demand.

(6) *Working shifts.* Where a manufacturing/industrial use has more than one working shift of employees, parking facilities should be adequate to accommodate overlap requirements during transition periods.

(7) *Historic structures.* When the parking standards of Table 3.1 are applied to a historic structure, as defined herein and such requirements would detrimentally affect the historic character of the property, the building official may reduce the parking requirement. Such reduction may only be allowed if the building official, in consultation with the chief of police or his designee determines that on-street parking in the vicinity of the use will not create a hazardous condition or detrimentally affect traffic movements.

(8) *Employee/staff parking.* Accommodations shall be included for all applications.

(c) *Parking space dimension requirements.*

(1) *Standard parking space.* Standard dimensions for pull-in parking spaces shall be a minimum of nine feet wide and 18 feet in depth. Parallel parking space dimensions shall be a minimum of 24 feet in length and ten feet in depth.

(2) *Accessible parking spaces.* Spaces should be constructed in accordance with the Texas Accessibility Standards or Americans with Disabilities Act (ADA).

Secs. 18-80—18-95. - Reserved.

Fine and Penalty for Violations

Sec. 18-145. Penalties. Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 nor more than the maximum provided in section 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the

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

Separability

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

Effective Date

This Ordinance shall become effective on the 5th day of September 2019.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 26th day of August 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

**CITY OF WHARTON
ORDINANCE NO. 2019-20**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 18, BUILDING AND CONSTRUCTION, ARTICLE V. ELECTRICAL CODES, SECTIONS 18-256 THROUGH SECTION 18-300; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL

CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

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

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

ARTICLE V. ELECTRICAL

DIVISION 4. – INSTALLATION AND EQUIPEMENT STANDARDS AND SPECIFICATIONS

Sec. 18-251. – Decision and questions.

The electrical inspector and the electrical board shall decide all questions not provided for in this article pertaining to the installation, operation or maintenance of electric wiring and apparatus.

Sec. 18-252. - Conformity to standards; identification of maker of materials.

(a) No electrical material, apparatus, device, appliance, fixture or equipment shall be sold or installed in the city unless it is in conformity with this article, the statutes of the state and the rules and regulations issued by the state department of commerce under authority of the state statutes.

(b) The maker's name, trademark or other identification symbol shall be placed on all electrical materials, apparatus, devices, appliances, fixtures and equipment used or installed under this article. All items enumerated in this section shall be listed and/or labeled approved by Underwriters' Laboratories, Inc.

Sec. 18-253. - Use of approved wiring.

In general, any type of electric wiring or wiring system may be used in the city as approved in the national codes adopted in this article, except where specifically prohibited in this article.

Sec. 18-255. - Placing meters on street side of buildings.

The electrical public service company shall never require the placing of a meter on the front or street side of a building unless not practical to locate the meter otherwise. In such cases the location shall be at a point convenient to the electric public service company and as determined by the electrical board.

Sec. 18-256. - No. 1 Fire Zone wiring methods—General requirements.

Wiring for electric light or power installed for general use in buildings or structures located within the No. 1 Fire Zone limit of the city shall be installed in metal raceways, flexible metal raceways, nonmetallic raceways encased in not less than 50 millimeters (two inches) of concrete, type MI, MC, or AC cable.

Exception. Wiring for special occupancies, special equipment and/or special conditions shall be installed in accordance with the provision of the National Electrical Code.

Sec. 18-259. - Back wired wiring devices.

All wires are to be terminated either under the screw or by use of a screw activated clamp.

Sec. 18-261. - Service equipment disconnecting means for new construction.

The service disconnecting means shall be installed at a readily accessible location outside of a building or structure nearest the point of entrance of the service conductors.

Exception. In large commercial and/or industrial application, this requirement could be waived by the authority of the City of Wharton Electrical Board.

Secs. 18-262—18-300. - Reserved.

Fine and Penalty for Violations

Sec. 18-145. Penalties. Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 nor more than the maximum provided in section 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

Separability

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

Effective Date

This Ordinance shall become effective on the 5th day of September 2019.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 26th day of August 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS

City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The fourth item on the agenda was to review and consider a resolution providing for the Public Sale of Property acquired by the City of Wharton from Delinquent Taxes. City Manager Andres Garza, Jr. stated Ms. Leslie Hilliard with McCreary Veselka Bragg & Allen PC Attorneys at Law had presented the described properties that were offered for sale by the Sheriff of Wharton County, Texas at a public auction prior to a judgment of foreclosure for delinquent taxes by the District Courts of Wharton County which did not receive sufficient bids as set by law and were struck off to the County of Wharton and later conveyed to the City of Wharton, Texas as Trustee. City Manager Garza said those properties would now be up for sale at no minimum bid. After some discussion, Councilmember Steve Schneider moved to approve the City of Wharton Resolution No. 2019-90, which read as follows:

STATE OF TEXAS
COUNTY OF WHARTON

**RESOLUTION PROVIDING FOR THE PUBLIC SALE OF PROPERTY ACQUIRED
BY THE CITY OF WHARTON FROM DELINQUENT TAXES**

WHEREAS, the following described properties were offered for sale by the Sheriff of Wharton County, Texas at a public auction pursuant to a judgment of foreclosure for delinquent taxes by the District Court of Wharton County; and

WHEREAS, the following described properties did not receive sufficient bids as set by law and were struck off to the County of Wharton, Texas, and later conveyed to the City of Wharton, Texas, as Trustee, for the use and benefit of itself and the other taxing units for which levied taxes on the properties, pursuant to TEX. PROP. TAX CODE § 34.01 (j); and

WHEREAS, TEX. PROP. TAX CODE § 34.05 (c) and (d) provide that a taxing unit may request that the Sheriff sell the property at a public sale to the highest bidder with no minimum bid required,

THEREFORE, BE IT HEREBY RESOLVED that the City of Wharton, Texas, does hereby request the Sheriff of Wharton County, Texas to conduct a public sale in the manner prescribed by the Texas Rules of Civil Procedure and § 34.05 (c) and (d) of the Texas Tax Code and sell the following described properties to the highest bidder for cash.

Cause #	Suit Styling	Legal Description, Deed References, Account Number, Bid in Trust Date & Judgment Year (all properties located in Wharton County, Texas unless otherwise noted)
T08012	Wharton County et al v Quaker Home Financial Services, Inc., a Texas Corporation	Lot Eleven (11), Block Sixty-Five (65) adjoining the City of Wharton, Wharton County, Texas and being described in the Block Book Records of Wharton County, located in the County Tax Assessor's Office as being Lot One Hundred Twenty-Three (123), Block Sixty-Three (63), William Kincheloe League, Abstract 38, Wharton County, Texas (Volume 163, Page 3 of the Deed Records, Wharton County, Texas), 215 N SHEPPARD, Account #R018492 (Bid in Trust 6/4/2019)
T010162	The County of Wharton, Texas v Candelaria Garcia et al	Lot 22, Block 61, City of Wharton, Wharton County, Texas (Volume 836, Page 709, Deed Records, Wharton County, Texas), 307 N Ford, Wharton, Texas, Account #R026735 (Bid in Trust 6/6/2017)

THEREFORE, BE IT HEREBY RESOLVED that the City of Wharton, Texas hereby directs the Sheriff of Wharton County, Texas to conduct a sale on the First Tuesday in September, 2019, in the manner prescribed by the Texas Rules of Civil Procedure and TEX. PROP. TAX CODE § 34.05 (c) and (d).

THIS RESOLUTION WAS PASSED, APPROVED AND ADOPTED on this the 26th day of August, 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
 Mayor

ATTEST:

PAULA FAVORS
 City Secretary

Councilmember Clifford Jackson seconded the motion. All voted in favor.

The fifth item on the agenda was to review and consider City of Wharton Street Closures:

A. Ordinance: An ordinance of the City of Wharton, Texas, finding that the portion of North Abell Street located between East Ahldag Avenue and East Belle Avenue, within the City of Wharton, is not necessary for public use as a thoroughfare; providing for the vacation, abandonment and closure of the street; and releasing any and all public right, title and interest save and except any required utility easements.

B. Ordinance: An ordinance of the City of Wharton, Texas, finding that the portion of Old Boling Road located between Alabama Road and John Knox Street, within the City of Wharton, is not necessary for public use as a thoroughfare; providing for the vacation, abandonment and

closure of the street; and releasing any and all public right, title and interest save and except any required utility easements.

City Manager Andres Garza, Jr. presented a copy of a memorandum to him from Community Development Director Gwyn Teves regarding the closure of North Abell Street between East Ahldag Avenue and East Belle Avenue. City Manager Garza stated the City Staff had been in discussions with WISD Superintendent Tina Herrington since November 26, 2018 for the WISD Bond Improvements and at the meeting on that date it was requested of City Staff to proceed with a request to abandon two street sections in the City. Community Development Director Gwyn Teves stated the District requested that the City of Wharton abandon a section of Old Boling Road from Alabama Rd. to John Knox St. and a section of N. Abell St. from E. Ahldag St. to E. Belle Ave. Mrs. Teves said the City of Wharton City Council approved the abandonment of both streets on July 22, 2019 at the Regular City Council Meeting. After some discussion, Councilmember Clifford Jackson moved to approve City of Wharton Ordinances No. 2019-21 and 2019-22, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-21**

AN ORDINANCE OF THE CITY OF WHARTON, TEXAS, FINDING THAT THE PORTION OF NORTH ABELL STREET LOCATED BETWEEN EAST AHLDAG AVENUE AND EAST BELLE AVENUE, WITHIN THE CITY OF WHARTON, IS NOT NECESSARY FOR PUBLIC USE AS A THOROUGHFARE; PROVIDING FOR THE VACATION, ABANDONMENT AND CLOSURE OF THE STREET; AND RELEASING ANY AND ALL PUBLIC RIGHT, TITLE AND INTEREST SAVE AND EXCEPT ANY REQUIRED UTILITY EASEMENTS.

WHEREAS, pursuant to Chapter 311 of the Texas Transportation Code, a general-law municipality such as Wharton has exclusive control over the streets of the municipality; and,

WHEREAS, pursuant to Chapter 311 of the Texas Transportation Code, the City of Wharton has the authority to vacate, abandon, and close streets within the City; and,

WHEREAS, within the City of Wharton there is a portion of North Abell Street that is located between East Ahldag Avenue and East Belle Avenue, described in more detail in *Exhibit A*, (hereafter referred to as the “Street”); and,

WHEREAS, in a petition dated February 18, 2019, Ms. Tina Herrington, WISD Superintendent of Schools, has requested that the Street be vacated, attached hereto as *Exhibit B*; and,

WHEREAS, the City Council has determined that the portion of the Street is not necessary as a public thoroughfare and has no other public use; and,

WHEREAS, the City Council finds that vacating the Street would have no adverse effect on adjacent properties; and,

WHEREAS, the City Council has determined that it is in the best interest of the City to vacate, abandon, and close the Street, save and except any required utility easements.

NOW THEREFORE, be it ordained by the City Council of the City of Wharton, County of Wharton, State of Texas, that:

Section I. Finding of Fact: That the foregoing recitals are incorporated into this ordinance by reference as findings of fact as if set forth herein at length.

Section II. Street Closure: The City Council hereby vacates, abandons, and closes the Street (or portion of a street), which is more particularly described in *Exhibit A*.

Section III. Abandonment of Rights: The City Council hereby abandons any and all public rights, titles and interest if any, to the Street (or portion of a street), save and except any required utility easements.

Section IV. Land Records: The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this ordinance in and among the records of the City, and in the land records of Wharton County.

Section V. Severability: If any word, article, phrase, paragraph, sentence, clause or provision, and to this end of the provisions of this Ordinance are declared to be severable.

Section VI. Effective Date: This Ordinance shall take effect immediately from and after its passage and publications as may be required by governing law.

Section VII. Proper Notice & Open Meeting: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meeting Act, Chapter 551 of the Texas Government Code.

PASSED, APPROVED and ADOPTED this, the 26th day of August 2019, by a cite of 7 (*ayes*) to 0 (*nays*) to 0 (*abstentions*) of the City Council of the City of Wharton.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

**CITY OF WHARTON
ORDINANCE NO. 2019-22**

AN ORDINANCE OF THE CITY OF WHARTON, TEXAS, FINDING THAT THE PORTION OF OLD BOLING ROAD LOCATED BETWEEN ALABAMA ROAD AND JOHN KNOX STREET, WITHIN THE CITY OF WHARTON, IS NOT NECESSARY FOR PUBLIC USE AS A THOROUGHFARE; PROVIDING FOR THE VACATION, ABANDONMENT AND CLOSURE OF THE STREET; AND RELEASING ANY AND ALL PUBLIC RIGHT, TITLE AND INTEREST SAVE AND EXCEPT ANY REQUIRED UTILITY EASEMENTS.

WHEREAS, pursuant to Chapter 311 of the Texas Transportation Code, a municipality such as Wharton has exclusive control over the streets of the municipality; and,

WHEREAS, pursuant to Chapter 311 of the Texas Transportation Code, the City of Wharton has the authority to vacate, abandon, and close streets within the City; and,

WHEREAS, within the City of Wharton there is a portion of Old Boling Road at Alabama Road and John Knox Street, described in more detail in *Exhibit A*, (hereafter referred to as the “Street”); and,

WHEREAS, in a petition dated February 18, 2019, Ms. Tina Herrington, WISD Superintendent of Schools, has requested that the Street be vacated, attached hereto as *Exhibit B*; and,

WHEREAS, adjacent property owners have not objected to said abandonment as per *Exhibit C*; and,

WHEREAS, the City Council has determined that the portion of the Street is not necessary as a public thoroughfare and has no other public use; and,

WHEREAS, the City Council finds that vacating the Street would have no adverse effect on adjacent properties; and,

WHEREAS, the City Council has determined that it is in the best interest of the City to vacate, abandon, and close the Street, save and except any required utility easements.

NOW THEREFORE, be it ordained by the City Council of the City of Wharton, County of Wharton, State of Texas, that:

Section I. Finding of Fact: That the foregoing recitals are incorporated into this ordinance by reference as findings of fact as if set forth herein at length.

Section II. Street Closure: The City Council hereby vacates, abandons, and closes the Street (or portion of a street), which is more particularly described in *Exhibit A*.

Section III. Abandonment of Rights: The City Council hereby abandons any and all public rights, titles and interest if any, to the Street (or portion of a street), save and except any required utility easements.

Section IV. Land Records: The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this ordinance in and among the records of the City, and in the land records of Wharton County.

Section V. Severability: If any word, article, phrase, paragraph, sentence, clause or provision, and to this end of the provisions of this Ordinance are declared to be severable.

Section VI. Effective Date: This Ordinance shall take effect immediately from and after its passage and publications as may be required by governing law.

Section VII. Proper Notice & Open Meeting: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meeting Act, Chapter 551 of the Texas Government Code.

PASSED, APPROVED and ADOPTED this, the 26th day of August 2019, by a cite of 7 (*ayes*) to 0 (*nays*) to 0 (*abstentions*) of the City Council of the City of Wharton.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

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

The sixth item on the agenda was to review and consider a resolution of the Wharton City Council approving the purchase of a restroom building facility for Harris Park from CXT through National Joint Powers Alliance and authorizing the City Manager of the City of Wharton to execute all documents related to said purchase. City Manager Andres Garza, Jr. presented a copy of information for the placement of a restroom facility at Harris Park. City Manager Garza stated Facilities Maintenance Director Bob Baker had inspected the restroom facility at Harris Park and had determined that the restroom facility needed to be replaced and it was his recommendation that the old facility be demolished and a new one be installed similar to the facilities that were placed in the other City Parks. Mr. Baker stated the restroom facility would be purchased from CXT who were members of the National Joint Powers Alliance. City Manager Garza stated the City was also a member of the National Joint Powers Alliance and funding was allocated from the WEDC Parks and Pools Maintenance Fund. After some discussion, Councilmember Terry Freese moved to approve City of Wharton Resolution No. 2019-91, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-91**

A RESOLUTION OF THE WHARTON CITY COUNCIL APPROVING THE BUILDING OF A RESTROOM FACILITY AT HARRIS PARK FROM CXT THROUGH NATIONAL JOINT POWERS ALLIANCE AND AUTHORIZING THE CITY MANAGER OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATED TO SAID CONSTRUCTION.

WHEREAS, The Facilities Maintenance Department wishes the City Council to approve the purchase of a restroom facility for Harris Park from CXT through National Joint Powers Alliance Purchasing Program; and,

WHEREAS, The City of Wharton is a member of and participates in the National Joint Powers Alliance Purchasing Program; and,

WHEREAS, The Wharton City Council wishes to authorize the City Staff to purchase a restroom for Harris Park from CXT through National Joint Powers Alliance Purchasing Program; and,

WHEREAS, The Wharton City Council wishes to authorize the City Manager to execute all documents related to the purchase of the restrooms.

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

SECTION I. The Wharton City Council hereby authorizes the purchase of a restroom facilities from CXT through National Joint Powers Alliance Purchasing Program.

SECTION II. The Wharton City Council hereby authorizes the City Manager to execute all documents related to the purchase of the restroom.

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

Passed, Approved, and Adopted this 26th day of August 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

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

The seventh item on the agenda was to review and consider an ordinance amending the City of Wharton Code of Ordinances, Chapter 86, Sections 86-15, 86-16, 86-17, 86-18 and 86-21, Utilities and Services, Article I in General; Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine; Providing a savings clause and revoking all ordinances or parts of ordinances in conflict herewith only to the extent same are in conflict herewith otherwise provided herein. City Manager Andres Garza, Jr. presented a copy of the memorandum dated August 21, 2019 from Finance Director Joan Anandel to him regarding the proposed increase in utility rates for customers to be effective October 1, 2019. City Manager Garza stated as discussed in the City Council Budget Workshop on August 13, 2019, the proposed budget included a 10% increase in water and sewer rates. After some discussion, Councilmember Alice Heard-Roberts moved to approve City of Wharton Ordinance No. 2019-23, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2019-23**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 86, SECTIONS 86-15, 86-16, 86-17 AND 86-21, UTILITIES AND SERVICES, ARTICLE I IN GENERAL; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING A SAVINGS CLAUSE AND

REVOKING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ONLY TO THE EXTENT SAME ARE IN CONFLICT HEREWITH OTHERWISE PROVIDED HEREIN.

BE IT ORDAINED by the City Council of the City of Wharton, Texas that Chapter 86, Utilities and Services, Article I in General; Sections 86-15, 86-16, 86-17 and 86-21 be amended by the following:

Section I. Amendment

The Code of Ordinances of the City of Wharton, Texas, Chapter 86 Utilities and Services is hereby amended to be enforced by the City of Wharton as follows:

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

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

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

	Size of Tap	Cost of Service
a.	¾-inch T-off	\$259.35
b.	¾-inch	\$518.67
c.	1-inch	\$681.69 + cost of meter
d.	1½-inch	\$1,022.54 + cost of meter
e.	2-inch	\$1,363.36 + cost of meter

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

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

1. Customers are responsible for the actual cost for main line extensions, boring under a street or pre-existing utility line, or any other additional costs necessary to install a water tap. All main line extensions will require the extension to be extended the width of the property to the next adjacent property line unless a variance is issued. All main line extensions will require a written agreement between the city and the customer.

2. Residential customers inside the city limits that qualify for a homestead exemption prior to applying for a building permit will receive up to 200 feet of line extension at no charge for the cost of materials and installation. Residential homestead customers in the city limits will be charged for any borings associated with the installation of the first 200 feet of line extension and will be

charged for any main line extensions in excess of 200 feet. Residential customers outside the city limits will be charged for the first 200 feet as well as for any boring associated with the first 200 feet and for any main line extensions in excess of 200 feet.

3. Customers will be required to pay the city in advance for any additional costs associated with connecting to the city's main line based on the city's engineer's estimate for projected engineer and construction costs. Once the project is complete, the customer will either be billed or refunded the difference between the estimate and the actual cost.

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

	Size of Tap	Cost of Service
a.	4-inch	\$518.67
b.	6-inch	\$851.99

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

1. Customers are responsible for the actual cost for main line extensions, boring under a street or pre-existing utility line, or any other additional costs necessary to install a sewer tap. All main line extensions will require the extension to be extended to the width of the property to the next adjacent property line unless a variance is issued. All main line extensions will require a written agreement between the city and the customer.

2. Residential customers inside the city limits that qualify for a homestead exemption prior to applying for a building permit will receive up to 200 feet of line extension at no charge for the cost of materials and installation. Residential homestead customers in the city limits will be charged for any borings associated with the installation of the first 200 feet of line extension and will be charged for any main line extensions in excess of 200 feet. Residential customers outside the city limits will be charged for the first 200 feet as well as for any boring associated with the first 200 feet and for any main line extensions in excess of 200 feet.

3. Customers will be required to pay the city in advance for any additional cost associated with connecting to the city's main line based on the city's engineer's estimate for projected engineer and construction costs. Once the project is complete, the customer will either be billed or refunded the difference between the estimate and the actual cost.

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

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

a. Deposit amount:

Residential customer.....\$100.00

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

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

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

- b. Deposits will not be required for public schools, counties, and other governmental entities.
- c. Customers may transfer their deposits from one account to another account if they move from one address to another. The account must have a zero balance or the current balance will be transferred with the deposit and the new service enacted.
- d. Customers transferring from one address to another must have paid the maximum deposit or must pay the difference between the deposit paid and the maximum deposit before the deposit can be transferred and the new service enacted.
- e. Residential customers' deposits will be refunded by crediting the deposit amount to the customer's account after the customer has completed 24 months with no delinquent payments or no dishonored payments. If the customer has additional active accounts without deposits that have delinquent payments, the deposit will be transferred to one of the other accounts. A new deposit will be required if a customer appears on the cut-off list after the original deposit has been returned.
- f. Customers must terminate utility services by providing written authorization signed or emailed by the customer whose name is on the account. In the event that the account is established under more than one name, any one person may authorize the disconnection of service.
- g. Customers' deposits will be refunded by crediting the deposit amount to the customer's account when the account is finalized. Any remaining deposit will be mailed to the forwarding address provided by the customer. If the customer has additional active accounts without deposits, the deposit will be transferred to one of the other accounts.
- h. Letters of credit are not acceptable in lieu of cash for payment of deposits as required in this section.
- i. In the event a current utility service customer requests service at an additional address, the deposit may be waived if the customer has had no more than two delinquent payments on the existing account for the previous 12 months prior to the date of the request. In the event that either the initial account or any additional accounts appear on the cut-off list, an additional deposit will be required for each account.

(4) *Administrative penalty.* If payment is not received on a delinquent account and is placed on the cut-off list and water is due to be or is disconnected, an administrative penalty will be assessed as follows:

Administrative penalty.....\$25.00

(5) *Other charges* include the following:

a. *Late charges.* If payment is not received by the 15th of each month, a penalty will be assessed on the 16th of each month at the rate noted below:

Late charges.....5% of balance due

b. *After hours charge.* An afterhours charge will be assessed for a reconnection due to nonpayment requested by the customer that is not between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Friday. Services requested on holidays will also be charged an after hour charge.

After hours charge.....\$30.00

- c. *Charges of damages.* Charges shall also be made for damages to equipment, such as meters, cutoff valves and locks. These charges shall be based on the actual cost of replacement, including labor, where applicable.
- d. *Industrial users.* Industrial users may be subject to additional charges and fees, relating to permitting and noncompliance issues, as outlined in article II, Industrial Waste Disposal and Pretreatment, sections 86-41 through 86-78.
- e. *Restaurants, food preparation facilities and other commercial users.* Restaurants, food preparation facilities, institutional facilities and other commercial type facilities utilizing grease traps will be subject to a \$100.00 fee for each exceedance of the local oil and grease limit of 100 mg/l. This fee is not a surcharge. The payment of this fee does not authorize the discharge of wastes containing oil and grease in concentrations greater than 100 mg/l. This limit applies only to food grade oils of animal or vegetable origin. The concentration of petroleum-based oil and grease is limited to 15mg/l. The oil and grease exceedance fee will be assessed for each sample result, which indicates an excess oil and grease concentration in sewer discharges from the facility. The city will be responsible for collecting and analyzing all oil and grease samples from grease traps. Oil and grease trap sampling will be conducted on a periodic basis at the city's discretion.
- f. *Septic tank waste* hauled or trucked into wastewater treatment plant as outlined in article II, section 86-54 will be billed at the following rate:
Fees for hauling waste, per 1,000 gallons.....\$57.75

Sec. 86-16. - Water service charges.

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

Volume Charges

First 2,000 gallons (minimum).....	\$23.55
Next 2,000 gallons, per 1,000.....	\$4.47
Next 3,000 gallons, per 1,000.....	\$4.63
Next 4,000 gallons, per 1,000.....	\$4.81
Next 4,000 gallons, per 1,000.....	\$5.12
Next 35,000 gallons, per 1,000.....	\$5.42
Next 50,000 gallons, per 1,000.....	\$5.62
Next 50,000 gallons, per 1,000.....	\$6.04
Next 50,000 gallons, per 1,000.....	\$6.41

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

Volume Charges

First 8,000 gallons for seven days.....	\$54.43
Over 8,000 gallons, per 1,000.....	\$4.97

The temporary water rate is intended as a temporary service for water only and will not be extended for more than 14 consecutive days without a deposit or connection fee being made

in accordance with section 86-2, subsections (4) and (5). The base rate must be paid at the time the service is requested. Additional gallons will be billed after the temporary service is disconnected.

Sec. 86-17. - Sewer service charges.

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

First 2,000 gallons (minimum)....	\$25.30
Next 2,000 gallons, per 1,000.....	\$3.93
Next 3,000 gallons, per 1,000.....	\$4.81
Next 4,000 gallons, per 1,000.....	\$5.34
Next 4,000 gallons, per 1,000.....	\$5.73
Next 35,000 gallons, per 1,000....	\$6.30
Next 50,000 gallons, per 1,000....	\$6.74
Next 50,000 gallons, per 1,000....	\$7.14
Next 50,000 gallons, per 1,000....	\$7.65

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

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

Sec. 86-21. - Bulk water rates.

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

- (1) Advance, nonrefundable payment of \$50.00 to the City of Wharton at City Hall for setting the meter connection at the fire hydrant or other appropriate locations as the city may determine; and
- (2) Payment of bulk sales rate of \$90.71 per month for the first 1,000 gallons of water dispensed, or any fraction thereof: \$36.29 per month per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
- (3) Advance, refundable fire hydrant meter deposit payment of \$200.00 to the City of Wharton at City Hall.

(b) Bulk sales through permanently installed water meter dispensation point at the Wharton Volunteer Fire Department on Fulton Street will require the following:

- (1) No requirement for payment of meter setting fee; and

- (2) Payment of bulk sales rate of \$90.71 for the first 1,000 gallons of water dispensed, or any fraction thereof; \$36.29 per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
- (3) No requirement for payment of the \$200.00 fire hydrant meter deposit, however each water dispensation transaction authorized under this section must be prepaid to the City of Wharton at City Hall where a one-day dispensation voucher will be issued for presentation to the water plant operator to authorize a one-day dispensation of a not to exceed amount of water in gallons. The one-day dispensation voucher identifying the cumulative number of gallons purchased will allow for scheduled multiple withdrawals of water, but only during the same City of Wharton working day upon which initial dispensation commences.

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

Public or private volunteer fire fighting organizations that procure water only for fire prevention and control purposes and do no resell such water for other purposes, are exempt from this classification, rates and fees schedule. Contractors constructing City of Wharton Public Works projects requiring potable water for dust control and construction operations shall also be exempt from this classification, rates and fees schedule.

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

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

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

Severability

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

Penalties and Fines

Any person knowingly or recklessly found violating and are convicted of a violation of this ordinance shall be fined in an amount not to exceed \$2,000.00. Each day or fraction of a day during which this ordinance or any part thereof is violated shall be deemed a separate offense and punishable as such.

Effective Date

This ordinance shall be effective on the 1st day of October 2019 at 12:01 a.m.

Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, this 26th day of August 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

Paula Favors
City Secretary

APPROVED AS:

PAUL WEBB
City Attorney

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

The eighth item on the agenda was to review and consider Waste Corporation of America, L.P. (WCA) Rate Modification to the Solid Waste Collection and Disposal Service Franchise Agreement:

- A. Resolution: A resolution of the Wharton City Council approving Amendment No. 1 to the Franchise Agreement for Solid Waste Collection Services with Waste Corporation of America dated October 1, 2018 and authorizing the Mayor of the City of Wharton to execute said agreement.
- B. Ordinance: An ordinance repealing and replacing the City of Wharton Code of Ordinances, Chapter 86 Utilities and Services, Article III, Solid Waste Disposal Exhibit A, Providing that a violation of the ordinance or any part of the Code as adopted hereby shall constitute a penalty upon conviction of a fine and setting an effective date.

City Manager Andres Garza, Jr. presented a copy of the memorandum dated August 22, 2019 from Finance Director Joan Andel providing a copy of the letter dated July 23, 2019 from Mr. Trevor Royal of Waste Corporation of America (WCA) regarding their rate modification regarding to the Solid Waste Collection and Disposal Service Franchise between the City of Wharton and WCA. City Manager Garza stated WCA may request rate modifications in accordance with Section 14.00, Basis and Methods of Payment, Item 14.02 Modification of Rates of the General Specifications of the Franchise Agreement. Mrs. Andel stated in the memorandum Mr. Royal stated, the rate increase was 2.2% in accordance with the price index mentioned in the City's franchise agreement with WCA. After some discussion, Councilmember Terry Freese moved to approve City of Wharton Resolution No. 2019-92 and City of Wharton Ordinance No. 2019-24, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2019-92**

A RESOLUTION OF THE WHARTON CITY COUNCIL AMENDMENT NO. 1 TO THE FRANCHISE AGREEMENT FOR SOLID WASTE COLLECTION SERVICES WITH WASTE CORPORATION OF AMERICA AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE THE AGREEMENT.

WHEREAS, On August 27, 2018, the Wharton City Council approved Resolution No. 2018-64 approving the franchise agreement between the City of Wharton and Waste Corporation of America to be effective October 1, 2018; and,

WHEREAS, The Wharton City Council wishes to amend Exhibit "A" of the franchise agreement to reflect the increase in rates as set forth in Section 14.02 Modification of Rates of the contract; and,

WHEREAS, WCA and the City of Wharton wishes to be bound by the conditions outlined the agreement; and,

WHEREAS, The Wharton City Council wishes to authorize the Mayor of the City of Wharton to execute all documents related to the agreement; and,

WHEREAS, This resolution is passed in accordance with said contract.

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

Section I. That the Wharton City Council hereby approves to amend Exhibit "A" of the franchise contract between the City of Wharton and Waste Corporation of America.

Section II. That the Wharton City Council hereby establishes the rates outlined in the Exhibit "A" of the contract.

Section III. That the effective date of the Exhibit “A” will be the 1st day of October 2019.

Section IV. That the Mayor of the City of Wharton is hereby authorized to execute the contract amendment.

Passed, Approved, and Adopted this 26th day of August 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

**CITY OF WHARTON
ORDINANCE NO. 2019-24**

AN ORDINANCE REPEALING AND REPLACING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 86 UTILITIES & SERVICE, ARTICLE III, SOLID WASTE DISPOSAL EXHIBIT A; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas, that Chapter 86 Utilities & Service, Article III Solid Waste Disposal Exhibit A shall be replaced as follows:

**SCHEDULE “A”
Base Rates**

Monthly Residential Waste Collection
\$23.81 per Residential Unit which includes a \$3.00 per month fee.

Monthly Commercial Hand Collection
\$30.64 per Commercial Unit which includes a \$3.50 per month fee.

Container Service (per month) includes a \$3.50 fee

2 yd 1xwk	\$65.94
2xwk	\$118.40

3xwk	\$152.17
4xwk	\$210.33
5xwk	\$262.04
Additional Pick-up	\$71.98
3yd 1xwk	\$97.17
2xwk	\$174.61
3xwk	\$233.49
4xwk	\$313.75
5xwk	\$391.31
Additional Pick-up	\$104.26
4yd 1xwk	\$121.55
2xwk	\$212.43
3xwk	\$301.21
4xwk	\$417.16
5xwk	\$520.57
Additional Pick-up	\$131.04
6yd 1xwk	\$172.96
2xwk	\$331.74
3xwk	\$463.45
4xwk	\$624.01
5xwk	\$779.13
Additional Pick-up	\$185.06
8yd 1xwk	\$214.51
2xwk	\$400.43
3xwk	\$598.93
4xwk	\$830.82
5xwk	\$1,037.65
Additional Pick-up	\$227.09

Rates for Roll-offs:

Delivery Fee	\$121.92
Monthly Rental	\$146.30
Pull Price (per pull)	\$155.76
Disposal Fee-Loose (per yard)	\$8.53
Disposal Fee-Compact (per yard)	\$10.61

Rates for Other Services:

Hourly Rate	\$119.38
Disposal per cubic yard	\$8.34

PENALTY

Except as otherwise provided in this chapter, any person found guilty of intentionally, knowingly or recklessly violating any provision of this article and upon conviction thereof in the municipal court shall be fined in accordance with the terms of Section 1-5 of the Code of Ordinances of the City of Wharton, Texas.

SEVERABILITY

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

EFFECTIVE DATE

This Ordinance shall become effective at 12:01 a.m. on the 1st day of October 2019.

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, on the 26th day August 2019.

CITY OF WHARTON, TEXAS

By: _____
TIM BARKER
Mayor

ATTEST:

PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

PAUL WEBB
City Attorney

Councilmember Steve Schneider seconded the motion. Councilmember Terry Freese, Clifford Jackson, Councilmember Don Mueller and Steve Schneider voted for the motion. Councilmember Russell Machann and Councilmember Alice Heard-Roberts voted against the motion. The motion carried.

The ninth item on the agenda was to review and consider City Manager Travel Reimbursement. City Manager Andres Garza, Jr. presented his request for travel reimbursement. After some discussion, Councilmember Russell Machann moved to approve the City Manager Travel Reimbursement as presented. Councilmember Alice Heard-Roberts seconded the motion. All voted in favor.

The tenth item on the agenda was to review and consider an update of City of Wharton Grant Programs. Community Development Director Gwyn Teves presented an update of the City of Wharton Grant Programs. After some discussion, no action was taken.

The eleventh item on the agenda was to review and consider an update of City of Wharton on-going Projects. City Manager Andres Garza, Jr. presented copy of his memorandum dated August 21, 2019 providing an update on the City of Wharton current projects as of July 31, 2019.

FLOOD REDUCTION (LEVEE) PROJECT

The U.S. Army Corp of Engineers (USACE) Lower Colorado River Phase I Report - City of Wharton Flood Prevention Project and Recommended report is located at the Wharton County Library and the office of the City of Wharton City Secretary for viewing or the report may be viewed on line at <http://www.cityofwharton.com/information-a-notices/lcrb-feasibility-study>. The Project Participation Agreement (PPA) has been executed. The City has begun the process to acquire the property necessary to construct the project. The City has hired HDR for Right-of-Way Acquisition and Jones & Carter for City and private company utility relocations. Work authorizations are being developed. Entries.

DRAINAGE:

1. Stavena Addition Drainage Project.

The design and construction plans are complete. The challenge on this project is to find locations to place approximately 35,000 cubic yards of soil. The ideal disposal site should be close to the project site to reduce the cost of construction.

2. Ahldag Ditch Improvement.

The project was approved by the City Council. Public Works Director is currently working out the details. The ditch improvements will be proposed under the Texas General Land Office (GLO) Infrastructure Grant Program.

3. On-going Drainage and Maintenance Program.

The Public Works Department has continued working on cleaning residential draining ditches that have experienced poor drainage.

4. Pecan Acres (Mahann, Kinkaid, Delmas) Drainage Project.

Installation of the drainage pipes was completed. The City Public Works Department will be regrading ditches to improve the drainage in the area and installing additional storm sewer lines across the street to convey water to the Santa Fe Drainage Channel.

WATER/SEWER IMPROVEMENTS:

1. On-going Water and Sewer Maintenance Program.

Water leaks and sewer failures are still being seen in the month of July.

2. Water Well Repair Project-Cloud Street.

The Engineer is in the process of getting all the materials needed for the repair of the well

STREET IMPROVEMENTS

1. FM 1301 Extension and Overpass Project Progress Report.

IDC Inc. has submitted to TxDOT Yoakum District Office all required plans for the project. The City Staff continues to coordinate with TxDOT to ensure the project continues to move forward. The City is awaiting TxDOT announcement of the project to be funded in Wharton County.

2. I-69 Project.

The City submitted the comments as approved by the City Council to TxDOT.

3. NanYa Exit Ramp Project.

TxDOT has been coordinating with NanYa and JM Eagle on the exit design.

4. 2019 City Street Improvement Project.

The City has begun the planning process for the 2019 Street Improvement Project. Three times bids were received for the project, however they were higher than the funds available and only one bidder responded. The project has been rebid.

After some discussion, no action was taken.

The twelfth item on the agenda was to review and consider appointments and resignations to the City of Wharton Boards, Commissions and Committees:

1. Appointments:
 - A. Beautification Commission.
 - B. Building Standards Commission.
 - C. Plumbing and Mechanical Board.
2. Resignations: None.

After some discussion, no action was taken.

The thirteenth item on the agenda was to review and consider City Council Boards, Commissions and Committee Reports:

- A. Beautification Commission meeting held August 14, 2019.

After some discussion, no action was taken.

The fourteenth item on the agenda was City Manager's Reports.

- | | |
|---|---------------------------------|
| A. City Secretary/Personnel. | H. Fire Marshall. |
| B. Code Enforcement. | I. Legal Department. |
| C. Community Services Department /
Civic Center. | J. Municipal Court. |
| D. Emergency Management. | K. Police Department. |
| E. E.M.S. Department. | L. Public Works Department. |
| F. Facilities Maintenance Department /
Wharton Municipal Pool. | M. Water / Sewer Department. |
| G. Fire Department. | N. Weedy Lots / Sign Ordinance. |
| | O. Wharton Regional Airport. |

After some discussion, no action was taken.

The fifteenth item on the agenda was Executive Session:

City Council may adjourn into an Executive Session in accordance with Section 551.087 of the Local Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting.

Discussion:

- A. Industrial District Agreement with Colorado Bend II Power LLC.

Mayor Tim Barker moved the meeting into Executive Session at 7:55 p.m.

The sixteenth item on the agenda was Return to Open Session:

Action on items discussed in Executive Session:

- A. Industrial District Agreement with Colorado Bend II Power LLC.

Mayor Tim Barker returned the meeting to Open Session at 8:22 p.m. Mayor Barker stated information only was received.

The seventeenth item on the agenda was to review and consider the publication of 2019 Tax Year Proposed Property Tax Rate for the City of Wharton. City Manager Andres Garza, Jr. presented the request for the publication of 2019 Tax Year Proposed Property Tax Rate for the City of Wharton. After some discussion, Councilmember Clifford Jackson moved to approve the publication of the 2019 Tax Year Proposed Property Tax Rate for the City of Wharton. Councilmember Terry Freese seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider the City Manager's submission of the City of Wharton, Texas, Proposed Budget for the fiscal year October 1, 2019-September 30, 2020. City Manager Andres Garza, Jr. stated that on Monday, August 26, 2019, he filed with City Secretary Paula Favors the City of Wharton Fiscal Year October 1, 2019 to September 30, 2020

Proposed Budget as required by State Law. Finance Director Joan Anandel presented under separate cover, a copy of the Proposed City Budget as required by the City's Charter. After some discussion, no action was taken.

The nineteenth item on the agenda was to review and consider the setting a public hearing date for the City of Wharton, Texas, Proposed Budget for the fiscal year October 1, 2019-September 30, 2020. City Manager Andres Garza, Jr. stated that under Article VI, Section 53 of the City of Wharton Charter the City Council shall set a time and place for a public hearing. City Manager Garza said that if the date was approved by the City Council, the City Staff would publish the Notice of Public Hearing on Wednesday, August 28, 2019 in the Wharton Journal Spectator. City Manager Garza stated that he was recommending the public hearing be set for the September 9, 2019 Regular City Council meeting which would comply with Section 53 of the City Charter and State law. After some discussion, Councilmember Russell Machann moved to approve setting the public hearing date for the City of Wharton, Proposed Budget for the fiscal year October 1, 2019-September 30, 2020 for the September 9, 2019 Regular City Council meeting complying with Section 53 of the City Charter and State law. Councilmember Clifford Jackson seconded the motion. All voted in favor.

Adjournment. There being no further discussion, Councilmember Don Mueller moved to adjourn. Councilmember Clifford Jackson seconded the motion. All voted in favor.

The meeting adjourned at 8:26 p.m.

CITY OF WHARTON, TEXAS

By: 

TIM BARKER
Mayor

ATTEST:



PAULA FAVORS
City Secretary

