



**2018**

**City Council Member**

**Handbook on**

**City Boards and Commissions**

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## Overview of Boards and Commissions

Each board and commission has an appointed board liaison. If you have specific questions regarding a particular board, please contact the liaison.

Some board and commission meetings are televised on SATV, Suddenlink cable channel 117 in high definition. Times are subject to change, depending upon the length of the last City Council meeting, which airs daily. Board meetings that air on SATV can be viewed daily at 8 a.m:

- **Sunday:** Water Advisory Board
- **Monday:** Planning Commission
- **Tuesday:** Open
- **Wednesday:** City of San Angelo Development Corp.
- **Thursday:** Civic Events Advisory Board
- **Friday:** Animal Shelter Advisory Board
- **Saturday:** Parks & Recreation Advisory Board

\*Unless otherwise noted, the meetings are conducted on a regularly set schedule. Please refer to the specific agenda for meeting location, date and/or time information.

### List of City Boards, Committees and Commissions

Airport Advisory Board  
Animal Shelter Advisory Committee  
Audit Committee  
City of San Angelo Development Corporation  
Civic Events Advisory Board  
Civil Service Commission  
Construction Board of Adjustments and Appeals  
Design and Historic Review Commission  
Fairmount Cemetery Board  
Fort Concho Museum Board  
Investment Oversight Committee  
Park Commission  
Parks and Recreation Advisory Board  
Planning Commission  
Public Art Commission  
Tax Increment Reinvestment Zone Board  
Water Advisory Board  
Zoning Board

### List of Affiliated and Independent Boards

Concho River Watermaster Advisory Committee  
San Angelo Metropolitan Planning Organization  
MHMR Services of Concho Valley Board of Trustees  
Public Housing Authority Board  
Tom Green County Appraisal District Board

## **Roles and Responsibilities of Board Members**

### **Why have boards and commissions?**

Boards and commissions are an established feature of The City of San Angelo's municipal government. They offer citizens an opportunity to participate in the City's governmental affairs.

Council members are expected to make good decisions on behalf of The City of San Angelo's citizens. Boards and commissions help council set priorities by evaluating the extent to which different interests will be affected by different alternatives. By balancing public interests, boards can make informed recommendations to council. They help council get a more comprehensive understanding of what is at stake and where the balance should be struck. Board activities help shape or influence policy in many ways. A member of a board or commission is considered a City official; therefore, it is important to gain a full understanding of the roles and responsibilities.

### **Who serves on boards and commissions?**

With some exceptions, in order to serve on a board or commission, you must be a resident of The City of San Angelo. A member of the City Council nominates a person to a board or commission; however, a majority vote of the council is needed to make the appointment.

As a member of a board or commission, there are certain requirements you must meet to be eligible for service. Your attendance is required at regular board meetings. However, it is understood that there may be times when missing a meeting is unavoidable. In most cases, if a member misses three consecutive regular meetings or one-third of all regular meetings in a twelve month timeframe, he or she will no longer be eligible to serve. Specific requirements for each board are usually delineated in the board ordinance or Bylaws. Additional exceptions for illness or injury of the board member or a member of his/her immediate family or the birth or adoption of a child as long as the member notifies the staff liaison in writing of the reason for

the absence before the next regular meeting of the board.

As a member of a board, you represent the City of The City of San Angelo and for many citizens you may be their only contact with the City. Along with the opportunity to serve the City, comes the requirement that you abide by all of the applicable rules and laws that govern ethical behavior. Briefly this means you need to be aware of and avoid conflicts of interest. You may not solicit or accept gifts and you may not use City facilities, personnel, equipment, or supplies for private purposes.

Board members:

1. Sign a written statement of Appointed Officer.
2. Take an oath of office.
3. Acknowledge they will abide by the Code of Ethics.

To maintain eligibility, they must complete open meeting training within 90 days of appointment and comply with the attendance and conflict of interest requirements.

### **What makes a board?**

Most boards and commissions in the City of The City of San Angelo are advisory boards. Advisory boards make recommendations to council. They do not have authority to make decisions but rather they give advice only. Advisory boards are tasked with taking on the issues and concerns of citizens, understanding and exploring possible options and providing feedback and recommendations to council.

In contrast, quasi-judicial boards exercise independent authority and make decisions. These are boards that were established by state law, federal law or City Charter.

Some Boards are affiliated with the City, but remain independent in nature (e.g. Tom Green County Appraisal District Board). Though the City Council

does participate in the appointment process, the board does not report to the City Council.

Most city boards and commissions' rosters consist of seven members appointed by the City Council. However, some boards created by state or federal law, interlocal agreement or another type of council action have the roster size determined in the specific mandate for that board.

For a board to meet and conduct business, a quorum must be present. A quorum is a simple majority unless the provision that created the board or commission specifies the number needed for a quorum. Vacant positions do not change the requirements for a quorum. It is important that members be at meetings on time because if there is no quorum within 30 minutes after the starting time, no action can be taken and the meeting must be rescheduled.

#### **When and where do boards and commissions meet?**

All boards and commissions are required to comply with the Texas Open Meetings Act. Among other things, the Open Meetings Act contains certain posting requirements for public meetings. Please see "An Overview of the Open Meeting Act" included in this manual.

All agendas are created and published by the related Board Liaison or designee. The Board Liaison or designee also records and maintains the minutes of meetings. The liaison will record the events of the meeting using action minutes and include the members in attendance; the subject of each deliberation; and each vote, order, decision, or other action taken.

Since some Boards and Commissions are not allowed to convene and Executive/Closed Session by the Open Meetings Act. All Executive/Closed Session items must receive approval from the City Attorney's Office prior to posting.

#### **What if you have a conflict of interest?**

If a board member has a conflict of interest on an item, they must recuse themselves from any

discussion or vote on the item. They may not discuss the item with any board member and may not address the board or an individual member as an advocate for themselves or any other person. It is not required that you leave the dais when the vote is taken on an item on which you have a conflict. However, the declaration of the recusal must be captured in the minutes. There might be additional requirements for recusal depending on the type of board. It is important to understand the conflict of interest requirements, any question should be deferred to the Board Liaison and if needed, the City Attorney.

#### **How do boards and commissions operate?**

Each board should adopt bylaws that include things such as:

1. Procedures for the annual selection of a chair and any additional officers
2. An outline of the duties of each officer,
3. Procedures for the establishment of sub-committees and working groups

Bylaws and any amendments must go to the City Council for approval. No changes are effective until approved.

#### **Staff Support**

The City Manager designates a City department to provide a Board Liaison and staff support for each board. The Board Liaison ensures:

1. Training appropriate to each board's mission is completed.
2. The board complies with deadlines and code provisions
3. Monitors the conflict of interest declarations to ensure the rules are followed
4. Assists the Board Chairperson keep the board functioning within their mission statement.

The board does not supervise or manage staff liaisons and may not direct staff to perform work on behalf of the board. The board may make reasonable requests for information or resources they need by contacting the Board Liaison.

## Internal Review Process

To ensure that boards and commissions are functioning efficiently and effectively, a review process is in place. During the first quarter of the year, the Board Chair assisted by the Board Liaison should prepare a report listing a mission statement, a description of actions taken to support the mission during the previous year and the goals for the upcoming year. The report should be approved by the board and submitted to the City Clerk who will collate the reports and provide them to City Management and City Council.

## What makes an effective board or commission?

There are a few things that can be done to make sure the board or commission is strong and effective and that it has successful meetings. A successful meeting involves effective communication between individuals or groups. Good meeting planning and good facilitation skills are needed. Here are a few pointers to conducting a successful meeting.

1. Keep the meeting under control. Members are responsible for making sure the meeting is conducted in an orderly manner.
2. Act promptly. Follow the published agenda and make decisions in a timely manner to ensure due process.
3. Stay focused. Do not get bogged down in details or constant requests for more information. Bring issues to a consensus.
4. Determine if the issues were clearly defined and fully addressed. Make sure there is enough information to reach a decision. This can be accomplished by keeping an open mind, hearing all the testimony or information before discussing the pros and cons of an item, remaining focused on the facts, listening carefully before making or announcing a decision and avoid making the discussion personal. Ensure the board's action is aligned with the best interests of the Citizens of the City of The City of San Angelo.
5. Do the homework. Read and review the agenda and spend as much time as necessary to become thoroughly familiar with each matter. If more information is needed, ask the staff. If there is a need to make a site visit for a better

understanding – Go. The key is to know the facts so you can make an informed decision.

6. Think about whether there is a conflict of interest with any item on the agenda. If so, recuse yourself.
7. Maintain professionalism. Do not mingle with applicants or objectors in the audience before the meeting or during a recess as this can create the impression of bias, dishonesty or conflict.
8. Be polite and impartial. Assist those who are not familiar with the protocol.
9. Be attentive to those who are presenting their point of view. This is an important issue to them and their voice must be heard.
10. Follow the bylaws, policies and procedures related to the board or commission and be on time. This will ensure that a quorum is present and the business of the meeting can proceed. As soon as a quorum is in the room, the meeting should be called to order.

There are many ways to maintain a successful board or commission. These are just a few. Think about your actions, how you present yourself and how you represent the city. These things make an impression on your board or commission and its effectiveness.

You have been appointed to help the City Council make good decisions for the citizens of the City of San Angelo. As a public official, there are certain responsibilities you must undertake and rules you need to know and abide by. This module has covered the essential aspects of being a member of a board or commission and will help you be an effective member.

## **An overview of the Texas Open Meetings Act**

### **Application of the Open Meetings Act**

In the City of San Angelo (City), all board and commission meetings must comply with the Open Meetings Act (Act).

Anytime a governmental body receives a briefing from staff, a notice of an open meeting must be posted. Only with prior approval from the City Attorney for an executive session is the posting requirement excepted in favor of a closed session.

The Act usually applies when a quorum of a governmental body is in attendance and that body discusses public business. It does not matter if there is any action taken or any vote taken. The Act does not apply when public officials attend regional, state, or national workshops, as long as there are no formal actions taken and any discussion of public business is only incidental to the event. While the Act does not technically apply to social gatherings that are unrelated to the body's public business, we understand the power of perception and the need for governmental transparency. In accordance with this understanding, the policy of the City of San Angelo is to post a Notice of Possible Quorum whenever a quorum or majority of any board is invited to attend any gathering.

### **Differing requirements between the Act and City Charter/Ordinances/Bylaws**

For boards in the City of San Angelo, posting notice is required for all meetings or gatherings of the governmental body when public business is to be discussed. The City Charter, ordinance, or bylaws may impose certain requirements where the Act does not. In such cases, the City is allowed to require additional compliance; however it may not waive any requirements in the Act.

### **Notice Provisions Under the Act**

The Act requires that the notice for each meeting be posted on a bulletin board at a place that is convenient for the public. Notices must be posted and accessible to the public for at least 72 hours prior to the meeting. Additionally, the Act requires publication of notice of its meetings on the internet

(the same 72 hour time frame is required). The validity of an internet posting made in good faith is not affected by failure to provide notice due to technical problems beyond the control of the local entity. The City of San Angelo posts Agendas (Notices) on the City's website and 2 locations at City Hall (Lobby/Outside Display).

The Act requires that posted notices include the date, the hour and the place of the meeting. While, the City makes use of agenda section titles (e.g. "Consent Agenda", "Regular Agenda", "Closed Session" and "Follow Up and Administrative Issues", etc.) we understand that generic terms (e.g. "other business," "personnel" and "litigation matters") are not detailed enough to comply with the Act. On all agendas, the City provides a "caption" for each item to be discussed which includes a brief description of each subject matter. This ensures that, in compliance with the Act, the information provided is enough to alert the public, in general terms, about the subjects that will be considered.

Texas courts have ruled that the more important a particular item on the agenda is to the community, the more the description on the posted notice must be.

In the meetings, the Act requires that only the subjects listed on the posted agenda be considered for that meeting. When an unposted subject is brought up by the public or any member of the boards, the following options are available:

1. An official may:
  - a. Respond with a statement of specific factual information.
  - b. Direct the person making the inquiry to visit staff about the issue.
2. The governing body may:
  - a. Choose to place the item on a future agenda
  - b. Offer to post the matter as an emergency item if it meets the criteria for an emergency posting.

### **The Act requires literal compliance**

Therefore, a local body normally does not have authority to change the date of its meeting without posting the new date at least 72 hours prior to the new meeting date (this does not include instances where a meeting starts a little later than scheduled).

If an emergency becomes present, upon the approval of the City Attorney, the body could utilize its power to call an emergency meeting with two hours notice. Also, if a catastrophe prevents the body from holding an open meeting that was posted properly, the body may convene in a convenient location within 72 hours as long as this action is taken in good faith and not used to circumvent the Act. A catastrophe includes anything that interferes physically with the ability to conduct the meeting, such as natural disasters, power failures, public riot or similar occurrences.

A local body does not have authority to change the location of its meeting without posting the new location at least 72 hours prior to the meeting. In cases, where a meeting is changed the day of the meeting to a larger room within the same building to accommodate a large crowd; the presiding officer of the body or the board liaison must obtain a legal opinion before any meeting is moved.

A meeting may be recessed to be continued on the next day without posting an additional meeting notice as long as the action is taken in good faith and not to circumvent the Act. No meeting may be recessed to be continued on a third straight day. If that need arises, the governmental body must give 72 hour notice of the meetings' continuance to another day.

There are no particular requirements under the Act for canceling a posted meeting. The act does not require that a meeting actually be held once it is posted. Therefore, a local body may cancel a posted meeting at any time unless doing so would violate another provision of law. If a meeting is canceled or the posted agenda is taken down, all posting requirements must be adhered to for any rescheduled meeting.

#### **Effect of Quorum on Act Issues**

The Act defines a quorum as a simple majority of the members of the governmental body. Certain issues however, such as election canvassing, have different specific quorum requirements.

Any meeting subject to the Act may not be convened unless a quorum is present in the meeting room. Though Texas case law and Attorney General opinions have not addressed whether a properly convened meeting can continue if a quorum is lost because of the departure of temporary absence of a member, the fact remains that no action can be taken unless a quorum is present.

#### **Application of the Act to Gatherings of Less than a Quorum**

If there is less than a quorum, a governing body is generally not subject to the Act. However, as mentioned earlier, we understand the power of perception and the need for governmental transparency. In accordance with this understanding, the policy of the City of San Angelo is to post a Notice of Possible Quorum whenever there is the slightest possibility of a quorum.

It is not uncommon for several members to be at the same private or public gathering put on by another entity and the Act does not require the gathering to be treated as an open meeting if less than a quorum is present. However, if such gatherings are used with the intent of circumventing a discussion of public business at an open meeting, criminal penalties can be pursued.

While a phone/text/electronic conversation between two members does not in itself constitute a violation of the Act, if members are using individual phone conversation to poll all members on an issue or conducting their deliberations about public business, there may be a potential criminal violation. Physical presence in one place is not necessary to violate the Act. Such communications could amount to meeting in numbers less than a quorum to circumvent the Act.

#### **Procedural Guidelines to Administer the Act**

- All meetings must be properly posted.
- Discussion is limited to posted agenda items
- Minutes must be kept for Open Meetings/Certified Agendas for Closed Sessions
- Closed Session items must qualify for exception under the Act.
- A member must be present in order to deliberate and to vote. The member may not vote by proxy.
- Meetings must comply with the Americans with Disabilities Act.

### **Managing Discussions at an Open Meeting**

The public may observe the open portion of a meeting. However, the Attorney General has concluded that the Act does not entitle the public to speak on items considered at an open meeting. That right only exists if a specific state law that requires a public hearing or requires public comment be allowed on an issue. A local unit may allow members of the public to speak on an item as long as that entity has adopted reasonable rules regulating the number of speakers on a particular subject and the length of time allowed for each presentation. If a local entity does allow public input, the rules must be applied equally to all members of the public.

If member or members of the public cause a disturbance, the presiding officer or the governing body as a whole may ask that individual members be removed. What conduct can be considered disorderly is a fact issue for the body to consider. The City Attorney can provide guidance on what actions may constitute “disorderly conduct.”

### **Keeping a Record of Open Meetings**

A governing body is required under the Act to keep minutes of every open meeting. Additionally, the Act requires any municipality over 50,000 in population and a/v recording for all Governing Body Meetings (e.g. City Council). Minutes must indicate the subject of each deliberation and indicate every action taken.

The minutes and recording of an open meeting are open to the public and must be available for

inspection and/or copying. Minutes must be permanently retained but they do not have to be publicly posted. The video recording must be made internet accessible to the public. The City of San Angelo currently utilizes YouTube in compliance with the Act (Section 551.128).

The Act also gives any member of the public the right to make a video or audio recording of an open meeting. The governing body maintains the right to adopt reasonable rules that are necessary to keep order at the meeting.

### **Executive/Closed Sessions**

Under the Act, a governing body may by and large hold an executive session for one or more of the following reasons:

1. Certain consultations with its attorney
2. Certain deliberations about real property.
3. Deliberations about prospective donations/gifts.
4. Certain personnel matters.
5. Deliberations Regarding Security Devices or Security Audits.
6. Discussions of certain economic development matters.

In order to convene into a closed session, one of the statutory categories must be shown to apply.

### **Enforcement of the Act's Requirements**

#### Civil Enforcement

An individual may sue to prevent, to stop, or to reverse a violation of the Act. If a court finds that there will be or that there is a violation of the Act, the court has at least four options.

1. The court may order an official or a governmental body to stop violations of the Act, to avoid any future violations of the Act, or to perform a duty required by the Act.
2. A court may invalidate any action taken in violation of the Act.

3. Cases where the Act was violated in the course of firing an employee, the courts may instruct the governmental body to give back pay to the employee.

4. A court may make the losing side pay the costs of litigation and reasonable attorney fees.

The prudent course is to achieve full compliance with the Act to avoid any court challenge.

If a governing body takes an action that does not fully comply with the requirements of the Act, it may meet at a later time to re- authorize the same action. If the second meeting is in full compliance with the law and the Act, then the action under certain circumstances may be considered valid from the date of the second meeting.

### Criminal Enforcement

There are four provisions of the Act that provide criminal penalties for violation:

1. Unauthorized Executive Sessions. If a closed meeting is not approved by law, a member commits a crime if he or she calls or aids in calling, closes or aids in closing, or participates in such a meeting. This type of violation is a misdemeanor and punishable by a fine of between \$100 and \$500, one to six months in jail, or both. If a member of the governing body has a formal written interpretation from a court, the Attorney General, or the entity's attorney, which indicates that a particular meeting is legal, the member may use that written interpretation as a defense if he or she acted in reasonable reliance on the written interpretation and is later prosecuted for participating in an illegal closed session.

2. Meeting in Numbers Less than a Quorum with Intent to Circumvent the Act. It is a misdemeanor for a member of a governing body to conspire to circumvent the Act by meeting in numbers of less than a quorum for the purpose of secret deliberations. It is punishable by a fine of between \$100 and \$500, one to six months in jail, or both.

3. Failure to Keep a Certified Agenda. A member of a governing body commits a crime if he or she participates in a closed meeting if they know that a

certified agenda or tape recording of the closed meeting is not being made. This is a Class C misdemeanor punishable by a fine up to \$500.

4. Disclosure of Copy of Certified Agenda. An individual, corporation, or partnership commits a crime if it releases to the public a copy of the tape or certified agenda of a lawfully closed meeting. This is a Class B misdemeanor and is punishable by a fine of up to \$2,000, a jail term of up to 180 days, or both.

### Additional Information on the Act

Elected or appointed governmental officials must obtain Open Meeting Certification. Officials have 90 days to complete the required training. The governmental body will maintain the official's certificate and make it available for public inspection.

For more discussion of the Open Meetings Act, local officials or employees may contact the Municipal Affairs section of the Office of the Attorney General at (512) 475-4683 or the County Affairs Section of the Office of the Attorney General at (512) 463-2060. The Office of the Attorney General produces the Open Meetings Handbook which is an in- depth look at the Act and its interpretation in Attorney General Opinions and court cases. It can be ordered by calling (512) 964-1730 or downloaded in PDF format on the Attorney General's Web site at [www.oag.state.tx.us](http://www.oag.state.tx.us). The Office of the Attorney General sponsors an open government hotline at (877) 673-6839 (OPEN-TEX).



## Airport Advisory Board

The Airport Advisory Board, composed of seven members appointed by the City Council, serves as an advisory board to monitor the development and operations of San Angelo Regional Airport.

All members shall be residents of the City of San Angelo

Staff Liaison: Luis Elguezabal    Liaison Administrative Assistant: Janice Crimm 325-659-6409

Meetings are scheduled as called and held at the McNease Convention Center – South Meeting Room

Board Roster:

Name	Status	Term	Term Start	Term End	Role
<b>Fred Key</b>	Current	6	10/31/2016	10/31/2020	SMD1
<b>Teresa Special</b>	Current	1	10/31/2016	10/31/2020	SMD2
<b>Charlie Powell</b>	Current	6	10/31/2015	10/31/2019	SMD3
<b>Patrick Nuytten</b>	Current	3	10/31/2013	10/31/2021	SMD4
<b>Robert Frank</b>	Current	2	10/31/2013	10/31/2021	SMD5
<b>William Pritchard</b>	Current	1	10/31/2016	10/31/2020	SMD6
<b>Vacant</b>			10/31/2016	10/31/2018	Mayor

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 5. Airport Advisory Board****Division 5. Airport Advisory Board****Sec. 2.07.121 Creation; members**

There is hereby created an airport advisory board, which shall be composed of seven (7) members, who shall be appointed by the city council. (1959 Code, sec. 2-16-1; 1996 Code, sec. 2.2501)

**Division 5. Airport Advisory Board****Sec. 2.07.122 Terms**

(a) Of the members first appointed, two (2) shall be appointed for a term of two (2) years and three (3) shall be appointed for a term of four (4) years. All additional appointments shall be for a term of four (4) years except vacancies for unexpired terms, which shall be filled for the remainder of the unexpired term.

(b) Of the two (2) members appointed in 1977 to fill the two (2) newly created positions on the board, one shall serve a term of two (2) years and one shall serve a term of four (4) years. Thereafter all terms shall be four (4) years.

(1959 Code, sec. 2-16-2; 1996 Code, sec. 2.2502)

**Division 5. Airport Advisory Board****Sec. 2.07.123 Officers; quorum; rules**

The board shall elect a chairman and such other officers as it may determine to be necessary. Three (3) members shall constitute a quorum and said board is empowered to make its own rules for its government. (1959 Code, sec. 2-16-3; 1996 Code, sec. 2.2503)

**Division 5. Airport Advisory Board****Sec. 2.07.124 Duties**

The board shall act as an advisory board to the airport manager and the city council, and is expressly directed and empowered to make a complete study of all phases of the airport operations and make recommendations from time to time for the most efficient operation of the airport. (1959 Code, sec. 2-16-4; 1996 Code, sec. 2.2504)

**Division 5. Airport Advisory Board****Sec. 2.07.125 Qualifications**

All members shall be residents of the city. (1959 Code, sec. 2-16-5; 1996 Code, sec. 2.2505)



## Animal Services Advisory Committee

The Animal Services Advisory Committee, composed of seven members appointed by the City Council, makes recommendations regarding Animal Services policy to the City Council.

Staff Liaison: Morgan Chegwidden 325-657-4409

Meetings are scheduled at noon on the third Thursday of each month and held at the McNease Convention Center – South Meeting Room

Board Roster:

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Timothy Davenport-Herbst	Current	1	01/31/2016	01/31/2020	ASAC - Open	1
Jenie Wilson	Current	2	01/31/2016	01/31/2020	ASAC - Animal Welfare	2
Sandra Villarreal	Current	1	01/31/2018	01/31/2020	ASAC - Municipal Officer	3
Ryan Smith	Current	1	01/31/2017	01/31/2019	ASAC - Open	4
Carah Dunagan	Current	UNEX	01/31/2017	01/31/2019	ASAC - Open	5
Tom Maurer	Current	UNEX	01/31/2017	01/31/2019	ASAC - Open	6
Victor Schulze	Current	1	01/31/2017	01/31/2019	ASAC - Veterinarian	Mayor

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 18. Animal Shelter Advisory Committee\*****Division 18. Animal Shelter Advisory Committee\*****Sec. 2.07.541 Committee created**

In accordance with the authority granted under Texas Health and Safety Code chapter 823, there is hereby created the animal shelter advisory committee ("the committee"). (1996 Code, sec. 2.3801; Ordinance adopted 12/7/10; Ordinance adopted 7/12/11; Ordinance adopted 3/1/16)

**Division 18. Animal Shelter Advisory Committee\*****Sec. 2.07.542 Purpose**

The committee shall perform the state law advisory committee functions contemplated in section 823.005 of the Health and Safety Code, as amended by rendering advice and assistance to the animal services manager regarding the city's compliance with the requirements of chapter 823 of the Health and Safety Code. (1996 Code, sec. 2.3802; Ordinance adopted 12/7/10; Ordinance adopted 7/12/11; Ordinance adopted 3/1/16)

**Division 18. Animal Shelter Advisory Committee\*****Sec. 2.07.543 Composition**

- (a) The committee shall consist of seven members which shall be designated as positions one through seven.
- (b) The members shall be appointed by the city council. The following membership criteria shall apply:
  - (1) Position one shall be filled by a veterinarian.
  - (2) Position two shall be filled by a municipal or county official.
  - (3) Position three shall be filled by a person whose duties include the daily operation of an "animal shelter" as that term is defined in section 823.001 of the Health and Safety Code.
  - (4) Position four shall be filled by a person who is an officer or employee of an animal welfare organization.
  - (5) Positions five through seven shall be filled by residents of the city.

(1996 Code, sec. 2.3803; Ordinance adopted 12/7/10; Ordinance adopted 7/12/11; Ordinance adopted 3/1/16)

**Division 18. Animal Shelter Advisory Committee\*****Sec. 2.07.544 Terms**

- (a) The members of the committee in positions four through seven shall serve for two-year terms commencing on the first day of each even-numbered calendar year and ending on the last day of each odd-numbered calendar year, or until such time as their successors are appointed and qualified, whichever event shall occur later.

(b) The members of the committee in positions one through three shall serve an indefinite term until a successor is duly appointed.

(c) No member in positions four through seven shall serve more than two consecutive full terms.

(1996 Code, sec. 2.3804; Ordinance adopted 12/7/10; Ordinance adopted 7/12/11; Ordinance adopted 3/1/16)

Division 18. Animal Shelter Advisory Committee\*

**Sec. 2.07.545 Removal of members**

Members of the animal shelter advisory committee in positions four through seven may be removed for good cause by the city council. The city council shall appoint a suitable person to serve the remaining term of a committee member whose place becomes vacant for any reason. (1996 Code, sec. 2.3805; Ordinance adopted 12/7/10; Ordinance adopted 7/12/11; Ordinance adopted 3/1/16)

Division 18. Animal Shelter Advisory Committee\*

**Sec. 2.07.546 Officers**

At the first meeting of each calendar year, the members of the committee shall select a chairperson. The member serving in position two of the committee shall be the ex-officio secretary of the committee. (1996 Code, sec. 2.3806; Ordinance adopted 12/7/10; Ordinance adopted 7/12/11; Ordinance adopted 3/1/16)

Division 18. Animal Shelter Advisory Committee\*

**Sec. 2.07.547 Meetings**

(a) The committee shall meet from time to time at the call of the chairperson, provided that the committee shall meet not less than three times per calendar year.

(b) All meetings of the committee shall be conducted in accordance with the Texas Open Meetings Act and Roberts Rules of Order.

(1996 Code, sec. 2.3807; Ordinance adopted 12/7/10; Ordinance adopted 7/12/11; Ordinance adopted 3/1/16)

Division 18. Animal Shelter Advisory Committee\*

**Sec. 2.07.548 Quorum**

A simple majority of the appointed members of the committee shall constitute a quorum for the conduct of business. (1996 Code, sec. 2.3808; Ordinance adopted 12/7/10; Ordinance adopted 7/12/11; Ordinance adopted 3/1/16)

Division 18. Animal Shelter Advisory Committee\*

**Sec. 2.07.549 Compensation**

Members shall not be compensated for service, provided that any member who is a city employee shall continue to receive his regular compensation while serving on the committee. (1996 Code, sec. 2.3810; Ordinance adopted 12/7/10; Ordinance adopted 7/12/11; Ordinance adopted 3/1/16)

Division 18. Animal Shelter Advisory Committee*
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**Secs. 2.07.550–2.07.580    Reserved**

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BYLAWS  
OF  
THE CITY OF SAN ANGELO  
ANIMAL SHELTER ADVISORY COMMITTEE



Approved by the City Council

June 21, 2016

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## ARTICLE I

### Purpose

The purpose of the Animal Shelter Advisory Committee (hereinafter the ASAC) is to advise members of the City Council and animal shelter staff on matters related to the health and safety of animals housed at the city's animal shelter as outlined in Texas Health and Safety Code, Chapter 823.

## ARTICLE II

### Vision

The vision of this committee is to assist the City of San Angelo in becoming a pet friendly community by promoting animal welfare, advocacy and providing community education in the hopes of establishing and maintaining a "no kill" community.

## ARTICLE III

### Members

The ASAC shall consist of seven (7) members which shall be designated according to City Code of Ordinance Article 2.07 "Boards and Commissions", Division 18 "Animal Shelter Advisory Committee" and will mandatorily include a veterinarian, a city or county official, a person whose duties include the daily operation of a shelter, and a person who is an officer or employee of an animal welfare organization.

Members shall annually elect, from its numbers, a Chairperson and Vice Chairperson.

Members shall serve as directed by Article 2.07 "Boards and Commissions", Division 18 "Animal Shelter Advisory Committee". Members shall be required to visit and volunteer at the shelter on a monthly basis in an effort to remain educated and informed on shelter issues.

The committee may request that a member be removed for cause. Removal for cause may include three or more unexcused absences during a single term or failure to meet the shelter visitation/volunteer requirements. For an absence to be excused, members are encouraged to contact the Chair within 24 hours prior to the posted meeting if they are unable to attend.

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### ARTICLE III

#### Meetings

Meetings of members of the ASAC shall meet the third Thursday of each month unless there is no business to discuss. Items may be placed on the agenda at the request of City Council, the Committee Chairperson and by the request and agreement of any 2 current members. Agendas will be prepared by the ASAC City Liaison and reviewed by the chair prior to posting. Meetings shall be conducted by the chairperson, and if absent by the Vice-Chairperson. Meetings shall be held in accordance Robert's Rules of Order and follow the Texas Open Meetings Act. A quorum shall consist of a simple majority of the ASAC. Special meetings may be called by the chairman and must be held within ten (10) days of the date called.

### ARTICLE IV

#### ASAC City Liaison

The Neighborhood & Family Services Department Director or designee, shall act as the ASAC liaison between the committee and city staff and shall provide public notices, agendas, and minutes for public informational purposes. The liaison will be responsible for facilitating ASAC meetings to include providing a venue for meetings and coordinating with the city's Public Information Officer to ensure meetings are recorded for future viewing by citizens.

### ARTICLE V

#### Subcommittees

The ASAC chairperson shall appoint subcommittees as deemed necessary by the ASAC. Each subcommittee shall exercise such power and carry out such functions as delegated by the ASAC. Each subcommittee shall have the power to act only during the intervals between meetings of the ASAC, and shall serve the ASAC in an advisory capacity only.

Subcommittees shall be subject to the control of the ASAC. Each subcommittee shall be comprised of a chairperson, who must be a member of the ASAC, and one or more additional parties who may be, but are not required to be ASAC members. Any person who is not an ASAC member and becomes a member of any subcommittee, shall have the same responsibilities, with respect to such subcommittee, as a member of the ASAC.



## Audit Committee

The Audit Committee's purpose is to assist the City Council, city manager, and relevant staff in the development and fulfillment of internal and external audit objectives and obligations.

Staff Liaison: Brandon Sanders 325-657.4268

Meetings are scheduled quarterly and held in City Hall on the 4<sup>th</sup> Floor

Board Roster:

Name	Status	Role	Position/Seat
Michael Dane	Current	City Manager Designee	1
Tina Dierschke	Current	Finance Director	2
Harry Thomas	Current	Council Representative	3
Gayla Thornton	Current	Citizen Representative	4
Don McKee	Current	Citizen Representative	5
Fran Grogan	Current	Citizen Representative	6
Ryan Gaddy	Current	Assistant Finance Director	7

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN ANGELO ESTABLISHING AN AUDIT COMMITTEE, ESTABLISHING THE COMMITTEE'S MEMBERSHIP AND CHARTER.**

**WHEREAS** an audit committee will enhance the reliability and effectiveness of internal audits performed by establishing a reporting process independent of the internal administration of the City; and

**WHEREAS** an audit committee will assist in the oversight of complying with State and Federal regulations and insuring that proper financial controls are implemented and monitored; and

**WHEREAS** an audit committee will assist City Council with issues pertaining to the relationship of the City's external auditors with the City and staff and the activities to be undertaken,

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANGELO, TEXAS:**

- 1) THAT,** the City hereby establishes an audit committee; and
- 2) THAT,** the audit committee charter attached hereto is hereby adopted.

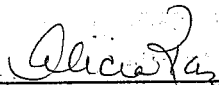
**APPROVED and ADOPTED** on this the 19<sup>th</sup> day of February, 2008.

CITY OF SAN ANGELO, TEXAS

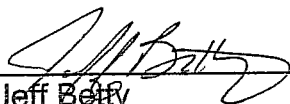


Joseph W. Lown, Mayor

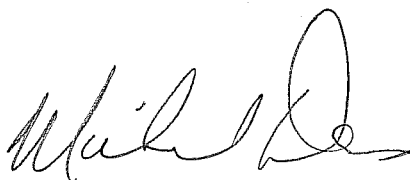
ATTEST:



Alicia Ramirez, City Clerk



Jeff Berry  
Assistant City Attorney



Michael Dane  
Finance Director

## **City of San Angelo Audit Committee Charter**

### **1. Statement of Purpose**

To assist the City Council, city manager, and relevant staff in the development and fulfillment of internal and external audit objectives and obligations.

### **2. Organization**

- a. *Charter.* At least annual, this charter shall be reviewed and reassessed by the Committee and any proposed changes shall be submitted to the City Council for approval.
- b. *Members.* The Committee shall be comprised of five members including:
  - 1) City Manager or his/her designee
  - 2) Finance Director or his/her designee
  - 3) Council Member
  - 4) Private Citizen or Council Member
  - 5) Private Citizen or Council Member

Upon discovery of citizens possessing the combination of preferred expertise and willingness to serve, a nomination will be brought to the City Council for consideration.

- c. *Meetings.* The Committee shall meet quarterly in order to complete its responsibilities. Additional meetings may be scheduled as required. The schedule of meetings should ensure that sufficient opportunities exist for its members to meet with external auditors, the City's internal auditor, managers, and directors as necessary.
- d. *Self Evaluation.* The Committee shall evaluate its performance on an annual basis and establish criteria for such evaluation.

### **3. Responsibilities**

- a. *Engagement of External Auditors.* The Committee shall be responsible for the appointment, compensation, evaluation, and retention of the external auditors. The external auditors shall report directly to the Committee.
- b. *Performance Evaluation of External Auditors.* The Committee shall be responsible for the annual review the performance of the City's external auditors annually. In doing so, the Committee shall consult with management and the City's internal auditor and shall obtain and review a report by the external auditors describing their internal control procedures, material issues raised by their most recent internal quality control review, and their response on the internal controls and any material issues.
- c. *Performance Evaluation of Internal Auditor.* The Committee shall be responsible for the annual review of the performance of the City's internal auditor. In doing so, the committee shall advise the City's internal auditor's administrative supervisor on the performance and recommendation of the internal auditor.
- d. *Internal Audit Oversight.* The Committee shall assist staff in the development and implementation of internal audit plans and objectives.



## City of San Angelo Development Corporation

The COSADC is a non-profit economic development corporation formed under the Texas Development Corporation Act of 1979 and governed by a seven member board of directors. As directed by this Act, the Corporation's focuses its efforts on the promotion and development of business enterprises that create or retain primary jobs

Staff Liaison: Michael Dane 325-657-4239

Meetings are scheduled at 8:30 a.m. on the fourth Wednesday of the month in the South Meeting Room of the McNease Convention Center

Board Roster:

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Edward Carrasco	Current	1	02/28/2017	02/28/2019	SMD1	1
William Dendle	Current	1	02/28/2017	02/28/2019	SMD2	2
Elizabeth Grindstaff	Current	UNEX	02/28/2017	02/28/2019	SMD3	3
John Bariou Jr.	Current	4	02/28/2017	02/28/2019	SMD4	4
David Cummings	Current	1	02/28/2017	02/28/2019	SMD5	5
Oscar Casillas	Current	UNEX	02/28/2017	02/28/2019	SMD6	6
Todd Kolls	Current	1	02/28/2017	02/28/2019	Mayor	7

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 9. Economic Development Corporation<sup>\*</sup>****Division 9. Economic Development Corporation\*****Sec. 2.07.251 Creation**

There is hereby created a corporation known as the city development corporation ("corporation" hereinafter). The board of directors shall consist of seven (7) directors appointed by the city council. (1996 Code, sec. 2.3601; Ordinance adopted 8/3/99)

**Division 9. Economic Development Corporation\*****Sec. 2.07.252 Powers**

The corporation shall have the powers and duties and be subject to the limitations set out in Vernon's Ann. Civ. St. art. 5190.6, or its successor statute. (1996 Code, sec. 2.3602; Ordinance adopted 2/16/99)

**Division 9. Economic Development Corporation\*****Sec. 2.07.253 Board of directors**

(a) Each member of the board of directors ("board" hereinafter) of the corporation shall:

- (1) Be appointed by a majority vote of the city council;
- (2) Serve a two-year term of office; and
- (3) Be a resident of the city.

(b) A director may be removed from office by a majority vote of the city council at any time without cause.

(c) No person shall be appointed as a director who is an employee, officer or member of the city council of the city, or a member of any board or commission of the city, except that a director may be appointed to serve as a member of the water advisory board. A director who is a member of any other boards or commissions of the city, except the water advisory board, shall elect the board on which he will continue to serve within fourteen (14) days of the effective date of this section. If he fails to designate the board on which he will continue to serve within the specified time period, the city council shall make the designation.

(1996 Code, sec. 2.3603; Ordinance adopted 7/17/07; Ordinance adopted 12/2/14)

**Division 9. Economic Development Corporation\*****Sec. 2.07.254 Quorum; officers; articles of incorporation; bylaws; meetings; registered agent**

(a) A quorum for the transaction of business by the board shall be a majority of the seven (7) members of the board.

- (b) The officers of the corporation shall consist of a president, secretary and treasurer appointed by the board, each of whom shall be appointed at such time and in such manner and for such terms as may be prescribed in the articles of incorporation or the board's bylaws.
  - (c) The initial bylaws of the corporation shall be adopted by the board and approved by resolution of the city council.
  - (d) The board shall conduct each of its meetings within the boundaries of the city.
  - (e) The corporation's registered agent must be an individual resident of the state and the corporation's registered office must be within the boundaries of the city.
- (1996 Code, sec. 2.3604; Ordinance adopted 2/16/99)

Division 9. Economic Development Corporation*
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**Sec. 2.07.255 Administrative services**

The corporation shall contract with the city for the provision of administrative services. (1996 Code, sec. 2.3605; Ordinance adopted 2/16/99)

Division 9. Economic Development Corporation*
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**Sec. 2.07.256 Levy, use and termination of sales tax**

(a) In accordance with the results of the November 2, 2010, sales tax election held under section 4B of article 5190.6 V.A.C.S, the city shall continue to levy and collect a one-half cent sales and use tax for the following purposes and projects authorized by said election:

- (1) The use of sales and use tax proceeds for infrastructure relating to the development of water supply, water purchase, water rights purchase, and/or capital improvements for one or more of the following options: water reuse and/or the use of fresh or brackish water; and the development and institution of water conservation programs, including, but not limited to, education programs and incentives for the installation of water saving plumbing fixtures, to be from a minimum of 21% increasing to 72% of gross sales and use tax proceeds as voter-approved project obligations are met and subject to future voter approval of additional projects;
- (2) The use of sales and use tax proceeds for the continued economic development projects authorized under section 4B of the act, including, but not limited to, the development, promotion, creation, retention or expansion of business enterprises that create or retain primary jobs, including suitable infrastructure, up to 28% of gross sales and use tax revenues;
- (3) The use of sales and use tax proceeds for the continued development and expansion of affordable housing for a period of thirty (30) years at its current allocation;
- (4) The use of sales and use tax proceeds for infrastructure relating to the Concho River improvements anticipated to be in the sum of \$4 million;
- (5) The use of sales and use tax proceeds for projects authorized under the act including, restoration of the auditorium downtown plaza anticipated to be in the sum of \$3.75 million, youth sports facility consolidation anticipated to be in the sum of \$1.75 million, Fort Concho/Museum District anticipated to be in the sum of \$1 million, Fair Grounds Third (3rd) Phase Construction anticipated to be in the sum of \$1 million, and Airport Modification leveraging funds anticipated to be in the sum of \$500,000; and
- (6) The uses of sales and use tax proceeds for infrastructure and capital improvement projects, other than development of water infrastructure or economic development, requiring funding in addition

to funding anticipated at the time of approval shall be resubmitted to the qualified voters for approval before the expenditure of additional funds from sales and use tax proceeds.

(b) In accordance with the results of the September 11, 2004, sales tax election held under section 4B of Vernon's Ann. Civ. St. article 5190.6 ("act" hereinafter), the city shall continue to levy and collect a one-half cent sales and use tax for the following purposes authorized by said election:

(1) Infrastructure relating to the development of water supply facilities for one or more of the following options: water reuse and/or the use of fresh or brackish groundwater; and the development and institution of water conservation programs including, but not limited to, education programs and incentives for the installation of water saving plumbing fixtures;

(2) Projects authorized under the act including, but not limited to, Concho River improvements; park improvements; sports and athletics facilities and improvements, including maintenance and operations expenses for such sports and athletics facilities and improvements; convention center, Fort Concho Museum, coliseum and fairground improvements; related improvements to enhance the foregoing items; and development and expansion of affordable housing;

(3) Economic development purposes authorized under section 4B of the act, including, but not limited to, the development, promotion, creation, retention or expansion of business enterprises that create or retain primary jobs, and suitable infrastructure necessary to promote or develop business enterprises.

(c) The one-half cent sales tax shall be levied and collected from July 1, 2005, and shall terminate on June 30, 2025.

(d) The one-half cent sales tax collected from July 1, 1999, until June 30, 2005, shall continue to be used for the following purposes authorized in the election held on January 16, 1999:

(1) Lake Nasworthy dredging project and related improvements.

(2) Coliseum and fairgrounds projects, including but not limited to replacement of air conditioning plant in the coliseum, construction of an indoor arena, and other facility improvements.

(3) The promotion and/or development of new or expanding business enterprises which create or retain jobs including the provision of infrastructure to support such enterprises

(1996 Code, sec. 2.3606; Ordinance adopted 7/5/05; Ordinance adopted 12/3/13)

Division 9. Economic Development Corporation*
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#### **Sec. 2.07.257 Severability**

The terms and provisions of this division shall be deemed to be severable in that, if any portion of this division shall be declared to be invalid, the same shall not affect the validity of the other provisions of this division. (1996 Code, sec. 2.3607; Ordinance adopted 2/16/99)

Division 9. Economic Development Corporation*
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#### **Secs. 2.07.258–2.07.280 Reserved**

## **BYLAWS OF CITY OF SAN ANGELO DEVELOPMENT CORPORATION**

These bylaws govern the affairs of the City of San Angelo Development Corporation (the “Corporation”) a nonprofit corporation organized under the Texas Development Corporation Act of 1979, Article 5190.6 Vernon’s Texas Revised Civil Statutes Annotated as amended (the “Act”) and is governed by Section 4B of the Act.

### **ARTICLE I PURPOSE AND POWERS**

#### **SECTION 1. REGISTERED OFFICE AND REGISTERED AGENT.**

The City of San Angelo Development Corporation (the “Corporation”) shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office. The Registered Agent for the Corporation shall be the City Clerk.

The registered office of the Corporation is 72 W. College, San Angelo, Tom Green County, Texas 76903, the mailing address is P.O. Box 1751, San Angelo, Tom Green County, Texas 76902. Said address shall also serve as the principal office of the Corporation and the Board of Directors (the “Board”).

The Corporation may change the registered office and registered agent as provided in the Act.

#### **SECTION 2. PURPOSE.**

The Corporation is incorporated as a non-profit corporation for the purposes set forth in the Articles, the same to be accomplished on behalf of the City of San Angelo, Texas (the “City”), as its duly constituted authority and instrumentality in accordance with Section 4B of the Act, other applicable laws, and Chapter 2, Article 36 of the San Angelo Code of Ordinances. The Corporation shall be a non-profit corporation as defined by the Internal Revenue Code 1986, as amended, and the applicable regulations of the United States Treasury Department and the rulings of the Internal Revenue Service of the United States prescribed and promulgated thereunder.

It shall not be the purpose of this corporation to engage in carrying on propaganda or otherwise attempting to influence legislation.

#### **SECTION 3. POWERS.**

The Corporation has all the powers both express and implied, granted to corporations governed by Section 4B of the Act, by the Texas Non-profit Corporation Act and other applicable laws, subject to the limitations set forth in the Articles of Incorporation of the Corporation (the “Articles”) and these Bylaws.

## **ARTICLE II BOARD OF DIRECTORS**

### **SECTION 1. NUMBER AND TERM OF OFFICE.**

- A. The property and business of the Corporation shall be managed and controlled by a Board of Directors and, subject to the restrictions imposed by law, by the Articles and these Bylaws, the Board shall exercise all the powers of the Corporation. Each member of the Board shall be entitled to one vote upon the business of the Corporation.
- B. The Board shall consist of seven (7) directors, each of whom shall be appointed by a majority vote of the City Council. Each of the directors shall be a resident of the City; no employee, officer or member of the City Council of the City of San Angelo may be a director of the Corporation.
- C. Each director shall serve a two-year term of office and shall be eligible for reappointment.
- D. Any director may be removed from office by a majority vote of the City Council at will. A vacancy in any position on the Board which occurs by reason of death, resignation, disqualification, removal, or otherwise, shall be filled as prescribed in Subsection B above.

### **SECTION 2. MEETINGS.**

- A. Place. All meetings of the Board of Directors shall be held in San Angelo, Texas, at such place as shall be designated in the notice of said meeting.
- B. Annual Meeting. The annual meeting of the Board of Directors shall be held during the month of March of each year. The Board of Directors shall designate the time and location of the annual meeting.
- C. Regular Meetings. The Board of Directors may provide for regular meetings by resolution stating the time and place of such meetings. Regular Meetings shall continue to be held at such time and place unless otherwise determined by Resolution of the Board of Directors.
- D. Special Meetings. Special meetings of the Board of Directors may be held at the request of the President, any Vice President, any two Directors of the Corporation, or any two members of the City Council. A person or persons calling the meeting shall fix the date and time of the meeting.

The person or persons calling a special meeting shall notify the Secretary of the Corporation of the information required to be included in the notice of the meeting. In addition to the posting of a meeting notice in accordance with these bylaws, a copy of each such meeting notice shall be delivered to each director not less than seventy-two hours before the time of the meeting. A meeting notice shall be deemed delivered to any director when deposited in the United States mail addressed to the director at his or her address as it appears on the

records of the Corporation. Such additional notice may be waived in writing by a director at any time either before or after the time of the meeting and such additional notice shall be deemed waived by attendance.

- E. Agenda. Any director or officer of the corporation may place an issue on the Agenda of a regular or special meeting by notifying the Secretary of the corporation one week prior to said meeting, if possible, but in no event later than necessary to comply with the Open Meetings Act.
- F. Notice of Meetings. The Corporation is subject to the Open Meetings Act, Texas Government Code, Sec. 551.001, and notice of each meeting shall be given in accordance with the provisions of Texas Government Code, Chapter 551 (The Texas Open Meetings Act).
- G. Quorum. A quorum for the transaction of business by the Board shall be a majority of the seven (7) members of the Board. The presence of a director may not be established by proxy. No business shall be conducted, nor shall any action be taken by the Board of Directors in the absence of a quorum.

### SECTION 3. CONDUCT OF BUSINESS.

- A. At the meetings of the Board, matters pertaining to the business of the Corporation shall be considered in accordance with the rules of procedure as from time to time prescribed by the Board. Unless otherwise adopted by the Board, the rules of procedure of the City Council shall be the rules of procedure for the Board.
- B. At the meetings of the Board of Directors, the President, or in his or her absence the First or Second Vice President, or in the absence of those Officers, a member of the Board selected by the members present, shall preside.
- C. The secretary of the Corporation or his or her designee shall act as secretary of all meetings of the Corporation. The secretary shall keep minutes of the transactions of the Board and committee meetings and shall cause such official minutes to be recorded in books kept for that purpose in the principal office of the Corporation.
- D. Committees. The Board of Directors may by resolution establish one or more special or standing committees. Such committees shall have the powers, duties and responsibilities established by the Board. The committees shall keep regular minutes of their meetings and report the same to the Board of Directors when required.
- E. Compensation of Directors. The directors shall not receive any salary or compensation for their services. Directors may be reimbursed for their actual expenses incurred in the performance of their duties. Travel expenses shall be reimbursed under the City's travel policy.

- F. Attendance. Regular attendance at the Board meetings is required of all voting directors. Three (3) consecutive unexcused absences from regular meetings of the Board shall cause the position to be considered vacant. Four (4) unexcused absences from regular meetings in a twelve (12) month period shall also cause the position to be considered vacant. An absence shall be unexcused if a voting director does not notify the President or Secretary of the absence prior to the meeting.
- G. Ex-Officio Members. The City Council may appoint Ex-Officio members to the Board of Directors as it deems appropriate. These representatives shall have the right to take part in any discussion in open meetings, but shall not have the power to vote in the meetings. Ex-Officio members shall serve a term of one calendar year.

The following persons shall be automatically appointed as Ex-Officio directors:

1. The President of the San Angelo Chamber of Commerce;
2. The Chairman of San Angelo Industries; and
3. The Chairman of Priority One.

Upon leaving the designated positions, the above described individuals will automatically be removed from the Board of Directors and replaced with their successor. The City Council would have the option of reappointing any such individual as an ex-officio member of the Board.

Serving as an ex-officio member of the Board shall not preclude any individual from being appointed simultaneously as one of the seven voting Directors of the Board.

- H. Contracts. No contract or other transaction between this corporation and any other corporation, person or entity shall be executed unless approved by the majority of the Board who are present and approved by an affirmative vote for such contract and is approved by directors with no pecuniary interest in such other corporation, person or entity.
- I. Additional Powers. In addition to the powers and authorities expressly conferred upon them in these bylaws, the Board of Directors may exercise all such powers of the corporation and do all lawful acts and things as are not by statute or by the charter or by these bylaws prohibited. Without prejudice to such general powers and other powers conferred by statute, by the charter and by these bylaws, it is hereby expressly declared the Board of Directors shall have the following powers:
1. To purchase, or otherwise acquire for the corporation, any property, rights, or privileges which the corporation is authorized to acquire, at such price or consideration and generally on such terms and conditions as they think fit; and at their discretion to pay therefore either wholly or partly in money, notes, bonds, debentures, or other securities of contracts of the corporation as may be lawful.
  2. To create, make and issue notes, mortgages, bonds, deeds of trust, trust agreements and negotiable or transferable instrument and securities, secured by mortgage or deed

of trust on any real property of the corporation or otherwise and to do every other act or thing necessary to effect the same, or to contract with the City of San Angelo to effect the same.

3. To sell or lease the real or personal property of the corporation on such terms as the Board may see fit and to execute all deeds, leases and other conveyances or contracts that may be necessary for carrying out the purposes of this corporation.
4. Whether included in the foregoing or not, to have and exercise all powers necessary or appropriate to effect any or all of the purposes for which the corporation is organized which powers shall be subject at all times to the control of the City Council of San Angelo, Texas.

- J. Review of proposed Development Projects. In addition to the specific projects described in the ballot approved by the City of San Angelo voters, the Board is charged with projects for the promotion and development of new or expanding business entities which create or retain jobs, including providing for infrastructure to support such enterprises. With regard to such projects, the corporation should, if possible, request review and recommendations from Priority One for projects requiring financial assistance. The Chamber of Commerce/Priority One is the organization under contract with the City of San Angelo for economic development promotional services.

#### SECTION 4. DUTIES OF DIRECTORS.

- A. Duties of Directors. Directors shall exercise ordinary business judgment in managing the affairs of the Corporation. In acting in their official capacity as directors of the Corporation, directors shall act in good faith and take actions they reasonably believe to be in the best interests of the Corporation and which are not unlawful and shall refrain from actions not in the best interest of the Corporation or which would be unlawful. A director shall not be liable if, in the exercise of ordinary care, the director acts in good faith relying on written financial and legal statements provided by an accountant, attorney, or other professional advisor retained by the Corporation.
- B. Conflict of Interest. In the event that a director is aware that he has a conflict of interest or potential conflict or interest, with regard to any particular matter or vote coming before the Board, the director shall bring the same to the attention of the Board and shall abstain from discussion of and voting on that matter.

Any director shall bring to the attention of the Board any apparent conflict of interest or potential conflict of interest of any other director, in which case the Board shall determine whether a true conflict of interest exists before any further discussion or vote shall be conducted regarding that particular matter. The director about whom a conflict of interest question has been raised shall refrain from voting with regard to the determination as to whether a true conflict exists. Failure to conform to these requirements herein and policies as may be adopted by the Board is cause for dismissal from the Board by action of the City Council.

- C. Implied Duties. The Corporation is authorized to do that which the Board deems desirable, subject to City Council approval, to accomplish any of the purposes or duties set out or alluded to in the Articles, these Bylaws, and in accordance with State law.
- D. Contracts for Service. The Corporation may, with approval of the City Council, contract with any qualified and appropriate person, association, corporation or governmental entity to perform and discharge designated tasks which will aid or assist the Board in the performance of its duties. However, no such contract shall ever be approved or entered into which seeks or attempts to divest the Board of its discretion and policy-making functions in discharging the duties herein set forth

Subject to the authority of the City Manager under the Charter of the City, the Corporation shall have the right to utilize the services of the staff and employees of the City, provided that (i) the City Manager approves of the utilization of such services, and (ii) the Corporation shall reimburse the City employees for any actual reasonable expenses incurred by the employee personally in the performance of their duties related to the corporate duties of the Board (excluding expenses incurred for regular and special meetings of the Board).

- E. Board's Relationship with the City. In accordance with state law, the Board shall be responsible for the proper discharge of its duties assigned herein. The Board shall determine its policies and directives within the limitations of the duties herein imposed by applicable laws, the Articles, these Bylaws, contracts entered into with the City, and budget and fiduciary responsibilities. Such policies and directives are subject to approval by the City Council. Any request for services made to the departments of the City shall be made by the Board or its designee in writing to the City Manager. The City Manager may approve such request for assistance from the Board when he finds such requested services are available within the City and, if necessary, that the Board has agreed to reimburse the City for the cost of such services so provided.

## SECTION 5. CORPORATION CAPITAL IMPROVEMENT PLAN.

The Board shall develop a combined Corporation Capital Improvement Program ("the CCIP"), including maintenance and operation costs thereof, for the City which shall include and set forth a mission and short and long term goals for the corporation. Such plan shall be approved by the City Council. The CCIP developed by the Board shall be one that addresses the projects set forth in Article Four(a) of the Articles (the "Development Projects"). The Board shall conduct a public hearing concerning both the adoption and required annual updates to the CCIP.

The Board shall review and update the CCIP once a year to ensure the plan is up to date with current community needs and is capable of implementing the Development Projects. The Board shall expend, in accordance with State law and Article Four (a) of the Articles and subject to City Council approval, the funds received by it for community development where such expenditures will have a benefit to the citizens of San Angelo. The Board shall make an annual report to the City Council outlining the following:

1. A review of the progress and accomplishments of the Board in implementing the Development Projects; and
2. The activities of the Board for the budget year addressed in the annual report, together with any proposed change in the activity.

The annual required report shall be made to the City Council no later than May 1<sup>st</sup> of each year.

The Board shall be accountable to the City Council for all activities undertaken by it or on its behalf, and shall report on all activities of the Board, whether discharged directly by the Board or by any person, firm, corporation, agency, association or other entity on behalf of the Board.

#### SECTION 6. DEBT, DEPOSIT AND INVESTMENT OF CORPORATE FUNDS.

All proceeds from the issuance of bonds, notes or other debt instruments (the “Bonds”) issued by the Corporation shall be deposited and invested as provided in the resolution, order, indenture, or other documents authorizing or relating to their execution or issuance and handled in accordance with the statute governing this Corporation, but no bonds shall be issued, including refunding bonds, by the Corporation without the approval of the City Council after review and comment by the City’s bond counsel.

All monies of the Corporation shall be deposited, secured, and/or invested in the manner provided for the deposit, security, and/or investment of the public funds of the City, as authorized by the City Investment Policy. The treasurer shall designate the accounts and depositories to be created and designated for such purposes, and the methods of withdrawal of funds therefrom for use by and for the purposes of the Corporation upon the signature of the treasurer and the secretary. The accounts, reconciliation, and investment of such funds and accounts shall be performed by the Department of Finance of the City.

#### SECTION 7. EXPENDITURES OF CORPORATE MONEY.

The monies of the Corporation, including sales and use taxes collected pursuant to the Act, the proceeds from the investment of funds of the Corporation, the proceeds from the sale of property, monies derived from the repayment of loans, rents received from the lease or use of property, the proceeds derived from the sale of bonds, and other proceeds may be expended by the Corporation for any of the purposes authorized by the Act and the Articles, subject to the following limitations:

1. Expenditures from the proceeds of bonds shall be identified and described in the orders, resolutions, indentures, or other agreements submitted to and approved by the City Council.
2. Expenditures that may be made from a fund created from the proceeds of bonds, and expenditures of monies derived from sources other than the proceeds of bonds may be used for the purposes of financing or otherwise providing one or more projects, as defined in the Act and the Articles. The specific expenditures shall be described in a

resolution or order of the Board and shall be made only after the approval thereof by the City Council.

3. All other proposed expenditures shall be made in accordance with and shall be set forth in the annual budget required by these bylaws or in contracts meeting the requirements of the Article.

#### SECTION 8. REPORT TO COMPTROLLER.

Not later than February 1 of each year, the board of directors of the Corporation shall submit to the Comptroller of Public Accounts of the State of Texas, the report required under Section 4C of the Act, and any other reports that are, or shall become, required to be filed by corporations created under Section 4B of the Act.

### **ARTICLE III OFFICERS**

#### SECTION 1. TITLES AND TERM OF OFFICE.

The officers of the Corporation shall be a president, first and second vice-presidents, a secretary and a treasurer.

#### SECTION 2. OFFICERS.

- A. President and First and Second Vice-President. The president and first and second vice presidents shall be appointed by and subject to the control of the Board of Directors, and shall serve a term of one (1) year. The president and vice presidents shall continue to serve until their successors are appointed.
- B. Secretary and Treasurer. The Secretary of the Corporation shall be a City staff member assigned to the Corporation under a contract between the Corporation and the City of San Angelo, as approved by the Board of Directors. The Treasurer of the Corporation shall be the Finance Director of the City of San Angelo, and shall serve as long as he/she remains in the position.
- C. Any officer of the Corporation may be removed by a majority vote of the Board of Directors at will.
- D. Vacancies. A vacancy in any office of the Corporation may be filled by a majority vote of the Board of Directors for the unexpired portion of the officer's term.
- E. Annual Election. The Board of Directors, at each annual meeting of the Board shall appoint the officers of the Corporation who shall have such authority, and shall perform such duties as from time to time may be prescribed by the Board of Directors.

- F. Compensation of Officers. The officers shall not receive any salary or compensation for their services. Officers may be reimbursed for their actual expenses incurred in the performance of their duties. Travel expenses shall be reimbursed under the City's travel policy.

SECTION 3. DUTIES OF OFFICERS.

- A. President. The president shall be the chief executive officer of the Corporation and shall preside at all meetings of the Directors. The president shall, subject to the authority of the Board and approval of the City Council, supervise and control all of the business and affairs of the Corporation. When the execution of any contract or instrument shall have been authorized by the Board of Directors, the president shall execute same except where such power is expressly delegated to another officer of the Corporation. The president shall perform other duties prescribed by the Board of Directors and all duties incident to the office of president.

In addition, the president shall:

1. Have the authority to appoint standing or study committees to aid and assist the Board in its business undertaking or other matters incidental to the operation and functions of the Board (this authority is in addition to the authority of the Board to establish committees pursuant to Article II, Section 3D of these Bylaws);
  2. Appear before the City Council on a periodic basis to give a report on the status of activities of the Corporation; and
  3. Appear or designate a board member to appear before the City Council, regarding any item being considered by the City Council concerning the Corporation.
- B. Vice Presidents. The first vice president shall exercise the powers of the president during that officer's absence or inability to act. The second vice president shall exercise the powers of the president during the absence of the president and the first vice president. The first and second vice presidents shall also perform other duties as from time to time may be assigned by the president or the Board.
- C. Secretary. The secretary shall keep the minutes of all meetings of the Board and committees in books provided for that purpose, shall give and serve all notices, shall sign with the president in the name of the Corporation, and/or attest the signature thereto, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation and when necessary shall affix the seal of the Corporation. The secretary shall have charge of the corporate books, records, documents and instruments except the books of account and financial records and securities, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to public inspection upon application at the office of the Corporation during business hours, as required under the Texas Open Records Act and Article IV, Section 4 of these Bylaws. The secretary shall in general perform all duties incident to the office of secretary subject to the control of the Board. The secretary shall endorse and countersign, on behalf of the Corporation, for collection or issuance, checks, notes and other obligations in or drawn upon such bank or

banks or depositories as shall be designated by the City Council consistent with these Bylaws. The secretary shall perform all acts incident to the position of secretary subject to the control of the Board of Directors.

- D. Treasurer. The treasurer shall have charge and custody of all funds and securities of the Corporation; shall receive and give receipts for money due and payable to the Corporation from any source; shall endorse on behalf of the Corporation for collection, checks, notes and other obligations and shall deposit the same to the credit of the Corporation in such bank or depository as the Board of Directors may designate. Whenever required by the Board of Directors, the treasurer shall render a statement of the Corporation's cash account; shall enter regularly in the books of the Corporation, to be kept by the treasurer for that purpose, a full and accurate account of the Corporation and shall assist the board in preparing an annual budget. The Corporation's books and accounts shall at all reasonable times be open to examination by any director of the Corporation or any officer or Councilmember of the City of San Angelo upon application at the office of the Corporation during business hours, and to the public as required under the Texas Open Records Act and Article IV, Section 4 of these Bylaws. The treasurer shall perform all acts incident to the position of treasurer, subject to the control of the Board of Directors. The treasurer shall submit a monthly public financial statement to the City Council of the City of San Angelo.

## **ARTICLE IV REQUIRED BOOKS AND RECORDS**

### **SECTION 1. CORPORATE RECORDS.**

The Corporation's books and records shall include a file endorsed copy of all documents filed with the Texas Secretary of State relating to the Corporation, including, but not limited to, the Articles of Incorporation, any articles of amendment, restated articles, articles of merger, articles of consolidation, and statement of change of registered office or agent.

A copy of the bylaws and any amended versions or amendments to the bylaws.

Minutes of the proceedings of the Board of Directors.

A list of names and addresses of the directors and officers of the Corporation.

A financial statement showing the assets, liabilities, and net worth of the Corporation at the end of the three most recent fiscal years.

A financial statement showing the income and expenses of the Corporation for the three most recent fiscal years.

All rulings, letters, and other documents relating to the Corporation's federal, state and local tax status.

Annual budget which is approved by City Council.

## SECTION 2. ANNUAL BUDGET.

At least ninety (90) days prior to October 1<sup>st</sup>, with the assistance of the Treasurer, the Board shall prepare and adopt a proposed budget of expected revenues and proposed expenditures for the next ensuing fiscal year. The fiscal year of the Corporation shall commence on October 1<sup>st</sup> of each year and end on September 30. The budget shall contain such classifications and shall be in such form as may be prescribed from time to time by the City Council of the City of San Angelo. The budget proposed for adoption shall include the projected operating expenses, and such other budgetary information as shall be required by the City Council for its approval and adoption. The budget shall be considered adopted upon formal approval by the City Council.

## SECTION 3. FINANCIAL BOOKS, RECORDS, AUDITS.

The Treasurer shall keep and properly maintain, in accordance with generally accepted accounting principles, complete financial books, records, accounts, and financial statements pertaining to its corporate funds, activities, and affairs.

The Corporation's books are required to be audited by the City's independent auditor on an annual basis. Cost of the audit will be paid by the Corporation.

## SECTION 4. RECORDS OPEN TO PUBLIC.

The Corporation shall be considered a "governmental body" within the meaning of the Texas Government Code, Sec. 552.003 and all records of the Corporation shall be made available to the public for inspection or reproduction in accordance with the requirements of the Texas Government Code, Chapter 552 (The Texas Open Records Act).

# **ARTICLE V**

## **INDEMNIFICATION OF DIRECTORS, OFFICERS AND EMPLOYEES**

### SECTION 1. GOVERNMENTAL IMMUNITY.

As provided in the Act and in the Articles of Incorporation, the Corporation is, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practices and Remedies Code), a governmental unit and its actions are governmental functions.

### SECTION 2. INDEMNIFICATION.

The Corporation agrees to indemnify, hold harmless and defend its directors and officer and the City of San Angelo, its Councilmembers, officers, agents, and employees, from and against liability or expense for any and all claims, liens, suits, demands, and/or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses including court costs and attorneys' fees and other reasonable costs arising out of or resulting from Corporation's

functions or activities and from any liability arising out of or resulting from the intentional acts or negligence, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part upon the negligent or intentional acts or omissions of the corporation.

This indemnity shall apply even if one or more of those to be indemnified was negligent or caused or contributed to cause any loss, claim, action or suit. Specifically, it is the intent of these Bylaws to require the Corporation to indemnify those named for indemnification, even for the consequences of the negligence of those to be indemnified which caused or contributed to cause any liability.

### SECTION 3. INSURANCE.

The Corporation must purchase and maintain insurance on behalf of any director, officer, employee, or agent of the Corporation, or on behalf of any person serving at the request of the Corporation as a Board member, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against that person and incurred by that person in any such capacity or arising out of any such status with regard to the Corporation, whether or not the Corporation has the power to indemnify that person against liability for any of those acts.

## ARTICLE VI MISCELLANEOUS

### SECTION 1. CONSTRUCTION/AMENDMENT OF BYLAWS.

- A. Legal Authorities Governing Construction of Bylaws. The bylaws shall be construed in accordance with the laws of the State of Texas. All references in the bylaws to statutes, regulations, or other sources of legal authority shall refer to the authorities cited, or their successors, as they may be amended from time to time. It is expressly provided that the provisions of the Development Corporation Act of 1979 applicable to corporations governed under Sec. 4B of that Act are incorporated within these bylaws by reference. In the event of any conflict between the applicable provisions of such Act and these bylaws, then the applicable provisions of such Act shall control.
- B. Legal Construction. If any bylaw provision is held to be invalid, illegal or unenforceable in any respect, the invalidity, illegality or unenforceability shall not affect any other provision and the bylaws shall be construed as if the invalid, illegal, or unenforceable provision had not been included in the bylaws.
- C. Headings. The headings used in the bylaws are used for convenience and shall not be considered in construing the terms of the bylaws.
- D. Effective Date (Amendment). These bylaws, and any subsequent amendments hereto, shall be effective from and after the date upon which approval has been given both by the Board of Directors and the City Council of the City of San Angelo, Texas.

These bylaws may be amended or repealed and new bylaws may be adopted by an affirmative vote of four (4) of the authorized directors serving on the Board, subject to approval by the City Council. The City Council may amend these bylaws at any time. Such amendments by the City Council will be duly passed and adopted by motion, resolution or ordinance duly reflected in the minutes of the City Council and, hereafter, duly reported to the Board.

## SECTION 2. NOTICE AND WAIVER.

Whenever under the provisions of these bylaws notice is required to be given to any director or officer, unless otherwise provided such notice may be given personally, or it may be given in writing by depositing the same in the post office or letter box in a post paid envelope or postal card addressed to such director or officer, at such address as appears on the books of the corporation, and such notice shall be deemed to be given at the time when the same shall be thus mailed. Whenever any notice is required to be given by statute, code, charter, law, or by these bylaws, a waiver thereof in writing signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

## SECTION 3. NEGOTIABLE INSTRUMENTS.

All checks, drafts, notes or other obligations of the Corporation shall be signed by such of the officers of the corporation or by such person or persons as may be authorized by the Board of Directors.

## SECTION 4. RESIGNATIONS.

Any director or officer may at any time resign. Such resignations shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the President or the Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

## SECTION 5. CITY APPROVAL.

To the extent that these bylaws refer to any action, approval, advice, or consent by the City or refer to action, approval, advice or consent by the City Council, such action, approval, advice or consent shall be evidenced by a motion, resolution or ordinance duly passed by the City Council and reflected in the minutes of the City Council.

## SECTION 6. ORGANIZATIONAL CONTROL.

Other than as stated herein, the City Council of the City of San Angelo, at its sole discretion, and at any time, may alter or change the structure, organization or activities of the Corporation (including the termination of the Corporation), subject to the Texas Constitution; State law, the Articles (and Specifically Article Four (a) of the Articles) as well as any limitation on the impairment of contracts entered into by such Corporation.

## SECTION 7. CORPORATE SEAL.

The Board may obtain a corporate seal which shall bear the words "Corporate Seal of the City of San Angelo Development Corporation" and the Board may thereafter use the corporate seal and corporate name; but these bylaws shall not be constructed to require the use of the corporate seal.

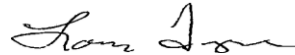
SECTION 8. GIFTS.

The Board may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purpose or for any special purposes of the Corporation.

**ARTICLE VII  
DISSOLUTION OF CORPORATION**

Upon the dissolution of the Corporation after payment of all obligations of the Corporation, all remaining assets of the Corporation shall be transferred to the City of San Angelo, Texas.

ADOPTED AND APPROVED this 18th day of October, 2011.



\_\_\_\_\_  
Larry Teague, President

ATTEST:



\_\_\_\_\_  
J. Shawn Lewis, Executive Director

## **CITY OF SAN ANGELO DEVELOPMENT CORPORATION GUIDELINES FOR JOB CREATION ASSISTANCE**

The City of San Angelo Development Corporation (COSADC) is a non-profit public corporation governed by the Development Corporation Act of 1979 and organized exclusively for the purpose of promoting community development within the City and the State of Texas in order to improve the quality of life and the public welfare of, for, and on behalf of the City by developing, implementing, providing, and financing projects allowed under Section 4B of the Act.

The COSADC accomplishes these purposes by developing and maintaining a viable working relationship between the public and private sectors of San Angelo, and furthering the development of commercial, industrial, and manufacturing enterprises to promote and encourage employment for the public welfare and benefit of the citizens of San Angelo.

### *Mission Statement:*

*The City of San Angelo Development Corporation will seek to retain, strengthen and diversify the tax and job base of the community through quality infrastructure and facility improvements, innovative incentive packages and a focus on best business practices in order to provide a sustainable economy for San Angelo and its regional partners.*

Periodically, the COSADC receives requests for assistance from individuals or organizations for various projects. All offers or requests for assistance will be received through the Chamber of Commerce Vice President of Economic Development or the COSADC's Business Relations Officer. If such requests are to be heard by the COSADC Board, they must be in writing.

The following outlines those projects which may be considered for assistance by the COSADC:

### Eligible Projects

As defined in the Development Corporation Act of 1979, as amended, "Project" shall mean the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements (one or more) that are for the creation or retention of primary jobs and that are found by the Board to be required or suitable for the development, retention, or expansion of manufacturing and industrial facilities, research and development facilities, transportation facilities (including but not limited to airports, mass commuting facilities, and parking facilities), sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, facilities for the furnishing of water to the general public, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, primary job training facilities for use by institutions of higher education, and regional or national corporate headquarters\*.

In addition, "Primary job" means (A) a job that is: (i) available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and, (ii) included in one of the following sectors of the North American Industry Classification System (NAICS):

<u>Sector #</u>	<u>Description</u>
111	Crop Production
112	Animal Production
113	Forestry and Logging
11411	Commercial Fishing
115	Support Activities for Agriculture and Forestry
211-213	Mining
221	Utilities
311-339	Manufacturing
42	Wholesale Trade
48-49	Transportation and Warehousing
51	(excluding 51213 Information (excluding movie theaters and drive-in theaters))
523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles
5413, 5415, 5416, 5417 and 5419	Scientific Research and Development Services
551	Management of Companies and Enterprises
56142	Telephone Call Centers
922140	Correctional Institutions

COSADC may consider a project that combines an approved NAICS code with some retail activity when more than 85% of the sales are outside of the Concho Valley retail trade area.

(B) a job that is included in North American Industry Classification System (NAICS) sector number 928110, National Security, for the corresponding index entries for Armed Forces, Army, Navy, Air Force, Marine Corps, and Military Bases.

\*"Corporate headquarters facilities" means buildings proposed for construction or occupancy as the principal office for a business enterprise's administrative and management services.

### Financing

The COSADC administers an Economic Development Incentive Program which is designed to facilitate the development and growth of new and existing businesses, to

increase diversity of the local economy and to provide suitable infrastructure to support targeted industries as allowed under Section 4B of the 1979 Development Corporation Act. Funds are available through grants, loan participations and the Grow San Angelo Fund ensuring efficiency and flexibility while maximizing the resources of participating financial institutions. The COSADC's Economic Development Incentive Program governs the Board's participation in financing.

#### Additional Conditions

As a general rule, the COSADC will not provide funding support to any one (1) individual or organization which, when added to the financial assistance already being received from any other source associated with the City of San Angelo, totals more than 50% of the total investment required for a project. Included in the total assistance package may be:

- Tax Abatement (using net present value of the abatement)
- Financing (using amount COSADC guarantees, participates or lends directly)
- Infrastructure Improvements
- Land Purchases, leasehold improvements and construction (using amount provided by COSADC)
- Training expense reimbursement
- Relocation expense reimbursement for equipment and/or personnel

As a general guideline, COSADC will consider one FTE job equal to a minimum of 110% of San Angelo's Per Capita Income. However, the Board may choose to deviate from this guideline on a case-by-case basis.

To determine an applicant's financial viability, each applicant must provide the appropriate financial information, project description, and any additional information requested by the COSADC. All guarantors must also submit the same information; owners of 20% or more will be required to provide a personal guaranty to the COSADC.

For each request, staff will make an assessment of public benefit and return, amount of assistance requested compared to total project cost, and the applicant's financial viability. Staff may request the assistance of various local businesspersons, commercial bankers, and/or consultants when making the appropriate assessment. Based upon a recommendation from staff, the COSADC Board will decide whether or not to recommend assistance.

## **ECONOMIC DEVELOPMENT INCENTIVE PROGRAM**

### ***ADMINISTRATIVE POLICY***

The purpose of the Economic Development Incentive Program is to provide a financing tool which incorporates recognized economic development philosophies in an effort to

stimulate private investment, job creation, productivity and expansion of the local tax base.

The Economic Development Incentive Program is designed to:

1. facilitate the development of new businesses and expansion of existing businesses which create primary jobs
2. assist in the diversification of the local economy
3. development of the San Angelo Business & Industrial Center
4. encourage the rehabilitation and increased use of existing structures within designated redevelopment areas of the City.

Financial assistance may be provided by:

1. grants
2. through loan participation(s) with local financial institutions
3. through participation in the Grow San Angelo Fund, an SBA 7(a) guaranty program administered by the National Development Council

Loan assistance will be evaluated based on the following:

- eligibility of the project
- feasibility of the project
- financial viability of the project

**The Board reserves the right to determine the eligibility of a project and the terms and conditions of any loan or grant.**

#### Commercial Infrastructure Improvements

According to the Development Corporation Act of 1979, as amended, expenditures found by the Board to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises limited to streets and roads, rail spurs, water and electric utilities, gas utilities, drainage and related improvements, and telecommunications and Internet improvements are allowed.

#### Due Diligence

Credit Analysis Reports for all assistance requests will be prepared by the COSADC Staff (and/or the COSADC's consultant) and will include a financial analysis of the project, a summary of the business plan, the proposed structure of the financing and the proposal's strengths and weaknesses. Staff has the authority to request the advice of businesspersons and lenders whose expertise may assist staff in making credit recommendations to the COSADC Board. All eligible requests will be presented to the COSADC Incentive Committee\* and then to the COSADC Board for consideration with a recommendation from staff for approval or denial. Parties to the project may be

invited to attend the committee and/or board meeting and speak on behalf of the project.

\*COSADC Incentive Committee is an ad-hoc committee appointed by the COSADC which includes, but is not limited to, local professionals in the areas of accounting, banking and law.

## ***TYPES OF ASSISTANCE***

**GRANTS** – The COSADC may assist in the form of a direct cash grant for performance-based job creation, equipment or personnel moving expenses, lease subsidies, building remodeling, building purchase/lease-back, new construction for a client, site improvements, the establishment of a training program, or any other form of assistance that makes San Angelo more competitive for job creation or retention. Grants are typically in a range of \$2,000 to \$5,000 per new job created or retained. COSADC may provide grants up to \$10,000/job in circumstances when companies move headquarter operations to San Angelo, offer highly paid positions for skilled employees, or introduce a new skill-set opportunity with high pay/benefits to our labor market. Minimum job creation and investment thresholds established by COSADC are five (5) new full-time jobs and new investment of at least \$125,000. COSADC may waive one or both of these thresholds when designing a “performance-based” incentive that is expected to be paid out at some future date when the thresholds are met. COSADC may also waive these thresholds in the case of job retention projects, or when the assistance of COSADC would help fund a new equipment purchase for a company that would increase their productivity and their competitiveness in the marketplace.

**LOAN PARTICIPATION** - The COSADC may purchase a participation in a financial institution's loan. Collateral securing the loan may be shared on a pro rata basis with the private lender and COSADC, or the private lender may be given a superior lien in the collateral. The COSADC may accept a lower interest rate on its participation balance provided the financial institution agrees to lower the overall interest rate charged the borrower on a pro-rata basis.

A financial institution requesting loan assistance from the COSADC shall submit their request in the form of a written commitment letter to the COSADC Staff for review and provide required financial information.

**GROW SAN ANGELO FUND** – The COSADC may provide funds to the Grow America Fund, a national nonprofit, SBA 7(a) lender to establish the Grow San Angelo Fund (GSAF). Funds contributed to GSAF shall be leveraged at a minimum rate of \$3 in non COSADC funds for every \$1 in COSADC funds. For example: a \$25,000 contribution to the GSAF will result in \$100,000 in available loan funds for eligible SBA (and COSADC) borrowers in San Angelo [this doesn't account for NDC matching funds]. The Grow America Fund will be responsible for underwriting, closing and servicing all GSAF loans.

## **GENERAL POLICY STATEMENTS**

1. All grants or loans will be funded out of the COSADC's funds for Economic Development projects and all principal repayments, interest and late charge income shall be returned to these same funds.
2. Loans will be made on an accrual basis. Payments will be applied first toward the interest due and the remaining, if any will be applied to principal.
3. The staff of COSADC will be responsible for the administration and collection of the COSADC's loan portfolio. The staff of the National Development Council will be responsible to the administration and collection of all GSAF loans.
4. The COSADC is an equal opportunity lender and does not discriminate with regards to race, color, religion, national origin, sex, marital status, age or disability (provided that the applicant has the capacity to enter into a binding contract).
5. In the event of any conflict between this policy and any applicable federal, state or local statute, the statute shall prevail.
6. This policy may be reviewed annually by the COSADC.

## **ADDITIONAL POLICY STATEMENTS**

1. The COSADC Board shall recommend the City of San Angelo enter into an Economic Development Agreement by formal adoption of a Resolution. Such Resolutions shall expire after 180 days from the date of adoption unless all necessary documents are received and an Economic Development Agreement is executed, or the COSADC extends the commitment in writing prior to the expiration date. An Economic Development Agreement will be signed by every grantee or borrower. The Economic Development Agreement will govern all approved assistance. The amount of assistance available will be based on the number of full time equivalent, permanent employment positions created or retained by the business, the salary range for each employment position, and the level of capital investment made by the business. The business will agree to refund any financial assistance accepted for jobs not created or other conditions not met as outlined in the Economic Development Agreement and required by the State of Texas.
2. Full time equivalent, permanent jobs are defined as any employee who has worked two thousand eighty (2,080) hours during a twelve (12) month period in San Angelo, Texas. If an employee hired during a twelve (12) month reporting

period, the employee shall be considered a FTE if the employee is hired to work forty (40) hours per week, and has worked at least 160 hours a month during that period.

3. The business must be located in San Angelo or in the extraterritorial jurisdiction (ETJ) of San Angelo. If the business is in the ETJ, assistance will be approved subject to concurrence of the Tom Green County Commissioners Court. As allowed by state law, COSADC may participate in a multi-jurisdictional project located outside Tom Green County for projects of a size and scope that would be available to San Angelo residents and have a positive impact of the City of San Angelo.
4. The business may not move outside of the San Angelo ETJ without prior written consent of the COSADC.
5. Job retention is defined as a continued job which would have been eliminated without financial assistance. Documentation of potential job elimination will be required.
6. Loans from relatives, owners or other individuals shall be subordinated to the COSADC's loan.
7. All credit and collateral documents required by prudent lending practices must be included in the loan package at closing. A required document may not be waived except with the full knowledge and approval of the Board.
8. A sale of all or substantially all of the assets of a business assisted by the COSADC shall not release the business from its duties and responsibilities to COSADC under the terms of the Economic Development Agreement and shall not result in the assignment of the Agreement by such acquiring entity without prior written release from COSADC which will not be unreasonably withheld; provided, that the proposed successor shall have the financial condition to fully satisfy the duties and responsibilities and agrees to assume the responsibilities under the Agreement. COSADC may, in its sole discretion, reasonably determine whether such proposed successor's financial condition is satisfactory.
9. In the event of any proposed merger or other consolidation of an assisted business with any third party not affiliated with the business, the business shall at least thirty (30) days prior to any such merger or consolidation provide COSADC with information and assurance reasonably acceptable to COSADC and the business regarding: (1) the surviving entity's assumption and satisfaction of the Agreement obligations and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity shall have the financial condition to fully satisfy the duties and responsibilities of said Agreement. Failure to provide such information shall be considered an Agreement breach.

10. Notwithstanding anything in an Economic Development Agreement to the contrary, it is expressly understood and agreed that COSADC shall have no rights to approve or disapprove any sale or merger transaction of any kind involving an assisted business.

### **APPLICATION FOR COSADC ASSISTANCE**

Applicants, requesting assistance, whether through a financial institution or directly, may be required to present the following documents as part of COSADC's Due Diligence (Administrative Policy – Page 4):

1. The last 3 fiscal year end financial statements and tax returns on the business (if applicable).
2. The most current interim financial statement of the business (dated less than 90 days from the date of application).
3. A current financial statement on all owners of more than 20% of the business.
4. A current financial statement on all guarantors.
5. A short business plan detailing the project and a description of the business.
6. A list of the jobs to be created/retained by the business during the agreed upon time frame, and the anticipated salary and benefits for each job classification.

If assistance is requested in the form of a loan, the following documents would also be required:

7. The financial institution loan officer's analysis and recommendation of the applicant for loan assistance (if applicable).
8. The financial institution's credit history on the borrower and credit reports on cosigners and guarantors.
9. The financial institution's description of the loan's terms and conditions.
10. A list of collateral offered with an estimate of its current market value.

## **ELIGIBILITY OF APPLICANTS**

1. No member of the San Angelo City Council, or person related to a council member within the second degree by consanguinity or affinity, shall be eligible for assistance from the COSADC during his/her tenure or for six months thereafter.
2. No member of the San Angelo Economic Development Corporation Board of Directors, or person related to a board member within the second degree by consanguinity or affinity, shall be eligible for assistance from the COSADC during his/her tenure or for six months thereafter.
3. No employee of the San Angelo Economic Development Corporation, or person related to an employee or supervisor of the Department within the second degree by consanguinity or affinity, shall be eligible for assistance from the COSADC during his/her employment or for six months thereafter.

## **CHARGED-OFF LOANS**

When repayment of a loan is recognized by the Staff as being substantially doubtful, a resolution for charging off the balance of the loan will be drafted by staff and presented to the COSADC Board for approval. This resolution will describe the reasons for viewing the repayment of the loan as doubtful, and the amount to be charged off. No specific course of action will be addressed within the resolution, but the following procedures will generally be followed:

1. **Charging Off The Loan:** A copy of the executed resolution will be distributed to the San Angelo City Council, Department and the loan will be charged off.
2. **Financial Responsibility:** All interested parties will continue to be pursued financially. Charge-off of the loan balance will not release a debtor, cosigner or guarantor from their legal liability to repay the loan.
3. **Legal Action:** When appropriate and economically feasible, legal action to collect a charged-off loan will be taken. Where applicable, all interested parties will be pursued individually including each borrower, cosigner, and guarantor. Only in cases in which the cost of legal action is greater than the amount to be recovered, will legal action be foregone. The status of any legal proceeding will be reported to the COSADC.
4. **Restructuring the Loan:** After a loan is charged off, the collection and restructure of the loan will be the responsibility of staff. The account balances will be maintained by staff in a separate ledger. After being posted to the charge-off ledger, all payments will be deposited into the COSADC's unobligated fund balance.

5. **Placement with an Outside Collection Agency:** In many cases, a debtor during financially distressed periods is difficult to locate. If necessary, Staff will consign the account to an outside agency. The fee for this type of service is usually a percentage of the amount collected by the agency, and no fee is paid if no money is collected. The decision to place an account with an outside collection agency will be made by the Board upon the recommendation of Staff.
6. **Contact with a Participating Bank:** Contact will be maintained through periodic verification of the account status with the account officer. This information is subject to the Texas Banking Code and cannot be discussed in an open meeting.
7. **Collection Efforts:** All collection efforts will be detailed in the credit file in chronological order.

*For additional information contact:*

Chamber of Commerce, Economic Development  
418 West Avenue B  
San Angelo, Texas 76901

Telephone: (325) 655-4136  
Fax: (325) 658-1110

E-mail: [michael@sanangelo.org](mailto:michael@sanangelo.org)

Or

City of San Angelo Development Corporation  
69 N. Chadbourne.  
San Angelo, Texas 76903

Telephone: (325) 653-7197  
Fax: (325) 653-7187

E-mail: [roland.peña@cosatx.us](mailto:roland.peña@cosatx.us)

**NOTE:** Proprietary information will be kept confidential to the fullest extent allowed by law. Applicants may request to enter into a Confidentiality Agreement with COSADC staff and/or agents COSADC.

LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE C1. ADDITIONAL PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO  
MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 501. PROVISIONS GOVERNING DEVELOPMENT CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 501.001. SHORT TITLE. This subtitle may be cited as the Development Corporation Act.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.002. DEFINITIONS. In this subtitle:

(1) "Authorizing unit" means the unit that authorizes the creation of a corporation under this subtitle.

(2) "Board of directors" means the board of directors of a corporation.

(3) "Bonds" includes evidences of indebtedness, including bonds and notes.

(4) "Corporate headquarters facilities" means buildings proposed for construction or occupancy as the principal office for a business enterprise's administrative and management services.

(5) "Corporation" means a corporation organized under this subtitle.

(6) "Cost," with respect to a project, has the meaning assigned by Section [501.152](#).

(7) "County alliance" means two or more counties that jointly authorize the creation of a corporation under this subtitle.

(8) "District" means a conservation and reclamation district established under Section [59](#), Article XVI, Texas Constitution.

(9) "Economic development office" means the Texas Economic Development and Tourism Office within the office of the governor.

(10) "Governing body" means the commissioners court of a county or the governing body of a municipality or district.

(11) "Institution of higher education" has the meaning assigned by Section [61.003](#), Education Code.

(12) "Primary job" means:

(A) a job that is:

(i) available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and

(ii) included in one of the following sectors of the North American Industry Classification System (NAICS):

NAICS Sector #	Description
111	Crop Production
112	Animal Production
113	Forestry and Logging
11411	Commercial Fishing
115	Support Activities for Agriculture and Forestry
211-213	Mining
221	Utilities
311-339	Manufacturing
42	Wholesale Trade
48-49	Transportation and Warehousing
51 (excluding 512131 and 512132)	Information (excluding motion picture theaters and drive-in motion picture theaters)
523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles
5413, 5415, 5416, 5417, and 5419	Architectural, Engineering, and Related Services; Computer System Design and Related Services; Management, Scientific, and Technical Consulting Services; Scientific Research and Development Services; Other Professional, Scientific, and Technical Services
551	Management of Companies and Enterprises
56142	Telephone Call Centers
922140	Correctional Institutions; or

(B) a job that is included in North American Industry Classification System (NAICS) sector number 928110, National Security, for the corresponding index entries for Armed Forces, Army, Navy, Air Force, Marine Corps, and Military Bases.

(13) "Project" means a project specified as such under Subchapter C.

(14) "Resolution" means a resolution, order, ordinance, or other official action by the governing body of a unit.

(15) "Type A corporation" means a corporation governed by Chapter 504.

(16) "Type B corporation" means a corporation governed by Chapter 505.

(17) "Unit" means a municipality, county, or district that may create and use a corporation under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.003. WHO MAY BE USER. The following may be a user under this subtitle:

(1) an individual, a partnership, a corporation, or any other private entity organized for profit or not for profit; or

(2) a municipality, county, district, other political subdivision, public entity, or agency of this state or the federal government.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.004. LEGISLATIVE FINDINGS; CONSTRUCTION OF SUBTITLE. (a) The legislature finds that:

(1) the present and prospective right to gainful employment and the general welfare of the people of this state require as a public purpose the promotion and development of new and expanded business enterprises and of job training;

(2) the existence, development, and expansion of business, commerce, industry, higher education, and job training are essential to the economic growth of this state and to the full employment, welfare, and prosperity of residents of this state;

(3) the assistance provided by corporations in promoting higher education opportunities encourages and fosters the development and diversification of the economy of this state and the elimination of unemployment and underemployment in this state;

(4) the means authorized by this subtitle and the assistance provided by this subtitle, especially with respect to financing, are in the public interest and serve a public purpose of this state in promoting the welfare of the residents of this state economically by securing and retaining business enterprises and as a result maintaining a higher level of employment, economic activity, and stability;

(5) community industrial development corporations in this state have invested substantial money in successful industrial development projects and have experienced difficulty in undertaking additional industrial development projects because of the partial inadequacy of the community industrial development corporations' money or money potentially available from local subscription sources and the limitations of local financial institutions in providing additional and sufficiently large first mortgage loans; and

(6) communities in this state have been at a critical disadvantage in competing with communities in other states for the location or expansion of business enterprises because of the availability and prevalent use in all other states of financing and other special incentives, and, for that reason, the issuance of revenue bonds under this subtitle by a corporation on behalf of political subdivisions of this state for the promotion and development of new and expanded business enterprises to provide and encourage employment and the public welfare is in the public interest and is a public purpose.

(b) This subtitle shall be construed in conformity with the intention of the legislature expressed in this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.005. ADOPTION OF ALTERNATE PROCEDURE. If a court holds that a procedure under this subtitle violates the federal or state constitution, a corporation by resolution may provide an alternate procedure that conforms to the constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.006. USE OF CORPORATION TO FINANCE PROJECT. A unit may use a corporation to issue bonds on the unit's behalf to finance the cost of a project, including a project in a federally designated empowerment zone or enterprise community or in an enterprise zone designated under Chapter [2303](#), Government Code, to promote and develop new and expanded business enterprises for the promotion and encouragement of employment and the public welfare.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.007. LENDING CREDIT OR GRANTING PUBLIC MONEY. (a) Except as provided by Subsection (b), a unit may not lend its credit or grant public money or another thing of value in aid of a corporation.

(b) A municipality may grant public money to a corporation under a contract authorized by Section [380.002](#).

(c) The grants, loans, expenditures, and tax exemptions authorized by this subtitle in connection with a project and authorized by a corporation

in accordance with this subtitle constitute the making of loans or grants of public money or constitute other actions authorized by Section 52-a, Article III, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.011(a), eff. September 1, 2009.

Sec. 501.008. LIMITATION ON FINANCIAL OBLIGATION. A corporation may not incur a financial obligation that cannot be paid from:

- (1) bond proceeds;
- (2) revenue realized from the lease or sale of a project;
- (3) revenue realized from a loan made by the corporation to wholly or partly finance or refinance a project; or
- (4) money granted under a contract with a municipality under Section 380.002.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.009. POLICE POWERS NOT AFFECTED. This subtitle does not deprive this state or a governmental subdivision of this state of its police powers over a corporation's property and does not impair any police power over the property that is otherwise provided by law to any official or agency of this state or its governmental subdivisions.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.010. DELEGATION OF UNIT'S SOVEREIGN POWERS PROHIBITED. A unit may not delegate to a corporation any of the unit's attributes of sovereignty, including the power to tax, the power of eminent domain, and the police power.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.011. REFERENCE TO ARTICLES OF INCORPORATION OR CERTIFICATE OF FORMATION. (a) With respect to a corporation created under the

Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) before January 1, 2006, a reference in any law of this state or in the corporation's governing documents to "articles of incorporation" means, for purposes of this subtitle, the corporation's certificate of formation.

(b) With respect to a corporation that is created under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) before January 1, 2006, and continues to operate under articles of incorporation, a reference in this subtitle or any other law of this state or in the corporation's governing documents to "certificate of formation" means the corporation's articles of incorporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER B. CREATION AND OPERATION OF CORPORATION

Sec. 501.051. AUTHORITY TO CREATE. (a) Three or more individuals who are qualified voters of a unit may file with the unit's governing body a written application requesting the unit to authorize creation of a corporation to act on behalf of the unit. The governing body may not charge a filing fee for the application.

(b) A corporation may be created only if the governing body of the unit by resolution:

(1) determines that the creation of the corporation is advisable; and

(2) approves the certificate of formation proposed to be used in organizing the corporation.

(c) A unit may authorize the creation of one or more corporations if the resolution authorizing the creation of each corporation specifies the public purpose of the unit to be furthered by the corporation. The specified public purpose must be limited to the promotion and development under this subtitle of enterprises to promote and encourage employment and the public welfare.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.052. NONMEMBER, NONSTOCK FORM OF CORPORATION. A corporation is a nonmember, nonstock corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.053. CORPORATION NONPROFIT; NET EARNINGS. (a) A corporation is nonprofit, and the corporation's net earnings remaining after payment of its expenses may not benefit an individual, firm, or corporation, except as provided by Subsection (b).

(b) If the board of directors determines that sufficient provision has been made for the full payment of the corporation's expenses, bonds, and other obligations, any net earnings of the corporation subsequently accruing shall be paid to the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.054. GENERAL POWERS, PRIVILEGES, AND FUNCTIONS. (a) A corporation has the powers, privileges, and functions of a nonprofit corporation incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or formed under the Texas Nonprofit Corporation Law, as described by Section [1.008](#), Business Organizations Code. To the extent that the provisions governing powers, privileges, and functions of a nonprofit corporation under those laws are in conflict with or inconsistent with provisions of this subtitle governing powers, privileges, and functions of a nonprofit corporation, the provisions of this subtitle prevail.

(b) A corporation:

(1) has all powers incidental to or necessary for the performance of the powers provided by Sections [501.059](#), [501.060](#), [501.064](#), 501.153-501.155, [501.159](#), [501.201](#)(a), [501.208](#), [501.209](#), [501.214](#), and [501.402](#); and

(2) with respect to a project, may exercise all powers necessary or appropriate to effect a purpose for which the corporation is organized, subject to the control of the governing body of the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.055. CONSTITUTED AUTHORITY OR INSTRUMENTALITY. (a) A corporation is a constituted authority and an instrumentality, within the meaning of the United States Department of the Treasury regulations and the

Internal Revenue Service rulings adopted under Section 103, Internal Revenue Code of 1986, as amended, including regulations and rulings adopted under Section 103, Internal Revenue Code of 1954, and may act on behalf of the corporation's authorizing unit for the specific public purpose authorized by the unit.

(b) A corporation is not a political subdivision or a political corporation for purposes of the laws of this state, including Section 52, Article III, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.056. CONTENTS OF CERTIFICATE OF FORMATION. The certificate of formation of a corporation must state:

- (1) the name of the corporation;
- (2) that the corporation is a nonprofit corporation;
- (3) the duration of the corporation, which may be perpetual;
- (4) the specific purpose for which the corporation is organized and may issue bonds on behalf of the unit;
- (5) that the corporation has no members and is a nonstock corporation;
- (6) any provision consistent with law for the regulation of the corporation's internal affairs, including any provision required or permitted by this subtitle to be stated in the bylaws;
- (7) the street address of the corporation's initial registered office and the name of the corporation's initial registered agent at that address;
- (8) the number of directors of the initial board of directors and the name and address of each initial director;
- (9) the name and street address of each organizer; and
- (10) that the unit has:
  - (A) by resolution specifically authorized the corporation to act on the unit's behalf to further the public purpose stated in the resolution and the certificate of formation; and
  - (B) approved the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.057. FILING OF CERTIFICATE OF FORMATION AND DELIVERY OF CERTIFICATE EVIDENCING FILING. (a) If the unit's governing body adopts a

resolution under Section 501.051, the certificate of formation may be filed as provided by this section.

(b) Three originals of the certificate of formation shall be delivered to the secretary of state. If the secretary of state determines that the certificate of formation conforms to this subchapter, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original certificate of formation;

(2) file one of the original certificates of formation in the secretary of state's office;

(3) issue two certificates evidencing the filing of the certificate of formation;

(4) attach to each certificate evidencing the filing of the certificate of formation an original of the certificate of formation; and

(5) deliver a certificate evidencing the filing of the certificate of formation and the attached certificate of formation to:

(A) the organizers or the organizers' representatives; and

(B) the governing body of:

(i) the corporation's authorizing unit; or

(ii) any county in the county alliance that authorized the creation of the corporation, for a county alliance corporation.

(c) The governing body of a county to which a certificate evidencing the filing of the certificate of formation and the attached certificate of formation are delivered under Subsection (b) (5) (B) (ii) shall provide photocopies of the certificate evidencing the filing of the certificate of formation and the attached certificate of formation to each other member of the county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### Sec. 501.058. EFFECT OF ISSUANCE OF CERTIFICATE EVIDENCING FILING.

(a) A corporation's existence begins when the certificate evidencing the filing of its certificate of formation is issued.

(b) After the issuance of the certificate evidencing the filing of the certificate of formation, the formation of the corporation may not be contested for any reason.

(c) A certificate evidencing the filing of the certificate of formation is conclusive evidence that:

(1) the organizers and the unit have performed all conditions precedent for the formation of the corporation; and

(2) the corporation is formed under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.059. CORPORATE SEAL. A corporation may have a corporate seal and with respect to a project may impress, affix, or otherwise reproduce the seal or a facsimile of the seal on an instrument required to be executed by the corporation's appropriate officers.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.060. MAY SUE AND BE SUED. With respect to a project, a corporation may sue, be sued, complain, and defend in the corporation's name.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.061. CORPORATION'S ORGANIZATION NOT RESTRICTED. Except as provided by this subtitle, no proceeding, notice, or approval is required for the organization of a corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.062. BOARD OF DIRECTORS. (a) All of the powers of a corporation are vested in a board of directors consisting of three or more directors appointed by the governing body of the corporation's authorizing unit.

(b) A director serves for a term of not more than six years.

(c) The governing body of the corporation's authorizing unit may remove a director for cause or at will.

(d) A director serves without compensation, but is entitled to reimbursement for actual expenses incurred in the performance of the director's duties under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.063. ORGANIZATIONAL MEETING. (a) After issuance of the certificate evidencing the filing of the certificate of formation, the board of directors named in the certificate of formation shall hold an organizational meeting in this state to adopt bylaws and elect officers and for other purposes.

(b) Not later than the third day before the date of the meeting, the organizers who call the meeting shall give notice by mail of the time and place of the meeting to each director named in the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.064. BYLAWS. (a) A corporation may adopt and amend bylaws for the administration and regulation of the corporation's affairs.

(b) The board of directors shall adopt a corporation's initial bylaws.

(c) The bylaws and each amendment of the bylaws must:

(1) be consistent with state law and with the certificate of formation of the corporation; and

(2) be approved by resolution of the governing body of the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.065. OFFICERS. (a) A corporation has the following officers:

(1) a president;

(2) at least one vice president;

(3) a secretary;

(4) a treasurer; and

(5) other officers or assistant officers considered necessary.

(b) An officer of the corporation is elected or appointed at the time, in the manner, and for the term prescribed by the certificate of formation or bylaws, except that an officer's term may not exceed three years. In the absence of provisions in the certificate of formation or the

bylaws prescribing the selection or terms of officers, the board of directors shall annually elect or appoint officers.

(c) A person may hold more than one office, except that the same person may not hold the offices of president and secretary.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.066. INDEMNIFICATION. (a) In this section, "director or officer" includes a former director or officer.

(b) Except as provided by Subsection (d), a corporation may indemnify a director or officer of the corporation for necessary expenses and costs, including attorney's fees, actually incurred by the director or officer in connection with a claim asserted against the director or officer, by action in court or another forum, by reason of the director's or officer's being or having been a director or officer of the corporation.

(c) Except as provided by Subsection (d), if a corporation has not fully indemnified a director or officer under Subsection (b), the court in a proceeding in which a claim is asserted against the director or officer or a court having jurisdiction over an action brought by the director or officer on a claim for indemnity may assess indemnity against the corporation or the corporation's receiver or trustee. The assessment must equal the amount that the director or officer paid to satisfy the judgment or compromise the claim, including attorney's fees and not including any amount paid to the corporation, to the extent that:

- (1) the amount paid was actually and necessarily incurred; and
- (2) the court considers the amount paid reasonable and equitable.

(d) A corporation may not indemnify a director or officer for a matter in which the director or officer is guilty of negligence or misconduct. A court may assess indemnity against the corporation only if the court finds that the director or officer was not guilty of negligence or misconduct in the matter for which indemnity is sought.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.067. INSURANCE AND BENEFITS. (a) Notwithstanding any law to the contrary and with the consent of the corporation's authorizing unit, a corporation may obtain:

- (1) health benefits coverage, liability coverage, workers' compensation coverage, and property coverage under the authorizing unit's

insurance policies, through self-funded coverage, or under coverage provided under an interlocal agreement with a political subdivision; or

(2) retirement benefits under a retirement program the authorizing unit participates in or operates.

(b) Health benefits coverage may be extended to the corporation's directors and employees, and to the dependents of the directors and employees.

(c) Workers' compensation benefits may be extended to the corporation's directors, employees, and volunteers.

(d) Liability coverage may be extended to protect the corporation and the corporation's directors and employees.

(e) Retirement benefits may be extended to the corporation's employees.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.068. BOARD MEETINGS; NOTICE OF MEETING. (a) A board of directors may hold a regular meeting in this state with or without notice as prescribed by the corporation's bylaws.

(b) A board of directors may hold a special meeting with notice as prescribed by the corporation's bylaws.

(c) A director's attendance at a board meeting constitutes a waiver of notice of the meeting, unless the director attends the meeting for the express purpose of objecting to the transaction of any business at the meeting because the meeting has not been lawfully called or convened.

(d) Unless required by the corporation's bylaws, notice or waiver of notice of a board meeting is not required to specify the business to be transacted at the meeting or the purpose of the meeting.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.069. WAIVER OF NOTICE. If a notice is required to be given to a director of a corporation under this subtitle or the corporation's certificate of formation or bylaws, a written waiver of the notice signed by the person entitled to the notice is equivalent to giving the required notice. The waiver may be given before or after the time that would have been stated in the notice.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.070. ACTION OF BOARD; QUORUM. (a) A quorum of a board of directors is the lesser of:

(1) a majority of the number of directors:

(A) established by the corporation's bylaws; or

(B) stated in the corporation's certificate of formation, if the bylaws do not establish the number of directors; or

(2) the number of directors, not less than three, established as a quorum by the certificate of formation or bylaws.

(b) The act of a majority of the directors present at a meeting at which a quorum is present is an act of the board of directors, unless the act of a larger number is required by the certificate of formation or bylaws of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.071. ACTION WITHOUT MEETING. (a) An action that may be taken at a meeting of a board of directors, including an action required by this subtitle to be taken at a meeting, may be taken without a meeting if each director signs a written consent providing the action to be taken.

(b) The consent has the same effect as a unanimous vote and may be stated as such in a document filed with the secretary of state under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.072. OPEN MEETINGS AND PUBLIC INFORMATION. A board of directors is subject to the open meetings law, Chapter [551](#), Government Code, and the public information law, Chapter [552](#), Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.073. SUPERVISION BY AUTHORIZING UNIT. (a) The corporation's authorizing unit will approve all programs and expenditures

of a corporation and annually review any financial statements of the corporation.

(b) A corporation's authorizing unit is entitled to access to the corporation's books and records at all times.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.074. PURCHASING. A corporation may use the reverse auction procedure defined by Section 2155.062(d), Government Code, for purchasing.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.075. EXEMPTION FROM TAXATION. (a) The activities of a corporation affect all the residents of the corporation's authorizing unit by the corporation's assuming to a material extent what otherwise might be an obligation or duty of the authorizing unit, and therefore the corporation is an institution of purely public charity within the tax exemption of Section 2, Article VIII, Texas Constitution.

(b) A corporation is exempt from the tax imposed by Chapter 171, Tax Code, only if the corporation is exempted by that chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER C. AUTHORIZED PROJECTS

Sec. 501.101. PROJECTS RELATED TO CREATION OR RETENTION OF PRIMARY JOBS. In this subtitle, "project" includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are:

- (1) for the creation or retention of primary jobs; and
- (2) found by the board of directors to be required or suitable for the development, retention, or expansion of:
  - (A) manufacturing and industrial facilities;
  - (B) research and development facilities;
  - (C) military facilities, including closed or realigned military bases;
  - (D) transportation facilities, including airports, hangars, railports, rail switching facilities, maintenance and repair facilities,

cargo facilities, related infrastructure located on or adjacent to an airport or railport facility, marine ports, inland ports, mass commuting facilities, and parking facilities;

(E) sewage or solid waste disposal facilities;

(F) recycling facilities;

(G) air or water pollution control facilities;

(H) facilities for furnishing water to the public;

(I) distribution centers;

(J) small warehouse facilities capable of serving as decentralized storage and distribution centers;

(K) primary job training facilities for use by institutions of higher education; or

(L) regional or national corporate headquarters facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 15.012(a), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 150 (S.B. [2052](#)), Sec. 1, eff. September 1, 2009.

Sec. 501.102. PROJECTS RELATED TO CERTAIN JOB TRAINING. In this subtitle, "project" includes job training required or suitable for the promotion of development and expansion of business enterprises and other enterprises described by this subtitle, as provided by Section [501.162](#).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.103. CERTAIN INFRASTRUCTURE IMPROVEMENT PROJECTS. In this subtitle, "project" includes expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to:

(1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements;

(2) telecommunications and Internet improvements; or

(3) beach remediation along the Gulf of Mexico.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.104. PROJECTS RELATED TO CERTAIN MILITARY BASES OR MISSIONS. In this subtitle, "project" includes the infrastructure, improvements, land acquisition, buildings, or expenditures that:

(1) are for the creation or retention of primary jobs or jobs that are included in North American Industry Classification System (NAICS) sector number 926120, Regulation and Administration of Transportation Programs, for the corresponding index entry for Coast Guard (except the Coast Guard Academy); and

(2) are found by the board of directors to be required or suitable for:

(A) promoting or supporting a military base in active use to prevent the possible future closure or realignment of the base;

(B) attracting new military missions to a military base in active use; or

(C) redeveloping a military base that has been closed or realigned, including a military base closed or realigned according to the recommendation of the Defense Base Closure and Realignment Commission under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.105. CAREER CENTER PROJECTS OUTSIDE OF JUNIOR COLLEGE DISTRICT. In this subtitle, "project" includes the land, buildings, equipment, facilities, improvements, and expenditures found by the board of directors to be required or suitable for use for a career center, if the area to be benefited by the career center is not located in the taxing jurisdiction of a junior college district.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.106. AIRPORT FACILITIES OR OTHER PROJECTS BY CORPORATIONS AUTHORIZED BY CERTAIN BORDER MUNICIPALITIES. (a) This section applies only to a corporation authorized to be created by a municipality, any part of which is located within 25 miles of an international border.

(b) For a corporation to which this section applies, in this subtitle, "project" includes the land, buildings, facilities, infrastructure, and improvements that:

(1) the corporation's board of directors finds are required or suitable for the development or promotion of new or expanded business enterprises through transportation facilities including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, marine ports, inland ports, mass commuting facilities, parking facilities, and related infrastructure located on or adjacent to an airport or railport facility; or

(2) are undertaken by the corporation if the municipality that authorized the creation of the corporation has, at the time the corporation approves the project as provided by this subtitle:

(A) a population of less than 50,000; or

(B) an average rate of unemployment that is greater than the state average rate of unemployment during the most recent 12-month period for which data is available that precedes the date the project is approved.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 795 (H.B. [2772](#)), Sec. 1, eff. June 17, 2015.

Sec. 501.107. INFRASTRUCTURE PROJECTS BY CORPORATIONS AUTHORIZED BY MUNICIPALITIES IN CERTAIN BORDER COUNTIES. (a) This section applies only to a corporation that:

(1) is authorized to be created by a municipality wholly or partly located in a county that:

(A) is bordered by the Rio Grande;

(B) has a population of at least 500,000; and

(C) has wholly or partly within its boundaries at least four municipalities each of which has a population of at least 25,000; and

(2) does not support a project, as defined by this subchapter, with sales and use tax revenue collected under Chapter [504](#) or [505](#).

(b) For a corporation to which this section applies, in this subtitle, "project" includes expenditures found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, including airports, ports, and sewer or solid waste disposal facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

For expiration of this section, see Subsection (c).

Sec. 501.108. INFRASTRUCTURE IMPROVEMENT PROJECTS BY CORPORATIONS AUTHORIZED BY CERTAIN COASTAL MUNICIPALITIES. (a) This section applies only to a corporation the creation of which was authorized by a municipality that:

- (1) has a population of 10,000 or more;
- (2) is located in a county bordering the Gulf of Mexico or the Gulf Intracoastal Waterway; and
- (3) has, or is included in a metropolitan statistical area of this state that has, an unemployment rate that averaged at least two percent above the state average for the most recent two consecutive years for which statistics are available.

(b) For a corporation to which this section applies, "project" includes expenditures found by the board of directors to be required or suitable for infrastructure improvements necessary to develop and revitalize areas in the corporation's authorizing municipality, including:

- (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, gas utilities, drainage, site improvements, and related improvements;
- (2) telecommunications, data, or Internet improvements; or
- (3) facilities designed to remediate, mitigate, or control erosion, including coastal erosion along the Gulf of Mexico or the Gulf Intracoastal Waterway.

(c) This section expires September 1, 2017.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1281 (H.B. [1966](#)), Sec. 1, eff. June 14, 2013.

#### SUBCHAPTER D. CORPORATE POWERS AND LIMITATIONS RELATING TO PROJECTS

Sec. 501.151. AUTHORITY TO FINANCE PROJECT. A corporation is a constituted authority for the purpose of financing one or more projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.152. DEFINITION OF COST WITH RESPECT TO PROJECT. In this subtitle, "cost," with respect to a project, means the cost of the acquisition, cleanup, construction, reconstruction, improvement, or expansion of a project, including:

- (1) the cost of acquiring all land, rights-of-way, property rights, easements, and interests;
- (2) the cost of all machinery and equipment;
- (3) financing charges;
- (4) the cost of inventory, raw materials, and other supplies;
- (5) research and development costs;
- (6) interest accruing before and during construction and until the first anniversary of the date the construction is completed, regardless of whether capitalized;
- (7) necessary reserve funds;
- (8) the cost of estimates, including estimates of cost and revenue;
- (9) the cost of engineering or legal services;
- (10) the cost of plans, specifications, or surveys;
- (11) other expenses necessary or incident to determining the feasibility and practicability of acquiring, cleaning, constructing, reconstructing, improving, and expanding the project;
- (12) administrative expenses; and
- (13) other expenditures necessary or incident to:
  - (A) acquiring, cleaning, constructing, reconstructing, improving, and expanding the project;
  - (B) placing the project in operation; and
  - (C) financing or refinancing the project, including refunding any outstanding obligations, mortgages, or advances issued, made, or given by a person for a cost described by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.153. LEASE OR SALE OF PROJECT. (a) A corporation may:

- (1) lease all or any part of a project to a user, for the rental and on the terms that the corporation's board of directors considers advisable and not in conflict with this subtitle; or
- (2) sell, by installment payments or otherwise, and convey all or any part of a project to a user for the purchase price and on the terms the

corporation's board of directors considers advisable and not in conflict with this subtitle.

(b) A corporation may grant a lessee an option to purchase all or any part of a project when all bonds of the corporation delivered to provide those facilities have been paid or provision has been made for the bonds' final payment. This subsection is procedurally exclusive for authority to convey or grant an option to purchase all or part of a project, and reference to another law is not required.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.154. CONVEYANCE OF PROPERTY TO INSTITUTION OF HIGHER EDUCATION. With respect to a project, a corporation may donate, exchange, convey, sell, or lease land, improvements, or any other interest in real property, fixtures, furnishings, equipment, or personal property to an institution of higher education for a legal purpose of the institution, on the terms the corporation's board of directors considers advisable and not in conflict with this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.155. LOAN TO FINANCE PROJECT. (a) A corporation may make a secured or unsecured loan to a user for the purpose of providing temporary or permanent financing or refinancing of all or part of the cost of a project, including the refunding of an outstanding obligation, mortgage, or advance issued, made, or given by a person for the cost of a project.

(b) For a loan made under this section, a corporation may charge and collect interest on the terms the corporation's board of directors considers advisable and not in conflict with this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.156. AGREEMENT MUST BENEFIT CORPORATION. An agreement relating to a project must be for the benefit of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.157. DEFAULT ON AGREEMENT; ENFORCEMENT. An agreement relating to a project must provide that if a default occurs in the payment of the principal of or the interest or premium on the bonds or in the performance of any agreement contained in a proceeding, mortgage, or instrument, the payment or performance may be enforced by:

- (1) mandamus; or
- (2) the appointment of a receiver in equity with the power to:
  - (A) charge and collect rents, purchase price payments, and loan payments; and
  - (B) apply the revenue from the project in accordance with the resolution, mortgage, or instrument.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.158. PERFORMANCE AGREEMENTS. (a) A corporation may not provide a direct incentive to or make an expenditure on behalf of a business enterprise under a project as defined by Subchapter C of this chapter or by Subchapter D, Chapter [505](#), unless the corporation enters into a performance agreement with the business enterprise.

(b) A performance agreement between a corporation and business enterprise must:

- (1) provide, at a minimum, for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement; and
- (2) specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.159. POWERS CONCERNING PROJECTS; JURISDICTION. (a) A corporation may acquire, by construction, devise, purchase, gift, lease, or otherwise, or any one or more of those methods and may construct, improve, maintain, equip, and furnish one or more projects undertaken by another corporation or located within this state, including within the coastal waters of this state, and within or partially within the limits of the authorizing unit of the corporation or within the limits of another unit,

if the governing body of the other corporation or the unit requests the corporation to exercise its powers within that unit.

(b) A corporation may recover the costs of an investment under Subsection (a) from a unit or another corporation under a contract with a limited or unlimited duration.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.160. OWNING OR OPERATING PROJECT AS BUSINESS. (a) Except as provided by Subsection (d), a corporation may not own or operate a project as a business other than:

- (1) as a lessor, seller, or lender; or
- (2) according to the requirements of any trust agreement securing the credit transaction.

(b) The user under a lease, sale, or loan agreement relating to a project is considered the owner of the project for purposes of ad valorem taxes, sales and use taxes, or any other taxes imposed by this state or a political subdivision of this state.

(c) Purchasing and holding a mortgage, deed of trust, or other security interest or contracting for the servicing of a mortgage, deed of trust, or other security interest is not considered the operation of a project.

(d) A corporation has all the powers necessary to own and operate a project as a business if:

- (1) the project is a military installation or military facility that has been closed or realigned, including a military installation or facility closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note), as amended; or
- (2) the project is authorized under Section [501.106](#).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 795 (H.B. [2772](#)), Sec. 2, eff. June 17, 2015.

Sec. 501.161. CERTAIN ECONOMIC INCENTIVES PROHIBITED. (a) In this section, "related party" means a person who owns at least 80 percent of the business enterprise to which the sales and use tax would be rebated as part of an economic incentive.

(b) Notwithstanding any other provision of this subtitle, a corporation may not offer to provide an economic incentive for a business enterprise whose business consists primarily of purchasing taxable items using a resale certificate and then reselling those items to a related party.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.162. USE OF TAX REVENUE FOR JOB TRAINING. A corporation may spend tax revenue received under this subtitle for job training offered through a business enterprise only if the business enterprise has committed in writing to:

(1) create new jobs that pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area; or

(2) increase its payroll to pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.163. USE OF TAX REVENUE FOR JOB-RELATED SKILLS TRAINING BY CERTAIN CORPORATIONS. (a) This section applies only to a corporation the creation of which was authorized by a municipality that:

(1) has a population of 10,000 or more;

(2) is located in a county bordering the Gulf of Mexico or the Gulf Intracoastal Waterway; and

(3) has, or is included in a metropolitan statistical area of this state that has, an unemployment rate that averaged at least two percent above the state average for the most recent two consecutive years for which statistics are available.

(b) A corporation may spend tax revenue received under this subtitle for job training that consists of:

(1) providing job-related life skills sufficient to enable an unemployed individual to obtain employment; and

(2) providing job training skills sufficient to enable an unemployed individual to obtain employment.

(c) A corporation to which this section applies may contract with any person to provide the job training authorized under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1283 (H.B. 1967), Sec. 1, eff. June 14, 2013.

For expiration of this section, see Subsection (c).

Sec. 501.164. USE OF TAX REVENUE FOR HOUSING FACILITIES FOR PUBLIC STATE COLLEGES. (a) In this section:

(1) "Housing facility" has the meaning assigned by Section 53.02, Education Code.

(2) "Public state college" has the meaning assigned by Section 61.003, Education Code.

(b) A corporation may spend tax revenue received under this subtitle for expenditures that are for the development or construction of housing facilities on or adjacent to the campus of a public state college.

(c) This section expires September 1, 2017.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1295 (H.B. 2473), Sec. 1, eff. June 14, 2013.

Redesignated from Local Government Code, Section 501.163 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(42), eff. September 1, 2015.

#### SUBCHAPTER E. CORPORATE POWERS AND LIMITATIONS RELATING TO BONDS

Sec. 501.201. AUTHORITY TO ISSUE BONDS. (a) A corporation may issue bonds to defray all or part of the cost of a project, regardless of whether the bonds are wholly or partly exempt from federal income taxation.

(b) Except as limited by this subtitle or rules and guidelines of the economic development office, a corporation has full authority with respect to bonds.

(c) Except as otherwise provided by this subtitle, a corporation may issue bonds under this subtitle without obtaining the consent or approval of any department, division, or agency of this state, other than the attorney general under Chapter 1202, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.202. TERMS. Bonds issued by a corporation must be dated and must mature in not more than 40 years.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.203. SECURITIES COMMISSIONER PERMIT TO SELL SECURITIES REQUIRED. A corporation may not sell or offer for sale bonds or other securities until the securities commissioner grants a permit authorizing the corporation to offer and sell the bonds or other securities under the registration provisions of The Securities Act (Article [581-1](#) et seq., Vernon's Texas Civil Statutes), except as exempted from registration by rule or order of the State Securities Board. Appeal from an adverse decision of the securities commissioner or the State Securities Board is under the administrative procedure law, Chapter [2001](#), Government Code. The substantial evidence rule applies in an appeal under this subsection.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.204. AUTHORIZING UNIT'S APPROVAL OF BONDS. (a) A corporation may not deliver bonds, including refunding bonds, unless the governing body of the corporation's authorizing unit adopts a resolution, not earlier than the 60th day before the date the bonds are delivered, specifically approving the corporation's resolution providing for the issuance of the bonds.

(b) If the corporation is authorized to be created by a county alliance, the resolution required by Subsection (a) must be adopted by the commissioners courts of at least three-fifths of the members of the county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.205. BOND COUNSEL AND FINANCIAL ADVISORS. Bond counsel and financial advisors participating in a bond issue must be mutually acceptable to the corporation and the user.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.206. MONEY USED TO PAY BONDS. The principal of and interest on bonds issued by a corporation are payable only from the money provided

for that payment and from the revenue of the project or projects for which the bonds were authorized.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.207. BONDS NOT DEBT OF STATE OR AUTHORIZING UNIT. (a) Bonds issued under this subtitle are not a debt or pledge of the faith and credit of this state, the authorizing unit of the corporation issuing the bonds, or any other political corporation, subdivision, or agency of this state.

(b) The revenue bonds issued under this subtitle must contain on their face a statement to the effect that:

(1) neither this state, the authorizing unit of the corporation issuing the bonds, nor any other political corporation, subdivision, or agency of this state is obligated to pay the principal of or the interest on the bonds; and

(2) neither the faith and credit nor the taxing power of this state, the authorizing unit of the corporation issuing the bonds, or any other political corporation, subdivision, or agency of this state is pledged to the payment of the principal of or the interest on the bonds.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.208. BOND SECURITY; DEFAULT. (a) The principal of and interest on any bonds issued by a corporation shall be secured by a pledge of the revenues and receipts derived by the corporation from the lease or sale of the project financed by the bonds or from the loan made by the corporation with respect to the project financed or refinanced by the bonds.

(b) As security for the payment of the principal of and interest on any bonds issued by a corporation and any agreements made in connection with the issuance of bonds, the corporation may:

(1) mortgage and pledge any or all of the corporation's projects or any part of a project, including the project financed or refinanced and any enlargements of and additions to the project, owned before or acquired after the time of the mortgage or pledge; and

(2) assign any mortgage and repledge any security conveyed to the corporation to secure any loan made by the corporation, and pledge the revenues and receipts from the assigned mortgage or security.

(c) The resolution authorizing the issuance of bonds and any mortgage covering all or part of the project financed may include any agreement or provision that the board of directors considers advisable and not in conflict with this subtitle and that relates to:

(1) the maintenance of the project covered by the bonds or mortgage;

(2) the fixing and collection of rents;

(3) purchase price payments;

(4) loan payments;

(5) the creation and maintenance of special funds from those revenues; or

(6) the rights and remedies available in the event of a default.

(d) A mortgage to secure bonds may also provide that, in the event of a default in the payment of the bonds or a violation of another agreement contained in the mortgage, the mortgage may be foreclosed and the mortgaged property may be sold in any manner permitted by law. The mortgage may provide that a trustee under the mortgage or the holder of any of the bonds secured by the mortgage may purchase property at a foreclosure sale if the trustee or holder is the highest bidder.

(e) A pledge, agreement, or mortgage made for the benefit or security of any of the corporation's bonds continues in effect until the principal of and interest on the bonds benefited or secured by the pledge, agreement, or mortgage have been fully paid.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.209. TRUST AGREEMENT. (a) Bonds issued under this subtitle may be secured by a trust agreement between the corporation and a trust company or bank having the powers of a trust company. The trust company or bank may be located in or outside of this state.

(b) The trust agreement may:

(1) pledge or assign the lease, sale, or loan revenues to be received with respect to a project from a lessee, purchaser, or borrower for the payment of the principal of and interest and any premium on the bonds as the bonds become due and payable;

(2) provide for the creation and maintenance of reserves for a purpose described by Subdivision (1);

(3) state the rights and remedies of the bondholders and the trustee;

(4) restrict the individual right of action by bondholders in a manner that is customary in trust agreements or trust indentures securing bonds and debentures of private corporations; and

(5) include any additional provision that the corporation considers reasonable and proper for the security of the bondholders.

(c) The trust agreement or a resolution approving the issuance of the bonds may provide for the protection and enforcement of the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing the duties relating to:

(1) the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project in connection with which the bonds are authorized; and

(2) the custody, protection, and application of all money.

(d) A bank or trust company incorporated under the laws of this state that acts as depository of the bond proceeds or of revenues may furnish indemnifying bonds or pledge securities as required by the corporation.

(e) All expenses incurred in carrying out the trust agreement may be treated as a part of the cost of operating the project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.210. FINANCIAL ASSURANCE OR RESPONSIBILITY REQUIREMENTS FOR CERTAIN PROJECTS. (a) The resolution or mortgage described by Section [501.208](#)(c) may contain any agreement or provision for satisfying the financial assurance or responsibility requirements applicable to a project for which a permit is required under Chapter [361](#), Health and Safety Code, or Chapter [27](#), Water Code, including a requirement relating to construction, proper operation, liability coverage, emergency response capability, well plugging, closure, and post-closure care.

(b) Evidence of the passage of a resolution by a governing body approving or agreeing to approve the issuance of bonds for the purpose of satisfying the financial assurance or responsibility requirements applicable to the project is an adequate demonstration that sufficient financial resources will be available to comply with all existing financial assurance or responsibility requirements.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.211. USE OF BOND PROCEEDS. (a) The proceeds of the bonds of each issue shall be:

(1) used to pay or make a loan in the amount of all or part of the cost of the project or projects for which the bonds were authorized; and

(2) disbursed in the manner and under any restrictions provided in the resolution authorizing the issuance of the bonds or in any trust agreement securing the bonds.

(b) Bond proceeds may be used to:

(1) pay all costs incurred in issuing the bonds;

(2) pay interest on the bonds for any time determined by the board of directors of the corporation issuing the bonds; and

(3) establish reserve funds and sinking funds for the bonds.

(c) If the proceeds of the bonds of any series issued for a project exceed the cost of the project for which the bonds were issued, the surplus shall be:

(1) deposited to the credit of the sinking fund for the bonds; or

(2) used to purchase bonds in the open market.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.212. INTERIM BONDS. (a) Before the preparation of definitive bonds, the corporation may, under like restrictions, issue interim bonds that may be exchanged for definitive bonds when the definitive bonds are executed and available for delivery.

(b) The corporation may issue interim bonds with or without coupons.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.213. REFUNDING BONDS. (a) A corporation may provide by resolution for the issuance of refunding bonds:

(1) to refund outstanding bonds issued under this subtitle for a project, including the payment of any redemption premium on the bonds and the interest accrued or to accrue to the date of redemption; and

(2) if considered advisable by the corporation, additionally to finance improvements, extensions, or enlargements to the project for which the bonds being refunded were issued or for another project.

(b) The provisions of this subtitle relating to other bonds govern the issuance, maturities, and other details of the refunding bonds, the

rights of the holders of the refunding bonds, and the rights, duties, and obligations of the corporation with respect to the same to the extent those provisions may be applicable.

(c) The corporation may issue the refunding bonds in exchange for outstanding bonds or may sell the refunding bonds and use the proceeds to redeem outstanding bonds.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.214. SALE OR EXCHANGE OF BONDS. With respect to a project, a corporation may:

- (1) sell bonds; or
- (2) exchange bonds for property, labor, services, material, or equipment comprising a project or incidental to the acquisition of a project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER F. ADMINISTRATION BY ECONOMIC DEVELOPMENT OFFICE

Sec. 501.251. STATE STANDARDS FOR PROJECT ELIGIBILITY. The economic development office shall adopt rules providing minimum standards for project eligibility.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.252. STATE STANDARDS AND GUIDELINES FOR LEASE, SALE, OR LOAN AGREEMENTS. (a) The economic development office shall adopt rules:

- (1) providing minimum standards for lease, sale, and loan agreements entered into under this subtitle; and
- (2) providing guidelines with respect to the business experience, financial resources, and responsibilities of the lessee, purchaser, or borrower under a lease, sale, or loan agreement entered into under this subtitle.

(b) The economic development office may adopt rules governing the terms of a loan made by a corporation to a bank or other lending institution the proceeds of which are reloaned as permanent or temporary financing of a project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.253. RULES FOR SMALL BUSINESS PROGRAMS. The economic development office shall adopt rules governing programs for small businesses receiving loans guaranteed wholly or partly by the United States Small Business Administration or another federal agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.254. FILING OF RULES AND GUIDELINES WITH SECRETARY OF STATE. Rules and guidelines adopted by the economic development office and amendments to the rules and guidelines take effect only after the filing of the rules and guidelines or amendments with the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.255. APPROVAL OF LEASE, SALE, OR LOAN AGREEMENT. (a) A lease, sale, or loan agreement entered into under this subtitle must be approved by the economic development office. The economic development office may not approve an agreement unless the office affirmatively finds that the project sought to be financed furthers the public purposes of this subtitle.

(b) The corporation may appeal an adverse ruling or decision of the economic development office under Subsection (a) to a district court of Travis County. The substantial evidence rule applies in an appeal under this subsection.

(c) A corporation:

(1) may enter into a lease, sale, or loan agreement under this subtitle without obtaining the consent or approval of any department, division, or agency of this state except as otherwise provided by this subtitle; and

(2) has full authority with respect to a lease, sale, or loan agreement, except as limited by this subtitle or by rules and guidelines of the economic development office.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.256. APPROVAL OF BONDS BY ECONOMIC DEVELOPMENT OFFICE. (a) A corporation may submit a transcript of proceedings in connection with the issuance of bonds to the economic development office and request that the office approve the bonds. A corporation shall include a nonrefundable filing fee with the request. The office shall set the amount of the fee at a reasonable amount that is not less than \$500 or more than \$25,000.

(b) If the economic development office refuses to approve the bond issue solely on the basis of law, the corporation may seek a writ of mandamus from the Texas Supreme Court, and for this purpose the executive director of the economic development office is considered a state officer under Section 22.002, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.257. FILING OF FEE SCHEDULE AND BOND PROCEDURES. The economic development office by rule shall require a corporation to file fee schedules and bond procedures.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.258. DELEGATION OF AUTHORITY. The economic development office may delegate to the executive director of the office the authority to approve a lease, sale, or loan agreement made under this subtitle or bonds issued by a corporation or any documents submitted as provided in this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

## SUBCHAPTER G. AMENDMENT OR RESTATEMENT OF

### CERTIFICATE OF FORMATION

Sec. 501.301. AMENDMENT BY BOARD OF DIRECTORS. (a) The board of directors of a corporation at any time may file with the governing body of the corporation's authorizing unit a written application requesting that the authorizing unit approve an amendment to the certificate of formation.

(b) The application must specify the proposed amendment. The board of directors shall amend the certificate of formation in accordance with this subchapter if the governing body of the authorizing unit by resolution:

- (1) determines that it is advisable to adopt the amendment;
- (2) authorizes the adoption of the amendment; and
- (3) approves the form of the amendment.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.302. AMENDMENT BY UNIT. The governing body of the authorizing unit of a corporation, at the unit's sole discretion, may in accordance with this subchapter amend the corporation's certificate of formation at any time by:

- (1) adopting the amendment by resolution; and
- (2) delivering the certificate of amendment to the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.303. AMENDMENT TO COUNTY ALLIANCE CORPORATION'S CERTIFICATE OF FORMATION. An amendment to the certificate of formation of a county alliance corporation may not be adopted unless approved by the governing body of each member of the county alliance that authorized the creation of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.304. CONTENTS OF CERTIFICATE OF AMENDMENT. The certificate of amendment must:

- (1) state the name of the corporation;
- (2) if the amendment alters a provision of the certificate of formation, identify by reference or describe the altered provision and include the provision's text as amended;
- (3) if the amendment is an addition to the certificate of formation, state that fact and include the text of each provision added; and

(4) state that the amendment was adopted or approved by the governing body of the authorizing unit and give the date the governing body adopted or approved the amendment.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.305. EXECUTION AND VERIFICATION OF CERTIFICATE OF AMENDMENT.

(a) A certificate of amendment shall be executed:

(1) on behalf of the corporation by the president or a vice president of the corporation and by the secretary or an assistant secretary of the corporation; or

(2) by the presiding officer of the governing body of the corporation's authorizing unit and by the secretary or clerk of the governing body.

(b) One of the officers who signs the certificate of amendment shall verify the certificate of amendment.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.306. DELIVERY AND FILING OF CERTIFICATE OF AMENDMENT. (a) Three originals of the certificate of amendment shall be delivered to the secretary of state.

(b) If the secretary of state determines that the certificate of amendment conforms to this subchapter and on receipt of a \$25 fee, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the certificate of amendment;

(2) file one of the original certificates of amendment in the secretary of state's office;

(3) issue two certificates evidencing the filing of the certificate of amendment;

(4) attach to each certificate evidencing the filing of the certificate of amendment; and

(5) deliver a certificate evidencing the filing of the certificate of amendment and the attached certificate of amendment to:

(A) the corporation or the corporation's representative; and

(B) the governing body of the corporation's authorizing unit.

(c) On the issuance of the certificate evidencing the filing of the certificate of amendment, the amendment becomes effective and the certificate of formation is amended accordingly.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.307. SUITS OR RIGHTS NOT AFFECTED. (a) An amendment to a corporation's certificate of formation does not affect:

(1) any existing cause of action in favor of or against the corporation;

(2) any pending suit to which the corporation is a party; or

(3) the existing rights of any person.

(b) If a corporation's name is changed by amendment to the certificate of formation, a suit brought by or against the corporation under its former name does not abate for that reason.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.308. RESTATED CERTIFICATE OF FORMATION. A corporation may authorize, execute, and file a restated certificate of formation by following the procedure to amend the certificate of formation provided by this subchapter, including obtaining the approval of the governing body of the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.309. RESTATEMENT WITHOUT ADDITIONAL AMENDMENT. (a) A corporation may, without making any additional amendment, restate the entire text of the certificate of formation as amended or supplemented by all certificates evidencing the filing of a certificate of amendment previously issued by the secretary of state.

(b) The introductory paragraph of a restatement under this section must contain a statement that the restatement:

(1) accurately copies the certificate of formation and all amendments to the certificate of formation that are in effect; and

(2) does not contain any change to the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.310. RESTATEMENT WITH ADDITIONAL AMENDMENT. (a) A corporation may:

- (1) restate the entire text of the certificate of formation as amended or supplemented by all certificates evidencing the filing of a certificate of amendment previously issued by the secretary of state; and
- (2) as part of the restatement, make additional amendments to the certificate of formation.

(b) A restatement under this section must:

- (1) state that each additional amendment to the certificate of formation conforms to this subtitle;
- (2) contain any statement required by this subtitle for the certificate of amendment, except that the full text of an additional amendment is not required to be set out other than in the restatement itself;
- (3) contain a statement that:
  - (A) the restatement is an accurate copy of the certificate of formation and all amendments to the certificate of formation that are in effect and all additional amendments made to the certificate of formation; and
  - (B) the restatement does not contain any other change to the certificate of formation; and
- (4) restate the text of the entire certificate of formation as amended or supplemented by all certificates evidencing the filing of a certificate of amendment previously issued by the secretary of state and as additionally amended by the restated certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.311. CHANGE IN CERTAIN INFORMATION NOT AMENDMENT. For purposes of restating the certificate of formation under Sections [501.309](#) and [501.310](#), substituting the current number, names, and addresses of the directors for similar information of the initial board of directors or omitting the name and address of each organizer is not an amendment to or change in the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.312. EXECUTION AND VERIFICATION OF RESTATED CERTIFICATE OF FORMATION. (a) Originals of the restated certificate of formation shall be executed on behalf of the corporation by the president or a vice president of the corporation and by the secretary or an assistant secretary of the corporation.

(b) One of the officers who signs the restated certificate of formation shall verify the restated certificate.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.313. DELIVERY AND FILING OF RESTATED CERTIFICATE OF FORMATION. (a) Three originals of the restated certificate of formation shall be delivered to the secretary of state.

(b) If the secretary of state determines that the restated certificate of formation conforms to law and on receipt of a \$25 fee, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the restated certificate of formation;

(2) file one of the original restated certificates of formation in the secretary of state's office;

(3) issue two certificates evidencing the filing of the restated certificate of formation;

(4) attach to each certificate evidencing the filing of the restated certificate of formation an original of the restated certificate of formation; and

(5) deliver a certificate evidencing the filing of the restated certificate of formation and the attached restated certificate of formation to:

(A) the corporation or the corporation's representative; and

(B) the governing body of:

(i) the corporation's authorizing unit; or

(ii) any county in the county alliance that authorized the creation of the corporation, for a county alliance corporation.

(c) The governing body of a county to which a certificate evidencing the filing of the restated certificate of formation and the attached restated certificate of formation are delivered under Subsection (b)(5)(B)(ii) shall provide photocopies of the certificate evidencing the filing of

the restated certificate of formation and the attached restated certificate of formation to each other member of the county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.314. EFFECT OF ISSUANCE OF CERTIFICATE EVIDENCING FILING OF RESTATED CERTIFICATE OF FORMATION. On the issuance of the certificate evidencing the filing of the restated certificate of formation by the secretary of state:

- (1) the original certificate of formation and all amendments to the original certificate of formation are superseded; and
- (2) the restated certificate of formation becomes the certificate of formation of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER H. REGISTERED OFFICE AND AGENT; SERVICE OF PROCESS

Sec. 501.351. REGISTERED OFFICE AND AGENT. (a) A corporation shall continuously maintain in this state a registered office and registered agent.

(b) A corporation's registered office may, but is not required to be, the same as the corporation's principal office.

(c) A corporation's registered agent may be:

- (1) an individual who is a resident of this state and whose business office is the same as the corporation's registered office; or
- (2) a domestic or foreign for-profit or nonprofit corporation that:

(A) is authorized to transact business or to conduct affairs in this state; and

(B) has a principal or business office that is the same as the corporation's registered office.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.352. CHANGE OF REGISTERED OFFICE OR AGENT. (a) A corporation may change its registered office or registered agent by filing in the office of the secretary of state a statement declaring:

- (1) the name of the corporation;
  - (2) the postal mailing address of the corporation's registered office at the time of filing;
  - (3) the postal address to which the registered office is to be changed, if the postal mailing address of the corporation's registered office is to be changed;
  - (4) the name of the corporation's registered agent at the time of filing;
  - (5) the name of the corporation's successor registered agent, if the corporation's registered agent is to be changed;
  - (6) that the postal mailing address of the corporation's registered office and the postal mailing address of the business office of the corporation's registered agent as changed will be the same; and
  - (7) that the change was authorized by:
    - (A) the corporation's board of directors; or
    - (B) an officer of the corporation authorized by the corporation's board of directors to make the change.
- (b) Two originals of the statement shall be:
- (1) executed on behalf of the corporation by the president or a vice president of the corporation;
  - (2) verified by the executing officer; and
  - (3) delivered to the secretary of state.
- (c) If the secretary of state determines that the statement conforms to this section and on receipt of a \$25 fee, the secretary of state shall:
- (1) endorse the word "Filed" and the date of the filing on each original of the statement;
  - (2) file one of the original statements in the secretary of state's office; and
  - (3) return the other original statement to the corporation or the corporation's representative.
- (d) A change made by the statement becomes effective on the filing of the statement by the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.353. RESIGNATION OF REGISTERED AGENT. (a) A corporation's registered agent may resign by:

- (1) giving written notice to the corporation at the corporation's last known address; and

(2) giving three originals of the written notice to the secretary of state not later than the 10th day after the date the notice is mailed or delivered to the corporation.

(b) The notice of resignation must include:

(1) the corporation's last known address;

(2) a statement that written notice of the resignation was given to the corporation; and

(3) the date on which the written notice of resignation was given to the corporation.

(c) If the secretary of state determines that the notice of resignation conforms to this section, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the notice of resignation;

(2) file one of the original notices of resignation in the secretary of state's office;

(3) return one original notice of resignation to the resigning registered agent; and

(4) return one original notice of resignation to the corporation at the corporation's last known address shown in the notice.

(d) The appointment of a registered agent terminates on the 31st day after the date the secretary of state receives the notice of resignation that complies with this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.354. AGENTS FOR SERVICE. (a) The president, each vice president, and the registered agent of a corporation are the corporation's agents on whom a process, notice, or demand required or permitted by law to be served on the corporation may be served.

(b) If a corporation does not appoint or maintain a registered agent in this state or if the corporation's registered agent cannot with reasonable diligence be found at the registered office, the secretary of state is an agent of the corporation on whom a process, notice, or demand described by Subsection (a) may be served.

(c) Service of a process, notice, or demand on the secretary of state is made by delivering two copies of the process, notice, or demand to the secretary of state, the deputy secretary of state, or a clerk in charge of the corporation department of the secretary of state's office. The secretary of state shall immediately forward by registered mail one copy of

the process, notice, or demand to the corporation at the corporation's registered office.

(d) Service made on the secretary of state under this section is returnable not earlier than the 30th day after the date of service.

(e) The secretary of state shall keep a record of each process, notice, and demand served on the secretary of state under this subtitle and shall include in the record the time of the service and the secretary of state's action in response to the service.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER I. ALTERATION OR TERMINATION OF CORPORATION

Sec. 501.401. ALTERATION OR TERMINATION BY AUTHORIZING UNIT. (a) At any time a corporation's authorizing unit, in its sole discretion, may in accordance with this subtitle:

(1) alter the corporation's structure, organization, programs, or activities; or

(2) terminate the existence of the corporation.

(b) The authority of an authorizing unit under this section is limited only by the law of this state on the impairment of contracts entered into by the corporation.

(c) An authorizing unit may make an alteration or may terminate the corporation's existence only by a written resolution of the authorizing unit's governing body.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.402. TERMINATION OF CORPORATION ON COMPLETION OF PURPOSE. The board of directors of a corporation, with the approval by written resolution of the corporation's authorizing unit, shall terminate the corporation's existence as provided by this subtitle if the board by resolution determines that:

(1) the purposes for which the corporation was formed have been substantially fulfilled; and

(2) all bonds issued by the corporation have been fully paid.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.403. EXECUTION OF CERTIFICATE OF TERMINATION. A certificate of termination shall be executed:

(1) on behalf of the corporation by the president or a vice president of the corporation and by the secretary or an assistant secretary of the corporation; or

(2) by the presiding officer of the governing body of the corporation's authorizing unit and the secretary or clerk of the governing body.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.404. DELIVERY AND FILING OF CERTIFICATE OF TERMINATION. (a) Three originals of the certificate of termination shall be delivered to the secretary of state.

(b) If the secretary of state determines that the certificate of termination conforms to this subtitle and on receipt of a \$25 fee, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the certificate of termination;

(2) file one of the original certificates of termination in the secretary of state's office;

(3) issue two certificates evidencing the filing of the certificate of termination;

(4) attach to each certificate evidencing the filing of the certificate of termination an original of the certificate of termination; and

(5) deliver a certificate evidencing the filing of the certificate of termination and the attached certificate of termination to:

(A) the representative of the terminated corporation; and

(B) the governing body of the terminated corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.405. EFFECT OF ISSUANCE OF CERTIFICATE EVIDENCING FILING OF CERTIFICATE OF TERMINATION. The corporate existence ends on the issuance

of the certificate evidencing the filing of the certificate of termination except for the purpose of:

- (1) any suit or other proceeding; and
- (2) appropriate corporate action by a director or officer under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.406. ASSETS ON TERMINATION. On termination the title to all funds and property owned by the corporation is transferred to the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.407. TERMINATION WITH TRANSFER OF ASSETS TO TYPE A CORPORATION. On approval of the governing bodies of each unit and corporation involved, a corporation that is not a Type A corporation may transfer all of the corporation's assets to a Type A corporation and terminate its existence as provided by this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER J. HURRICANE IKE DISASTER RELIEF

Sec. 501.451. APPLICABILITY. This subchapter applies only to a corporation the creation of which was authorized by a unit wholly or partly located in the Hurricane Ike disaster area, as defined by Section 704, Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343).

Added by Acts 2009, 81st Leg., R.S., Ch. 991 (H.B. [3854](#)), Sec. 1, eff. June 19, 2009.

Sec. 501.452. PROJECTS RELATED TO HURRICANE IKE DISASTER AREA. For a corporation to which this subchapter applies, in this subtitle, "project":

- (1) includes an undertaking the costs of which are eligible to be paid from the proceeds of qualified Hurricane Ike disaster area bonds under Section 704, Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343); and

(2) does not include:

(A) a qualified residential rental project, as defined by Section 142(d), Internal Revenue Code of 1986; or

(B) a project the costs of which are payable from qualified mortgage bonds, as defined by Section 143, Internal Revenue Code of 1986.

Added by Acts 2009, 81st Leg., R.S., Ch. 991 (H.B. [3854](#)), Sec. 1, eff. June 19, 2009.

Sec. 501.453. PROJECTS NOT ADMINISTERED BY ECONOMIC DEVELOPMENT OFFICE. A project authorized under this subchapter and bonds issued to pay all or part of the cost of a project under this subchapter are not subject to the requirements of Subchapter F.

Added by Acts 2009, 81st Leg., R.S., Ch. 991 (H.B. [3854](#)), Sec. 1, eff. June 19, 2009.

LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE C1. ADDITIONAL PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO  
MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 505. TYPE B CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 505.001. DEFINITION. In this chapter, "authorizing municipality" means the municipality that authorizes the creation of a Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.002. APPLICABILITY OF CHAPTER. This chapter applies only to:

(1) a municipality:

(A) that is located in a county with a population of 500,000 or more; and

(B) in which the combined rate of all sales and use taxes imposed by the municipality, this state, and other political subdivisions of this state having territory in the municipality does not exceed 8.25 percent on the date of any election held under or made applicable to this chapter;

(2) a municipality:

(A) that has a population of 400,000 or more;

(B) that is located in more than one county; and

(C) in which the combined rate of all sales and use taxes imposed by the municipality, this state, and other political subdivisions of this state having territory in the municipality, including taxes imposed under this chapter, does not exceed 8.25 percent; or

(3) a municipality to which Chapter 504 applies.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.003. AUTHORITY TO CREATE CORPORATION. (a) A municipality may authorize the creation under this subtitle of a Type B corporation.

(b) A municipality may not authorize the creation of more than one Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.004. CONTENTS OF CERTIFICATE OF FORMATION. The certificate of formation of a Type B corporation:

(1) must state that the corporation is governed by this chapter; and

(2) may include in the corporation's name any word or phrase the authorizing municipality specifies.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.005. CORPORATION NOT SUBJECT TO CERTAIN PROVISIONS. Sections 501.203, 501.205, 501.251-501.254, 501.255(a) and (b), 501.256, and 501.257 do not apply to a corporation under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER B. GOVERNANCE OF CORPORATION

Sec. 505.051. BOARD OF DIRECTORS. (a) The board of directors of a Type B corporation consists of seven directors.

(b) A director is appointed by the governing body of the authorizing municipality for a two-year term.

(c) A director may be removed by the governing body of the authorizing municipality at any time without cause.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.052. RESTRICTION ON BOARD MEMBERSHIP. (a) Each director of a Type B corporation authorized to be created by a municipality with a population of 20,000 or more must be a resident of the municipality.

(b) Each director of a Type B corporation authorized to be created by a municipality with a population of less than 20,000 must:

- (1) be a resident of the municipality;
- (2) be a resident of the county in which the major part of the area of the municipality is located; or
- (3) reside:
  - (A) within 10 miles of the municipality's boundaries; and
  - (B) in a county bordering the county in which most of the area of the municipality is located.

(c) Three directors of a Type B corporation must be persons who are not employees, officers, or members of the governing body of the authorizing municipality.

(d) Notwithstanding Subsections (a)-(c), if a municipality terminates a Type A corporation's existence and authorizes the creation of a Type B corporation, a person serving as a director of the Type A corporation at the time of termination may serve on the board of directors of the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.053. OFFICERS. The board of directors of a Type B corporation shall appoint:

- (1) a president;
- (2) a secretary; and
- (3) other officers of the corporation the governing body of the authorizing municipality considers necessary.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.054. QUORUM. A majority of the entire membership of the board of directors of a Type B corporation is a quorum.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.055. LOCATION OF BOARD MEETINGS. (a) Except as provided by Subsection (b), the board of directors of a Type B corporation shall conduct all meetings within the boundaries of the authorizing municipality.

(b) If the authorizing municipality is located in a county with a population of less than 30,000, the board of directors of a Type B corporation may conduct a board meeting within the boundaries of the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 473 (H.B. 479), Sec. 2, eff. June 17, 2011.

Sec. 505.056. RESTRICTIONS ON REGISTERED AGENT AND OFFICE. (a) The registered agent of a Type B corporation must be an individual who is a resident of this state.

(b) The registered office of a Type B corporation must be located within the boundaries of the authorizing municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 505.101. APPLICABILITY OF OTHER LAW; CONFLICTS. A Type B corporation has the powers granted by this chapter and by other chapters of this subtitle and is subject to the limitations of a corporation created under another provision of this subtitle. To the extent of a conflict between this chapter and another provision of this subtitle, this chapter prevails.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.102. CONTRACT WITH OTHER PRIVATE CORPORATION. A Type B corporation may contract with another private corporation to:

- (1) carry out an industrial development program or objective; or
- (2) assist with the development or operation of an economic development program or objective consistent with the purposes and duties specified by this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.103. LIMITATION ON USE OF REVENUES FOR PROMOTIONAL PURPOSES. A Type B corporation may spend not more than 10 percent of the corporate revenues for promotional purposes.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.104. BOND REPAYMENT. (a) Bonds or other obligations that mature in 30 years or less and that are issued to pay the costs of projects of a type added to the definition of "project" by Subchapter D may be made payable from any source of funds available to the Type B corporation, including the proceeds of a sales and use tax imposed under this chapter.

(b) Bonds or other obligations that by their terms are payable from the tax proceeds:

(1) may not be paid wholly or partly from any property taxes imposed or to be imposed by the authorizing municipality; and

(2) are not a debt of and do not give rise to a claim for payment against the authorizing municipality, except as to sales and use tax revenue held by the municipality and required under this chapter to be delivered to the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.1041. APPRAISAL REQUIRED BEFORE PURCHASE OF PROPERTY WITH BOND PROCEEDS. A Type B corporation may not purchase property for a project wholly or partly with bond proceeds until the corporation obtains an independent appraisal of the property's market value.

Added by Acts 2011, 82nd Leg., R.S., Ch. 719 (H.B. [782](#)), Sec. 2, eff. September 1, 2011.

Sec. 505.105. EMINENT DOMAIN. A Type B corporation may exercise the power of eminent domain only:

(1) on approval of the action by the governing body of the authorizing municipality; and

(2) in accordance with and subject to the laws applicable to the authorizing municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.106. LIABILITY. (a) The following are not liable for damages arising from the performance of a governmental function of a Type B corporation or the authorizing municipality:

- (1) the corporation;
- (2) a director of the corporation;
- (3) the municipality;
- (4) a member of the governing body of the municipality; or
- (5) an employee of the corporation or municipality.

(b) For purposes of Chapter 101, Civil Practice and Remedies Code, a Type B corporation is a governmental unit and the corporation's actions are governmental functions.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER D. AUTHORIZED PROJECTS

Sec. 505.151. AUTHORIZED PROJECTS. In this chapter, "project" means land, buildings, equipment, facilities, expenditures, and improvements included in the definition of "project" under Chapter 501, including:

- (1) job training as provided by Section 501.162; and
- (2) recycling facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.152. PROJECTS RELATED TO RECREATIONAL OR COMMUNITY FACILITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.153. PROJECTS RELATED TO AFFORDABLE HOUSING. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of development and expansion of affordable housing, as described by 42 U.S.C. Section 12745.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.154. PROJECTS RELATED TO WATER SUPPLY FACILITIES AND WATER CONSERVATION PROGRAMS. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for:

(1) the development or improvement of water supply facilities, including dams, transmission lines, well field developments, and other water supply alternatives; or

(2) the development and institution of water conservation programs, including incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.155. PROJECTS RELATED TO BUSINESS ENTERPRISES THAT CREATE OR RETAIN PRIMARY JOBS. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including:

(1) a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements, and any improvements or facilities related to a project described by this subdivision; and

(2) any other project that the board of directors in the board's discretion determines promotes or develops new or expanded business enterprises that create or retain primary jobs.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.156. PROJECTS RELATED TO BUSINESS ENTERPRISES IN CERTAIN MUNICIPALITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development, retention, or expansion of business enterprises if the project is undertaken by a Type B corporation authorized to be created by a municipality:

(1) that has not for each of the preceding two fiscal years received more than \$50,000 in revenues from sales and use taxes imposed under this chapter; and

(2) the governing body of which has authorized the project by adopting a resolution only after giving the resolution at least two separate readings conducted at least one week apart.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.1561. PROJECTS RELATED TO AIRPORT FACILITIES IN CERTAIN MUNICIPALITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development or expansion of airport or railport facilities, including hangars, maintenance and repair facilities, cargo facilities, and related infrastructure located on or adjacent to an airport or railport facility, if the project is undertaken by a Type B corporation authorized to be created by a municipality:

(1) that enters into a development agreement with an entity in which the entity acquires a leasehold or other possessory interest from the corporation and is authorized to sublease the entity's interest for other projects authorized by Sections [505.151](#) through [505.156](#); and

(2) the governing body of which has authorized the development agreement by adopting a resolution at a meeting called as authorized by law.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 15.014(a), eff. September 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 150 (S.B. [2052](#)), Sec. 2, eff. September 1, 2009.

Sec. 505.157. PROJECTS RELATED TO BUSINESS ENTERPRISES IN LANDLOCKED COMMUNITIES. (a) In this section, "landlocked community" means a municipality that:

(1) is wholly or partly located in a county with a population of two million or more; and

(2) has within its municipal limits and extraterritorial jurisdiction less than 100 acres that can be used for the development of manufacturing or industrial facilities in accordance with the municipality's zoning laws or land use restrictions.

(b) For a landlocked community that authorizes or has authorized the creation of a Type B corporation, "project" also includes expenditures found by the board of directors to be required for the promotion of new or expanded business enterprises in the landlocked community.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.158. PROJECTS RELATED TO BUSINESS DEVELOPMENT IN CERTAIN SMALL MUNICIPALITIES. (a) For a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, "project" also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation's board of directors to promote new or expanded business development.

(b) A Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.159. HEARING REQUIRED TO UNDERTAKE PROJECT. (a) Except as provided by Subsection (b), a Type B corporation shall hold at least one public hearing on a proposed project before spending money to undertake the project.

(b) A Type B corporation the creation of which was authorized by a municipality with a population of less than 20,000 is not required to hold

a public hearing under this section if the proposed project is defined by Subchapter C, Chapter 501.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.015(a), eff. September 1, 2009.

Sec. 505.160. ELECTION REQUIRED FOR PROJECT; PETITION. (a) A Type B corporation may undertake a project under this chapter unless, not later than the 60th day after the date notice of the specific project or general type of project is first published, the governing body of the authorizing municipality receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the specific project or general type of project is undertaken.

(b) The governing body of the authorizing municipality is not required to hold an election after the submission of a petition under Subsection (a) if the voters of the municipality have previously approved the undertaking of the specific project or general type of project:

(1) at an election ordered for that purpose by the governing body of the municipality; or

(2) in conjunction with another election required under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.161. PUBLIC PURPOSE DESIGNATION; EXEMPTION FROM TAXATION.

(a) The legislature finds for all constitutional and statutory purposes that:

(1) a project of the type added to the definition of "project" by this subchapter is owned, used, and held for a public purpose for and on behalf of the municipality that authorized the creation of the Type B corporation; and

(2) except as otherwise provided by this section, Section 501.160 of this subtitle and Section 25.07(a), Tax Code, do not apply to a leasehold or other possessory interest granted by a Type B corporation during the period the corporation owns projects on behalf of the authorizing municipality.

(b) A project is exempt from ad valorem taxation under Section 11.11, Tax Code, for the period described by Subsection (a)(2) of this section.

(c) This subsection applies only if the voters of the authorizing municipality of a Type B corporation have not approved the adoption of a sales and use tax for the benefit of the corporation under Section 505.251. An ownership, leasehold, or other possessory interest of a person other than the corporation in real property constituting a project of the corporation described by this section:

(1) is subject to ad valorem taxation under Section 25.07(a), Tax Code; or

(2) if the interest was created under an agreement entered into by the corporation before September 1, 1999, is covered by the provisions of the law codified by this section that govern ad valorem taxation of the ownership, leasehold, or other possessory interest that were in effect on the date the agreement was executed.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER E. SPORTS VENUE PROJECTS AND RELATED INFRASTRUCTURE

Sec. 505.201. DEFINITIONS. In this subchapter:

(1) "Related infrastructure" has the meaning assigned by Section 334.001.

(2) "Sports venue" means an arena, coliseum, stadium, or other type of area or facility that is primarily used or is planned for primary use for one or more professional or amateur sports or athletics events and for which a fee is charged or is planned to be charged for admission to the sports or athletics events, other than occasional civic, charitable, or promotional events. The term does not include an arena, coliseum, stadium, or other type of area or facility that is or will be owned and operated by a state-supported institution of higher education.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.202. ELECTION: USE OF TAX PROCEEDS FOR SPORTS VENUE PROJECTS. (a) An authorizing municipality may submit to the voters of the municipality a ballot proposition that authorizes the Type B corporation to use the sales and use tax, including any amount previously authorized and collected, for a specific sports venue project, including related

infrastructure, or for a specific category of sports venue projects, including related infrastructure.

(b) The project or category of projects described by Subsection (a) must be clearly described on the ballot so that a voter is able to discern the limits of the specific project or category of projects authorized by the proposition. If maintenance and operating costs of an otherwise authorized facility are to be paid from the sales and use tax, the ballot language must clearly state that fact.

(c) The authorizing municipality may submit the ballot proposition at:

(1) an election held under another provision of this subtitle, including the election at which the proposition to initially approve the adoption of a sales and use tax for the benefit of the Type B corporation is submitted; or

(2) a separate election to be held on a uniform election date.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.203. PUBLIC HEARING PRECEDING ELECTION. Before an election may be held under Section [505.202](#), a public hearing must be held in the authorizing municipality to inform the municipality's residents of the cost and impact of the project or category of projects. At least 30 days before the date set for the hearing, notice of the date, time, place, and subject of the hearing must be published each week until the date of the hearing in a newspaper with general circulation in the municipality in which the project is located.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.204. LIMITATION ON SUBSEQUENT ELECTION. If a majority of the voters voting on the issue do not approve a specific sports venue project or a specific category of sports venue projects at an election under Section [505.202](#), another election concerning the same project or category of projects may not be held before the first anniversary of the date of the most recent election disapproving the project or category of projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.205. SUBSEQUENT APPROVAL OF ADDITIONAL PROJECTS. Prior approval of a specific sports venue project at an election or completion of a specific sports venue project approved at an election does not prevent an authorizing municipality from seeking voter approval of an additional project or category of projects under this subchapter to be funded from the same sales and use tax that is used to fund the previously approved sports venue project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.206. EFFECT OF SUBCHAPTER ON ELECTION AUTHORITY. This subchapter does not affect an authorizing municipality's authority to call an election under this chapter to impose a sales and use tax for any purpose authorized by this chapter after the sales and use tax described by this subchapter is, in accordance with Section [505.258](#), no longer collected.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER F. SALES AND USE TAX

Sec. 505.251. TAX AUTHORIZED. The governing body of the authorizing municipality by ordinance may adopt a sales and use tax for the benefit of a Type B corporation if the tax is approved by a majority of the voters of the municipality voting at an election held for that purpose in accordance with Chapter [321](#), Tax Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.252. SALES TAX. (a) If the authorizing municipality adopts the tax under Section [505.251](#), a tax is imposed on the receipts from the sale at retail of taxable items within the municipality at the rate approved at the election.

(b) The rate of a tax adopted under this chapter may be any rate that is an increment of one-eighth of one percent, that the authorizing municipality determines is appropriate, and that would not result in a

combined rate that exceeds the maximum combined rate prescribed by Section 505.256(a).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 9, eff. September 1, 2015.

Sec. 505.253. USE TAX. (a) If the authorizing municipality adopts the tax under Section 505.251, an excise tax is imposed on the use, storage, or other consumption within the municipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality.

(b) The rate of the excise tax is the same as the rate of the sales tax portion of the sales and use tax and is applied to the sale price of the tangible personal property.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.254. SPECIFICATION OF TAX RATE ON BALLOT. In an election held to adopt the sales and use tax under this chapter, the ballot proposition must specify the rate of the tax to be adopted.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.255. ADOPTION OF TAX AT ELECTION TO REDUCE OR ABOLISH TAX FOR TYPE A CORPORATION. A municipality that holds an election to reduce the rate of or abolish a tax imposed under Chapter 504 may in the same proposition or in a separate proposition on the same ballot adopt a tax under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.256. APPLICABILITY OF TAX CODE. (a) Chapter 321, Tax Code, governs the imposition, computation, administration, collection, and remittance of the sales and use tax, except as inconsistent with this chapter. An authorizing municipality may not adopt a rate under this

chapter that, when added to the rates of all other sales and use taxes imposed by the authorizing municipality and other political subdivisions of this state having territory in the authorizing municipality, would result in a combined rate exceeding two percent at any location in the municipality.

(b) Except as provided by this subsection, the tax imposed under this chapter takes effect as provided by Section 321.102(a), Tax Code. If an election is held under this chapter at the same time an election is held to impose or change the rate of the additional municipal sales and use tax, the tax under this chapter and the imposition or change in rate of the additional municipal sales and use tax take effect as provided by Section 321.102(b), Tax Code.

(c) After the effective date of the taxes imposed under this chapter, the adoption of a sales and use tax or the attempted adoption of a sales and use tax by the authorizing municipality or another taxing jurisdiction having territory in the municipality does not impair the taxes imposed under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 10, eff. September 1, 2015.

Sec. 505.2565. LIMITATION ON DURATION OF TAX. (a) At an election held under Section 505.251, the authorizing municipality may also allow the voters to vote on a ballot proposition to limit the period for imposition of a sales and use tax.

(b) An authorizing municipality that has imposed a tax for a limited time under this section may extend the period of the tax's imposition or reimpose the tax only if the extension or reimposition is approved by a majority of the voters of the municipality voting at an election held for that purpose in the same manner as an election held under Section 504.257.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.016(a), eff. September 1, 2009.

Sec. 505.257. REDUCTION OF TAX WITHIN REGIONAL TRANSPORTATION AUTHORITY. Notwithstanding any other provision of this chapter, a tax imposed under this chapter by an authorizing municipality that is located within the territorial limits of a regional transportation authority and

that has been added to the territory of the authority under Section 452.6025, Transportation Code, is subject to reduction in the manner prescribed by Section 452.6025, Transportation Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.2575. LIMITED SALES AND USE TAX FOR SPECIFIC PROJECT. (a) At an election held under Section 505.251, the authorizing municipality may also allow the voters to vote on a ballot proposition to limit the use of the sales and use tax to a specific project.

(b) A Type B corporation created to perform a specific project as provided by this section may retain its corporate existence and perform any other project approved by the voters of the authorizing municipality at an election held for that purpose in the same manner as Section 504.260 provides for an election held under Section 504.251. Before spending money to undertake a project, a Type B corporation shall hold a public hearing as otherwise provided by this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.016(a), eff. September 1, 2009.

Sec. 505.258. CESSATION OF COLLECTION OF TAXES. A sales and use tax imposed under this chapter may not be collected after the last day of the first calendar quarter that occurs after the Type B corporation notifies the comptroller that:

- (1) all bonds or other obligations of the corporation, including any refunding bonds, payable wholly or partly from the proceeds of the sales and use tax imposed under this chapter, have been paid in full; or
- (2) the total amount, exclusive of guaranteed interest, necessary to pay in full the bonds and other obligations has been set aside in a trust account dedicated to the payment of the bonds and other obligations.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.259. ELECTION REQUIREMENT FOR CERTAIN MUNICIPALITIES. For a tax under this subchapter at a rate that does not exceed one-half of one percent, the election requirement under Section 505.251 is satisfied and another election is not required if the voters of the authorizing municipality approved the imposition of an additional one-half cent sales

and use tax at an election held before March 28, 1991, under an ordinance calling the election that:

(1) was published in a newspaper of general circulation in the municipality at least 14 days before the date of the election; and

(2) expressly stated that the election was being held in anticipation of the enactment of enabling and implementing legislation without further elections.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 11, eff. September 1, 2015.

#### SUBCHAPTER G. USE OF TAX PROCEEDS

Sec. 505.301. DELIVERY OF TAX PROCEEDS. On the authorizing municipality's receipt from the comptroller of the proceeds of the sales and use tax imposed under this chapter, the authorizing municipality shall deliver the proceeds to the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.302. PAYMENT OF PROJECT COSTS, BONDS, OR OTHER OBLIGATIONS. The proceeds of the sales and use tax imposed under this chapter may be used to:

(1) pay the costs of projects of the types added to the definition of "project" by Subchapter D; or

(2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the Type B corporation to:

(A) pay the costs of the projects; or

(B) refund bonds or other obligations issued to pay the costs of projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.303. PAYMENT OF MAINTENANCE AND OPERATING COSTS; ELECTION.

(a) The costs of a publicly owned and operated project purchased or

constructed under this chapter include the maintenance and operating costs of the project.

(b) The proceeds of taxes may be used to pay the maintenance and operating costs of a project, unless not later than the 60th day after the date notice of the specific use of the tax proceeds is first published, the governing body of the authorizing municipality of the Type B corporation undertaking the project receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the tax proceeds may be used to pay the maintenance and operating costs of a project.

(c) The governing body of the authorizing municipality is not required to hold an election after the submission of a petition under Subsection (b) if the voters of the municipality have previously approved at an election ordered for that purpose by the governing body or in conjunction with another election required under this chapter that:

(1) the costs of a publicly owned and operated project purchased or constructed under this chapter include the maintenance and operating costs of the project; and

(2) the tax proceeds may be used to pay the maintenance and operating costs of a project.

(d) An authorizing municipality is not required to hold an election under this section if the municipality:

(1) is located in a county with a population of more than 1.3 million; and

(2) has held before February 1, 1993, an election under this chapter at which the additional sales tax was approved.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.304. PAYMENT FOR CERTAIN WATER-RELATED PROJECTS: ELECTION REQUIRED. (a) A Type B corporation may not use proceeds from the sales and use tax to undertake a project described by Section [505.154](#) unless the use of tax proceeds for that purpose is authorized by a majority of the voters voting at an election held in the municipality for that purpose.

(b) The ballot in an election held under this section shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for infrastructure relating to \_\_\_\_\_ (insert water supply facilities or water conservation programs, as appropriate)."

(c) An election held under this section may be authorized by the governing body of an authorizing municipality subsequent to an earlier election authorized under Section [505.251](#).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.305. PAYMENT FOR CLEANUP OF CONTAMINATED PROPERTY; ELECTION.

(a) The economic development office, with the assistance of the Texas Commission on Environmental Quality, may encourage a Type B corporation to use proceeds from the sales and use tax imposed under this chapter for the cleanup of contaminated property.

(b) Notwithstanding any other provision of this chapter, a Type B corporation may use proceeds from the sales and use tax for the cleanup of contaminated property only if the use of tax proceeds for that purpose is authorized by a majority of the voters voting at an election held in the authorizing municipality for that purpose. The ballot in an election held under this subsection shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for the cleanup of contaminated property."

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER H. TERMINATION OF CORPORATION

Sec. 505.351. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a Type B corporation created on or after September 1, 1999.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.352. ELECTION TO TERMINATE EXISTENCE OF CORPORATION ON PETITION. (a) The governing body of an authorizing municipality shall order an election on the termination of the existence of the Type B corporation on receipt of a petition requesting the election that is signed by at least 10 percent of the registered voters of the municipality.

(b) The authorizing municipality shall hold the election on the first available uniform election date that occurs after the time required by Section [3.005](#), Election Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.353. BALLOT. The ballot for an election held under Section 505.352 shall be printed to permit voting for or against the proposition: "Termination of the \_\_\_\_\_ (name of corporation)."

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.354. TERMINATION OF EXISTENCE OF CORPORATION. (a) If a majority of the votes cast at an election held under Section 505.352 approve the termination, the Type B corporation shall:

(1) continue operations only as necessary to meet the obligations the corporation incurred before the date of the election, including paying the principal of and interest on the corporation's bonds; and

(2) liquidate the corporation's assets and apply the proceeds to satisfy the corporation's obligations, to the extent practicable.

(b) After the Type B corporation has satisfied all of the corporation's obligations, any remaining assets of the corporation shall be transferred to the authorizing municipality, and the existence of the corporation is terminated.

(c) The authorizing municipality shall promptly notify the comptroller and the secretary of state of the date the existence of a Type B corporation is terminated under this subchapter.

(d) A tax imposed under this chapter may not be collected after the last day of the first calendar quarter that begins after the authorizing municipality provides notice under Subsection (c).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.355. ELECTION REJECTING TERMINATION. If less than a majority of the votes cast at an election held under Section 505.352 approve the termination, Section 505.354 has no effect.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.



## Civic Events Advisory Board

The mission of the Civic Events Division is to provide clean, comfortable facilities along with exceptional support to events in City venues. The Civic Events Advisory Board makes recommendations regarding Civic Events Division policy to the San Angelo City Council.

Staff Liaison: Sidney Walker 325-653-9577

Meetings are scheduled at 11:00 a.m. on the last Thursday of the month in the South Meeting Room of the McNease Convention Center

Board Roster:

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Karen Abbott	Current	1	10/31/2016	12/31/2019	SMD1	1
Tim Condon	Current	2	10/31/2016	12/31/2019	SMD2	2
Billy Najera	Current	2	10/31/2014	12/31/2020	SMD3	3
Mikala Brownfield	Expired	1	10/31/2014	12/31/2017	SMD4	4
Steve Mahaffey	Current	2	10/31/2014	12/31/2020	SMD5	5
Donald Barnhart	Current	1	10/31/2016	12/31/2019	SMD6	6
Vacant			10/31/2014	12/31/2017	Mayor	7

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 14. Civic Events Board****Division 14. Civic Events Board****Sec. 2.07.411 Creation**

There is hereby created a civic events board consisting of seven (7) members who shall be appointed by the city council. (1996 Code, sec. 2.2201; Ordinance adopted 11/3/09; Ordinance 2017-06-088 adopted 6/20/17)

**Division 14. Civic Events Board****Sec. 2.07.412 Qualifications**

All members shall be of voting age or over and shall be residents of the city. (1959 Code, sec. 2-9-2; 1996 Code, sec. 2.2202; Ordinance 2017-06-088 adopted 6/20/17)

**Division 14. Civic Events Board****Sec. 2.07.413 Terms**

The term of office for each member of the board shall be three (3) years or until a successor has been appointed and qualified, whether by expiration of term or for other reasons. The term shall begin on January 1st of the year of the appointment. No member shall be eligible to serve more than two (2) full consecutive terms; providing, however, that after one year off the board, a person shall then become eligible to serve two (2) more consecutive terms without regard to the number of terms or amount of time served on the board prior thereto. A board member may be terminated by the city council at any time. Board members shall receive no compensation for services. (1996 Code, sec. 2.2203; Ordinance adopted 1/4/00; Ordinance 2017-06-088 adopted 6/20/17)

**Division 14. Civic Events Board****Sec. 2.07.414 Duties**

The board shall act as an advisory board to the city council as to matters of policy and to the city manager or his/her representatives as to administrative matters in regard to operation of the convention center, Foster Communications Coliseum, Bill Aylor Sr. Memorial RiverStage, Farmer's Market, City of San Angelo Indoor Arena, Pecan Creek Park Pavilion, and El Paseo de Santa Angela. The board may enact rules and regulations regarding the operation of the above-named facilities which shall take effect after review by the city council; however, the city council may take action to enact different rules and regulations at any time. (1996 Code, sec. 2.2204; Ordinance adopted 1/4/00; Ordinance 2017-06-088 adopted 6/20/17)

**Division 14. Civic Events Board****Sec. 2.07.415 Officers**

The board shall elect a chairman and such other officers as it may establish by its bylaws. (1959 Code, sec. 2-9-5; 1996 Code, sec. 2.2205; Ordinance 2017-06-088 adopted 6/20/17)

Division 14. Civic Events Board

**Sec. 2.07.416 Quorum**

Four (4) members of the board shall constitute a quorum. (1959 Code, sec. 2-9-6; 1996 Code, sec. 2.2206; Ordinance 2017-06-088 adopted 6/20/17)

Division 14. Civic Events Board

**Sec. 2.07.417 Bylaws**

The board shall write its own bylaws establishing its own rules for its regulation. Said bylaws and amendments thereto shall be approved by the city council and filed with the city clerk. (1959 Code, sec. 2-9-7; 1996 Code, sec. 2.2207; Ordinance 2017-06-088 adopted 6/20/17)

Division 14. Civic Events Board

**Sec. 2.07.418 Meetings**

The board shall hold regular monthly meetings at a time and place to be established in its bylaws and such other meetings as may be necessary to accomplish the purpose of its creation and as established in its bylaws. All meetings shall be public and shall conform to law. (1959 Code, sec. 2-9-8; 1996 Code, sec. 2.2208; Ordinance 2017-06-088 adopted 6/20/17)

Division 14. Civic Events Board

**Sec. 2.07.419 Minutes**

The board shall keep a record of its proceedings in a permanent book, and a signed copy of said minutes shall be given to the city clerk. (1959 Code, sec. 2-9-9; 1996 Code, sec. 2.2209; Ordinance 2017-06-088 adopted 6/20/17)

Division 14. Civic Events Board

**Sec. 2.07.420 Absent members**

Any member who shall be absent from three (3) meetings, regular or special, in a calendar year, unless excused by the board by procedures established in its bylaws, shall be deemed to have resigned, and the board shall immediately notify the city council that a vacancy exists. (1996 Code, sec. 2.2210; Ordinance adopted 1/4/00; Ordinance 2017-06-088 adopted 6/20/17)

Division 14. Civic Events Board

**Secs. 2.07.421–2.07.440 Reserved**

# CIVIC EVENTS ADVISORY BOARD

## **BYLAWS**

### Article I

#### Purposes, Duties, Powers and Conduct

Section 1. Purposes: The Civic Events Advisory Board (“Board” herein) is organized and created by City ordinance Article 2.2200 to advise the City Council of the City of San Angelo, the City Manager and his/her representatives.

Section 2. Duties: The Board shall advise the City Council on matters of policy and the City Manager and his/her representatives on administrative matters regarding the operation of the McNease Convention Center, San Angelo Coliseum, City Auditorium, the Bill Aylor Sr. Memorial RiverStage, Farmers Market, Indoor Arena, El Paseo de Santa Angela. The Board shall approve a recommended Civic Events budget in sufficient time for inclusion in the City Manager’s proposed annual budget to the City Council. The Board is authorized to formulate and enact rules and policies regarding the operation of public facilities, which are effective following the review and approval of the City Council. The City Council may formulate and enact different rules and policies at any time.

Section 3. Powers: The Board may exercise all powers and do all lawful acts delegated to it or permitted by City ordinances, state statutes and these bylaws.

Section 4. Conduct: The Board and its members shall conduct itself in a manner that’s in keeping with the standards, rules, regulations, policies and practices established by the City Council for itself and all City Boards and Commissions.

### Article II

#### Members of the Board

Section 1. Members: The Board shall consist of eight (8) members. Board members shall receive no compensation for services. Per the City Council’s directive, the Board’s membership shall be reduced to seven (7) members in October 2010.

Section 2. Appointment: Board members shall be appointed by the City Council under procedures established by the Council.

Section 3. Qualifications: Board members shall have such qualifications as prescribed by the City Council. All members must be of voting age and a resident of the City of San Angelo.

Section 4. Term of Office: Board members shall be appointed for a three (3) year term beginning on Oct. 1 of the year of the appointment. No member shall be eligible to serve more than two (2) full consecutive terms. After one (1) year off the Board, a person becomes eligible to serve two (2) more consecutive terms.

## Article III

### Meetings

Section 1. Regular Meetings: The Board shall hold one (1) regular meeting each month. The meetings shall normally be held at noon on the last Thursday each month at the McNease Convention Center. The Board may periodically meet at other Civic Events venues. All meetings shall be public and conform to law.

Section 2. Special Meetings: The Board President may call a special meeting with no less than seventy-two (72) hours notice. In cases of emergency, the Board President may call a meeting with no less than two (2) hours notice. Upon the request of four (4) Board members, the President shall call a special meeting with no less than seventy-two (72) hours notice. In all instances of special meetings, Board members must be notified in writing, by e-mail and/or by telephone. Special meetings shall be held at the McNease Convention Center on a date and at a time designated by the President. All special meetings shall be public and conform to law

Section 3. Executive Sessions: The criteria for a board to hold an executive session are established by the Texas Open Meetings Act, which requires the board to first meet in open session, identify the section of the law under which the closed meeting is held, recess into executive session, reconvene in open session and vote in open session. A certified agenda or a tape recording of the proceedings of each closed meeting is required. The reason for executive sessions are: 1) Consultations with attorney regarding pending or contemplated litigation, or a settlement offer; 2) Deliberations about real property; 3) Deliberations regarding gifts and donations; 4) Personnel matters; and 5) Deliberations regarding security devices or security audits.

Section 4. Attendance Conclusive of Notice: Attendance by a Board member at any regular or special meeting shall be conclusive evidence of receipt of notice of the meeting by that member. Members must attend all Board meetings unless they notify the Board Secretary they will be absent because of personal or family illness, family emergency, funerals or employment. Absences without notification shall be considered unexcused.

Section 5. Quorum: A quorum of at least five (5) members is necessary to conduct any Board meeting. Once the Board's membership drops from eight (8) to seven (7) members, per the City Council's directive, a quorum of at least four (4) members will be necessary to conduct any Board meeting.

Section 6. Vote: Each Board member shall have one vote, which must be exercised in person. The vote of a majority of members present and voting at a meeting at which a quorum is present shall be the vote of the Board. All Board members shall comply with the conflict of interest statement, which is attached as Exhibit A.

No member should act independently on behalf of the Board on any matter under the Board's jurisdiction or purview without the express authorization, instruction or appointment by the Board. Should members speak to a group or individual who have matters under the Board's jurisdiction or purview without the authorization, instruction or appointment to do so, those members should make clear they are acting on their own behalf and not representing the Board.

Section 7. Termination of Board Members: Any Board member who misses three (3) meetings in a calendar year because of personal or family illness, family emergency, funerals or employment, or who misses four (4) meetings total in a calendar year, shall be deemed to have resigned, and the Board shall immediately notify the City Council that a vacancy exists.

## Article IV

### Officers

Section 1. Designation of Officers: The Board shall have a President and Vice President. The Civic Events Manager shall perform the duties of Secretary, but will not be a voting member of any Committee or the Board.

Section 2. Election: At the beginning of the regular meeting each October, the Vice President shall ascend to the Board's Presidency, and the Board shall elect a new Vice President. Nominations for Vice President will be made by the Board's Nominating Committee. Election shall be determined by a majority vote of the members present.

Section 3. Terms: The President and Vice President shall serve a term of one (1) year in each office. Terms will begin and end when officers are seated and elected at the beginning of the regular meeting in October.

Section 4. Consecutive Terms: Having served two (2) consecutive terms in office, a member shall not be eligible for re-election to an office for one (1) year after completion of the second consecutive term.

Section 5. Duties and Authority of Officers:

- A. President** – The President shall preside over all meetings of the Board and shall be responsible for accomplishing all directives, purposes, duties and responsibilities imposed on the Board by the City Council. The President shall appoint members of all committees as he/she deems necessary and shall designate the Chairman of all committees. The President shall sign official documents on the Board's behalf.
- B. Vice President**– In the absence, disability or disqualification of the President, the Vice President shall perform the duties and exercise the powers of the President. The Vice President shall also perform other duties prescribed by the Board.
- C. Secretary** – The Secretary shall keep the minutes of all Board meetings, be the custodian of all books and records of the Board, make appointments for the Board, prepare the agenda for Board meetings, prepare and send or deliver notices as directed by the Board and perform all secretarial duties required by the Board. Minutes of all proceedings shall be recorded in a permanent book and a signed copy of the minutes given to the City Clerk.

Article V

Standing Committees

Section 1. Nominating Committee: The Nominating Committee shall consist of four (4) Board members with one being the immediate past President and the remaining three (3) to be appointed by the President. The Nominating Committee shall recommend a slate of officers and committee members to be presented for the Board's consideration at the beginning of the October meeting each year. Members of the Nominating Committee can be recommended to serve as officers and committee members.

Section 2. Executive Committee: The Executive Committee shall consist of the President, the Vice President, the Secretary, and one (1) member as recommended by the Nominating Committee. The Executive Committee shall transact all regular business of the Board during the period between regular monthly meetings. The Executive Committee shall annually review and evaluate public facilities operations and report to the Board. The Executive Committee shall meet when called by the President.

Section 3. Facilities Expansion, Building and Grounds Committee: The Facilities Expansion, Building and Grounds Committee shall consist of four (4) Board members appointed by the Nominating Committee. The committee shall annually

review the condition of the buildings and grounds, and any needed expansion of facilities, and make appropriate recommendations to the Board.

Section 4. Policies and Procedures Committee: The Policies and Procedures Committee shall consist of the Vice President, the immediate past President if available and one (1) Board member appointed by the Nominating Committee. If the immediate past President is unavailable, the Nominating Committee will appoint two (2) Board members. The Committee shall annually review the bylaws, facilities policies, and procedures related to the operation of the Board. Any recommended bylaw, policy or procedural changes shall be presented to the Board for its consideration. Approved changes shall be presented to the City Council for its consideration and, if approved, filed with the City Clerk.

Section 5. Additional Standing Committees: The President shall appoint Board members to additional standing committees approved by the Board through the amendment of these bylaws.

## Article VI

### Amendment

These bylaws may be amended, altered or changed only by a majority vote of the Board, subject to final approval by the City Council. The bylaws and amendments shall be filed with the City Clerk.

Date: \_\_\_\_\_  
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Civic Events Board President

\_\_\_\_\_  
Civic Events Board Secretary



**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 19. Civil Service Commission\*****Division 19. Civil Service Commission\*****Sec. 2.07.581 Creation**

In accordance with chapter 325, Acts of the Texas Legislature, Regular Session, 1947, which was adopted by the qualified voters of the city, there is hereby established a civil service system for firemen and policemen; and pursuant thereto, there is hereby established a civil service commission (fire and police), which shall consist of three (3) members. (1959 Code, sec. 2-11-1; 1996 Code, sec. 2.2401)

**Division 19. Civil Service Commission\*****Sec. 2.07.582 Appointments; vacancies**

Members of the commission shall be appointed by the mayor, and such appointments shall be confirmed by the city council before such appointments shall be effective. Any vacancies in said commission, caused by death, resignation or otherwise, or by failure of any appointee to qualify within ten (10) days after appointment, shall be filled in the manner hereinabove specified, and such appointment shall be for the unexpired term of the retiring commissioner or the appointee failing to qualify. (1959 Code, sec. 2-11-2; 1996 Code, sec. 2.2402)

**Division 19. Civil Service Commission\*****Sec. 2.07.583 Qualifications**

All such commissioners shall be of good moral character and resident citizens of the city, shall have resided in the city for a period of more than three (3) years, shall be over the age of twenty-five (25) years, and shall not have held any public office within the preceding three (3) years. (1959 Code, sec. 2-11-3; 1996 Code, sec. 2.2403)

**Division 19. Civil Service Commission\*****Sec. 2.07.584 Terms**

Of the first three (3) commissioners so elected to comprise the commission, one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, and one (1) shall be appointed for a term of three (3) years. Thereafter the term of office of each council [commission] member shall be for three (3) years, or until a successor is appointed, confirmed and qualified. (1959 Code, sec. 2-11-4; 1996 Code, sec. 2.2404)

**Division 19. Civil Service Commission\*****Sec. 2.07.585 Removal of members**

Any member of the commission may be removed by two-thirds (2/3) vote of the governing body for any act contrary to the best interest of the service or failure to act in a manner to promote the best interest of the service,

having first given to such member a copy of the charges against him. Such action of the governing body shall be final. (1959 Code, sec. 2-11-5; 1996 Code, sec. 2.2405)

Division 19. Civil Service Commission\*

**Sec. 2.07.586 Compensation**

Members of the commission shall serve without compensation. (1959 Code, sec. 2-11-6; 1996 Code, sec. 2.2406)

Division 19. Civil Service Commission\*

**Sec. 2.07.587 Powers and duties of commission**

The members of the civil service commission shall, at a date, hour and place set by the commission, hold meetings as needed or required to properly discharge its duties. Two (2) members of said commission shall constitute a quorum to transact business. The duties of the civil service commission, as a body, are as follows:

- (1) Commission's operational rules. To prepare and in open meeting to adopt such rules and regulations for the proper conduct of its business as it shall find necessary and expedient.
- (2) Limits on rules for hiring. To refrain from the adoption of any rule or regulation which will permit the appointment or employment of any person without good moral character, any person unfit mentally or physically or any person incompetent to discharge the duties of such appointment or employment.
- (3) Substantive rules for employees. To make rules and regulations as authorized by civil service law, including, but not limited to, rules regarding promotion, removal, and leaves of absence, with and without pay. Such rules shall be consistent with city ordinances.
- (4) Written and published rules. To reduce to writing and publish any rules it makes in accordance with civil service law.
- (5) Standards and qualifications for employees. To formulate minimum standards and qualifications for each classified position in the classified service.
- (6) Development of classification and compensation plans. In open meeting to adopt, modify or reject such classification and compensation plans for firemen and policemen, together with rules for their administration, as may be recommended by the director of civil service after a thorough survey of the personnel and departmental organization of the fire department and police department. No such plans or any amendments thereof shall be effective until adopted by ordinance of the governing body, which body shall have the authority to originate or make such changes to any such plans as it may deem fit.
- (7) Competitive examinations. To make provisions for open, competitive and free examinations for persons making proper application and meeting the requirements as prescribed in the civil service law, this division and the rules and regulations of the commission.
- (8) Maintenance of eligibility lists. To maintain an eligibility list for each classified position.
- (9) Temporary appointments. To authorize temporary appointments to the classified service in the event no eligibility list has been prepared for the position and to limit such temporary appointments to a maximum period of three (3) continuous months.
- (10) Enforcement of civil service law. To require compliance with the provisions of the civil service law.
- (11) Hearings of disciplinary appeals. To hear appeals of disciplinary suspensions to determine whether there is just cause for any such suspension.

(12) Hearings of promotional examination appeals and demotions. To hear appeals of promotional examinations and to consider demotions recommended by the fire and police chiefs.

(13) Hearings of various complaints. To hear and determine complaints respecting the administrative work of the director of civil service, the rejection of an applicant for admission to an examination, and such other matters as may be referred to the commission by the director of civil service.

(14) Format of decisions. To render written decisions, signed by each commissioner.

(15) Conducting investigations. To conduct investigations either on request of a citizen, a public official or on its own initiative concerning the enforcement and effect of civil service law or rules and to require observance of them. In such investigations, the commission shall have the power to administer oaths, subpoena witnesses and evidence relevant to such investigations, and require depositions.

(16) Technical services for commission. To contract or arrange, within its budgetary allowance, for such technical services in connection with personnel selection and administration as may be necessary, including the preparation and conduct of examinations.

(1996 Code, sec. 2.2407; sec. 1, Ordinance adopted 6/20/06)

Division 19. Civil Service Commission*
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**Sec. 2.07.588 Powers and duties of director**

It shall be the duty of the director of firemen's and policemen's civil service:

(1) To attend the regular and special meetings of the commission, to act as its secretary and to record its official actions.

(2) To prepare and recommend rules and regulations for the administration of this division, which shall become effective after approval by the civil service commission and the governing body of the city as provided in this division; to administer such rules and regulations; and to propose amendments thereto.

(3) To establish and maintain in card or other suitable form a roster of officers and employees in the classified service of the city. Such roster shall include items specified by the commission in its rules and regulations.

(4) To recommend, as soon as practicable after this division takes effect, with such outside assistance as may be authorized, a classification plan, which when adopted by the governing body of the city shall become the official classification plan for the city.

(5) To make a study of the rates of compensation being paid for each class of position in the classified service and prepare a compensation plan for submission to the commission when called upon. No such plan shall be effective until it is approved by the governing body of the city.

(6) To formulate and hold competitive examinations to determine the relative qualifications of persons who seek employment and as a result thereof establish eligibility lists for the various classes of positions.

(7) When a vacant position is to be filled, to certify to the appointing authority on written request the name of the three (3) persons highest on the reinstatement list or eligibility list for the class.

(8) To submit to the governing body recommendations as to uniform standards in respect to attendance and leave regulations, employee training and welfare, duties and salary classification and other personnel matters.

- (9) To establish records of performance and a system of service ratings to be used in determining increases and decreases in salaries, promotions, the order of layoffs and reinstatement.
- (10) To keep such records as may be necessary for the proper administration of this division and rules and regulations.
- (11) To make investigations concerning the administration and effect of this division and the rules made thereunder and report his findings and recommendations to the commission.
- (12) To make an annual report to the commission, and such interim reports as may be requested by the councilmember or the governing body.
- (13) To perform such other work relevant to the civil service system as may be required by the commission.
- (14) If directed by the governing body, to provide a system of checking payrolls, estimates and accounts for payment of salaries to employees so as to enable the commission, upon satisfactory evidence, to certify or cause to be certified that the persons whose names appear thereon have been regularly employed in the performance of the duties indicated at the compensation rates and for the periods for which compensation is claimed or are on authorized leave before payment may be lawfully made to such employees.

(1959 Code, sec. 2-11-8; 1996 Code, sec. 2.2408)

Division 19. Civil Service Commission*
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**Sec. 2.07.589 Status of present employees**

Any person holding a position in the classified service at the time of the adoption of the civil service law, who shall have served in the service of the city continuously for at least six (6) months, shall enjoy civil service status without competitive examinations but shall thereafter be subject in all other respects to the provisions of this division and the rules and regulations of the commission. Any other persons in the classified service shall be regarded as holding their positions under temporary appointments. (1959 Code, sec. 2-11-9; 1996 Code, sec. 2.2409)

Division 19. Civil Service Commission*
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**Sec. 2.07.590 Civil suits**

It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this division and of the rules of the commission and to defend all civil suits which may be brought against the commission. The commission shall be represented in such suits by the city attorney or other counsel designated by the governing body. (1959 Code, sec. 2-11-11; 1996 Code, sec. 2.2410; sec. 2, Ordinance adopted 6/20/06)

§ 143.006. IMPLEMENTATION: COMMISSION.

(a) On adoption of this chapter, the Fire Fighters' and Police Officers' Civil Service Commission is established in the municipality. The chief executive of the municipality shall appoint the members of the commission within 60 days after the date this chapter is adopted. Within 30 days after the date the municipality's first full fiscal year begins after the date of the adoption election, the governing body of the municipality shall implement this chapter.

(b) The commission consists of three members appointed by the municipality's chief executive and confirmed by the governing body of the municipality. Members serve staggered three-year terms with the term of one member expiring each year. If a vacancy occurs or if an appointee fails to qualify within 10 days after the date of appointment, the chief executive shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

(c) A person appointed to the commission must:

- (1) be of good moral character;
- (2) be a United States citizen;
- (3) be a resident of the municipality who has resided in the municipality for more than three years;
- (4) be over 25 years of age; and
- (5) not have held a public office within the preceding three years.

(c-1) Notwithstanding Subsection (c)(5), the municipality's chief executive may reappoint a commission member to consecutive terms. A commission member may not be reappointed to more than a third consecutive term unless the member's reappointment to a fourth or subsequent consecutive term is confirmed by a two-thirds majority of all the members of the municipality's governing body.

(c-2) Subsection (c)(5) does not prohibit the municipality's chief executive from appointing a former commission member to the commission if the only public office held by the former member within the preceding three years is membership on:

- (1) the commission; or
- (2) the commission and the municipality's civil service board for employees other than police officers and firefighters through a joint appointment to the commission and board.

(c-3) Subsections (c-1) and (c-2) do not apply to a municipality with a population of 1.5 million or more.

(d) In making initial appointments, the chief executive shall designate one member to serve a one-year term, one member to serve a two-year term, and one member to serve a three-year term. If a municipality has a civil service commission immediately before this chapter takes effect in that municipality, that civil service commission shall continue as the commission established by this section and shall administer the civil service system as prescribed by this chapter. As the terms of the members of the previously existing commission expire, the chief executive shall appoint members as prescribed by this section. If necessary to create staggered terms as prescribed by this section, the chief executive shall appoint the initial members, required to be appointed under this chapter, to serve terms of less than three years.

(e) Initial members shall elect a chairman and a vice-chairman within 10 days after the date all members have qualified. Each January, the members shall elect a chairman and a vice-chairman.

(f) The governing body of the municipality shall provide to the commission adequate and suitable office space in which to conduct business.

(g) The chief executive of a municipality commits an offense if the chief executive knowingly or intentionally fails to appoint the initial members of the commission within the 60-day period prescribed by Subsection (a). An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 or more than \$200. Each day after the 60-day period that the chief executive knowingly or intentionally fails to make a required appointment constitutes a separate offense.

(h) The chief executive of a municipality or a municipal official commits an offense if the person knowingly or intentionally refuses to implement this chapter or attempts to obstruct the enforcement of this chapter. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 or more than \$200.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended  
by Acts 2005, 79th Leg., ch. 475, § 1, eff. June 17, 2005.

§ 143.007. REMOVAL OF COMMISSION MEMBER.

(a) If at a meeting held for that purpose the governing body of the municipality finds that a commission member is guilty of misconduct in office, the governing body may remove the member. The member may request that the meeting be held as an open hearing in accordance with Chapter 551, Government Code.

(b) If a commission member is indicted or charged by information with a criminal offense involving moral turpitude, the member shall be automatically suspended from office until the disposition of the charge. Unless the member pleads guilty or is found to be guilty, the member shall resume office at the time of disposition of the charge.

(c) The governing body may appoint a substitute commission member during a period of suspension. If a member pleads guilty to or is found to be guilty of a criminal offense involving moral turpitude, the governing body shall appoint a replacement commission member to serve the remainder of the disqualified member's term of office.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended  
by Acts 1995, 74th Leg., ch. 76, § 5.95(82), eff. Sept. 1, 1995.

§ 143.008. ADOPTION AND PUBLICATION OF RULES.

(a) A commission shall adopt rules necessary for the proper conduct of commission business.

(b) The commission may not adopt a rule permitting the appointment or employment of a person who is:

- (1) without good moral character;
- (2) physically or mentally unfit; or
- (3) incompetent to discharge the duties of the

appointment or employment.

(c) The commission shall adopt rules that prescribe cause for removal or suspension of a fire fighter or police officer. The rules must comply with the grounds for removal prescribed by Section 143.051.

(d) The commission shall publish each rule it adopts and each classification and seniority list for the fire and police departments. The rules and lists shall be made available on demand. A rule is considered to be adopted and sufficiently published if the commission adopts the rule by majority vote and causes the rule to be written, typewritten, or printed. Publication in a newspaper is not required and the governing body of the municipality is not required to act on the rule.

(e) A rule is not valid and binding on the commission until the commission:

- (1) mails a copy of the rule to the commissioner, if the municipality has an elected commissioner, and to department heads of the fire and police departments;
- (2) posts a copy of the rule for a seven-day period at a conspicuous place in the central fire and police stations; and
- (3) mails a copy of the rule to each branch fire station.

(f) The director shall keep copies of all rules for free distribution to members of the fire and police departments who request copies and for inspection by any interested person.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 143.009. COMMISSION INVESTIGATIONS AND INSPECTIONS.

(a) The commission or a commission member designated by the commission may investigate and report on all matters relating to the enforcement and effect of this chapter and any rules adopted under this chapter and shall determine if the chapter and rules are being obeyed.

(b) During an investigation, the commission or the commission member may:

- (1) administer oaths;

(2) issue subpoenas to compel the attendance of witnesses and the production of books, papers, documents, and accounts relating to the investigation; and

(3) cause the deposition of witnesses residing inside or outside the state.

(c) A deposition taken in connection with an investigation under this section must be taken in the manner prescribed by law for taking a similar deposition in a civil action in federal district court.

(d) An oath administered or a subpoena issued under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(e) A person who fails to respond to a subpoena issued under this section commits an offense punishable as prescribed by Section 143.016.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

#### § 143.010. COMMISSION APPEAL PROCEDURE.

(a) Except as otherwise provided by this chapter, if a fire fighter or police officer wants to appeal to the commission from an action for which an appeal or review is provided by this chapter, the fire fighter or police officer need only file an appeal with the commission within 10 days after the date the action occurred.

(b) The appeal must include the basis for the appeal and a request for a commission hearing. The appeal must also contain a statement denying the truth of the charge as made, a statement taking exception to the legal sufficiency of the charge, a statement alleging that the recommended action does not fit the offense or alleged offense, or a combination of these statements.

(c) In each hearing, appeal, or review of any kind in which the commission performs an adjudicatory function, the affected fire fighter or police officer is entitled to be represented by counsel or a person the fire fighter or police officer chooses. Each commission proceeding shall be held in public.

(d) The commission may issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

(e) The affected fire fighter or police officer may request the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the fire fighter or police officer considers pertinent to the case. The fire fighter or police officer must make the request before the 10th day before the date the commission hearing will be held. If the commission does not subpoena the material, the commission shall, before the third day before the date the hearing will be held, make a written report to the fire fighter or police officer stating the reason it will not subpoena the requested material. This report shall be read into the public record of the commission hearing.

(f) Witnesses may be placed under the rule at the commission hearing.

(g) The commission shall conduct the hearing fairly and impartially as prescribed by this chapter and shall render a just and fair decision. The commission may consider only the evidence submitted at the hearing.

(h) The commission shall maintain a public record of each proceeding with copies available at cost.

(i) In addition to the requirements prescribed by this section, an appeal to the commission in a municipality with a population of 1.5 million or more must meet the requirements prescribed by Section 143.1015.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended  
by Acts 1989, 71st Leg., ch. 1, § 25(b), eff. Aug. 28, 1989; Acts  
1989, 71st Leg., ch. 1248, § 48, eff. Sept. 1, 1989.

#### § 143.011. DECISIONS AND RECORDS.

(a) Each concurring commission member shall sign a decision issued by the commission.

(b) The commission shall keep records of each hearing or case that comes before the commission.

(c) Each rule, opinion, directive, decision, or order issued by the commission must be written and constitutes a public record that the commission shall retain on file.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 143.012. DIRECTOR.

(a) On adoption of this chapter, the office of Director of Fire Fighters' and Police Officers' Civil Service is established in the municipality. The commission shall appoint the director. The director shall serve as secretary to the commission and perform work incidental to the civil service system as required by the commission. The commission may remove the director at any time.

(b) A person appointed as director must meet each requirement for appointment to the commission prescribed by Section 143.006(c), except that in a municipality with a population of less than 1.5 million, the person is not required to meet the local residency requirement.

(c) A person appointed as director may be a commission member, a municipal employee, or some other person.

(d) The municipality's governing body shall determine the salary, if any, to be paid to the director.

(e) If, immediately before this chapter takes effect in a municipality, the municipality has a duly and legally constituted director of civil service, regardless of title, that director shall continue in office as the director established by this section and shall administer the civil service system as prescribed by this chapter.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended  
by Acts 1999, 76th Leg., ch. 355, § 1, eff. Sept. 1, 1999.

# **CITY OF SAN ANGELO**

## **CIVIL SERVICE RULES AND REGULATIONS**

### **Commission Members**

Keith Hidalgo

Raul Lopez - Chair

Teresa Special- Vice Chair

REVISED: 1.27.17

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**RULE I: CREATION AND DEFINITION**

## **SECTION 1:                   Creation of Firefighter's and Police Officer's Civil Service**

There is hereby established in all cities in the State having a population of ten thousand (10,000) or more inhabitants, according to the last preceding Federal Census, and having a paid fire and police department, and Firefighter's and Police Officer's Civil Service.

## **SECTION 2:                   Definitions**

- A.     Allocate - the act of assigning each position to its proper class.
- B.     Appointment - the designation of a person by the chief executive to become an employee in a position.
- C.     Certify - the act of the director, in supplying the chief executive with names of applicants who are eligible for appointment to the class and positions for which certification is requested.
- D.     Chief Executive - the officer of the city having the final authority to make the appointment to the position to be filled, being the Mayor.
- E.     Civil Service Law - refers to **Chapter 143, Municipal Civil Service**.
- F.     Civil Service Ordinance - ordinance under Title 1, Chapter 25 of the City of San Angelo, which creates and establishes the civil service system for firefighters and police officers, adopted and approved by the governing body of the city and as codified and all documents thereto.
- G.     Class - a position or group of positions that involve similar duties and responsibilities and require similar qualifications and which is properly designated by one title indicative of the nature of the work.
- H.     Classification Plan - consists of the following:
  - 1.       A grouping into classes of positions which are of approximately equal difficulty and responsibility.
  - 2.       Class titles, descriptive of the work of the class, which will identify each class.
  - 3.       Written class specifications for each class of positions containing a description of the nature of work and of the relative responsibility of the positions in the class, illustrative examples of work performed in the class, requirements in terms of knowledges, abilities and skills necessary for performance of the work and a statement of experience and training desirable for recruitment into the class.
- I.     Classified Service - the members of the fire and police department as defined below:
  - 1.       Firefighter - one who engages in the fighting and extinguishment of fires. **PROVIDED** that the chief or head of the fire department shall not be included in the classified service.
  - 2.       Police Officer - one who engages in the actual enforcement of the laws and the maintenance of public order. **PROVIDED** that the chief or head of the police department shall not be included in the classified service.

- J. Commission - the firefighter's and police officer's civil service commission of the city.
- K. Day - calendar days unless otherwise stated in the section using this term.
- L. Demotion - the transfer of an employee from a position in one class to a position in another class for which the maximum rate of pay is lower or a reduction in pay without such transfer unless such reduction is part of a general plan to reduce salaries for that class of employment.
- M. Department Head - the chief or head of the fire or police department
- N. Director - the director of firefighter's and police officer's Civil Service designated by the firefighter's and police officer's civil service commission to act in the capacity of Secretary to the commission and Director of Civil Service.
- O. Eligible - a person listed on an active eligibility list and who has rights under these rules to be certified.
- P. Eligibility List - the list of candidates for a position who have taken the examination and passed; ranked on the list in the order of the score received.
- Q. Employee - as used in these Rules means a firefighter or police officer as defined under Classified Service.
- R. Longevity - the total number of years, which may be broken, that a firefighter or police officer has served in the San Angelo Civil Service. This total service is for the purpose of pay only.
- S. Men - any gender and does not refer to sex.
- T. Position - a group of current duties and responsibilities assigned or delegated by competent authority requiring the services of an employee.
- U. Promotion - a change from one grade to a higher grade or rank or a change in duties or in title involving a distinct change in duties for which there is required a written promotional examination. Promotion shall always mean an increase in responsibilities.
- V. Public Hearings - The purpose of this law is to provide efficient fire and police departments. Members of civil service boards shall sit as boards of appeal for suspended or aggrieved employees. They shall conduct fair and impartial hearings. In order for a firefighter or police officer to appeal to the commission, he must file within ten (10) days either to deny or take exception to charge made and ask for a hearing. All such hearings shall be public and he shall have the right to be represented by counsel. Hearings may also be requested to settle questions regarding promotional testing. (See Section 46 G or 143.034).
- W. Reinstatement List - a list according to class and department of persons, arranged in the order provided by these Rules, who have previously occupied positions in the classified service and have been laid off from active service in accordance with these Rules and who may be certified for appointment to such positions when vacancies occur.
- X. Seniority - the length of continuous service from the last date of hire. This definition applies to all seniority in this handbook except for longevity pay.
- Y. Vacancy - a position, duly created and not abolished which is not occupied and for the filling of which a valid requisition has been received by the director.

- Z. Veteran - an honorably discharged soldier, sailor, marine, or airman who has served in the armed forces of the United States, as provide by this law. This would include present members of any Armed Forces Reserve component serving honorable.

## **RULE II: GENERAL PROVISIONS**

### **SECTION 3: Using Official Authority**

No person in the classified service of the city shall use his official authority or influence or coerce the political action of any person or body. No person shall dismiss, or cause to be dismissed, or threaten to dismiss, or make any attempt to procure the dismissal of, or in any manner change the official rank or compensation of any person in such service, because of his political opinions or affiliations, or because of his giving or refusing to give any contribution, money, or thing of value to any party or person for any political purpose.

### **SECTION 4: No Political Questions on Applications**

No question in any examination, or form of application or other proceedings by or under the commission or their examiners shall be so framed as to elicit information concerning, nor any other attempt to be made to ascertain the religious creed or political opinions or affiliations of any applicant, competitor, or eligible person and all disclosures thereof shall be countenanced by the commission and its examiners. No discrimination shall be exercised, threatened, or promised against or in favor of any applicant, competitor or eligible person, because of his political opinions or affiliations.

### **SECTION 5: No Political Recommendations**

No recommendations for any applicant, competitor or eligible person involving the disclosure of his political opinions or affiliations shall be received, filed or considered by the commission or chief executive.

### **SECTION 6: Like Penalties for Like Offenses**

In making removals or reductions, or in imposing penalties for delinquency or misconduct, in the classified service, penalties like in character shall be imposed for like offenses and action thereon shall be taken irrespective of the political opinions or affiliations of the offenders. Provisions hereof relating to department heads shall apply to appointive department heads, and to elective department insofar as the law permits.

### **SECTION 7: Waiving of Rights**

No public officer nor any administrative employee acting for a public officer shall be permitted to require a candidate for employment to sign any document whereby such candidate for employment waives any right or rights accruing to him under Civil Service Law or these rules. No public officer shall require an employee to waive any rights accruing to such employees under this law and rules.

### **SECTION 8: Oath of Office**

Every person hereafter employed in the classified service by the city, before he shall be entitled to enter upon the discharge of his duties, shall take and file an oath or affirmation in the form and language prescribed by the constitution for executive, legislative, and judicial officers, which may be administered by any officer authorized to take, within the state, the acknowledgment of the execution of a deed or real property, or by any officer in whose office the oath is required to be filed. The oath of every such employee shall be filed with the civil service director. Every employee of the classified service when these rules shall take effect shall take and file such oath within thirty (30) days thereafter. The failure of such employee to take and file such oath shall terminate his employment.

### **RULE III: GENERAL DUTIES OF PUBLIC OFFICERS**

#### **SECTION 9: Cooperation of Municipal Officers**

All municipal officers and their deputies, clerks, subordinates and employee shall afford the commission all reasonable facilities in conducting the inquiries specified in these rules and the Civil Service Ordinance and shall permit inspection by the commission of all books, papers, and documents belonging or in any way appertaining to their respective offices, and shall also produce said books and papers and shall attend and testify when required to do so by the commission.

#### **SECTION 10: Officer to Abide by Provisions of Rules**

It shall be the duty of all officers of the city to conform to and comply with and to aid in all proper ways in carrying into effect the provision of these rules and any modification thereof. No officer or officers having the power of appointment shall select or appoint any person for employment promotion or reinstatement except in accordance with the Rules and Law.

#### **SECTION 11: Office Space**

The city council or governing body of the city shall provide adequate and suitable office space for the conduct of the business of the commission.

### **RULE IV: ORGANIZATION AND POWER OF COMMISSION**

#### **SECTION 12: Appointment to Commission**

The commission shall consist of three members.

- A. Members of the commission shall be appointed by the chief executive of the city, and such appointment shall be confirmed by the city council or legislative body of the city before any such appointment shall be effective. Of the first three (3) commissioners so selected, one (1) shall be appointed for a term of one (1) year, one shall be appointed for a term of two (2) years, and one (1) shall be appointed for a term of three (3) years. Thereafter the term of office of each commissioner shall be for three (3) years or until successor is appointed, confirmed and qualified. Any such vacancies in said commission, caused by death, resignation, or otherwise, or by failure of any appointee to qualify within ten (10) days after appointment, shall be filled in the manner herein above specified and such appointment shall be for the unexpired term of the retiring commissioner of the appointee failing to qualify. There shall be no term limitations for commission members.
- B. All such commissioners shall be of good moral character, (citizens of the United States), resident citizens of the City, shall have resided in the City for a period of more than three (3) years, shall each be over the age of twenty-five (25) years, shall not have held any public office within the preceding three (3) years.
- C. It is provided; however, that in all such cities which have in existence a civil service commission, that said civil service commission shall constitute the firefighter's and police officer's civil service commission of that city, and said commissioners shall administer the civil service of fire fighter and police officer in accordance with this law.
- D. It is further provided that in any such city which has in existence a civil service commission, the appointment of members to such civil service commission shall be made in conformity with provisions of this act, after the expiration of presently existing term or terms of the members comprising such civil service commission and, if necessary, in such cities having staggered terms of

membership on such civil service commission the first appointment made under the provisions of this act shall be made for terms of such number for years less than three (3) as will cause a staggered or rotating system of terms to conform with the provision of this act.

- E. Officers. The commission shall, within ten (10) days from the date of qualification of membership and annually thereafter in the month of January, proceed to the election of chairman and vice-chairman. The vice-chairman shall serve as chairman in the absence or incapacity of the chairman.

### **SECTION 13: Removal of Commissioner**

If at a meeting held for that purpose the city council or legislative body of the city finds that a commissioner is guilty of misconduct in office, the city council or legislative body or the city may remove the commissioner. The commissioner may request that the meeting be held as an open hearing in accordance with the Open Meeting Law, Chapter 271, Acts of the 60th legislature, Regular Session, 1967, (Article 6252-17, Vernon Texas Civil Statutes).

### **SECTION 14: Powers of Commission**

Two (2) members of the said commission shall constitute a quorum to transact business. The commission shall make such rules and regulations for the proper conduct of its business as it shall find necessary and expedient, provided that no rules or regulations shall ever be adopted which will permit the appointment or employment of any person without good moral character; or any person unfit mentally or physically; or any person incompetent to discharge the duties of such appointment or employment. Such rules and regulations shall prescribe what shall constitute cause for removal or suspension of firefighters or police officers, but no rule for the removal or suspension of such employees shall be valid unless it involves one or more of the following grounds:

- A. Conviction of a felony or other crime involving moral turpitude;
- B. Violation of the provisions to the charter of said city;
- C. Acts of incompetency;
- D. Neglect of duty;
- E. Discourtesy by said employee to the public or to fellow employees while said employee is in the line of duty;
- F. Acts of said employees showing a lack of good moral character;
- G. Drinking of intoxicants while on duty, or intoxication while off duty;
- H. Whose conduct was prejudicial to good order;
- I. Refusal or neglect to pay just debts;
- J. Absence without leave, neglect of duty, or cowardice at fires;
- K. Violation of any of the rules and regulations of the fire department or police department or of special orders, as applicable.

### **SECTION 15: Investigations and Inspections**

The commission may make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this act, and the rules and regulations prescribed hereunder; and shall ascertain whether this act and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. In the course of such investigation the commission or designated commissioner shall have the power to administer oaths, subpoena and require the attendance of witnesses and the producing by them of books, papers, documents and accounts pertaining to the investigation, and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the court of original and unlimited jurisdiction to civil suits of the United States; and the oaths administered hereunder and the

subpoenas issued hereunder shall have the same force and effect as the oaths administered by a magistrate in his judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this act and punishable as such.

## **SECTION 16: Minutes and Public Records**

### **A. Minutes**

The minutes of the commission shall record the following matters:

1. All appointments;
2. Temporary promotions and assignments of employees to work other than embraced by their classification;
3. Appeals from dismissal, demotion or suspension with the action of the commission thereon;
4. All leaves of absence;
5. Reinstatements;
6. Replacement of names on and removal of names from an eligibility list;
7. Changes in the classification plan;
8. Reclassification or reallocation of individual employees;
9. Approval of and changes in examination schedules;
10. Appointment of special examiners;
11. Any other action or report directed to be recorded by the commission;

### **B. Public Records**

The commission shall keep records of all hearings or cases that come before it. Commission decisions shall be signed by the concurring commissioners. All rules, opinions, directives, decisions and orders issued by the commission shall be written and are public records that shall be retained on file by the commission.

### **C. Official Signature**

The minutes of the commission shall be signed by the chairman or in his absence or incapacity, the vice chairman, together with the secretary of the commission.

## **SECTION 17: Director of Civil Service**

- A. There is hereby created the office of Director of Firefighter's and Police Officer's Civil Service, which shall be filled by the appointment of the commission. The person appointed must meet the same requirements as hereinabove provided for members of the commission, except that the director is not required to meet the three (3) year local residency requirement. Said director may be either a member of the commission, another employee of said city or some other person. The legislative body of such city shall determine what salary, if any, shall be paid to such director. Said director shall at all times, be subject to removal by the commission. He shall serve as secretary to the commission, and shall perform all such work incidental to the Firefighter's and Police Officer's Civil Service as may be required of him by the commission.
- B. In those cities which have a duly and legally constituted director of civil service, by whatever name he may be called, said director shall be the director of the Firefighter's and Police Officer's Civil Service, but he shall administer civil service pertaining to firefighters and police officers in accordance with this law.

## **RULE V: MEETINGS**

### **SECTION 18: Regular Meetings**

The commission shall meet as needed at city hall, at a time specified by the commission (revised at Civil Service Meeting 1/26/06).

### **SECTION 19: Special Meetings**

Special meetings may be called by the secretary of the commission at the request of the chairman or at the written request of any two commissioners.

### **SECTION 20: Open Meetings**

Both the regular and special meetings of the commission shall be open to the public and to representatives of the press.

### **SECTION 21: Closed Meetings**

The commission may hold meetings closed to the public in cases involving the appointment, employment, evaluation, reassignment and duties of an employee in the classified service or to hear complaints or charges against such employee. The employee may request a public meeting.

### **SECTION 22: Notice of Meetings**

Notice of all meetings of the commission shall be posted by the secretary on a bulletin board to be located at a place convenient to the public in city hall.

Notice of said meetings shall also be sent to the members of the commission, the fire and police department, the news media and posted on said bulletin board for at least 72 hours preceding the day of the meeting. In case of emergency or urgent public necessity, which shall be expressed in the notice, it shall be sufficient if notice is posted and distributed as above provided two hours before the meeting is convened (revised at Civil Service Meeting 10/02/89).

### **SECTION 23: Order of Business**

In all matters of procedure not controlled by the provisions of the Civil Service Statutes, the order of business and conduct of meetings shall be in conformity with Robert's Rules of Order.

### **SECTION 24: Regulations**

The commission may, by majority vote, make rules of procedure from time to time for the administration of these rules.

## **RULE VI: CLASSIFICATION**

### **SECTION 25: Classification of Firefighters and Police Officers**

The commission shall provide for the classification of all firefighters and police officers. Such classification shall be provided by ordinance of the city council or legislative body. The city council or legislative body shall, upon recommendation of the civil service commission, prescribe by ordinance the number of positions of each classification. The city annual budget is such an ordinance. No classification now in existence or that may be hereafter created shall ever be filled except by examination held in accordance with the provisions of this law. **\*Exception - See Chapter 143.014\*** All persons in each classification shall be paid the same salary

and in addition thereto be paid any longevity, seniority pay, educational incentive pay or certification that he may be entitled to. This shall not prevent the head of such department from designating some person from the next lower classification to fill a position in a higher classification temporarily, but any such person so designated by the head of the department shall be paid the base salary of such higher position plus his own longevity pay during the time he performs the duties thereof. The temporary performance of the duties of any such position by a person who has not been promoted in accordance with the provisions of this shall never be construed to promote such persons. All vacancies shall be filled by permanent appointment from eligibility lists furnished by the commission within sixty (60) days after such vacancy occurs.

In a police department, the total number of persons appointed to the classification immediately below that of department head may not exceed the total number of persons, plus one, serving in that classification.

In a fire department, in a municipality having fewer than 300 certified fire fighters, the department head may appoint not more than one person to the classification immediately below that of the department head.

## **RULE VII: ELIGIBILITY FOR BEGINNING POSITIONS**

### **SECTION 26: Filing Applications**

A person shall be considered for appointment to a vacancy in the classified service who has filed an application therefore with the director in the manner specified in these Rules and upon the form furnished by said director and whose application has not been rejected by the director for cause in accordance with the provisions of these rules. The applicant shall be required to make application on proper application form furnished by the director in his own handwriting or an electronic form and certify to the corrections of the facts (revised at Civil Service Meeting 1/27/17).

### **SECTION 27: Age Requirements**

1. A person may not take an entrance examination for a beginning position in the fire department unless the person is at least eighteen (18) years of age.
2. An applicant may not be certified as eligible for a beginning position with a police department unless the applicant meets all legal requirements necessary to become eligible for future licensing by the Commission on Law Enforcement Officer Standards and Education (revised at Civil Service Meeting 1/26/06).
3. An applicant may not be certified as eligible for a beginning position with the fire department unless the applicant meets all legal requirements necessary to become eligible for future certification by the commission on Fire Protection Personnel Standards and Education.
4. An applicant may not be certified as eligible for a beginning position with a police department unless the applicant meets all legal requirements necessary to become eligible for future licenses by the Commission on Law Enforcement Officer Standards and Education.
5. No person shall be certified as eligible for a beginning position with a fire department who has reached his thirty-sixth (36) birthday.
6. A person who is 45 years of age or older may not be certified for a beginning position in a police department (revised at Civil Service Meeting 1/26/06).

### **SECTION 28: Character and Fitness**

Applicants must furnish evidence of good moral character, temperate habits, sound health and physical ability to perform the duties of the position.

### **SECTION 29: Discrimination**

The age and physical requirements for employment in the classified service shall be set by the commission in accordance with the provisions of this law and shall be the same for all applicants except that physical requirements for females shall be set so that the same percentage of the female population is eligible for employment as the percentage of the male population is eligible.

### **SECTION 30: Education**

Applicants must have graduated from high school or have an education equivalent (GED TEST) to that represented by graduation from a standard high school. All applicants must be able to intelligently read and write the English language.

### **SECTION 31: Residence**

Applicants for positions in the classified service do not have to be a resident of this city. Employees in the classified service must be residents of the city unless they are permitted to reside outside the city boundary by permission of the head of the department.

### **SECTION 32: Cause for Rejection**

The following are declared to be cause for rejection of any applicant. The applicant:

- A. is not a citizen of the United States;
- B. is found to lack any of the minimum qualifications set forth in the classification plan of Civil Service Rules and Regulations or the State Law;
- C. is physically or mentally unfit of the performance of the duties of the position to which he seeks appointment;
- D. is of bad character;
- E. has been convicted of a felony or any crime involving moral turpitude;
- F. has made any false statements in any material fact or practiced or attempted to practice any deception or fraud in his application or examination;
- G. is addicted to habitual use of intoxicating beverages or drugs to excess;
- H. has been dismissed from the public service for delinquency or misconduct;
- I. does not meet all of the requirements contained in the City Ordinance "Classified Service";
- J. does not have an acceptable credit rating following a new credit report;
- K. has left the San Angelo Civil Service twice for any reason;
- L. has a driving record which is unacceptable to the insurance company covering the city.

### **SECTION 33: Rejected Applications**

Whenever an application is rejected, notice of such rejection shall be mailed promptly to the applicant by the director.

### **SECTION 34: Refusal to Examine**

The civil service director may refuse to examine any person who has any of the following defects: insanity, tuberculosis, paralysis, epilepsy, blindness, total deafness, loss of speech, loss of both arms or both legs, loss

of

arm or leg, badly crippled or deformed arms, feet or legs, heart disease, locomotorataxia, cancer, Bright's disease, syphilis, diabetes.

## **RULE VIII: APPLICATIONS**

### **SECTION 35: Notice of Examination - Entrance and Promotional**

Whenever a vacancy occurs in the classified service, for which there is no eligibility list and to which the chief of the department intends to make an appointment, the commission shall cause to be published and posted an official notice inviting the filing of applications for any entrance examination and for any promotional examination. The entrance examination will be posted at least ten (10) days and the promotional examination will be posted at least thirty (30) days in advance of examination date.

### **SECTION 36: Publishing of Notice for Entrance Examinations**

News of the pending examination shall be released to the media by the director.

### **SECTION 37: Posting of the Notice**

Notice of examination shall be posted by the commission on a bulletin board in the main lobby of city hall, in the office of the commission in plain view, and fire or police department. In cases of examinations for promotions, copies of such notice shall be furnished in quantities sufficient for posting in the various stations or subdepartments in which the position is to be filled.

### **SECTION 38: Contents of Notice of Examination**

Contents of examination notice shall show position to be filled or for which examination is to be held with date, time and place thereof. Additional information may or may not be included in the Notice of Examination to assist applicants in determining if they are qualified to apply.

### **SECTION 39: Preparation of Application Forms**

The director shall develop and prepare application forms for the position and distribute them without charge on request of persons wishing to make application. The director shall receive applications filed not later than five\* (5) days preceding the date set for the examination. It shall be the duty of the director, after examining the applications, to reject any application that does not meet the minimum requirements (revised at Civil Service Meeting 01/30/96).

### **SECTION 40: Contents of Application Form for Entrance Examination**

All applicants for entrance examination shall state:

- A. Position applied for;
- B. Applicant's full name and address;
- C. Residence in this city or other city;
- D. Residence for the previous two (2) years;
- E. Age, giving date of birth;
- F. Business experience or employment and education which fit the position;
- G. If in the military or naval service of the United States, branch of the armed forces of the United States in which served and date of discharge from the service with honorable discharge. The applicant shall furnish a photo or true copy of discharge or certificate of service;

- H. Applicants for original position shall furnish recent photograph, photo or true copy of birth certificate and high school diploma or equivalent.

#### **SECTION 41: Contents of Application for Promotion Examination**

All applications shall state:

- A. Position applied for;
- B. Applicants full name and address;
- C. A statement that applicant has spent at least two (2) years in the position next down to the one applied;
- D. Applicant's age, giving date of birth;
- E. Present position with the city;
- F. Date of original employment;
- G. Date of re-employment, if applicable;
- H. A statement that applicant is physically capable of performing the duties of the position.

#### **SECTION 42: Standing Applications**

There shall be no standing applications on any promotional exam. Applications for promotional exams will be accepted only after proper notice has been posted. Applications for entrance examination will be accepted at any time for positions of rookie firefighter or police officer and the director will notify qualified applicants promptly when new exams are to be given.

#### **SECTION 43: Applications not Returned**

Applications once filed remain the property of the commission and are not returned under any circumstances.

### **RULE IX: EXAMINATION FOR BEGINNING POSITIONS**

#### **SECTION 44: Examination**

All eligibility lists for applicants for original positions in the Fire and Police departments shall be created only as a result of open, competitive and free examinations for persons making proper application and meeting the requirements as herein prescribed, and no permanent appointments shall ever be made for any position in such departments except as a result of such examination.

#### **SECTION 45: Content of Examination**

Examinations for entrance into the service and for promotion within the service shall consist of one or more of the following parts as considered appropriate for the various classifications of positions:

- A. **Written Test** - The written examination shall be based on the applicant's knowledge of and qualification for firefighter's work in the fire department or for police work in the police department as shown by competitive examination in the presence of all applications for such position and shall provide for thorough inquiry into applicant's general education and mental ability. Weighing on a basis of one hundred percent (100%) for perfection, seventy percent (70%) shall be the score for passing the written test for entrance positions.
- B. **Veteran Preference** - An applicant who has served in the armed forces of the United States and who received an honorable discharge or is serving in one of the reserve components and has a letter from his unit commander indicating he is in good standing shall receive five (5) points in addition to his competitive grade, provided his grade on the written test is at least seventy percent (70%).

- C. Polygraph Examination - A polygraph examination will be administered to all civil service applicants to verify application and background information (revised at Civil Service Meeting 1/27/17).
- D. Oral Interview - This part, when required, shall include a personal interview with applicants for positions where ability to deal with others, to meet the public or other personal qualifications are to be determined. Oral interview will be given at least three (3) officers of the appropriate department appointed by the chief of the department. The civil service director will also serve as an interviewer. In the police department, the Texas Commission on Law Enforcement Officer Standards and Education procedures will be followed and an applicant will either pass or fail.
- E. Performance Tests - This part, when required, shall include such tests of performance as will determine the ability and skill of the applicants to perform the work involved.
- F. Physical and Health Test - Appropriate physical examinations shall be required of all applicants for beginning positions and the examinations shall be given by a physician appointed by the commission and paid by such city; and in the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians appointed by the commission, but at the expense of the applicant, and whose findings shall be final. The age and physical requirements shall be set by the commission in accordance with provisions of this law and shall be the same for all applicants. Minimum physical qualifications are listed in Rule XXIX of these Rules and Regulations.
- G. Adaptability and Aptitude Tests - This part, when required, shall include tests designed to determine general adaptability or to ascertain special traits and aptitudes.
- H. Training and Experience - This part shall always be required and shall consist of questions on education and experience contained in application form and of such supplementary data as may be furnished for certification and proof of statements made in the application, or it may consist of questions on training and experience asked at the time the written tests are given. The director may, at his discretion, investigate the truth of the applicant's statements as to training and experience and govern his rating accordingly.
- I. Psychological Certification - All applicants for beginning positions in the police department shall undergo a psychological and an emotional health examination by a licensed psychologist or a licensed physician appointed by the commission and paid by the city. The psychologist or physician shall declare in writing that the applicant is in satisfactory psychological and emotional health to be a peace officer; and in the event of rejection by such psychologist or physician, the applicant may call for further examination by a board of three (3) licensed physicians appointed by the commission, but at the expense of the applicant and whose findings shall be final.

#### **SECTION 46: Promotions - Filling Vacancies**

The commission shall make rules and regulations governing promotions and shall hold promotional examinations to provide eligibility lists for each classification in the fire and police departments, which examinations shall be held substantially under the following requirements:

- A. Eligibility for Police Department Promotional
  - 1. All promotional examinations shall be open to all police officers who have held a continuous position for two (2) years or more immediately prior to the examination in the classification immediately below, in salary, the classification for which the examination is to be held.
  - 2. In police departments that have adopted a classification plan that classifies positions on the

basis of similarity in duties and responsibilities, all promotional examinations shall be open to a police officer who has held a continuous position for two (2) years or more immediately

prior to the examination at the next lower pay grade, if it exists, in the classification for which the promotional examination is being held.

- 3 . When there is not a sufficient number of members in the next lower position with two (2) years service in that position to provide an adequate number of persons to take the examination, the commission shall open the examination to members in that position with less than two (2) years service.
- 4 . If there is still an insufficient number, the commission may extend the examination to the members in the second lower position, in salary, to the position for which the examination is to be held.
- 5 . No police officer shall be eligible for promotion unless he has served in that department for at least two (2) years at any time prior to the day of such promotional examination in the next lower position or other positions specified by the commission, and no person with less than four (4) years actual service in such department shall be eligible for promotion to the rank of captain or its equivalent.
- 6 . The police departments requirement of two (2) years service immediately preceding the date of promotional examination does not apply to persons recalled to active military duty for a period not to exceed twenty-four (24) months. Such persons shall be entitled to have time spent on active military duty considered as duty in the department concerned.
- 7 . However, any person whose absence for active military duty exceeds twelve (12) months, shall be required to serve ninety (90) days upon returning to the department before he shall become eligible to participate in a promotional examination, such period of time to be considered essential for bringing him up to date on equipment and techniques.

**B. Eligibility for Fire Department Promotional**

1. All promotional examinations shall be open to all firefighters who have held a continuous position for two (2) years or more in the classification immediately below, in salary, the classification for which the examination is being held.
- 2 . In fire departments that have adopted a classification plan that classified positions on the basis of similarity in duties and responsibilities, all promotional examinations shall be open to a firefighter who has held a continuous position for two (2) years or more at the next lower pay grade, if it exists, in the class for which the promotional examination is being offered. However, if a firefighter had previously terminated his employment with the department and was subsequently re-employed by the same department, the firefighter must again meet the two (2) year service requirement for eligibility to take a promotional examination.
- 3 . In determining if a firefighter has met the two (2) year service requirement, a fire department may not consider service in another fire department. This section may not be construed to prohibit lateral crossover between classes.
- 4 . If there are not enough members in the next lower position with two (2) years service in that position to provide an adequate number of persons to take the examination, the commission may open the examination to members in that position with less than two (2) years service.

- 5 . If there is still an insufficient number, the commission may extend the examination to members in the second lower position, in salary, to the position for which the examination is to be held with two (2) years service in that position.
- 6 . No firefighter shall be eligible for promotion unless he has served in that department for at least two (2) years at any time prior to the day of such promotional examination in the next lower position or other positions specified by the commission, and no person with less than four (4) years actual service in such department shall be eligible for promotion to the rank of Captain or its equivalent.
- 7 . The fire departments requirement of two (2) years service immediately preceding the date of promotional examination does not apply to persons recalled to active military duty for a period not to exceed twenty-four (24) months. Such persons shall be entitled to have time spent on active military duty considered as duty in the department concerned.
- 8 . However, any person whose absence for active military duty exceeds twelve (12) months, shall be required to serve ninety (90) days upon returning to the department before he shall become eligible to participate in a promotional examination, such period of time to be considered essential for bringing him up to date on equipment and techniques.

C. Seniority Points

Each firefighter shall be given one (1) point for each year of seniority in his department whether interrupted or uninterrupted, but never to exceed ten (10) points.

Each police officer shall be given one (1) point for each year of seniority as a classified police officer in his department whether interrupted or uninterrupted, but never to exceed ten (10) points.

D. Contents and Methods of Written Examination

All firefighter and police candidates shall be given an identical examination in the presence of each other; the promotional examination shall be entirely in writing and no part of which shall be by oral interview.

All said questions shall be prepared and composed in such a manner that the grading of the examination papers can be promptly completed immediately after the holding of the examination.

The examination shall be prepared so as to test the knowledge of the applicants concerning information and facts; all said questions shall be based upon material which is a reasonably current publication and has been made reasonably available to all members of the fire or police department involved; all said questions shall be based upon the duties of the position sought and upon any study courses given by such departmental schools of instruction;

All promotional examination questions must be taken from sources that are listed in a notice that is posted by the commission at least ninety (90) days before the date of the examination. Firefighters or police officers may suggest source materials for promotional examinations. The thirty (30) day notice required by this act may include the name of each source used and the number of questions taken from each source. The commission may include the chapter of each source.

When one of the applicants taking an examination for promotion has completed his examination, the grading of such examination shall begin and all of the examination papers shall be graded as they are completed at the place where the examination is given and in the presence of any candidates who wish to remain during the grading.

E. To achieve the best possible promotional examination, the department being tested and the director will coordinate their efforts in the following manner:

1. They will establish the categories to be covered in the exam and how many questions will be asked from each category.
2. The training officer or someone designated by the chief of the department being tested will supply the director with three (3) questions with their correct answers for each question to be placed on the exam as established in procedure #1. These questions will be available to the director five (5) working days prior to the exam. The head of the fire and police departments along with the civil service director may choose outside testing service (revised at Civil Service Meeting 4/90).
3. The director will select the questions to be administered and shall put the examination into its proper form for presentation on the scheduled date.
4. In the event that the questions submitted are not in line with the type of promotional examination to be given or the correct subject matter, the director may request additional questions to be submitted in groups of three (3) as outlined above.
5. Four (4) participants are required to make a promotional exam competitive.

The director is responsible for the preparation and security of all promotional examinations. The fairness of the competitive promotional examination is the responsibility of the commission, the director and any municipal employee involved in the preparation or administration of the examination. A person who knowingly or intentionally reveals any part of a promotional examination to an unauthorized person or a person who knowingly or intentionally receives from an authorized or unauthorized person any part of a promotional examination for unfair personal gain or advantages, commits a misdemeanor and shall be fined not less than one thousand dollars (\$1,000.00) or imprisoned for not more than one (1) year in the county jail or both.

F. Credit for Seniority

The grade which shall be placed on the eligibility list for each candidate shall be computed by adding such candidate's points for seniority to his grade on such written examination. Grades on such written examination shall be based upon a maximum grade of one hundred (100) points and shall be determined entirely by the correctness of each applicant's answer to such questions.

G. Grade for Eligibility

All test participants receiving a grade of seventy (70) points or more shall be determined to have passed an examination. If a tie score occurs, the commission shall determine the method to be used to break the tie (revised at Civil Service Meeting 01/30/96).

H. Appeal of Promotional Examination

Each candidate shall have the opportunity to examine the source material, the examination and answers thereto with the grading thereof and if dissatisfied shall, within five (5) business days, appeal the same to the commission for review in accordance with the provisions of the act. A business day is defined as Monday through Friday, excluding holidays. If an applicant requests, the applicant is entitled to see his promotional examination, answers and source material as provided by this subdivision, but may not remove the examination or copy any questions used in the examination.

I. Eligibility for Department Head

No person shall be eligible for appointment as chief or head of the fire department of any city coming under the provisions of this act who is not eligible for certification by the commission on Fire Protection Personnel Standards and Education at the intermediate level or its equivalent as determined by that commission and who has not served at least five (5) years as a fully paid firefighter.

No person may be eligible for appointment as chief or head of the police department who is not eligible for certification by the Commission on Law Enforcement Officer Standards and Education at the intermediate level or its equivalent as determined by that commission and who has not served as a bona fide law enforcement officer for at least five (5) years.

J. New Classification

In the event any new classification is established either by name or by increase of salary, the same shall be filled by competitive examination in accordance with the Rules and Regulations and State Law.

K. Physical

Appropriate physical examinations shall be required before a candidate is considered for promotional positions and the examinations shall be given by a physician appointed by the commission and paid by such city; and in the event of rejection by such physician, the candidate may call for further examination by a board of three (3) physicians, appointed by the commission, but at the expense of the candidate, and whose findings shall be final. The age and physical requirements shall be set by the commission and shall be the same for all candidates.

**SECTION 47: Advancement in Compensation**

None of the provisions of these Rules shall prohibit an advancement in compensation granted to employees in the classified service as a result of the approved city budget. All persons in each classification shall be paid the same salary and in addition thereto be paid any longevity, educational incentive or certification pay that may be entitled.

A. The following requirements must be met by police officers to receive longevity, educational incentive and/or certification pay.

1. Longevity - Meet the requirements set forth in Section 141.032 of Texas Firemen's and Policemen's Civil Service Law
2. Educational Incentive Pay (revised - City Ordinance 12/94)

Compensation shall be based on the number of points acquired by each officer without regard to certificates or degrees. Points shall be awarded as follows:

- a. One semester hour or unit in an accredited college or university shall equal one (1) point.
  - b. Twenty classroom hours of in-service training in a program approved by TCLEOSE shall equal one (1) point.
3. Each police officer will receive a specified amount of money approved by the city council

for each point, but only to a maximum of 250 points, to be paid semi-monthly. The number of points a police officer has accumulated will be totaled as of each October 1st and will be the basis for paying the incentive pay for the following year.

- 4 . The chief of police shall establish procedures that will provide each police officer with the opportunity to acquire in-service training and to insure each officer obtains a minimum of forty (40) hours of in-service training, in programs approved by TCLEOSE, each two (2) years.
  - 5 . Certification must meet the requirements set by the Texas Commission on Law Enforcement Standards and Education for Intermediate, Instructor and/or Advanced Law Enforcement Officer certificates.
- B. The following requirements must be set by firefighters to receive longevity, educational incentive and/or certification pay:
- 1 . Longevity - Meet the requirements set forth in Section 141.032 of Texas Fireman's and Policemen's Civil Service Law
  2. Educational Incentive (revised - City Ordinance 12/94)

Compensation shall be based on the number of points acquired by each firefighter without regard to certificates. Points shall be awarded as follows:

- a. One semester hour or unit in an accredited college or university shall equal one (1) point.
  - b. Twenty classroom hours of in-service training in a program approved by TCFPPSE shall equal one (1) point.
3. Each fire fighter will receive a specified amount of money approved by the city council for each point, but only to a maximum of 250 points, to be paid semi-monthly. The number of points a fire fighter has accumulated will be totaled as of each October 1st and will be the basis for paying the incentive pay for the following year.
  4. The fire chief shall establish procedures that will provide each fire fighter with the opportunity to acquire in-service training in programs approved by TCFPPCE.
  5. Certification must meet the requirements set by the Texas Commission on Fire Protection Personnel Standards and Education for advanced fire certificates.

#### **SECTION 48: Postponement or Cancellation of Examination**

The commission may, because of the small number of applicants for any position or because of any other good and sufficient reason, postpone an examination to a later date. Posting of notice for any exam must allow for ten (10) days notice. Any examination may be cancelled by the commission should its holding become unnecessary because of a change in the personnel requirements of the classified service.

#### **SECTION 49: Correction of Error**

On formal appeal submitted by the competitor within five (5) days after date of notice of his standing, the commission may correct any manifest error or mistake of making or rating appearing in such paper or record, such correction in any case to be without prejudice to the status of any person previously appointed as a result of such examination. Such appeal shall be considered as opening all the competitor's papers for review,

whether resulting in a higher or lower average standing.

This provision shall not be held to prevent the commission from correcting any time during the life of any eligibility list an obvious clerical error.

#### **SECTION 50: Letters of Recommendation**

No letters of recommendation or endorsements, other than those required by the Rules, shall be considered in rating any competitor, unless called for in connection with the examination.

#### **SECTION 51: Examination Papers to be Shown**

The examination papers of a competitor will be exhibited only to the competitor or his duly authorized representative or to the chief executive to whom his name is certified.

#### **SECTION 52: Commission may Publish Pamphlet**

The commission may publish a pamphlet containing papers to illustrate to candidates the methods of examination and containing such other information as in the opinion of the commission will be useful to candidates in making applications and preparing for the competition.

#### **SECTION 53: Falsification**

No person shall deceive or obstruct any person in respect to his right of examination under the provisions of these Rules and the Civil Service Law or falsely mark, grade, estimate or report upon the examination or standing of any person examined hereunder, or aid in so doing, or furnish to any person, except in answer to inquiries of the commission, any special information for the purpose of either improving or injuring the rating of any such person for appointment or employment. No candidate shall deceive the commission for the purpose of improving his chances for appointment.

### **RULE X. ELIGIBILITY LISTS**

#### **SECTION 54: Vacancy Causing an Exam**

The commission shall proceed to hold examinations to create eligibility lists within ninety (90) days after a vacancy in any classification occurs, or new positions are created, unless an eligibility list is in existence. If an eligibility list exists, the commission shall certify within ten (10) days after notification of the vacancy to the head of the department the name of persons eligible to fill all promotional positions. The certified names must come from the eligibility list which exists on the date the vacancy occurs.

In the event any new classification is established either by name or by increase of salary, the same shall be filled by competitive examination in accordance with this law.

#### **SECTION 55: Preparation of Lists**

Not more than four (4) weeks after the conclusion of the examination, the director shall prepare the names of all candidates who have successfully passed the examination, listed in order from the highest score to the lowest score. This list shall then become the eligibility register for the position for which the examination was given and all appointments to said position shall be made from this eligibility list for a period of one (1) year. At the expiration of the one (1) year period from the date the examination was given, a new examination may be given and a new eligibility list prepared.

#### **SECTION 56: Identical Grades for Promotional Examinations**

Whenever two (2) competitors or more shall attain the same grade, the tie shall be broken by the following method.

For Driver or Sergeant promotional, the following would be applicable:

The tie will be broken by time in current classification and if necessary, by placement on the roster for original date of hire.

For Captain, Lieutenant, Battalion Chief, and Fire Assistant Chief promotional, the following would be applicable:

The tie would be broken by time in current classification  
(revised at Civil Service Meeting 1/26/05).

#### **SECTION 57: Posting Results**

In promotional examinations, the commission shall post the individual raw test scores on the bulletin boards of the director, city hall lobby, police department or fire station and sub-stations within twenty-four (24) hours after the examination and such posting of results will constitute notice to applicants of his grades and standing.

#### **SECTION 58: Removal from List**

A candidate's name may be removed from an eligibility list whenever he becomes dispossessed of any qualifications of and possessed by him at the time his name was placed on the list, and it may also be removed for any of the causes stated in Section 32 or Rule VII.

If a person's name appears on two or more lists and he is appointed to a position in the classified service, his name shall be removed from the remaining lists on which it appears.

#### **SECTION 59: By-Passed**

The name of each person on the eligibility lists shall be submitted to the head of the department three (3) times; and if passed over three (3) times with written reasons filed thereafter and not set aside by the commission, he shall thereafter be dropped from the eligibility list.

#### **SECTION 60: Lists Expire**

All eligibility lists shall remain in existence for one (1) year unless exhausted and at the expiration of one (1) year they shall expire and a new examination may be given.

#### **SECTION 61: Change of Address**

Each person on an eligibility list shall file with the commission written notice of any change of address and failure to do so may cause his name to be removed from the list. Notices sent to a person's last known address shall be considered sufficient notification.

## **RULE XI: CERTIFICATION AND APPOINTMENT**

### **SECTION 62: Requisition**

When a vacancy occurs in the fire or police department, the fire chief or head of the fire department or the police chief or head of the police department shall request in writing from the commission the names of suitable persons from the eligibility list, and the director shall certify to the chief executive of said city, the names of three (3) persons having the highest grade on the eligibility list, and the said chief executive shall thereupon make an appointment from said three (3) names. The appointment shall be of the person with the highest grade except if there is a valid reason why such appointment should be given to the one making the second or third highest grade. Whenever such appointment is made of one not holding the highest grade, such reasons shall be reduced to writing and filed with the commission, and there shall be set forth plainly and clearly good and sufficient reasons why said appointment was not made to the person holding the highest grade in the event that one holding the third highest grade shall receive the appointment. In the event the person holding the highest grade is not certified for the appointment, he shall be furnished with a copy of the reasons therefore as filed with the commission, and in the event the one having the third highest grade is appointed a copy of such reasons shall also be furnished to the one holding the second highest grade. This section shall be limited by the other provisions hereof relating to promotions.

### **SECTION 63: Certification of Employees**

Whenever a person is certified and appointed in the said fire or police department, the director shall forward a record of the person so certified and appointed to the fire chief or head of the department or police chief or head of the department, forward a similar copy to the chief executive, and retain a copy in the civil services files. The record shall show:

- A. the date notice of examination was posted,
- B. date on which person certified took examination to be placed on eligibility list,
- C. name of person or persons conducting examination,
- D. relative position of person or persons conducting examination, relative position of person on eligibility list,
- E. date when person certified took physical examination,
- F. name of physician making examination with information as to whether or not applicant was accepted or rejected,
- G. date on which request for filling such vacancy was made,
- H. date on which applicant was notified to report for duty and date on which their pay is to start.

If the director intentionally fails to comply with any provision of this section, it shall be the duty of the commission to remove him from office. The failure; however, of the director of civil service to comply with any of the provision of this section shall in no way impair the civil service standing of any employee.

#### **SECTION 63.1: Reappointment after resignation**

Any officer in good standing who voluntarily resigns from the department may be reappointed to the department, at the discretion of the Chief of Police, without taking another entrance exam if the following criterion is met:

1. The returning officer voluntarily resigned within the past two years in good standing; or

2. The returning officer voluntarily resigned within the past five years and within the first two years of resignation becomes a San Angelo Police Department reserve peace officer and continuously maintains that position in good standing; and
3. The returning officer maintained a Texas peace officer license.

The officer will return with seniority accrued prior to leaving the department however any rank attained prior to resignation will be forfeited. A returning officer must be back with the department for two years before being eligible to test for promotion. The returning officer will return at the pay step, or nearest the pay step, they occupied when they resigned (approved at Civil Service Meeting 1/26/06).

#### **SECTION 64: Notice to be Sent to Applicant**

A notice for the certification of a person's names for appointment shall be sent to such person at his last known address.

#### **SECTION 65: Failure to Respond to Offer of Appointment**

The failure of an eligible person to report to the department head within five (5) business days after notice of certification was mailed shall be considered sufficient cause for removal of his name from the eligibility list. Upon receipt of written notice from a department head that a certified person has failed to report or has declined appointment or upon receipt of written declination of appointment from an eligible person, certification shall be made of the name of the person next in order on the list.

#### **SECTION 66: Name of Declining Person to be Stricken from List**

The name of the person declining appointment shall be stricken from the eligibility list unless declination is for temporary inability, physical or otherwise or other reasons satisfactory to the civil service commission.

#### **SECTION 67: Peace Officer Training and Certification**

Peace Officer Training and Certification will be in accordance with the Texas Commission on Law Enforcement Standards and Education (TCLEOSE) rules which are in effect under Chapter 143.083.

#### **SECTION 68: Temporary Appointments**

When a city cannot obtain qualified personnel in the fire and police departments because of the maximum age limits provided for in these Rules and in Chapter 143.023 and the city commission finds that this condition constitutes an emergency, the city may then employ persons whose age exceeds the maximum age limit provided in the rules and in Chapter 143.023. Those persons shall be designated as temporary employees. They shall not be eligible for pension benefits, nor for promotion or appointment when a permanent member is available for said promotion or appointment, nor shall they become eligible to become full-fledged civil service employees. Temporary employees shall be terminated before any permanent member is terminated under Chapter 143.083 (approved at Civil Service Meeting 1/26/06).

#### **SECTION 69: Length of Temporary Appointment**

No temporary employee may serve more than ninety (90) days and if he is to be appointed as a permanent employee, he must qualify on all points set forth in Chapter 143 regarding rookie firefighter and police officer.

## **RULE XII: PROBATION**

### **SECTION 70: Probation Period**

All original appointments shall be for a probationary period of eighteen months of actual service and no appointment shall be deemed final until the appointee has satisfactorily served his probationary period; provided that this provision shall not apply to reinstatements made under the provisions of Rule XVI and XVII of these rules (revised at Civil Service Meeting 1/26/06).

An employee who is on probation may not be prohibited from joining or required to join an employee organization. Joining or not joining an employee organization is not grounds for retention or nonretention of an employee who is serving a probationary period.

### **SECTION 71: Probationary and Full-Fledged Firefighters and Police Officers**

During such probationary period, it shall be the duty of the fire chief or head of the fire department or police chief or the head of the department to discharge all firefighters or police officers whose appointments were not regular, or not made in compliance with the provisions of State Law or of the rules and regulations of the commission, or is found incompetent or unqualified to perform the duties of the position to which he was appointed and to eliminate from the payroll any such probationary employee. When firefighters or police officers; however, have served the full probationary period having been appointed in substantial compliance of the law and not otherwise, they shall automatically become full-fledged civil service employees and shall have full civil service protection.

All offices and positions in the fire department or police department shall be established by ordinance of the city council or governing body, provided; however, that the failure of a city council or governing body to establish a position by ordinance shall not result in the loss of civil service benefits under this act by any period appointed to such position in substantial compliance with the provisions of Section 9, 10, 11 of this act or entitled to civil service status under Section 24 of this act.

## **RULE XII: DEMOTIONS**

### **SECTION 72: Demotions**

Whenever the head of the fire department or police department may desire the involuntary demotion to a lower rank of an officer or employee under his supervision or jurisdiction, that department head may recommend in writing to the commission that such employee be so demoted, giving his reasons, therefore, and requesting that the commission make such order of demotion, furnishing a true copy of such recommendation immediately, in person, to the employee to be affected by such demotion. Said commission shall have the authority to refuse grant said request for demotion. If, however, said commission feels that probable cause exists for said demotion, they shall give such employee ten (10) days advance written notice to appear before them at a time and place specified in said written notice to the employee and said employee shall have the right to a full and complete public hearing upon such proposed demotion. The commission shall not demote any employee without such hearing. A voluntary demotion in which the officer accepting the demotion has, in writing, accepted the terms of the demotion is not subject to this section.

## **RULE XIV: CIVIL SERVICE RIGHTS OF DEPARTMENT HEADS**

### **SECTION 73: Civil Service Rights of Department Head**

When the services of the chief or head of the fire or police department are terminated as such and he is removed as department head, he shall be reinstated in the department and placed in a position no lower than the rank he held at the time of appointment, and he shall retain all rights of seniority in the department; provided, that should such department head be charged with an offense in violation of civil service rules, and be dismissed from the public service, or be discharged from his position, he shall have the same rights and privileges of a hearing before the commission, and in the same manner and under the same conditions as may be classified employees and if the commission should find such charges to be untrue or unfounded, said employee shall thereupon immediately be restored to the department as above provided, and said employee shall enjoy all the rights and privileges thereunder according to seniority and shall be paid his full salary for the time of suspension.

### **RULE XV: REPORTS OF DEPARTMENT HEADS**

#### **SECTION 74: Reports of Department Head**

Department heads shall immediately report to the commission any and all changes in the status of their departmental personnel. Such reports shall include appointments, whether temporary, part-time or regular, regardless of whether by original entrance, reinstatement, or promotion; removals from service, whether dismissals, layoff, suspensions, absences or leave of absence of any nature, or vacation, return to service, whether reinstatements, return from absence or leave of absence or vacation; changes in departmental organization, such as creation, abolishment, or combining of offices or positions and salary changes, whether increases or reductions. All actions so reported shall be in accordance with procedures of the commission. This shall not apply to exchange of time between personnel by permission of the head of the department where such exchange is not in excess of 24 hours.

### **RULE XVI: DISCIPLINARY SUSPENSION**

#### **SECTION 75: Suspension**

- A. Chief or head of the fire or police department may suspend an officer or employee under his supervision or jurisdiction for the violation of a civil service rule for a reasonable period not to exceed fifteen (15) calendar days, or for an indefinite period. An indefinite suspension is equivalent to permanent dismissal from the department.
- B. If offered by the chief or head of the department, the officer or employee may agree in writing to voluntarily accept, with no right of appeal, a suspension of not less than sixteen (16) or more than ninety (90) calendar days for violation of civil service rules. The officer or employee must accept the offer not later than the fifth (5th) working day after the offer is made.
- C. If the chief or head of a department suspends a person, the chief or head shall, not later than the 120th hour after the hours of suspension, file a written statement with the commission giving the reasons for the suspension, and shall immediately furnish a copy of the statement to the suspended officer or employee. The chief or department head shall deliver the copy, in person, to the suspended officer or employee. The order of suspension shall inform the officer or employee that if he wishes to appeal, he must file a written appeal with the commission not later than the tenth (10th) day after the date on which the officer or employee receives a copy of the statement.
- D. If the officer or employee refuses an offer of suspension of not less than sixteen (16) or more than ninety (90) calendar days and wishes to appeal to the commission, the officer or employee must file a written appeal with the commission not later than the fifteenth (15th) day after the date the officer or

employee receives the statement. Unless the suspended officer or employee and the commission mutually agree to postpone the hearing for a definite period of time, the commission shall hold a hearing and render a decision in writing not later than the thirtieth (30th) day after the date of which it receives the notice of appeal.

- E. The decision of the commission shall state whether or not the suspended officer or employee is permanently dismissed, or temporarily suspended from the fire or police department, or restored to his former position or status in the classified service in the department. If the commission finds that the period of disciplinary suspension should be reduced, it may order a reduction in the period of suspension. If the suspended officer or employee is restored to the position or class of service from which he was suspended, the officer or employee shall receive full compensation at the rate of pay provided for the position or class of service from which he was suspended for the actual time lost as a result of the suspension.
- F. All hearings of the commission, in case of a suspension, are public. The commission may deliberate the decision in closed session, but may not consider evidence that was not presented at the hearing. The commission shall vote in open session. The commission shall point out the civil service rule alleged to have been violated by the suspended officer or employee and shall contain the alleged acts of the officer or employee that the department head contends are in violation of the civil service rules. It is not sufficient for the department head merely to refer to the provision of the rules alleged to have been violated. If the department head does not specifically point out the act or acts complained of on the part of the officer or employee, the commission shall promptly reinstate the officer or employee.
- G. In a civil service hearing conducted under this subsection, the department head is restricted to his original written statement and charges which may not be amended. In the original statement and charges and in any hearing conducted under this subsection, the department head may not complain of an act or acts that occurred earlier than the 180th day immediately preceding the date on which the department head suspends the officer or employee.
- H. An officer or employee may not be suspended or dismissed by the commission except for violation of the civil service rules, and after a finding by the commission of the truth of specific charges against the officer or employee.

#### **SECTION 76: Notice to Commission**

In every such case of suspension, the department head shall file with the commission within one hundred twenty (120) hours, a written statement of action. The commission shall, upon appeal from the suspended officer or employee, hold a public hearing. If the department head does not file such statement with the commission within the time provided above, the suspension shall be void and the employee shall be entitled to his full salary.

#### **SECTION 77: Hearing Examiners**

- A. In a city in this state that has adopted this act, the letter of disciplinary action issued to an employee shall state, in addition to other notice requirements prescribed by this act, that in an appeal of an indefinite suspension, a suspension, a promotional passover or a recommended demotion, the appealing employee may elect to appeal to an independent third party hearing examiner instead of the commission. The letter must also state that if the employee elects to appeal to a hearing examiner, the employee waives all rights of appeal to a district court except as provided by Subsection (F) of this section. To exercise this choice, the appealing employee must submit to the director a written request as part of the original notice of appeal required under Section 91 of this act, stating his

decision to appeal to an independent third party hearing examiner.

- B. The decision of the hearing examiner is final and binding on all parties. If the employee decides to appeal to an independent third party hearing examiner, the employee automatically waives all rights to appeal to district court.
- C. If the appealing employee chooses to appeal to a hearing examiner, the employee and the chief or their designees shall first attempt to mutually agree on the selection of an impartial hearing examiner. If an agreement is not reached on the selection of the hearing examiner on or before the tenth (10) day after the date the appeal is filed, the director shall immediately request a list of seven (7) qualified neutral arbitrators from the American Arbitration Association or Federal Mediation and Conciliation Service, or their successor in function. The employee and the chief of their designees may mutually agree on one (1) of the seven (7) neutral arbitrators on the list. If they do not agree within five (5) business days after receipt of the list, each party or his designee shall alternate striking a name from the list and the name remaining shall be the hearing examiner. The parties or their designees shall mutually agree on a date for the hearing.
- D. The appeal hearing shall commence as soon as the hearing examiner selected can be scheduled. If the hearing examiner cannot commence the hearing within forty-five (45) calendar days after the date of selection, the employee may within two (2) days of learning of that fact, call for the selection of a new hearing examiner using the same procedure as provided by Subsection (C) of this section. In all hearings conducted under this section, the hearing examiner shall have the same duties, powers and authority as the commission, including the right to issue subpoenas. In a hearing held under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure, the hearing examiner shall render a decision on the appeal within ten (10) days after the conclusion of the hearing. In appeals not involving an expedited hearing procedure, the hearing examiner shall make a reasonable effort to render a decision on an appeal within thirty (30) days after the conclusion of the hearing or the filing of the briefs. The inability of the hearing examiner to meet the time requirement does not affect the validity of the disciplinary action or the hearing examiner's final decision or affect the jurisdiction of the hearing examiner.
- E. All fees and expenses of the hearing examiner are shared equally by the appealing officer or employee and by the department. The costs of witnesses for either side shall be paid by the party who calls the witnesses.
- F. A state district court may hear appeals of an award of a hearing examiner only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion or other unlawful means. An appeal must be brought in the state district court having jurisdiction in the municipality in which the department is located.

## **SECTION 78: Powers of the Commission**

The commission shall have the power to investigate and to determine whether there is just cause to such disciplinary suspension. The commission shall have the power to reverse the decision of the department head and to instruct him immediately to restore such employee to his position. In the event such department head refuses to obey the order of the commission, the employee shall be entitled to his full salary just as though he had been regularly reinstated.

## **SECTION 79: Refusal to Reinstatement**

In the event the department head willfully refuses to obey the orders of reinstatement of the commission and such refusal persists for a period of ten (10) days, it shall be the duty of the chief executive to discharge such

department head from his employment with the city.

#### **SECTION 80: Notice of Suspension by Department Head**

When the department head enters an order for the suspension of an employee in the classified service, he shall file a copy of the written statements, referred to in Section 75, with the suspended

employee stating the reasons for the suspension immediately. The employee shall have the right to answer and appeal as provided by these rules.

### **RULE XVII: INDEFINITE SUSPENSION AND REMOVAL**

#### **SECTION 81: Suspension Prior to Discharge**

When it is the intention of the department head to discharge an employee in the classified service, he shall first enter an order for suspension without pay. The period of suspension shall extend until the time allowed for an answer to the charges has lapsed.

#### **SECTION 82: Grounds for Removal**

The following are declared to be grounds for removal of an employee from the classified service of the city and no rule or regulation passed by the commission for the removal or suspension of an employee in the classified service shall be valid unless it involves one or more of the following grounds:

- A. Conviction of a felony or other crime involving moral turpitude;
- B. Violations of the provisions of the charter of the city;
- C. Acts of incompetency;
- D. Neglect of duty;
- E. Discourtesy by said employee to the public or to fellow employees while said employee is in the line of duty;
- F. Acts of said employee showing a lack of good moral character;
- G. Use of intoxicants while on duty or intoxication while off duty;
- H. Whose conduct was prejudicial to good order;
- I. Refusal or neglect to pay just debts;
- J. Absence without leave;
- K. Neglect of duty, cowardice, violation of any of the rules and regulations of the fire department or police department or of special orders, as applicable.

#### **SECTION 83: Procedures after Criminal Indictment**

If a firefighter or police officer is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the procedures prescribed by the section apply.

- A. The head of the department may temporarily suspend the firefighter or police officer with or without pay. The head of the department shall notify the firefighter or police officer in writing that he is being temporarily suspended with or without pay for a period not to exceed thirty (30) days after the date of final disposition of the specified felony or misdemeanor complaint, and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.
- B. If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the head of the department may, not later than the thirtieth (30th) day after the date of final disposition of the felony charge or misdemeanor complaint, bring a civil service charge against the firefighter or police officer.

- C. Conviction of a felony is cause for dismissal and conviction of a Class A or B misdemeanor may be cause for disciplinary action or indefinite suspension.
- D. Acquittal or dismissal of an indictment or a misdemeanor complaint does not mean that a firefighter or police officer has not violated civil service rules or regulations and does not negate the charges that may have been or may be brought against him by the department head.
- E. A firefighter or police officer indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the department head with civil service violations directly related to the indictment or misdemeanor complaint may delay with civil service hearing for a period of not more than thirty (30) days after final disposition of the indictment or complaint.
- F. If the head of the department temporarily suspends a firefighter or police officer who has been indicted for a felony or officially charged with a Class A or B misdemeanor, and the firefighter or police officer is not found guilty of the indictment or complaint in the court of competent jurisdiction, the firefighter or police officer may appeal to the commission or to a hearing examiner for recovery of back pay. The commission or hearing examiner may award all or part of the back pay or reject the appeal.
- G. The department head may order an indefinite suspension based on an act or acts classified as a felony or a Class A or B misdemeanor after the 180th day period after discovery of the act or acts by the department if delay is considered necessary by the department head to protect a criminal investigation of the employee's conduct. If the department head intends to order an indefinite suspension after the 180th day period, the department head must file a statement describing the criminal investigation and the objectives with the Attorney General not later than the 180th day after the date on which the act complained of occurred.

#### **SECTION 84: Notice of Suspension Requirements**

Department heads shall have the power to suspend indefinitely any officer or employee under their supervision or jurisdiction for the violation of civil service rules. In every such case of indefinite suspension, the department head shall within one hundred twenty (120) hours thereafter, file a written statement with the commission, giving the reasons for such suspension, and immediately furnish a copy thereof to the officer or employee affected by such act said copy to be delivered in person to such suspended officer or employee by said department head.

#### **SECTION 85: Contents of Written Statement**

The written statement to be filed by the department head with the commission, shall not only point out the civil service rule alleged to have been violated by the suspended employee, but shall contain the alleged acts of the employee which the department head contends are in violation of the civil service rules. It shall not be sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated and in case the department does not specifically point out the act or acts complained of on the part of such employee, it shall be the duty of the commission promptly to reinstate him. Said order of suspension shall inform the employee that he has ten (10) days after receipt of a copy thereof, within which to file a written appeal with the commission.

#### **SECTION 86: Right of Appeal by Employee**

Such suspended employee shall have the right of appeal and inquiry to the commission. If dissatisfied with the decision of the commission as a result of such inquiry, the suspended employee shall have further right of appeal as provided under Rule XIX of these rules.

#### **SECTION 87: Decision of Commission on Appeals**

The commission shall hold a hearing and render a decision in writing within thirty (30) days after it receives a notice of appeal from the suspended employee. The decision shall state whether the member is to be permanently or only temporarily suspended from the department. In the event that such suspended employee is restored to his position or class of service from which he was suspended, such employee shall receive full compensation at the rate of pay provided for the position or class of service from which he was suspended, for the actual time lost as a result of such suspension. If the commission does not render a decision within thirty (30) days from the date of inquiry, then the suspension shall remain in force until a decision is rendered.

#### **SECTION 88: Refusal of Department Head to Reinstate Employee**

- A. In the event the commission orders that such suspended employee be restored to this position as above provided, it shall be the duty of the department head immediately to reinstate him as ordered and in the event the department head fails to do so, the employee shall be entitled to his salary just as though he had been regularly reinstated.
- B. In the event such department head willfully refuses to obey the orders of reinstatement of the commission, and such refusal persists for a period of ten (10) days, it shall be the duty of the chief executive to discharge such department head from his employment with the city; unless he is elected to his position.
- C. The commission may punish for contempt any department head who willfully refuses to obey any lawful order of reinstatement of the commission, and such commission shall have the same authority to punish for contempt as has the Justice of the Peace.

#### **SECTION 89: General Provision**

In any Civil Service hearing hereunder the department head is hereby restricted to his original written statement and charges, which shall not be amended, and no act or acts may be complained of by said department head which did not happen or occur within six (6) months immediately preceding the date of suspension by the department head. No employee shall be suspended or dismissed by the commission except for violation of the civil service rules and except upon a finding by the commission of the truth of the specific charges against such employee.

### **RULE XVIII: RESIGNATION**

#### **SECTION 90: Resignation**

Any employee who resigns from the classified service while not in good standing shall not be eligible to apply for future employment with the city.

### **RULE XIX: APPEAL PROCEDURE**

#### **SECTION 91: Procedure before Commission**

In order for a firefighter or police officer to appeal to the commission from any action for which an appeal or review is provided under the terms of this act, it shall only be necessary for him to file within ten (10) days

with the commission an appeal setting forth the basis of his appeal.

The appeal shall be:

1. a statement denying the truth of the charge as made,
2. a statement taking exception to the legal sufficiency of such charges,
3. a statement alleging that the recommended action does not fit the offense or alleged offense,
4. or any combination of the statements,
5. and in addition, a request for a hearing by the commission.

In all hearings, appeals and reviews of every kind and character, wherein the commission in performing an adjudicatory function, the employee shall have the right to be represented by counsel or any person of his choice. The employee may request the commission to subpoena any books, records, documents, papers, accounts or witnesses that the employee considers pertinent to his case. The request to have materials subpoenaed must be made at least ten (10) days before the date of the hearing. If the commission does not subpoena the requested material, at least three (3) days prior to hearing date, it shall make a written report to the employee stating the reason it will not subpoena the requested material, and this report shall be read into the public records of the commission hearing. The witnesses may be placed under the rule.

All such proceeding shall be public. The commission shall consider only evidence submitted at the hearing. The commission shall have the authority to issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material. The commission shall maintain a permanent public record of all proceedings with copies available at cost.

## **RULE XX: APPEAL TO DISTRICT COURT**

### **SECTION 92: Appeal to District Court**

In the event any firefighter or police officer is dissatisfied with any decision of the commission, he may within ten (10) days after the rendition of such final decision sent to the officer by certified mail or is personally received by the officer by certified mail or personally received by the officer or by the officer's designee, file a petition in the district court, asking that the decision be set aside, and such case shall be tried de novo. The court in such actions may grant such legal or equitable relief as may be appropriate to effectuate the purposes of this act, including reinstatement or promotion with back pay where an order of suspension, dismissal or demotion is set aside. The court may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party. If the court finds for the firefighter or police officer, the court shall order the city to pay lost wages to the firefighter or police officer.

## **RULE XXI: REINSTATEMENT LIST**

### **SECTION 93: Reduction of Force**

- A. In the event that any position in the fire department or police department is vacated or abolished by ordinance of the city council or legislative body, the employee holding such position shall be demoted to the position next below the rank of the position so vacated or abolished; provided that when any position or positions of equal rank may be abolished or vacated, the employee or employees with the least seniority in the said rank shall be the one or ones demoted.
- B. In the event that it thereby becomes necessary to demote an employee or employees to the position next below the rank of the position so vacated or abolished, such employee or employees as are involuntarily demoted without charges having been filed against them for violation of civil service rules shall be placed on a position reinstatement list in order of their seniority. If any such position so vacated or abolished is filled or recreated within one (1) year, the position reinstatement list will be used to determine who will be promoted to such position. Promotions from the position

reinstatement list shall be in the order of seniority.

- C. Whenever the head of the fire department or police department may desire the demotion to a lower rank of an officer or employee under his supervision or jurisdiction, such department head may recommend in writing to the commission that such employee be so demoted, giving his reasons therefore, and requesting that the commission make such recommendation immediately, in person, to the employee to be affected by such demotion. Said commission shall have the authority to refuse to grant said request for demotion. If, however, said commission feels that probable cause exists for said demotion, they shall give such employee ten (10) days advance written notice to appear before them at a time and place specified in said written notice to the employee, and said employee shall have the right to a full and complete public hearing upon such proposed demotion. The commission shall not demote any employee without such hearing.
- D. In the event positions in the lowest classification are abolished or vacated, and it thereby becomes necessary to dismiss employees from the department, the employee with the least seniority shall be dismissed, but such employees as are involuntarily separated from the department without charges having been filed against them for violation of civil service rules, shall be placed on reinstatement list in order of their seniority. The reinstatement list shall be exhausted before appointments are made from the regular eligibility list.

Appointments from the reinstatement list shall be in the order of seniority. Those who shall have been on any such reinstatement list for a period of three (3) years shall be dropped from such list, but shall be reinstated upon request from the commission.

#### **SECTION 94: Uncompensated Duty**

In this section, **uncompensated duty** means day(s) or police work without pay and addition to regular or normal work days.

- A. The head of the police department may assign any officer or employee under his jurisdiction or supervision to uncompensated duty. The chief or department head may not impose uncompensated duty unless the officer or employee agrees. The duty may be in place of or in combination with a period of disciplinary suspension; the total number of uncompensated duty days may not exceed fifteen (15). If the officer or employee agrees to accept uncompensated duty, the chief or department head shall give the officer or employee a written statement that specifies the date or dates on which the officer or employee will perform uncompensated duty.
- B. An officer or employee may not earn or accrue any wage, salary or benefit arising from length of service while the officer or employee is suspended or performing uncompensated duty. A disciplinary suspension does not constitute a break in a continuous position or service in the department for the purpose of determining eligibility for a promotional examination. The days on which an officer or employee performs assigned uncompensated duty may not be taken into consideration in determining eligibility for a promotional examination. Except as provided by this subsection, an officer or employee performing assigned uncompensated duty retains all rights and privileges of his position in the police department and of his employment by the city.

### **RULE XXII: VACATION AND LEAVE OF ABSENCE**

#### **SECTION 95: Vacation**

All firefighters and police officers in the classified service shall earn a minimum of fifteen (15) working days vacation with pay in each year.

In computing the length of time during which a firefighter or police officer may be absent from work for the vacation provided by this section, only those calendar days during which the member would be required to work if he were not on vacation shall be counted as vacation days. Vacation leave may not be accumulated from year to year, except as approved by the governing body of the city. The department head shall designate the time at which an employee will be allowed to take his vacation. Beginning firefighters and police officers will begin with zero (0) vacation days.

#### **SECTION 96: Leave of Absence with Pay**

- A. Attendance of permanent employees at conventions, conferences, short training courses, and meetings of like nature, if approved by the chief executive, may be given leave of absence with pay.
- B. In case of death in the immediate family, the department head may grant as much as three (3) days of absence taken by an employee in the classified service. Immediate family shall include father, mother, sister, brother, wife or child and other relatives if the latter are actually members of the employee's household.
- C. Employees who leave to serve as members of the uniformed armed services of the United States are to be given pay for whatever time they may have accumulated as vacation time prior to their leaving, but shall not accumulate leave with pay during absences which extend for periods of longer than one month.
- D. Employees who are members of the armed forces reserves will be granted a leave of absence with pay not exceeding fifteen (15) scheduled work day periods, not to count against regular vacation leave.

#### **SECTION 97: Leave of Absence without Pay**

- A. The department head may grant any regular employee in his department leave of absence without pay for a period not to extend seven (7) days. Leave of absence of an employee in the classified service for a period beyond the seven (7) days granted by the department head shall be requested on a form provided for that purpose and shall be presented to the department head for his recommendation. The request shall state the entire additional time desired and the reasons therefore. The chief executive shall have sole authority to grant such request and his ruling shall be final. No employee shall be given a leave to take a position outside the civil service for more than sixty (60) days in any calendar year, unless it clearly appears that the public interest is to be served by such leave.
- B. No firefighter or police officer shall be refused reasonable leave of absence without pay for the purpose of attending any fire or police school, convention, or meeting, the purpose of which is to secure a more efficient department and better working conditions or the personnel thereof, nor shall any rule ever be adopted affecting their constitutional right to appear before or petition the legislature.

#### **SECTION 98: Military Leave of Absence**

- A. The civil service commission on written application of a member of the fire or police department shall grant military leave of absence without pay to such member to enable him to enter military service of the United States in any of its branches. Such leave of absence may not exceed the compulsory military service or the basic minimum enlistment period for the branch of service.
- B. The commission shall grant a leave of absence to a member of the fire or police department for initial training or annual duty in military reserves or the national guard. The civil service

commission shall grant such leave retroactively back to the commencement of the Korean War.

- C. Any such member receiving military leave of absence hereunder shall be entitled to be returned to the position in the department held by him at the time of leave of absence is granted upon the termination of his active military service provided he receives an honorable discharge and remains physically and mentally fit to discharge the duties of that position; and further provided he makes application for reinstatement within ninety (90) days after his discharge. Upon being returned to said position, such member shall receive full seniority credit for the time spent in the military service.
- D. During the absence from the department of any such member to whom military leave of absence shall have been granted by the civil service commission, the position in the department held by such member shall be filled in accordance with the other provisions of the Firefighters and Police Officer's Civil Service Act subject to the person filling such position being replaced by the member to whom military leave of absence has been granted upon his return to active duty with the department.
- E. Any person so replaced and remaining with the department and by reason of such replacement being returned to a position lower in grade or compensation shall have a preferential right for subsequent appointment or promotion to the same or similar position of that from which he has been replaced over any eligibility list for such position, provided he remains physically and mentally fit to discharge the duties of such position.

### **RULE XXIII: SICK AND INJURY LEAVES AND ABSENCES**

#### **SECTION 99: Sick Leave**

Permanent and temporary employees in the classified service shall be allowed a total of sick leave with fully pay computed upon a basis of one and one-fourth (1 1/4) full working days allowed for each full month employed in a calendar year, so as to total fifteen (15) working days to an employee's credit each twelve (12) months. Beginning firefighters and police officers will begin with zero (0) sick leave days.

#### **SECTION 100: Sick Leave Cumulative**

- A. Employee shall be allowed to accumulate fifteen (15) working days of sick leave with pay in one (1) calendar year.
- B. Sick leave pay may be accumulated without limit and may be used while an employee is unable to work because of any bona fide illness.
- C. In the event that a firefighter or police officer for any reason leaves the classified service, he shall receive, in a lump sum payment, the full amount of his salary for the period of his accumulated sick leave. \*No more than ninety (90) days of accrued sick leave will be paid (See Personnel Policies, Section 99 IIB). The lump-sum payment provided in this section is calculated as follows: the employee is compensated for the accumulated time at the highest permanent classification of pay for which the employee was eligible during the last six (6) months of employment would have been paid if the sick leave had been taken, but excluding additional holidays and any sick leave or vacation time which the employee might have accrued during the ninety (90) working days. (\*City Council approved and amended 01/08/91)
- D. If an active firefighter or police officer dies as a result of a line of duty injury or line of duty illness, the entire amount of his accumulated sick leave shall be paid as provided in this section. Provided, that in order to facilitate the settlement of the accounts of deceased employees due such employee at

the time of his death shall be paid to the person or persons surviving at the date of death, in the following order of precedence and such payments shall be a bar to recovery by any other person of amounts so paid. Beneficiaries will be set out in Chapter 143.045d.

**SECTION 101: Injury Leave**

All employees in the classified service shall be entitled to injury leave of absence, with full pay, for any injury received while in the line of duty. The length of such leave shall not exceed one year. The civil service director shall determine the length of injury leave to be allowed and shall have the right to demand the necessary medical information to make such determination.

**SECTION 102: Extension of Injury Leave**

At the expiration of said one year period, the city commission or governing body may extend such injury leave, at full or reduced pay, provided that where there is a firefighter's or police officer's pension fund, that if said injured employee's salary should be reduced below sixty percent (60%) of his regular monthly salary, said employee shall have the option of being retired on pension until able to return to duty.

If there are no pension benefits available to an employee who is temporarily disabled by a line of duty injury or illness and the year at full pay and any extensions which may have been granted by the employer have expired, the employee may use accumulated sick leave, vacation time and other accrued benefits before being placed on a leave of absence.

**SECTION 103: Temporary Disability**

If an employee is temporarily disabled due to a medical condition not related to the employee's line of duty, the employee may use all sick leave, vacation time, and any other time the employee may have accumulated before being placed on a leave of absence. After recovery from the medical condition causing the temporary disability, a firefighter or police officer shall be reinstated at the same rank and with the same seniority the person had before going on a temporary leave. Another firefighter or police officer may voluntarily do the work of an injured or ill firefighter or police officer until the firefighter or police officer returns to duty.

**SECTION 104: Records of Absence to be Maintained**

All sick and other leaves of absence with and without pay, shall be fully and carefully recorded on an appropriate record which shall be open to the inspection of representatives of the commission. A clerk or other responsible employee of each department shall be charged with maintaining a careful attendance record on which tardiness shall also be noted.

Absences, irregular attendance of any kind, and tardiness shall be taken into consideration in marking the efficiency ratings of employees and when persistently indulged in, shall justify the dismissal of an employee. The department head shall immediately report any absence as are required by Rule XV, Section 74 of these Rules.

**RULE XXIV: ROSTER**

**SECTION 105: Roster**

A file, to be known as the official roster shall be kept in the office of the commission which shall contain the name of every person employed or performing duties in the classified service. This file shall show the respecting employee's following facts: the name and address of employee, the title of the office of employment, the date and character of each appointment and every subsequent change in status and such other information as the commission may direct shall be placed in such files.

## **RULE XXV: RECORDS AND REPORTS**

### **SECTION 106: Records and Reports**

All proceedings of the commission, the classification and compensation plans and rosters of employees in the classified service and all eligible to appointment to such service shall be public records, and during normal business hours, shall be open to public inspection. Any records falling under the exceptions listed in Section 3 of Article 6252-17a, V.A.C.S., shall not be considered public.

## **RULE XXVI: RESTRICTIONS REGARDING OUTSIDE WORK**

### **SECTION 107: Dual Employment**

Unless specifically approved by the head of the department, no full-time employee in the classified service shall have any other employment or pursue any gainful occupation except that involved in his position in the city service. Approval once given may be withdrawn without stating any reasons.

## **RULE XXVII: POLITICAL ACTIVITIES**

### **SECTION 108: Political Campaigning**

Employees in the fire department or police department shall not be permitted to take an active part in any political campaign for an elective position of the city if they are in uniform or on active duty. The term active part means making political speeches, passing out cards, or other political literature, writing letters, signing petitions, actively and openly soliciting votes and making public derogatory remarks about candidates for such elective positions.

Firefighters and police officers are not required to contribute to any political fund or render any political service to any person or party whatsoever; and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so; and any official of the city who attempts the same shall be guilty of violating the provision of these Rules and the Civil Service Law. Provided, however, that the rights of employees to engage in political activities except as stated in these Rules and the Civil Service Law, shall not be further restricted.

## **RULE XXVIII: FIREFIGHTERS OR POLICE OFFICERS PROHIBITED FROM STRIKING**

### **SECTION 109: No Strike**

It shall be unlawful for any firefighter or police officer, coming under the provisions of these Rules and the State Law, to engage in any strike against the agency of the government by which they are employed. Penalties for violation of this **No Strike** clause are set out in Chapter 143.087.

### **SECTION 110: Special Requirements**

A candidate who does not pass the physical examination will be dropped from the roster.

### **SECTION 111: Medical Requirements for Firefighters and Police Officers (approved at Civil Service Meeting 4.4.08)**

The Police Chief and the Fire Chief shall be responsible for developing physical assessment examinations in accordance with guidelines established by the respective State Commissions, in compliance with all applicable employment laws, and with the approval of the Civil Service Director.

Candidates for original appointment and promotion in the classified service must meet the following medical requirements:

Physical Fitness

The candidate is physically capable of performing the essential functions of the job assignment and is free from any condition which would adversely affect their ability to perform the essential function of the job.

Vision

Candidates must possess normal maximum uncorrected visual acuity of 20/200 and correctable or corrected to 20/30 in each eye and binocularly.

Color blindness

Candidates must distinguish primary colors and will be tested using the Ishihara's test for color blindness. The candidate will be disqualified for mild to moderate red and/or green deficiency or if moderate to severe deficiency in any colors other than red or green.

Hearing

Candidates must meet normal hearing threshold in each ear as prescribed by ANSI (American National Standards Institute).

Blood Pressure – Candidates blood pressure must be within normal range.

**SECTION 112: Instruction of Examining Physicians**

The necessity for the selection of such men and women only are as sound in all respects and are in every way physically qualified for the position is self-evident. The foregoing qualifications are important, but medical examiners should put such other questions or test, bearing upon each case, as they may think necessary, proper and the whole examination should be thorough, exact and circumstantial. The medical examiners may also test the strength, activity and physical capacity of all applicants who come up to the standard required to the medical examination by suitable examination into the strength of back, chest, arms and legs.

**SECTION 113: Decision on Physical**

When a question arises as to whether a fireman or policeman is sufficiently physically fit to continue his duties, the employee shall submit a report from his personal physician to the commission. If the commission, the head of the department, or the employee questions the report, the commission shall appoint a physician to examine the employee and to submit a report to the commission, to the head of the department, and to the employee. If the appointed physician's report disagrees with the report of the employee's personal physician, the commission shall appoint a board of three (3) physicians to examine the employee. Their findings as to the employee's fitness for duty shall determine the issue. The cost of the services of the employee's personal physician shall be paid by the employee. All other costs shall be paid by the city.

**RULE XXX: SAVING CLAUSE**

**SECTION 114: Invalid Parts**

The provisions of these Rules are declared to severable and if any rule, section, sentence, clause, phrase or work of these rules shall for any reason be held to be invalid or unconstitutional such decision shall not affect the validity of the remaining rules, sections, sentences, clauses, phrases or words of these Rules; but they shall remain in effect, it being the legislative intent that these Rules shall stand notwithstanding the invalidity of any part.

## **RULE XXI: AMENDMENTS**

### **SECTION 115:       Limitation on Changes**

Any change in these Rules may be proposed and tentatively adopted at any regular or special meeting of the commission, but no change shall be finally adopted until at a regular or special meeting open to the public, and held not sooner than seven (7) days after the date on which the proposal was first considered, and except by a majority vote of the member elect. A written notice of the meeting sent to each member in advance of such final consideration shall include a copy of any change previously proposed, and to be considered at such meeting.

### **SECTION 116:       Publishing of Rules**

Whenever the commission shall have adopted any such rules or regulations by a majority vote, and shall have caused same to be reduced to writing, typewriting or printing such rules and such regulations shall thereupon be deemed to be sufficiently published and promulgated and shall be valid and binding upon the commission doing or causing to be done the following:

- A.   By mailing a copy of such rules and regulations to the chief executive, the chief of the fire or police department.
- B.   By posting all such rules and regulations at a conspicuous place for a period of seven (7) days in the central fire and police stations.
- C.   By mailing a copy of all such rules and regulations to each branch fire or police station.

The director of civil service shall keep on hand copies of said rules and regulations for free distribution to members of the fire and police departments, requesting same, and the said rules and regulations shall be kept available for inspection by any interested citizen.

No additional publication by way of insertion in a newspaper shall be required.



## Construction Board of Adjustments and Appeals

The mission of the Construction Board of Adjustments and Appeals is to hear appeals and variances regarding building construction codes and to make decisions regarding demolition of dangerous buildings.

The board generally meets at 3 p.m. on the first Thursday each month in the South Meeting Room of the McNease Convention Center, 501 Rio Concho Drive. Agendas are posted on this website and in the lobby of City Hall, 72 W. College Ave.

Staff Liaison: Al Torres 325-657-4422

The commission meets on an as-needed, called basis.

Members serve a three-year term, with no term limitations.

Board Roster:

Name	Status	Term	Term Start	Term End	Role	Position/Seat
<b>Vacant</b>					<b>SMD1/Plumber</b>	<b>1</b>
<b>Bill Ford</b>	Current	1	02/28/2017	02/28/2019	SMD2/Commercial Bldg. Contractor	2
<b>Kevin Bond</b>	Current	1	02/28/2017	02/28/2019	SMD3/Residential Building Contractor	3
<b>Rodney Mayberry</b>	Current	1	02/28/2017	02/28/2019	SMD4/Electrical Contractor	4

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Brooks Wehner	Current	1	02/28/2017	02/28/2019	SMD5/Architect or Engineer	5
Lyndon Butler	Current	1	02/28/2017	02/28/2019	SMD6/Mechanical Contractor	6
Richard Hanby	Current	1	02/28/2017	02/28/2019	Mayor/Realtor	7
Roger Julien	Current	1	02/28/2018	02/28/2020	CBAA Homeowner	8
David Jacobo	Current	2	02/28/2018	02/28/2020	CBAA Business Owner	9

## ARTICLE 4.02 ADMINISTRATION

**Sec. 4.02.001 Construction board of adjustments and appeals**

(a) “Contractor” defined. Contractor means any person engaged in any occupation regulated by this chapter who has registered with the building official and paid the annual registration fee as set forth in the fee schedule found in [appendix A](#) of this code and holds a valid state license for his occupation.

(b) Composition. The construction board of adjustments and appeals created pursuant to section 112.1 of the International Building Code (hereinafter the “board”) shall be appointed by the city council and shall include:

- (1) One architect or engineer.
- (2) One commercial building contractor.
- (3) One residential building contractor.
- (4) One electrical contractor.
- (5) One plumber.
- (6) One mechanical contractor.
- (7) One realtor, real estate inspector or real estate appraiser (member at large building industry).
- (8) One homeowner (member at large from the public).
- (9) One commercial business owner.

(c) Initial appointments. The members of the first board shall be appointed to terms staggered so that no more than one third (1/3) of the board is replaced during any twelve (12) month period.

(d) Subsequent appointments. Any person appointed to replace a member of the first board, and all subsequent appointees, shall serve a term of two (2) years, unless the person is appointed to serve for the unexpired term of a seated board member, in which case the period of service shall be for the remainder of the unexpired term.

(e) Term limitation. No member of the board shall serve more than two (2) consecutive full two (2) year terms. However, the terms may be extended if no qualified replacement is available to serve.

(f) Removal of members. The city council may remove any member of the board for good cause shown.

(g) Duties and powers.

(1) Meetings. The board shall meet at least once a month to conduct business. Meetings may be postponed, however, by a majority vote of the board or the inability to obtain a quorum.

(2) Advisory responsibility. The board shall submit to the council such recommendations for the improvement and revision of this code as it may from time to time deem necessary or proper in light of the development of new materials, methods, or techniques which would result in a safer and more economical construction system or construction work. All requests for use of materials or methods not covered in this code shall be fully supported by factual evidence, or prior approval, from a recognized testing agency or other impartial, qualified, non-local authority.

(3) Compensation. The members of the board shall serve without compensation.

(1996 Code, sec. 4.102; sec. 2, Ordinance adopted 11/6/07)

CONSTRUCTION BOARD OF ADJUSTMENTS APPEALS  
BY-LAWS  
REVISED 4/7/2011

The Construction Board of Adjustments and Appeals, hereinafter referred to as the "Board", shall be governed by all applicable state and local ordinances as stipulated herein, to the extent that they remain in force and effect, or as amended or added to by the San Angelo City Council ("City Council").

The terms applicant/appellant, application/appeal shall be considered interchangeable relevant to the appropriate context.

1. The Board, at its first regular meeting in March each year, shall elect a Chairman and Vice-Chairman. The Building Official, assisted by staff, shall serve as Recording Secretary. In the absence of the Building Official, the Fire Marshall shall fulfill the requirements of Recording Secretary, assisted by staff.

The duties and powers of the officers of the CBAA shall be as follows:

Chairman:

- a. Preside at all meetings of the Board;
- b. Call special meetings of the Board in accordance with the by-laws;
- c. Sign official documents of the Board;
- d. See that all actions of the Board are properly taken; and
- e. Meet with staff as necessary for the purpose of policy review, procedural review; and agenda development, and report to the Board all such meetings and resulting recommendations.

Vice Chairman:

- a. Exercise or perform all duties of the Chairman in the event of the absence, disability or disqualification of the Chairman; and
- b. Succeed the Chairman should the Chairman's term be vacated for any reason. A new Vice Chairman shall be elected at the next regular meeting.

Recording Secretary;

- a. Keep the minutes of all meetings of the Board;
- b. Give or serve all notices required by law or by the by-laws;
- c. Prepare and distribute the agenda for all meetings of the Board as directed by the Board or the Chairman;
- d. Be custodian of all Board records and documents;
- e. Inform the Board of all correspondence relating to the business of Board and attend to such correspondence as it relates to existing policy and procedure;
- f. Sign official documents of the Board; and
- g. Maintain a complete set of all laws, ordinances, and codes, and relevant legal documents/commentary in such a manner that they are readily available for Board review and public review.

2. In the event of three (3) consecutive or four (4) unexcused absences by a member of the Board within a (12) calendar month of regularly scheduled meetings, they shall immediately tender their resignation, and the City Council will be requested to make an immediate appointment to the Board to fulfill the unexpired term of the member. In the event that a regular or specially called meeting of the Board occurs without appointment of a new member, a majority of the remaining membership shall constitute a quorum. An unexcused absence shall be defined as failure to notify the recording secretary within 24 hours prior to the meeting of the expected absence. Medical emergencies shall be an exemption and not considered unexcused. (*amended January 7, 2010*)
3. The number of meetings per month and a schedule of meeting dates shall be established and may be altered or changed at any regularly scheduled meeting or upon proper notification by the Chairman or Recording Secretary with 72 hours prior notice to each member of the Board.
4. Additional meetings may be held at any time upon the call of the Chairman or by a majority of the voting members of the Board or upon request by the City Council following at least 72 hours notice to each member of the Board.
5. Robert's Rules of Order, Newly Revised shall be adopted as the regular rule for the conduct of meetings, provided such rules do not conflict with the by-laws adopted herein, in which these by-laws shall supersede Robert's Rules of Order. Such Rules of Order are considered advisory and shall not be considered binding.

Order of consideration of each Agenda item shall be determined by the Chairman, but shall generally be:

- Staff presentation
- Applicant presentation, including witnesses
- Opposition
- Applicant rebuttal
- Board questions to any of the previous
- Board votes

Orderly procedures dictate that each side shall proceed without interruption by the other except at the request of the Board.

Board members and staff shall refrain from debate or argument of an issue with the applicant.

The Chairman and Board may direct any questions to the applicant or to any person speaking, in order to reveal all relevant facts, and may call for questions from members of the staff, including legal staff.

The Board shall not be bound by strict rules of evidence but may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony or evidence. The Chairman may rule on all questions relating to admissibility of evidence, but may be overruled by a majority of Board members present.

The Chairman may elect, subject to being overruled by a majority of the Board members in attendance, on a motion duly passed, to:

- a. Proceed immediately to determination and decision at the conclusion of the hearing on the particular case; or
- b. Defer determination and decision until later in the same meeting; or
- c. Defer determination and decision until another specified meeting of the Board for the purpose of obtaining additional information or facts or for other good cause.

Any regular or special meeting may be recessed or adjourned to the time of any regular meeting or announced special meeting.

If no business is scheduled before the Board or should it be apparent that a quorum will not be available, any meeting may be canceled by the Chairman and members notified by the Recording Secretary or his designee.

- 6. Minutes shall be maintained by the Recording Secretary and reflect Board attendance, including disqualification of members, proceedings, and pertinent records and evidence, all official Board actions, and the vote of each member voting on every question except in matters of routine procedural votes.

All votes shall be by a show of hands and individually recorded as a part of the minutes.

The draft minute record of any Board meeting shall be presented for approval at the next subsequent regular meeting. This minute record must be approved by a majority of the members who were present at the meeting applicable to the subject minutes. This requirement may be waived at the request of the Chairman and a majority vote of the sitting board in the event of resignation or unfilled position of the Board.

The minutes are a matter of public record and considered final upon the approval of the Board, signature of the Chairman, and subsequent posting in the permanent records location designated by the Recording Secretary.

- 7. All documents, including plans, photographs, correspondence, etc., become the property of the City of San Angelo.
- 8. A majority of the members of the Board entitled to vote shall constitute a quorum for the transaction of business.
- 9. Matters referred to the Board by the City Council shall be placed on the agenda for consideration at the first meeting of the Board after such referral.
- 10. Any member may request the addition of an agenda item by 5 p.m., seven days in advance of the regularly scheduled.
- 11. Deadline for application for appeal or adjustment shall be 5 p.m., seven days in advance of the regularly scheduled meeting.
- 11a. Applicants shall provide adequate physical documentation necessary for the rendering of a sound decision by the board, including, but not limited to: plats, plans, surveys, scale diagrams, engineering notes, photographs, video tape, etc.

- 11b. Inadequate documentation may cause an application to be rejected for hearing by the Board, who may, at their discretion and with a majority vote of those present, decide to defer or continue the hearing until such time as both the Building Official and the President of the Board (or his designee) agree, on behalf of the Board, that the applicant has fulfilled the minimum necessary required documentation for the Board to reconvene.
- 11c. The Permits & Inspections Department shall prepare and provide all applicants with a package of relevant information concerning the appeals and adjustment process, including, but not limited to, applicable sections of the Board's bylaws. This information shall be provided in a way that clearly informs the applicant of the process and procedures of this Board.
12. An application or appeal may be withdrawn at any time before the Board makes its decision in the case.  
Board or applicant initiation of deferrals and continuances shall be permitted only for good cause once hearings have begun. Cause shall be stated in the motion for Board vote and shall require new public notice.
13. Applications or appeals may be amended or revised without new public notice only to the extent necessary to correct purely clerical errors. Any substantive changes to the appeal will require new public notice published at least 72 hours prior to the meeting.
14. The Chairman shall be an ex officio member of all committees, with voice but no vote.
15. In the event of a tie vote, a tie will be broken by the vote of the Chairman who shall in any event vote last.
16. Board members may seek information from other members, the Recording Secretary, counsel to the Board or staff serving the Board. No member shall express any bias, prejudice or individual opinion on proper judgment of the case prior to its hearing.
17. A member may disqualify himself from voting whenever any applicant or his agent has sought to influence the vote of the member other than in public hearing.
18. No member of the Board shall represent applicants on matters for which the Board is to make determinations. This provision does not limit the right of a member to represent himself on application or appeal before the Board.
19. Members shall not vote on any matter deciding an application or appeal if they did not attend all relevant public hearings on any single request.
20. Any member of the Board who feels that they have a conflict of interest on any matter that is on the Board Agenda shall excuse themselves, vacate his seat, and refrain from participation in all further proceedings, except as directed by the Chairman or in the case of being a party to the proceedings, as an expert witness.  
  
Conflict of interest shall be defined by applicable law and includes, but is not limited to, financial or personal interest in the property concerned.
21. Reconsideration of any decision of the Board may be had when the interested party for such reconsideration makes a showing, satisfactory to the Chairman or a majority of the

Board, that without fault on the part of such interested party, essential facts were not brought to the attention of the Board. Public notice requirements shall be met.

Exception: an appeal of a Board Order regarding dangerous buildings must be filed in district court pursuant to City of San Angelo Code of Ordinances, Section 4.1209 entitled "Appeals." (*amended April 7, 2011*)

22. A request for rehearing of an application or appeal denied by the Board shall not be allowed on the same property for a six month period following the initial ruling of the Board, unless a subsequent ruling by the Board substantially alters or changes the applicable codes or rules on a different piece of property.

Such circumstances shall allow a second hearing, but in no way have any force in law to compel the Board, after a hearing, to grant the application or appeal. A second hearing shall be considered on its own merits.

The Building Official or Fire Marshal shall make the determination whether a new application is substantially different from an application or appeal which has been denied during the previous six months and which affects the same piece of property. If determined to be substantially different, then it may be heard and decided by the Board upon the proper posting of public notice.

23. These rules may be amended at any regular or special called meeting of the Board by a majority of a quorum, provided:
  - a. Such amendment(s) will not be contrary to any requirement or limitation set by state law or city ordinance;
  - b. Notice of proposed amendment(s) is furnished to each member, in writing, and public notice requirements are fulfilled.
24. A rule or procedure within these by-laws may be waived or suspended at any meeting by a majority vote of all board members present, unless such rule is set by state law or city ordinance.
25. In the absence of both the Chairman and Vice Chairman, the Recording Secretary (Building Official or Fire Marshal) shall call the meeting to order and immediately call for a vote for a temporary presiding Chairman, providing a quorum is present. The elected presiding Chairman will then conduct the meeting and the Recording Secretary will return to regular duties.



## Design and Historic Review Commission

The Design and Historic Review Commission is a board formed by the consolidation of the former Historic Preservation and River Corridor commissions. The Historic Preservation Commission was established in 1993 by the City Council to recommend, promote, protect and enhance the integrity of landmarks and districts of historical and cultural significance. The River Corridor Commission was established in 1982 by the City Council to recommend policies and ordinances controlling development of land along the Concho River.

In September 2012, City Council finalized the consolidation, forming the Historic and Design Review Commission. This commission is charged with the duties the two prior commissions separately undertook.

The commission generally meets at 10 a.m. on the third Thursday each month in the South Meeting Room of the McNease Convention Center.

Staff Liaison: Rebeca Guerra, 325-657-4210

Board Roster:

Name	Status	Term	Term Start	Term End	Role	Position/Seat
<b>Travis Stribling</b>	Current	1	09/30/2017	09/30/2019	Member Downtown Org.	1
<b>Vacant</b>			09/30/2017	09/30/2019	Historian	2
<b>Ashley Young-Turner</b>	Current	2	09/30/2016	09/30/2018	Chairwoman/ Property Owner River Corridor	3

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Stephen McLaughlin	Current	1	09/30/2016	09/30/2018	Member Downtown Org.	4
Sandra Morris	Expired	1	09/30/2015	09/30/2017	Designer	5
Henry Schmidt	Current	1	09/30/2017	09/30/2019	Architect	6
Connie Biggerstaff	Current	1	09/30/2017	09/30/2019	Property Owner Historic Downtown	7
Barbara Hesse	Current		Not Applicable	Not Applicable	Historic Advisor, Historic Preservation Officer	8

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 8. Design and Historic Review Commission****Division 8. Design and Historic Review Commission****Sec. 2.07.211 Creation; members**

A design and historic review commission is hereby created and established within the city, reconstituting the River Corridor commission and the historic preservation commission into a single design and historic review commission. Said design and historic review commission shall be composed of seven (7) regular members, who shall be appointed by the city council. Candidates shall have a known or demonstrated interest in, general knowledge of, and experience relevant to historic preservation or other professional design field within the city. To the extent that candidates are available among the residents of the community, appointments shall be made by the city council based upon the following qualifications:

- (1) At least two (2) members shall be licensed or otherwise recognized as professional in architecture, landscape architecture, design, engineering, surveying, or related profession;
- (2) At least one (1) member shall be recognized as a historian or a member of a local historic preservation group;
- (3) At least one (1) member shall be an owner of real property within the River Corridor;
- (4) At least one (1) member shall own real property designated or recognized as a community landmark, or within a designated historic district; and
- (5) At least one (1) member shall be a member of a downtown development organization under contract with the city.

(Sec. 2, Ordinance adopted 9/4/12)

**Division 8. Design and Historic Review Commission****Sec. 2.07.212 Ex-officio members**

The planning manager and the building official of the city shall serve as nonvoting ex-officio members of the commission. (Sec. 2, Ordinance adopted 9/4/12)

**Division 8. Design and Historic Review Commission****Sec. 2.07.213 Qualifications**

All members of the commission shall be eighteen (18) years of age or older and residents of the city. (Sec. 2, Ordinance adopted 9/4/12)

**Division 8. Design and Historic Review Commission****Sec. 2.07.214 Terms**

Of the members first appointed by the city council, four (4) appointments shall be for two-year terms and three (3) appointments shall be for one-year terms. Thereafter, all appointments shall be for two (2) year terms, except vacancies for unexpired terms, which shall be filled by appointment of the city council for the remainder of the unexpired term. Service on the commission shall be limited to two (2) consecutive terms. Commission members shall serve without compensation at the pleasure of the city council, subject to termination at any time without cause. (Sec. 2, Ordinance adopted 9/4/12)

## Division 8. Design and Historic Review Commission

### Sec. 2.07.215 Duties

The duties of the design and historic review commission shall include acting as an advisory commission to the city council in matters of design review relating to historic preservation in the city and development along the Concho River. The responsibility of the commission within the scope of its general authority shall include the authority to:

- (1) Prepare bylaws, rules, and regulations to carry out the business of the commission, which shall be ratified by the city council.
- (2) Adopt criteria for the designation of historic, architectural, and cultural landmarks and delineation of historic districts, which shall be ratified by the city council.
- (3) Prepare and present to the city council recommendations for policies and ordinances regarding development and all types of signage along the Concho River and other similar bodies of water as designated, which shall be ratified by the city council.
- (4) Conduct surveys and maintain an inventory of significant historic, architectural, and cultural landmarks and all properties located in historic districts within the city.
- (5) Recommend the designation of landmarks, historic districts, and other types of districts.
- (6) Recommend conferral of recognition upon the owners of landmarks or properties within districts by means of certificates, plaques, or markers.
- (7) Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public educational programs.
- (8) Increase public awareness of the value of open spaces, public spaces, natural habitats, and wildlife along the Concho River and other similar bodies of water as designated by developing and participating in public educational programs.
- (9) Make recommendations to the city council concerning the utilization of state, federal, or private funds to promote the preservation of open and public spaces along the Concho River and other similar bodies of water as designated.
- (10) Make recommendations to the city council concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the city.
- (11) Approve or deny applications for certificates of appropriateness pursuant to provisions of the city zoning ordinance.
- (12) Prepare specific design guidelines for the review of landmarks, districts, and construction and demolition of historic buildings.
- (13) Recommend the acquisition of a landmark structure by the city where its preservation is essential to the purpose of this division and where private preservation is not feasible.
- (14) Recommend the acquisition of land along the Concho River and other similar bodies of water as designated by the city where its proximity to the river is vital to the purpose of this division.

(15) Recommend to the city council tax abatement and other economic development programs for the preservation of landmarks or historic districts.

(16) Recommend to the city council tax abatement and other economic development programs for sustainable developments along the Concho River and other similar bodies of water as designated.

(17) Recommend to the city council the acceptance of the donation of preservation easements and development rights as well as any other gift of value for the purpose of historic and environmental preservation.

(18) Carry out other duties as specifically delegated to the commission by the city council.

(Sec. 2, Ordinance adopted 9/4/12)

#### Division 8. Design and Historic Review Commission

##### **Sec. 2.07.216 Officers**

The commission shall elect from the appointed members of the commission a chairperson and a vice-chairperson to serve in the absence of the chairperson. The chairperson and vice-chairperson shall serve in their respective capacities for one (1) year terms or until their term of appointment to the commission expires, whichever shall first occur. No chairperson or vice-chairperson shall serve in such capacity for more than three (3) consecutive years. The planning manager for the city, or the manager's designee, shall serve as secretary to the commission. The commission shall elect such other officers as the commission may establish in its bylaws. (Sec. 2, Ordinance adopted 9/4/12)

#### Division 8. Design and Historic Review Commission

##### **Sec. 2.07.217 Historic preservation officer**

The city council or its designee shall appoint a city official, city staff person, or resident of the city having a known or demonstrated interest in, general knowledge of and experience relevant to historic preservation or other professional design field to serve as the historic preservation officer (HPO) for the city, to facilitate the administration of this division and serve as an advisor to the commission on request of the commission. The historic preservation officer, in coordination with the secretary for the commission and the planning manager or his/her designee, shall coordinate the preservation efforts of the commission with applicable state and federal agencies and nonprofit organizations. (Sec. 2, Ordinance adopted 9/4/12)

#### Division 8. Design and Historic Review Commission

##### **Sec. 2.07.218 Quorum and voting**

All regular members of the commission, excepting ex-officio members, shall have voting rights. Five (5) duly appointed regular members of the commission shall constitute a quorum. The affirmative vote of four members is required to approve any item brought before the commission. (Sec. 2, Ordinance adopted 9/4/12)

#### Division 8. Design and Historic Review Commission

##### **Sec. 2.07.219 Rules, regulations and bylaws**

The commission shall adopt and may amend from time to time its bylaws, establishing rules for its regulation, effective upon approval of the city council. Said bylaws and amendments thereto as approved by the city council

shall be filed with the city clerk. The commission may adopt rules or regulations in conformity with its bylaws relating to the administration of its business. (Sec. 2, Ordinance adopted 9/4/12)

Division 8. Design and Historic Review Commission

**Sec. 2.07.220 Meetings**

The commission shall adopt a schedule providing for at least one regular meeting per calendar month and may make provision for such other meetings as it deems appropriate. Meetings of the commission shall be held pursuant to public notice and shall be open to the public in compliance with the Texas Open Meetings Act. (Sec. 2, Ordinance adopted 9/4/12)

Division 8. Design and Historic Review Commission

**Sec. 2.07.221 Minutes**

The commission shall keep minutes of its proceedings in a permanent record, and a certified copy of said minutes shall be filed with the secretary for the commission. (Sec. 2, Ordinance adopted 9/4/12)

Division 8. Design and Historic Review Commission

**Sec. 2.07.222 Committees**

The commission may create ad hoc or standing committees of less than a quorum of the commission members, which may include residents of the city who are not commission members, as needed or deemed desirable to address specific matters within the purview of the commission. Committees shall report to the commission and shall have the authority to gather information, make reports and prepare recommendations for consideration by the commission. (Sec. 2, Ordinance adopted 9/4/12)

Division 8. Design and Historic Review Commission

**Sec. 2.07.223 Absenteeism of members**

In the event of three (3) unexcused absences from regularly scheduled meetings, a commission member shall be deemed to have resigned. The commission shall adopt provision for excusing absences in its bylaws. (Sec. 2, Ordinance adopted 9/4/12)

Division 8. Design and Historic Review Commission

**Sec. 2.07.224 Severability**

The terms and provisions of this division shall be deemed to be severable in that, if any portion of this division shall be declared to be invalid, the same shall not affect the validity of the other provisions of this division. (Sec. 2, Ordinance adopted 9/4/12)

Division 8. Design and Historic Review Commission

**Secs. 2.07.225–2.07.250    Reserved**

**BYLAWS  
OF THE CITY OF SAN ANGELO, TEXAS  
DESIGN AND HISTORIC REVIEW COMMISSION**

**ARTICLE ONE**

**GOVERNANCE AND PURPOSE**

**Section 1.01. Governance of the Commission.** The Design and Historic Review Commission of the City of San Angelo, hereinafter referred to as the “Design and Historic Review Commission” or “Commission”, shall be governed by these By-Laws, subject to ordinances establishing and governing the Commission now in effect or hereinafter adopted, and applicable state law.

**Section 1.02. Purpose of the Commission.** The Commission shall assume those duties imposed upon the Commission by City ordinances with the purpose to protect, enhance and perpetuate landmarks and districts of historical and cultural importance. The Commission shall function in an advisory capacity to the City Council in matters of design review and the application of Historic Overlay Zones for historic preservation within the City, including development along the Concho River.

**ARTICLE TWO  
COMPOSITION OF THE COMMISSION**

**Section 2.01. Number and Composition.** (a) The Design and Historic Review Commission shall consist of seven members appointed by the City Council, having the following qualifications to the extent that such candidates for appointment are available among the residents of the City:

1. at least two (2) members shall be licensed or otherwise recognized as professional in architecture, landscape architecture, design, engineering, surveying, or related profession;
2. at least one (1) member shall be recognized as a historian or a member of a local historic preservation group;
3. at least one (1) member shall be an owner of real property within the River Corridor;
4. at least one (1) member shall own real property designated or recognized as a community landmark, or within a designated historic district; and,
5. at least one (1) member shall be a member of a downtown development organization under contract with the City of San Angelo.

A single candidate may be regarded as meeting more than one of the foregoing qualifications for the Commission.

(b) Commission members, regardless of background, shall have a known and demonstrated interest, competence, or knowledge of historic preservation or a professional design field.

(c) The following City staff persons or their designated representatives shall sit on the Design and Historic Review Commission as ex-officio, non-voting members, who shall assist the Commission in its functions:

- Director of Planning;
- Chief Building Official; and
- Historic Preservation Officer.

**Section 2.02. Term.** Members of the Commission shall serve no more than two (2) full consecutive two (2) year terms.

**Section 2.03. Vacancies.** (a) Vacancies for unexpired terms shall be filled by appointment of an interim member by the City Council for the remainder of the unexpired term of the member whose position is vacated; provided however, that a person serving such an interim appointment shall nevertheless be eligible to serve two (2) full, consecutive terms after completion of his or her interim appointment.

(b) In the event the Chairperson vacates his office, the Vice-Chairperson shall succeed and serve as Chairperson for the unexpired term. A new Vice-Chairperson shall be elected at the next regular meeting of the Commission.

**Section 2.04. Removal from Office.** Members of the Design and Historic Review Commission shall serve at the pleasure of City Council, subject to removal by the City Council without cause.

## **ARTICLE THREE DUTIES**

**Section 3.01. Responsibilities of the Commission.** The Commission shall act in an advisory capacity to the City Council in matters of design review relating to historic preservation in the City and development along the Concho River. The responsibility of the Commission within the scope of its general duties and corresponding authority shall include:

1. Adopt bylaws, rules, and regulations to carry out the business of the Commission, subject to ratification by the City Council.
2. Adopt criteria for the designation of historic, architectural, and cultural landmarks and delineation of historic districts, subject to ratification by the City Council.
3. Prepare and present to the City Council, recommendations for policies and ordinances regarding development and all types of signage along the Concho River and other similar bodies of water as designated, subject to ratification by the City Council.
4. Conduct surveys and maintain an inventory of significant historic, architectural, and cultural landmarks and all properties located in historic districts within the City.
5. Recommend the designation of landmarks, historic districts, and other types of districts.
6. Recommend conferral of recognition upon the owners of landmarks or properties within districts by means of certificates, plaques, or markers.
7. Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public educational programs.
8. Increase public awareness of the value of open spaces, public spaces, natural habitats, and wildlife along the Concho River and other similar bodies of water as designated by developing and participating in public educational programs.
9. Make recommendations to the City Council concerning the utilization of state, federal, or private funds to promote the preservation of open and public spaces along the Concho River and other similar bodies of water as designated.
10. Make recommendations to the City Council concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the City.
11. Approve or deny applications for Certificates of Appropriateness pursuant to provisions of the City of San Angelo Zoning Ordinance.
12. Prepare specific design guidelines for the review of landmarks, districts, and construction & demolition of historic buildings.
13. Recommend the acquisition of a landmark structure by the City of San Angelo where its preservation is essential to the purpose of this article and where private preservation is not feasible.

14. Recommend the acquisition of land along the Concho River and other similar bodies of water as designated by the City of San Angelo where its proximity to the river is vital to the purpose of this article.
15. Recommend to the City Council tax abatement and other economic development programs for the preservation of landmarks or historic districts.
16. Recommend to the City Council tax abatement and other economic development programs for sustainable developments along the Concho River and other similar bodies of water as designated.
17. Recommend to the City Council the acceptance of the donation of preservation easements and development rights as well as any other gifts of value for the purpose of historic and environmental preservation.
18. Carry out other duties as specifically delegated to the Commission by the City Council.

## **ARTICLE FOUR OFFICERS**

**Section 4.01. Chairperson.** The Design and Historic Review Commission shall elect a Chairperson from its members at its first meeting in January. The Chairperson shall be elected for a term of one (1) year or until expiration of the member's term on the Commission. The Chairperson may be re-elected to serve as Chairperson for successive one year terms. The Chairperson shall:

1. Preside at all meetings of the Commission;
2. Call special meetings of the Commission in accordance with the adopted Bylaws;
3. Execute official documents of the Commission;
4. Ensure that actions required of the Commission are properly taken; and
5. Vote on all matters before the Commission.

**Section 4.02. Vice Chairperson.** The Design and Historic Review Commission shall elect a Vice Chairperson from its members at its first meeting in January, who shall serve as the Chairperson in the absence of the Chairperson. The Vice Chairperson shall be elected for a term of one (1) year or until earlier expiration of the member's term on the Commission. The Vice Chairperson may be re-elected to serve as Vice Chairperson for successive one year terms.

**Section 4.03. Secretary.** The Planning Manager for the City, or his or her designee, shall serve as Secretary to the Commission. The Secretary shall keep the minutes of all meetings of the Commission, shall be the custodian of all books and records of the Commission, prepare and

send or deliver such notices as directed by the Commission and in general perform all duties as may be required by the Commission. The Secretary, along with the Historic Preservation Officer, shall coordinate the preservation efforts of the Commission with applicable state and federal agencies and non-profit organizations.

## **ARTICLE FIVE RULES OF PROCEDURE**

**Section 5.01. Rules of Order and Procedure.** The Design and Historic Review Commission shall adopt rules of order and procedure to regulate meetings of the Commission and other business of the Commission. The rules of order and procedures shall govern procedural matters, shall be kept on file with the Director of Planning, and shall be available for inspection by the public .

**Section 5.02. Voting.** (a) Votes taken by the Commission shall be conducted in open meetings upon motion made and seconded, and by a show of hands. The results of each vote shall be announced by the Chairperson at the time the vote is taken.

(b) On any matter in which the Commission is to offer a recommendation to the City Council, and a tie vote is taken by the Commission, the tie vote shall be forwarded to the City Council without recommendation for approval or disapproval by the Commission.

(c) Unless excused or disqualified from voting, a Commission member shall cast a vote on each motion duly made and seconded. A failure to cast a vote on a duly made and seconded motion by a Commission member who is otherwise required and eligible to vote, shall be deemed by the Chairperson to be a vote in the affirmative.

**Section 5.03. Conflict of Interest.** (a) No member of the Commission shall participate in any matter in which he or she has a substantial interest in the business or property concerned, or has any other conflict of interest as defined by applicable law, except as may be otherwise permitted pursuant to Chapter 171 of the Texas Local Government Code, which shall govern. “Substantial interest” and “Business entity” are as defined in Chapter 171 of the Texas Government Code. To this end the conflicted Commission member shall execute an appropriate affidavit as required by statute, and shall leave the meeting room during discussion, deliberation and vote on the matter in which the Commission member has a conflict of interest.

(b) If a member of the Commission believes that he or she may have a perceived conflict of interest for a specific matter not covered by paragraph (a) of this section, from which he or she

desires to be excused, then that Commission member may be excused upon motion made, seconded and adopted by a majority vote of the remaining Commission members. The excused Commission member shall leave the meeting room during discussion, deliberation and vote on the matter in which the Commission member has a perceived conflict of interest.

**Section 5.04. Absences. (a)** Each member of the Commission who gains knowledge of the fact that he/she will not be able to attend a scheduled meeting of the Commission shall so notify the Planning Division as early as is reasonably possible prior to the meeting. The Planning Director shall notify the Chairperson in the event that the anticipated absence will result in the lack of a quorum. If, for any valid reason, a member is not able to attend a regular meeting and notifies the Chairperson or the Planning Division at least seventy-two (72) hours in advance of the scheduled time for a meeting, the member's attendance shall be excused and the absence shall not count against the member's attendance record (hereinafter "excused absence").

**(b)** Each member of the Commission shall be required to attend at least ten (10) regularly scheduled meetings annually from the member's date of appointment. Any member failing to comply with this requirement shall be deemed to have resigned from the Commission. A member's excused absences shall be counted the same as if the member had attended the meeting from which he or she was excused for purposes of this requirement.

## **ARTICLE SIX PUBLIC MEETINGS**

**Section 6.01 Regular Meetings and Open Meetings Act.** All meetings of the Design and Historic Review Commission shall be held in compliance with the Open Meeting Act of the State of Texas. Regular meetings shall be scheduled at least once a month. Additional meetings may be held upon the call of the Chairperson or the Vice Chairperson, in the absence of the Chairperson, or upon petition of a simple majority of the Commission members, following at least seventy-two (72) hours notice to each member of the Commission and public notice of the meeting and meeting agenda.

**Section 6.02 Historic Overlay Designations.** The Design and Historic Review Commission shall hold at least one public hearing on each proposed Historic Overlay Zone designation and on each application for Certificate of Appropriateness. However, no public hearing shall be scheduled until after the application for the Certificate of Appropriateness is completed and all applicable fees have been paid. The Commission may postpone or table a public hearing on an application for a Certificate of Appropriateness if the Commission finds that additional information relative to the pending application is necessary for its review of the application.

**Section 6.03. (a) Public Notice.** Notice of all meetings of the Design and Historic Review Commission shall be given in compliance with the requirements of the Texas Open Meetings Act. Notice of hearing to consider Historic Overlay zoning designation shall also comply with Chapter 12, Exhibit “A” Zoning Ordinance, Article 2 Development Review, Section 211 Historic Overlay Zone, of the Code of Ordinances of the City of San Angelo, and with Chapter 12 Planning and Development, Article 12.800 Historic Preservation Tax Abatement, Section 12.803 Historic Project Tax Abatement, of the Code of Ordinances of the City of San Angelo, when applicable. The Director of Planning of the City shall be responsible for compliance with the notice requirements.

**(b) Notice to Commissioners.** Notice of any meeting of the Commission, whether a regular or a special meeting, shall be given to the members of the Commission at least three (3) days in advance of the meeting, by written notice delivered personally, sent by mail, electronic mail, or facsimile to each member. Such notice shall contain the time, date, place, and the agenda to be considered.

**Section 6.04. Quorum. (a)** For purposes of convening a meeting, a quorum shall consist of Five (5) duly appointed regular, voting members of the Commission. Except as stated at subparagraph (b) of this section, decisions of the Commission may be made only upon the affirmative vote of at least four (4) regular, voting members.

**(b)** When a property owner objects to property, being included in a Historic Overlay zone, whether an area, site, building(s), or other structure, fixture or object, of historical, architectural, or cultural significance, the affirmative vote of at least six (6) members of the Commission shall be required for a recommendation by the Commission to the City Council that the property be included in a Historic Overlay Zone.

**Section 6.05. Agenda.** The Director of Planning shall prepare the agendas necessary for Commission meetings. Any member of the Commission may have an item placed on the agenda by timely notifying the Historic Preservation Officer or the Director of Planning pursuant to applicable procedures for preparation of the agenda and public notice.

**Section 6.06. Deadlines.** The deadline for submission of completed applications to the Design and Historic Review Commission is 5:00 p.m. on the last work day at least fifteen workdays prior to the scheduled Commission meeting.

**Section 6.07. Staff.** City staff or persons serving the Commission shall include:

1. Historic Preservation Officer.

The City Council or its designee shall appoint a qualified City official, staff person, or appropriate resident of the City to serve as Historic Preservation Officer (HPO). This Officer shall administer the Design and Historic Review Commission Ordinance, and on request of the Commission, advise the Commission on matters submitted to it.

The Historic Preservation Officer, in coordination with the Secretary to the Commission, is responsible for coordinating the City's preservation activities with those of state and federal agencies, and with local, state, and national nonprofit preservation organizations.

2. Director of Planning and Chief Building Official.

The Director of Planning and the Chief Building Official or their designated representatives shall attend all meetings of the Commission and may provide information and make recommendations to the Commission regarding matters within the purview of the Commission.

3. City Attorney

The City Attorney or designated Assistant City Attorney shall be the legal advisor to the Design and Historic Review Commission.

**Section 6.08. Committees.** The Chairperson of the Design and Historic Review Commission may, with approval of a majority of the members of the Commission, appoint Special Study Committees and assign tasks to those committees.

**Section 6.09. Presentation and Public Comment.** (a) Public comment to the Commission regarding an item on the agenda shall be limited to a five (5) minutes per person or presenter unless such person or presenter requests and receives an allowance of additional time from the presiding officer. The presiding officer may exercise reasonable and unbiased discretion in allowing or not allowing additional time for any person or presenter. The use of a single presenter or spokesperson to represent a group of people having like interests or positions on a matter before the Commission is encouraged.

(b) When there are a large number of persons present who wish to address the Commission on a matter, the presiding officer may reduce below five (5) minutes, the amount of time allowed each person on public comment to address the Commission. When, due to the number of people who wish to address the Commission or for other reasons, there is not time available to complete consideration of a matter or matters on the meeting agenda, the presiding officer may continue

the meeting to a later date in a manner compliant with the requirements of the Open Meetings Act.

(c) The order of Consideration of Agenda Items shall be:

1. Staff presents report and recommendation.
2. The Commission may ask questions regarding the staff presentation and report.
3. Proponents of the agenda items are allowed to make public comment.
4. Any opponents are allowed to make public comment.
5. Final comments.
6. The Commission then takes a vote.

**Section 6.10. Minutes of Meetings.** The Design and Historic Review Commission shall keep minutes of its meetings. Minutes shall include a description of each motion and vote. The minutes of Commission meetings shall be filed with the Commission Secretary and made available for public inspection.

## **ARTICLE SEVEN AMENDMENTS TO BYLAWS**

(a) The bylaws of the Design and Historic Review Commission may be amended by affirmative vote of at least four voting members of the Commission and approval by the City Council.

(b) Members of the Design and Historic Review Commission shall be provided notice of any proposed amendment to the bylaws at least two (2) weeks prior to any Commission meeting at which consideration of the amendment to the bylaws is on the meeting agenda.

## **ARTICLE EIGHT PARAGRAPH HEADINGS AND TABLE OF CONTENTS**

The table of contents and the paragraph headings contained herein are for convenience in

reference to these bylaws and are not intended to define or to limit the scope of any provision herein.

APPROVED AND RECOMMENDED to the City Council of the City of

San Angelo this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
,Chairperson

Date: \_\_\_\_\_, 2012\_

RATIFIED AND ADOPTED by the City Council of the City of San Angelo

this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

ATTEST:

\_\_\_\_\_  
Alvin New, Mayor

\_\_\_\_\_  
Alicia Ramirez, City Clerk

APPROVED AS TO CONTENT

APPROVED AS TO FORM

\_\_\_\_\_  
A. J. Fawver, Planning Manager

\_\_\_\_\_  
Dan T. Saluri, Sr. Assistant City Attorney



## Fairmount Cemetery Board

The Fairmount Cemetery Board serves as an advisory board to the City Council in the operation and maintenance of the cemetery.

The board generally meets at 9:30 a.m. on the third Wednesday of each month at the Cemetery offices.

Staff Liaison: Jeremy Walker, 325-655-9475

The Board roster is Self-Perpetuating.

Board Roster:

Name	Status	Term	Role	Position/Seat
Angela Williams	Current	1	Citizen Representative	1 - President
Ann West	Current	1	Citizen Representative	2 - Vice President
Eva Moutos-Choate	Current	1	Citizen Representative	3 - Secretary
Donna Crisp	Current	1	Citizen Representative	4
Eva Horton	Current	1	Citizen Representative	5
Jean Johnson	Current	1	Citizen Representative	6
Jackie Martin	Current	1	Citizen Representative	7

Name	Status	Term	Role	Position/Seat
<b>Susan Mertz</b>	Current	1	Citizen Representative	8
<b>Cora McGowen</b>	Current	1	Citizen Representative	9
<b>Kay Rork</b>	Current	1	Citizen Representative	10
<b>Mary Jane Steadman</b>	Current	1	Citizen Representative	11
<b>Beverly Stribling</b>	Current	1	Citizen Representative	12
<b>Kam Stribling</b>	Current	1	Citizen Representative	13
<b>Martha Visney</b>	Current	1	Citizen Representative	14

BY-LAWS  
OF THE  
CITY OF SAN ANGELO  
Fairmount Cemetery Board



ADOPTED: June 18, 2008

## **ARTICLE I**

### **PURPOSE, DUTIES AND POWERS**

**Section 1. Purpose.** The Fairmount Cemetery Board was organized in 1898 and created to oversee Fairmount Cemetery for the City of San Angelo.

**Section 2. Duties.** The Fairmount Cemetery Board governs the daily operations and long term planning and can act as an advisory board to the City Council and City Manager.

**Section 3. Powers.** The Fairmount Cemetery Board shall have the power to make rules, regulations and by-laws for its own government in conformity with the laws of the State of Texas. All said rules, regulations and by-laws shall be reviewed by the city legal department.

## **ARTICLE II**

### **MEMBERS OF THE FAIRMOUNT CEMETERY BOARD**

**Section 1. Members.** The Fairmount Cemetery Board shall consist of fourteen (14) members.

**Section 2. Appointment.** The Fairmount Cemetery Board members shall be self-perpetuating.

**Section 3. Qualifications.** Members shall be 21 years of age or older and shall be residents of the City of San Angelo.

**Section 4. Terms of Office.** The term of office shall be as long as the member wishes to serve and is a contributing member of the board. Members of the Fairmount Cemetery Board shall serve without compensation, but may be reimbursed for expenses for education or professional conferences as approved by the City Council.

**Section 5. Vacancies.** Any vacancy occurring on the Fairmount Cemetery Board shall be filled by the Fairmount Cemetery Board.

## ARTICLE III

### MEETINGS

**Section 1. Regular Meeting.** The Fairmount Cemetery Board shall hold one regular meeting each calendar month, excluding August. The regular meeting of the Fairmount Cemetery Board shall be held on the third Wednesday of each calendar month and held at the time and the location selected by the Chair. An agenda of the Fairmount Cemetery Board shall be posted in a public area and filed with the City of San Angelo City Clerk's Office at least 72 hours in advance of the regular meeting.

**Section 2. Special Meetings.** A special meeting of the Fairmount Cemetery Board may be held upon the call of the Chair, or by the Chair at the request of three members of the Fairmount Cemetery Board. An agenda of the special meeting shall be posted in a public area and filed with the City of San Angelo City Clerk's Office at least 72 hours in advance of the special meeting.

**Section 3. Attendance.** Any member missing 25% or 1/4th of the regular meetings per calendar year that is unexcused, will be considered to be a terminated member. An absence will be defined as excused in instances of family emergency, work-related commitments, medical necessity or vacation outside the City of San Angelo involving the board member. An absence will be defined as "unexcused" when no prior notification, is provided to the chair or cemetery office staff. An absence is unexcused when it is not related to the instances defined under an excused absence.

**Section 4. Quorum and Vote.** A quorum shall consist of a simple majority of the members. Provided said quorum is present, a simple majority voting in a like manner for or against an issue shall constitute the passing or rejection of the issue.

**Section 5. Support Staff.** The Parks Department Director shall be designated as the Fairmount Cemetery Board's staff liaison and shall cause copies of the Fairmount Cemetery Board's agenda, minutes and notices to be filed with the City of San Angelo City Clerk. Said liaison may designate other City staff to facilitate matters of the Fairmount Cemetery Board as he/she deems necessary.

## **ARTICLE IV**

### **OFFICERS**

**Section 1. Designation and Election of Officers.** At a regular meeting each year, the members shall elect a Chair, Vice-Chair and Secretary. The method for nomination and election shall be determined by a vote of the majority of those members in attendance at such meeting. The Chair shall appoint committees for any purpose deemed necessary by the board in order to execute more effectively its duties and responsibilities.

**Section 2. Terms.** The officers shall serve a term of three years and thereafter until their successors are elected. Any member chosen as an officer shall be eligible for reelection not to exceed two consecutive terms; but having served two consecutive terms in an office, such person shall not be eligible for reelection to the same office until the expiration of one year after the completion of such second consecutive term.

#### **Section 3. Duties and Authority of Officers.**

a. Chair: Shall preside at all meetings of the Fairmount Cemetery Board. He/She shall appoint members of all committees and shall appoint such committees as he/she deems necessary and appropriate to carry on the business of the Fairmount Cemetery Board and shall designate the Chair of such committees.

b. Vice-Chair: Shall, in the absence of or disability of the Chair, perform the duties and exercise the powers of the Chair and shall perform such other duties as the Fairmount Cemetery Board may prescribe.

c. Secretary: Shall keep the minutes of all meetings of the Fairmount Cemetery Board, and during her term shall be custodian of all books and records of the Fairmount Cemetery Board. \*

- All past records shall be storied at the West Texas Collection, Angelo State University.

**ARTICLE V**  
**AMENDMENTS**

Changes in the By-Laws of the Fairmount Cemetery Board shall require a two-thirds (2/3) vote of all members of the Fairmount Cemetery Board. The proposed changes must be noticed at least 72 hours prior to the meeting at which such changes will be considered.

ADOPTED AND APPROVED by the Fairmount Cemetery Board on this 18 day of June, 2008.

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Chair,  
Fairmount Cemetery Board

ATTEST:

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Secretary

## FAIRMOUNT CEMETERY

Fairmount Cemetery received its name in 1898 some years after it was laid out as "the new City Cemetery" in 1893. The ladies appointed as the executive committee chose the name Fairmount, first suggested by one of their members, Mrs. J.W. Hill.

Fairmount Cemetery is located in the southwest part of San Angelo in Precinct 3 of Tom Green County, a few blocks west of the junction of U.S. Highway 87 South (Bryant Throughway) and FM 584 (Knickerbocker Road). With its front entrance on Avenue N, Fairmount comprises in 1992 about 52 acres, bounded on the north by Avenue N, by Calvary Cemetery on the West, by Creswell Street and Angelo State University acreage on the south, and by business property on the east.

The old City Cemetery fronting on East 4th Street, bounded by Magdalen and North Oakes, was the property of Jonathan Miles (1824-1911), cattleman and landowner. He gave lots out of his Miles addition to survivors of the 1882 flood, and land to the Santa Fe railroad to encourage its extension from Ballinger in 1888. His first wife, Calistine Miles (1844-1877), mother of Jack Miles, had died near Water Valley in 1877 and was first buried there in a wagon bed lined with a buffalo hide. In 1879 when the family moved to San Angelo Jonathan Miles transferred her remains to become the first burial on his city property. Mrs. Ida Holland was soon buried on his land, followed by D.J. White, shot in an affray, a Mr. Johnson killed by a bull buffalo and John Arden who shot himself on Concho Avenue. To ensure attention and care Jonathan Miles in 1883 deeded this early graveyard to a Ladies' Benevolent Association with a reversion clause attached. These ladies were Mrs. Clarissa Frary (1855-1931) Mrs. Mary T. Lewis (1861-1945) Mrs. Harry Emerick (1852-1941) daughters of R.F. Tankersley; Mrs. M.I. Harris (1830-1910) Mrs. Mary E. Childress (1857-1936) and Mrs. Eugene Cartledge (1863-1957) all of the L.B. Harris family; (1927-1906), Mrs. Magdalena Kaiser, Mrs. M.B. Pulliam (1858-1913) and Mrs. Sarah Reno.

On February 1, 1890, the San Angelo Standard said: "A new cemetery is very much needed." Closed in by a residential neighborhood, the old graveyard had no room to expand. San Angelo had undergone a building boom in the 1880's after the disastrous flood of 1882 when it replaced Ben Ficklin as postoffice and Tom Green County seat. The little city was growing, serving a prospering ranch country. The extension of the Santa Fe Railroad in 1888 was bringing even more people in, offsetting the loss of Fort Concho in 1889.

Research by Bill Green, historian with a doctorate from Texas Tech, has uncovered clues to the location of a still earlier burying ground. Fort Concho had its own cemetery on the property of J.L. Millspaugh (1841-1908), described to be on the open prairie about 1/3 mile south of west of the parade ground. Here the infant child of Dr. William Notson, post surgeon, was probably buried in 1869. From this cemetery the remains of 11-year-old Edith Grierson, who died 1878 of typhoid, were moved to Fairmount in 1905. Other burials of

"soldiers and their dependents" were transferred to San Antonio and elsewhere about 1883. Even so about fifty burials were left, including eight Indians who were among captives brought in from the Panhandle 1872 by Col. Mackenzie. According to Bill Green's research this burial site may be the block now (1992) occupied by San Angelo Glass & Mirror Company at Washington Drive and Irving. A second Fort Concho cemetery was opened in 1883, perhaps south of Duggan Street.

When the city incorporated in 1892, Mayor John Phelan appointed Aldermen George Bond (1844-1925) and A.B. Sherwood to look into possible sites for a new cemetery. In December 1892, the city bought 22 45/100 acres of land southwest of town from R.O. Smith for \$336.75. A Mr. Briggers fenced the property at a cost of \$675.00. This was level ground, well away from houses, schools or businesses and not likely to contaminate drinking water. (Smallpox, "consumption" and typhoid were still frequent causes of death).

By a sad irony, the wife of Alderman Bond, Elise Bond, was the first person buried in the new ground. She died March 1, 1893. Her tall marble monument incised with Gothic arches and topped with a cross, reads on its north face "Mrs. Elise Bond Born Nov. 27, 1856 at Siegerswyl Switzerland Died March 1, 1893 A precious one from us has gone A voice we loved is stilled A place is vacant in our home Which never can be filled." On the east face of this same stone is an inscription reading "Gottlieb Kaser Born Apr 4 1829 Died Sept 25 1912 Gone but not forgotten." There are stones with earlier dates elsewhere in the cemetery, but they have been transferred from other burying grounds. Near by is the grave of George Bond and his second wife Marie (1873-1948). The Bond family enclosed their lot with an iron fence. In 1948 they agreed to remove it to accommodate mowers.

On March 6, 1893, the city voted to allow the Roman Catholic parish to buy a portion of the west end of the property. This became known as Calvary Cemetery. In 1896 the first map of Fairmount was made. It is recorded in Book 11, page 292, Deed Records of Tom Green County. A distinction was made in those years between "Fairmount" or endowed lots and public ground not entitled to perpetual care, Mrs. W.C. Nolte and Mrs. Clarissa Frary (1855-1931) collected payments from owners of endowed lots. In the 1960's this system was abandoned; the price of all lots now includes perpetual care.

In 1897 the city voted to abolish its incorporation. Under county government which then took over, the cemetery had no legal standing. A committee consisting of C.H. Rust, D.D. Wallace (1852-1902), C.A. Broome (1868-1934), Judge J.W. Timmins (1853-1916), and Charles W. Hobbs (1864-1941) then formed the San Angelo Cemetery Association, a non-profit corporation chartered April 19, 1897 for fifty years. Judge Timmins was president, Mr. Hobbs vice-president, and Mr. Broome secretary-treasurer. Eighty white persons were asked to join and pay the \$4.00 annual dues for immediate expenses. Directors were to be elected annually. Quarterly meetings were to be held. Digging of graves was to cost \$5.00 for adults, \$4.00 for children.

When the city incorporated again in 1903 the San Angelo Cemetery Association continued to operate Fairmount. The city passed an ordinance forbidding burials within the city except in Fairmount.

Mary Patterson Hunter (Mrs. W.B. Hunter) (1877-1955) in her paper on the history of Fairmount presented in 1945 before the Tom Green County Historical Society, relates the important step taken by the men's committee: "They then called a meeting of the women to form an auxiliary organization, called the executive board, to take care of the actual operation of the cemetery. The first president of this branch was Mrs. Charles W. Hobbs (1866-1959). She served one year and was succeeded by Mrs. C.A. Broome. (1869-1948)."

Mrs. Broome served for more than 38 years as president, conducting monthly business meetings, frequently driving in her surrey to spend the day working at the cemetery. Other early members were Mrs. Frary, a member of the earlier Benevolent Assn., who developed Frary Addition in East Angelo, Mrs. Hobbs, Mrs. Hunter, Mrs. J.W. Hill (1859-1940), Mrs. W.S. Kelly (1859-1941), Mrs. J.G. Murphy (1870-1941), Mrs. F.C. Lungkwitz (1860-1930), Mrs. Mary Deaton (1871-1915), Mrs. Wilborn March (1873-1965), Mrs. W.C. Nolte (1874-1964), Mrs. W.S. Veck (1858-1936), Mrs. Boyd Cornick (1859-1929), Mrs. C.C. Hudson (1880-1918), Mrs. Chris Hagelstein (1872-1962), Mrs. J.W. Shepperson (1879-1970), Mrs. Fred Beck (1868-1961), Mrs. Fred Schmidt (1874-1963), Mrs. Ralph Harris (1874-1960), Mrs. W.A. Guthrie (1876-1962), Mrs. A.W. Armstrong (1846-1951). Meetings were held in members' homes. All of these hardworking women are now buried in Fairmount. The board has been and continues to be self-perpetuating, inviting as new members women known to be interested in plants and gardening or having business experience. The name was changed to Board of Directors in 1948.

Water for many years was supplied by men with burro teams hauling it in barrels. "You placed a barrel on your lot and for a small sum they filled it at more or less regular intervals", Mrs. Hunter recalled in her talk before the historical society. M.H. Lasker, owner of much property east of town, donated some pipe formerly used to pipe city water to the old fairgrounds. The cemetery paid the cost of removal. Connection was made with city water mains at Hill Street. The line ran west across what was then open prairie, coming into the cemetery at its main east-west street. John R. Nasworthy (1849-1924), who lived southwest of the cemetery, contracted in 1904 to pay one third of the cost of moving this pipe in return for the privilege of tapping it for use at his home. During World War II the board had to agree to shut off water at certain hours to allow tanks to fill at the Nasworthy place. Water was piped to various locations in the cemetery; sprinklers were attached. Lot owners were allowed to connect hoses and do their own watering of new plantings. In 1988 this privilege was phased out when an automatic sprinkler system was installed.

In 1911 a rest house or gazebo was erected at a cost of \$925. The architect was E.M. Ross.

The board decided that the cemetery needed a distinctive name. Fairmount, the choice of Leila Hill, was selected. This name was worked in wrought iron over a gate designed and erected in 1927 by B.F. Morgan, architect of the firm of Morgan and Korn. Mr. Morgan was tragically burned to death in a bus fire between San Angelo and San Antonio. He is buried in Fairmount. The gate was moved in 1984 to the rear entrance.

Fairmount has been open to ethnic, religious and other groups. The IOOF (Independent Order of Odd Fellows) in 1905 bought a tract of land to the east from John R. Nasworthy, consisting of 24 43/100 acres. They sold off some of this, retaining three acres for an Odd Fellows' cemetery. In December 1938 the lodge asked Fairmount to take over this plot. The Sons of Hermann also have a plot.

In 1903 The Cemetery Association deeded sections A,B and C to Pleasant View Cemetery Association, a group of Black citizens. This transaction is recorded in Book 24, pages 368-369, Deed Records of Tom Green County. Black persons were restricted to this section until integration in 1954. Their funeral processions came in by a back gate. In 1954 San Angelo integrated its school system and all its public offices and property, following a historic decision of the Supreme Court argued by the young lawyer Thurgood Marshall, later named to the Supreme Court. L.M. Raibon ( d. 1992) longtime NAACP leader here, met in planning session with the City Commission to smooth San Angelo's orderly transition to integration. Deeds to Pleasant View lots have been issued by Mrs. Maggie Fullilove Starks 1900-1992), owner of Starks Funeral Home, and are still owned by her estate (1992). She also owned Delta Cemetery on Arden Road. However beginning in the 1960's many Black persons have preferred to be buried in other parts of Fairmount or in Lawnhaven on Farm Road 1223.

Three sections were purchased by the Greek Orthodox Church. Dates on gravestones in this plot begin in 1932. Names on some stones are inscribed in the Greek alphabet. Lots in this plot are deeded to church members by the congregation.

In 1920 Fairmount donated a tier of lots on the southeast corner to inter some of the bodies being removed from the old City Cemetery on Oakes, then being cleared to make way for a high school playing field and public park, a field known thereafter as the Cemetery Gridiron. R.H. Henderson was city manager and Felix E. Smith (1876-1950) was superintendent of schools. Charles A. Robison, undertaker, carried out the exhumations and reburials. It was estimated that 203 burials were found in the old cemetery, of which about 30 were identified. Some of the remains were transferred to private lots in Fairmount. Among these graves is that of John Ingram (1808-1896), a veteran of the battle of San Jacinto. In 1936 the State of Texas erected a monument at his grave and at the grave of Daniel Millar, (d.1894) another San Jacinto veteran. Mrs. Calastine Miles received a third interment in the Miles lot in Fairmount. Among gravestones moved was that of John Arden pre-

viously mentioned (d.1881) husband of Katie Arden, one of the first two sheepmen in the county. Louella Zumwalt, age 9 months, was mourned in 1890 by her mother, a dressmaker, who gave a baptismal font to the Episcopal Church in her memory. Unidentified remains were buried in boxes in a long grave about 3 feet wide. Fairmount had a concrete curb installed around it.

In 1921 the Miles heirs reclaimed the old Magdalen Street cemetery property. On November 24 1922 they sold it to the city for \$5000. The City Commission on June 1, 1927, sold the property to the Board of Education for \$18,497.94. The name Cemetery Gridiron attached to it when Bobcat football games were played on it. Bones and gravestones continued to be exhumed even a quarter of a century later. A skull and the gravestone of Asa Frary (1847-1882), dealer in buffalo hides, who died the night of the Ben Ficklin flood, were discovered in 1955. They were placed near the grave of Mrs. Frary in Mrs. Tankersley's lot in Fairmount.

Fairmount has donated plots for Confederate veterans and to the American Legion. F.J. Burns (1832-1925) a Union veteran of the Civil War lies in Section 51. In 1914 the board voted to dig graves of poor soldiers without charge.

The military plot in section 83 contains 132 graves (1992) with headstones all alike. Dates range from 1943 to 1974.

Fairmount has provided several plots for infant burials. In one of these lies the child, name unknown, of a couple who came to town with a traveling carnival some time in the 1920's. The baby died; the mother had to go on with the troupe to the next town. Mrs. Thad Thomson promised the mother that the child would be given a proper burial in Fairmount.

Until 1930 all cemetery financial affairs were conducted from the office of Broome & Farr (C.A. Broome and L.L. Farr (1860-1930); later Broome & Hunter: C.A. Broome and W.B. Hunter (1868-1958). Mr. Broome, the treasurer, took money turned over to him by the board after expenses were paid, kept it loaned out and added the accrued interest.

About 1927 the idea of a permanent endowment fund was conceived. In June, 1930, the San Angelo Cemetery Association deeded its real property to the city, and conveyed its securities and notes to the presidents of four banks then in San Angelo and their successors in trust. The bank presidents were to invest the money and pay the board a quarterly dividend. The city was to own the land, to be placed under the supervision of the Parks Commission, which had authority to delegate its duties to a duly constituted and appointed committee. The Park Commission delegated care of Fairmount to the existing board, Mrs. C.A. Broome, president, and to their successors. The self-perpetuating board has functioned without pay ever since.

Mrs. W.T. Matlock succeeded Mrs. Broome, serving for thirty years until 1976 when Mrs. Sid Slaughter became president. Jane Greene

March was president from 1983. Gladys Mayer (1900-1990) and Helen Jane Grafke West have been secretaries of long tenure. Charlotte Meadows Fisher is current president (1992). Other members are Jean Findlater Millspaugh, Carolyn Cargile, Patsy Baker Eckert, Mitzi Broome McKinney, Elise Jester Meadows, Marilyn Johnston Mertz, Missy Gordon Rainey, Katharine Tweedy Waring, Helen Hartgrove Noelke, Meg Morgan Pfluger, Mary Ann Glass Taylor, Clara Ransom Dobson. C.W. Meadows, Sr., was the only man to serve on the board, although the late A.N. Carlin (1872-1959) and James M. Rogers of the Parks department gave valued advice.

In the fall of 1923 four lots were purchased across Avenue N and a house was moved in for a superintendent. By 1942 the board had put up an office building at the corner of these lots. Superintendents have been Pat Conway (1852-1946), Joe C. Hoover (1873-1956), who drove two white mules whose stuffed heads are in Fort Concho Museum, Fred Williams (1883-1950), Joe Bates, J.H. Haley, Roy E. Keller with the longest tenure from June 1947 to September 1, 1976; M.C. Nord, and Gary L. Taylor from December 1, 1977, to 1989. Charles Robinson took charge in 1989.

The Fairmount Trust Fund has received a few bequests from Mrs. Margaret Shannon (1854-1931), Margaret Robertson, Mrs. Laura McCloskey (d. 1917), D.D. Wallace and other benefactors. Income is derived from the sale of lots, from payments for perpetual care and for opening and closing graves and from interest on the investments supervised by the bank presidents.

The board has bought property to the south and west, bringing acreage to about 52 acres. An agreement signed in 1946 by the city and the bank presidents then in charge of the trust limited use of trust income to the care of the tract of land then owned by Fairmount, shutting off the possibility of acquisition of more land.

Trees, monuments, and standing stones make Fairmount a garden among West Texas cemeteries. Monuments range from the tall columns with finials, the lambs and angels popular in the nineteenth century, through flat marble slabs, granite stumps signifying a life cut short, plain slabs, classical arches, mourning figures, open Bibles, clasped hands, stately urns, markers handmade of colored stones and river stones, crosses of all sizes, to markers with a high polish and a high-tech look for a new century. Marble, gray granite and the rose-colored granite from Llano are all to be seen. On the back of one of the new markers is incised the route of the Texas and Pacific railroad. The statue of Tom McCloskey (1856-1914), public spirited owner of the Arc Light Saloon was put up by his widow. Carrying the emblem of the Knights of Pythias, it was made by Frank Teich, a noted sculptor of San Antonio and Fredericksburg, who carved the Texas Confederate heroes statue on the grounds of the Texas State capitol in Austin. In 1973 a nine-foot bronze statue of St. Francis was erected in a memorial garden. The work was carved out of stone in Carrara, Italy, from sketches and specifications by the sculptor Bernard Zuckerman. A mold was made and cast in bronze. The figure is hollow, about 1/4 inch thick. It came by sea to Houston

and to San Angelo by truck. Birk Monument Company made the two-foot base and set the statue in place. The cost, about \$6000, was paid from a special memorial fund and contributions from active board members. Mrs. Joe Mertz was chairman of the project. In 1988 bronze quails on a log were added to the memorial, designed by the sculptor Rene Castleberry and cast at the Chicken Farm Art Center. The memorial tablet reads: "In Memoriam Mesdames C.A. Broome R.H. Harris W.B. Hunter W.A. Guthrie J.W. Hill W.C. Nolte Who in their humble way gave much in time and labor to ease the burden of their fellow men".

About 33,000 persons are buried in Fairmount. A cross-section of San Angelo history can be seen in the following list: DR. SAMUEL LEIGH SOUTHARD SMITH (1844-1925) Fort Concho surgeon who went into private practice; SAM KELLY (1899-1986), one of many boys he delivered named for him; W.S. KELLY (1847-1932) county organizer; EDITH GRIERSON (1865-1878) 13-year-old daughter of Gen. Benjamin Grierson, who died of typhoid, first buried in Post civilian cemetery, remains transferred to SMITH lot 1905); W.W. SMITH (1826-1901) rescued from the Ben Ficklin flood with his family, having lost everything, even money buried in the earth; FANNIE LEE METCALFE SPENCE also a survivor; C.D. FOOTE (d. 1897), brought first windmills, led many to safety at Ben Ficklin; ANDREW JACKSON BAKER (1842-1912) banker, state representative and in 1894 Land Commissioner of Texas; CHARLES B. METCALFE (1860-1951) and PENROSE B. METCALFE (1889-1976) father and son, both state representatives from this district; JUDGES JOSEPH SPENCE, I.J. CURTSINGER, OSCAR FRINK and many other elected and appointed officials; ELIJAH COX (1842-1941) Black fiddler with the buffalo soldiers; REV. JAMES W. WALKER (1838-1904), buffalo soldier and founder of Greater St. Paul A.M.E. Church; OSCAR RUFFINI (1858-1957) architect of the early town; SANCHO MAZIQUE (1849-1951). last surviving buffalo soldier here, a carpenter and camp cook; J. WILLIS JOHNSON, sheriff, tax collector and landowner; HOUSTON HARTE (1893-1972) bought the Standard from J.G. MURPHY, raised it to a pitch of excellence, built Harte-Hanks chain of newspapers, used political power to build San Angelo with dams, reservoirs, Goodfellow and college; his managing editor DEAN CHENOWETH (1896-1992), his sports columnist BLONDY CROSS (1884-1969); his oil page editor JOHN BENTON BREWER; SAM ASHBURN, who started livestock column From the Top of the Windmill; M.D. BRYANT, oil man and mayor, worked to get dams and reservoirs; ROBERT G. CARR worked to get Goodfellow and endowed ASU; JOHN FINDLATER (1858-1935) ranchman and hardware merchant

NARCISSE STOKES (1903-1985) queen of caterers for two generations, leader of local NAACP; L.B. HARRIS (1827-1906), pioneer cattleman, brought first barbed wire; M.B. PULLIAM pioneer cattlemen and businessman, J.L. MILLSPAUGH (1841-1908), Post sutler, postmaster, County organizer, owner of ice factory and electric light plant. J.M. (1849-1928) and MARGARET SHANNON community benefactors, endowed Shannon Medical Center; DR. A.Q. SHIRLEY (1889-1961) gifted Black physician; W.S. VECK (1862-1900) merchant and first banker, called "Father of San Angelo"; Mrs. ANNIE E. TANKERSLEY (1828-1902), pioneer mother, hotel owner, surrounded by her children; JACK

MATHIS (1918-1943) Congressional Medal of Honor holder , killed in B-17 bombing raid over Vegesack, Germany, remains brought home from England; EMILY WEEKS DALTON (1880-1956) musician and piano teacher, whose legacy is the number of her pupils who support San Angelo's excellent Symphony Orchestra Mrs. L.C.(MA) GOODWIN (1874-1950), whose small beer joint at Lone Wolf moved after World War II to become a thriving dine and dance spot for families where she presided with sharp eye, hat and cane. MRS.ROSA E.LANDON (1869-1902) died in Landon Hotel fire ROBERT MASSIE (1867-1931) ranchman and benefactor of young people  
 DR.J.B.McKNIGHT (1869=1961) established State Tuberculosis Sanitarium at Carlsbad; JOHN Y. RUST (1867-1952) founded San Angelo Telephone Company and organized Boy Scouts here.

In 1965 the board minutes refer to a "Mexican section"; however burials of Hispanics have occurred in all parts of the cemetery increasing in numbers since the 1970's. In earlier years most Hispanics were Roman Catholic, and chose to be buried in Calvary.

Members of the Fairmount board hope that a Texas historical marker will be approved in time for the cemetery's 100th anniversary in 1993.

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9. Conveyance, San Angelo Cemetery Association to George E. Webb, M.L. Mertz, W.C. Blanks, Roy Hudspeth June 2, 1930. Original, City Secretary's office. Copy, Fairmount Office
10. Agreement between trustees of Fairmount Cemetery and City of San Angelo March 11, 1946. Originals in City Secretary's office and Safekeeping Room, First City Bank. Copy Fairmount office.
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3. Map, City of San Angelo
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7. Dean Chenoweth, op cit
8. Deed Records, Tom Green County courthouse
9. Chenoweth, op cit
10. Deed records, Book page
11. Minutes, Fairmount cemetery board
12. Minutes, Fairmount board
13. Minutes, Fairmount board
14. Charter, Fairmount office
15. City Commission minutes, City Secretary's office City Hall

16. Hunter, op cit
17. Hunter, op cit
18. Hunter, op cit
19. Minutes, Fairmount board
20. Minutes, Fairmount board
21. Interview, Jennie Sakellariou
22. Minutes, Fairmount board
23. Gatlin, Thomas Ross "Removing Bodies from Old Cemetery"
24. Chenoweth, op cit
25. Minutes, Fairmount board
26. Conveyance, June 2, 1930, City Secretary's office
27. Minutes, Fairmount board
28. Minutes, Fairmount board
29. Minutes, Fairmount board
30. Minutes, Fairmount board
31. Agreement, trustees and city, City Secretary's office
- 32.
33. Standard Times, Sept 12, 1973. Interview, Mitzi Broome McKinney y
- 34.

# Memorandum

T O : City Council  
City Manager

DATE : 9-24-91

F R O M : Finance Director  
Internal Auditor FAIRMOUNT

S U B J E C T : FAIRMONT CEMETERY INFORMATION

Information is requested periodically regarding the relationship between the Fairmont Cemetery and the City. The following synopsis is based on information provided in the past by the City Secretary, Park Superintendent, Fairmont Cemetery Director and the First City National Bank Trust Department.

In 1930, the San Angelo Cemetery Association, a private non-profit corporation, deeded its property to the City of San Angelo specifying that Cemetery operations be under the supervision of the Park Commission. At that time, the Fairmont Cemetery Trust was also established with the Presidents of First (City) National Bank, San Angelo National Bank (now Texas Commerce Bank-San Angelo) and Central National Bank serving as trustees. The trust income and other revenues generated by the Cemetery are to be received by the City and paid to the Park Commission for all expenses necessary to maintain the Cemetery. The Park Commission is given the authority to "delegate any part of its duties to and act by and through duly constituted and appointed committees." The City is to receive annual financial statements from the Park Commission and is responsible for an annual audit of the Park Commission books and supervision of all matters pertaining to the operation, maintenance, upkeep and control of the cemetery.

Today, the First City National Trust Department under the direction of the three bank president trustees handles administration of the Fairmont Cemetery Trust which has grown from \$37,5500 in 1930 to over \$994,692 in 1991. The Park Commission has delegated most direct oversight responsibility to the Fairmont Cemetery Board which makes management and policy decisions. Fairmont Cemetery financial activity is not recorded in the City's accounting records, but that activity is included in the City's Annual Audit. The Cemetery receives and disburses its funds independently and has its books kept by a local accounting firm that provides the City with monthly financial statements. Cemetery employees are paid through the Fairmont operating account but are considered City employees for purposes of tax reporting and some benefit eligibility.

CITY OF SAN ANGELO

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The Fairmont Cemetery Board has approved budgets for the 1990-91 and 1991-92 fiscal years. These budgets are presented on the attached along with historical data from recent years for the Council's information. The budgets project adequate funds through 1991-92 but a continuation of current trends forecasts a potential need for additional funding in 1992-93.

# *Memorandum*

**To:** Stephen Brown

**Date:** 3-13-92

**From:** Jerrel Harmon - Parks

**Subject:** Fairmount Cemetery Board

Established: 1930 when San Angelo Cemetery Assoc. deeded the Fairmount Cemetery property to the City of San Angelo. Cemetery board continued to operate under the jurisdiction of Park Commission.

Board Members: 14-16 New members chosen and approved by existing board.

Term: No limitation

Resident Requirements: None

By-laws: None

Officers: President and secretary

Board meetings: Once a month

THE STATE OF TEXAS                    )  
COUNTY OF TOM GREEN                )     KNOW ALL MEN BY THESE PRESENTS:

That the San Angelo Cemetery Association of San Angelo, Tom Green County, Texas, a non-profit sharing corporation, under the laws of the State of Texas, with its domicile and principal office at San Angelo, Tom Green County, Texas, for and in consideration of Ten Dollars, the trusts hereinafter declared, and in accordance with and as authorized by Resolution of its stockholders, copy of which is hereto attached as Exhibit A, has granted, sold and conveyed, and does by these presents, grant, sell, and convey unto the City of San Angelo, Tom Green County, Texas, a municipal corporation duly incorporated under the general laws of the State of Texas, the following described real estate and personal property, situated and located in Tom Green County, Texas, to-wit:

All of the unsold part of the land belonging to this grantor and obtained by deed from the County of Tom Green, Texas, dated May 13, 1897, recorded in Volume 12 on pages 183 and 184 of the deed records of Tom Green County:

From T. M. Vaugham by deed dated December 12, 1908, recorded in Volume 51, page 337 of deed records of said Tom Green County.

From John R. Nasworthy by deed dated September 17, 1908, recorded in Volume 51, page 136 of deed records of Tom Green County.

And from A. A. DeBerry by deed dated 23d day of August, 1928, recorded in Volume 146, pages 281 and 282 of deed records of Tom Green County, Texas.

This last deed conveying to this Association all of Lots 1-2-3-4-5-6-7 in Block 5½ of the Santa Rita Addition, San Angelo. As per plot on page 371, Volume 145, deed records Tom Green County, Texas, and used by it as a Sexton's Home.

Also all person<sup>x</sup>property of whatever description

-2-

used or belonging to this Association including all tools, vehicles, burial appliances and pararphanalia, books of record, map, plats, and only excepting the securities, bills, notes, choses in action, accounts, promissory notes, and other evidences of indebtedness, which have been heretofore assigned and conveyed to the Presidents of the four Banks in San Angelo, Texas, as Trustees, and to their successors in trust for certain purposes in said conveyance designated.

Also that certain four inch water main that furnishes water for the Cemetery, which is owned by it and runs from Hill Street west on Avenue N to and through the Cemetery, subject, however, to certain uses by the estates of John R. Nasworthy and wife, now deceased.

TO HAVE AND TO HOLD the above described premises, together with all and singular the appurtenances thereto in anywise belonging or appertaining, unto the said City of San Angelo, its successors and assigns, forever, but subject to the following conditions, stipulations, limitations and restrictions:

(a) Said real estate shall be forever held, retained, maintained, used and controlled as a Public Cemetery and Park under the name of Fairmount Cemetery.

(b) That the said Fairmount Cemetery shall be under the supervision of, handled, managed and controlled by the Park Commission of the City of San Angelo heretofore created and established under Section 22 of the City's Special Charter, as adopted August 3, 1915, and as now functioning and operating as such Park Commission.

(c) That the said Park Commission shall have the power to make rules and regulations governing and controlling the management, upkeep, maintenance and operation of the said Park and Cemetery, set and approve the price of lots, the terms of sale, the amount of burial and upkeep charges and assessments, receive

from the city all monies collected for the use and benefit of the said Park and Cemetery and disburse and pay out the same for all necessary purposes, labor and material, care, upkeep, improvements and beautification incident to and connected with the proper maintenance of the same, and at their discretion to set aside and pay over to the Trustees of the Fairmount Cemetery Fund, named and explained in the next paragraph of this conveyance, any sum of money in the hands from the sale of lots or from any other source in excess of the amount needed for the proper maintenance of said cemetery. Such amount to become part of and be administered by said Trustees in the same manner as the Fund of the original trust.

(d) That the grantee shall have full authority to receive all monies that may be paid over to it in the course of the administration of that certain Trust heretofore created and to be administered by the Presidents of the different Banks of the City of San Angelo and their successors as Trustees, under the name and title "Fairmount Cemetery Trust", as described in written conveyance recorded, or to be recorded, in the Deed Records of Tom Green County, said monies to be disbursed through its Park Commission, and in the way and manner herein provided. And also to receive and to pay over to the said Trustees of the Fairmount Cemetery Fund all Gifts and all charges for permanent care of lots in said Cemetery.

(e) That the Park Commission shall do and perform everything requisite for the proper handling and maintaining of Fairmount Cemetery, with authority to delegate any part of its duties to and act by and through duly constituted and appointed Committees, as well as to make use of any privileges and rights incident to its creation, that may be of service in connection with the care, amintenance, upkeep and beautification of the Cemetery just as if it constituted an integral unit in the City's Park System.

-4-

(f) That the Park Commission shall make and deliver to the governing body of the city annual statements showing the receipt and disbursements of all monies received by and paid out in connection with the handling, maintenance, upkeep, control and beautification of the said Cemetery.

(g) That the City of San Angelo, acting through its governing body and under proper rules and regulations and through its duly constituted authorities, will make, execute and deliver all deeds and conveyance of lots, premises and properties sold by the Park Commission and provide all help, books, and machinery requisite for the issuance of burial permits, collection of fees therefor, as well as the collection of all sums of money owing as consideration for deeds or conveyances, burial and upkeep charges and assessments, or for any other purpose.

(h) That the City of San Angelo, acting by and through its governing body, will audit the books of the Park Commission and all employees handling the charges and funds belonging to the Fairmount Cemetery Fund annually, and supervise all matters pertaining to the operation, maintenance, upkeep and control of the said cemetery.

Witness the signature of the corporation, under its seal, this 1 day of June, A. D. 1930, at San Angelo, Texas.

SAN ANGELO CEMETERY ASSOCIATION OF  
SAN ANGELO, TEXAS,

By

Manuel W. Ladd PRESIDENT

W. B. Kuntz VICE PRESIDENT

Mrs. Ralph Harris DIRECTOR

Mrs. J. W. Hill DIRECTOR

Attest under the seal  
of the Corporation

SECRETARY

Ed Brown

Ed Brown

Sanctor

EXHIBIT "A"

At a regular meeting of the persons owning Membership in the San Angelo Cemetery Association of San Angelo, Tom Green County, Texas, a non-profit sharing corporation, under the laws of the State of Texas, the following Resolution was passed by a unanimous vote.

"Resolved that Chas. W. Hobbs, President, W. B. Hunter, Vice-President, C. A. Broome, Secretary and Treasurer, Mrs. P. H. Harris, Director and Mrs. J. W. Hill, Director, *all* constituting the Board of Directors of the San Angelo Cemetery Association of San Angelo, Tom Green County, Texas, be and they are expressly directed and authorized to grant, sell and convey by written instrument with covenants of general warranty properly acknowledged for registration, under the laws of Texas, to the City of San Angelo, Tom Green County, Texas, a municipal corporation, duly incorporated, under the general laws of the State of Texas, the following described real and personal property situated and located in Tom Green County, Texas, to-wit:

All real estate, all tools, appliances, wagons, and burial paraphernalia, books of record, and all other personal property belonging to the Association except the securities, bills, notes, choses in action, accounts, promissory notes, and evidences of indebtedness, all of which have been heretofore transferred, assigned and conveyed to the Presidents of the four banks in San Angelo and their successors in trust for certain purposes in said conveyance designated, but with the proviso that such grant and conveyance shall be made subject to the following conditions, stipulations and restrictions:

(a) Said real estate shall be forever held, retained, maintained, used and controlled as a Public Cemetery under the name of Farimount Cemetery.

-2-

(b) That the said Fairmount Cemetery shall be under the supervision of, handled, managed and controlled by the Park Commission of the City of San Angelo heretofore created and established under Section 22 of the City's Special Charter, as adopted August 3, 1915, and as now functioning and operating as such Park Commission.

(c) That the said Park Commission shall have the power to make rules and regulations governing and controlling the management, upkeep, maintenance and operation of the said Park and Cemetery, set and approve the price of lots, the terms of sale, the amount of burial and upkeep charges and assessments, receive from the City all monies collected for the use and benefit of the said Park and Cemetery and disburse and pay out the same for all necessary purposes, labor and material, care, upkeep, improvements and beautification incident to and connected with the proper maintenance of the same.

(d) That the grantee shall have full authority to receive all monies that may be paid over to it in the course of the administration of that certain Trust heretofore created and to be administered by the Presidents of the different Banks of the City of San Angelo and their successors as Trustees, under the name and title "Fairmount Cemetery Trust", as described in written conveyance recorded, or to be recorded in the Deed Records of Tom Green County, said monies to be disbursed through its Park Commission, and in the way and manner herein provided.

(e) That the Park Commission shall do and perform everything requisite for the proper handling and maintaining of Fairmount Cemetery, with authority to delegate any part of its duties to and act by and through duly constituted and appointed Committees, as well as to make use of any privileges and rights incident to its creation, that may be of service in connection with the care, maintenance, upkeep and beautification of the Cemetery just as if it constituted an

integral unit in the City's Park System.


(f) That the Park Commission shall make and deliver to the governing body of the city annual statements showing the receipt and disbursements of all monies received by and paid out in connection with the handling, maintenance, upkeep, control and beautification of the said Cemetery.

(g) That the City of San Angelo, acting through its governing body and under proper rules and regulations and through its duly constituted authorities, will make, execute and deliver all deeds and conveyances of lots, premises and properties sold by the Park Commission and provide all help, books, and machinery requisite for the issuance of burial permits, collection of fees therefor, as well as the collection of all sums of money owing as consideration for deeds or conveyances, burial and upkeep charges and assessments, or for any other purpose.

(h) That the City of San Angelo, acting by and through its governing body, will audit the books of the Park Commission and all employees handling the property charges and funds belonging to the Fairmount Cemetery Fund annually, and supervise all matters pertaining to the operation, maintenance, upkeep and control of the said Cemetery.

I hereby certify that the above and foregoing constitutes a true and correct copy of Resolution passed by the regular annual Membership Meeting of the San Angelo Cemetery Association of San Angelo, Tom Green County, Texas, held at the office of the Association, in San Angelo, Texas, on the 1 day of ~~July~~, A. D. 1930, as the same appears from the Minutes of the said meeting now in my custody and control.


IN TESTIMONY WHEREOF I have hereto subscribed my hand and signature, under the seal of the corporation, at San Angelo, Texas, on this 1 day of ~~July~~, A. D. 1930.

  
Secretary San Angelo Cemetery  
Association of San Angelo, Texas.

THE STATE OF TEXAS       )  
COUNTY OF TOM GREEN     (

Before me, the undersigned authority, on this day personally appeared Chas. W. Hobbs, President of the San Angelo Cemetery Association, W. B. Hunter, Vice-President of the San Angelo Cemetery Association, Mrs. R. H. Harris and Mrs. <sup>Harold W. Broome</sup> J. W. Hill, Directors of the San Angelo Cemetery Association, all known to me to be the persons whose names are subscribed to the foregoing instrument, and they acknowledged to me that they executed the same as the act and deed of the said Association, a Texas Corporation, for the purposes and consideration therein expressed, and in the capacities therein stated.

Given under my hand and seal of office this  
1 day of July, A. D. 1930.

  
Notary Public, Tom Green County,

T e x a s.

County of Tom Green )  
I, Jas. B. Keating, Clerk of the County Court of said County, do  
hereby certify that the above instrument of writing was filed for record in this office this 2nd day of  
August A. D. 1930, at 10.55 o'clock A. M., and duly recorded the 4th day of  
August A. D. 1930, at 8.30 o'clock A. M., in the deed  
records of said County, in Vol. 163 on pages 138-142.

Witness my hand and seal of the County Court of said County in San Angelo, the day and

year last above written.

By

JAS. B. KEATING.

Clerk County Court, Tom Green County

Deputy

SECRET

[illegible]

Исключая одобренный Гос. К. Нормы, Бюджет и др. из числа

ed to the only, reform, and, national movement

San Pedro Cemetery, Mrs. J. H. Davis and Mrs. J. H. Davis.

[illegible]

It is known to me to be the Bureau whose name was appearing

1st floor of building contains vault base, two stairwells and two storage rooms.

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## Fort Concho Museum Board

The Fort Concho Museum Board is an advisory board to the City Council in the operation and administration of all Fort Concho properties of the City. The authority and responsibility of the board expressly includes:

- Establishing goals, objectives and operational policies for the fort which are consistent with City Council policies and objectives.
- Approving all budget proposals made to the City Manager's Office and the City Council.
- Establishing guidelines for acquisition, restoration, preservation and maintenance of Fort Concho and museum property so long as those procedures do not conflict with existing objectives and policies of the City Council.
- Determining regulations, guidelines, and procedures for staffing, operation and programs for Fort Concho.

The board meets at 3:30 p.m. on the third Tuesday each month, usually at Officers' Quarters 8 at Fort Concho at 215 E. Avenue D

Staff Liaison: Robert Bluthardt, 325-481-2646

Board Roster:

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Brandon Allen	Current	1	01/31/2016	01/31/2019	SMD1	1
Jason Pierce	Current	1	01/31/2015	01/31/2021	SMD1	2
Sarah Howell	Current	2	01/31/2015	01/31/2021	SMD2	3

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Kelsey Herrera	Current	1	01/31/2017	01/31/2020	SMD2	4
Lori Barton	Current	2	01/31/2017	01/31/2020	SMD3	5
Darrin Fentress	Current	1	01/31/2016	01/31/2019	SMD3	6
Sherley Spears	Current	1	01/31/2017	01/31/2020	SMD4	7
Wayland Cooksey	Current	1	01/31/2016	01/31/2019	SMD4	8
Joyce Lowe	Current	1	01/31/2017	01/31/2020	SMD5	9
Iskandar Atajanow	Current	UNEX	01/31/2016	01/31/2019	SMD5	10
James Dusek	Current	2	01/31/2016	01/31/2019	SMD6	11
Kathy Keane	Current	1	01/31/2017	01/31/2020	SMD6	12
Roger Banks	Current	2	01/31/2015	01/31/2021	Mayor	13
Monty Stanley	Current	2	01/31/2016	01/31/2019	Mayor	14
Lt Col Yukio Kuniyuki III	Current	N/A	Not Applicable	Not Applicable	Army Commander GAFB	15

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 15. Museum Board****Division 15. Museum Board****Sec. 2.07.441 Creation**

There is hereby created a Fort Concho Museum board of the city, which board shall be composed of fifteen (15) members. Fourteen (14) members shall be appointed by the city council. The remaining position shall be filled by the Army Commander at Goodfellow Air Force Base or designee. (Ordinance Amended 05/16/2017)

**Division 15. Museum Board****Sec. 2.07.442 Terms**

The term of office for each member shall be three (3) years or until a successor has been appointed and qualified, whether by expiration of term or for other reasons. No person may be appointed more than two (2) full consecutive terms. Vacancies on the board, whether by expiration of term or for other reason, shall be filled by the city council upon recommendation by the remaining board members, provided that the city council can reject any nomination and request additional nominations for any reason. Board members shall receive no compensation for their service. (1959 Code, sec. 2-10-2; 1996 Code, sec. 2.2302)

**Division 15. Museum Board****Sec. 2.07.443 Duties**

The board shall act as an advisory board to the city in the operation and administration of all the Fort Concho Museum properties of the city. The authority and responsibility of the board expressly includes:

- (1) Establishing goals, objectives and operational policies for the fort which are consistent with city council policies and objectives.
- (2) Approving all budget proposals made to the city manager's office and the city council.
- (3) Establishing guidelines for acquisition, restoration, preservation and maintenance of Fort Concho and museum property so long as those procedures do not conflict with existing objectives and policies of the city council.
- (4) Determining regulations, guidelines, and procedures for staffing, operation and programs for Fort Concho.

(1959 Code, sec. 2-10-3; 1996 Code, sec. 2.2303)

**Division 15. Museum Board****Sec. 2.07.444 Officers**

The board shall elect a chairman and such other officers as it may determine to be necessary and is empowered to make its own rules and regulations for its government. (1959 Code, sec. 2-10-4; 1996 Code, sec. 2.2304)

Division 15. Museum Board
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**Sec. 2.07.445 Qualifications**

All members of the board shall meet the following qualifications.

- a. Shall be residents of the City.
- b. Shall be twenty-one years of age or older at the time of appointment; and
- c. Shall have demonstrated experience or interest in heritage education, historic preservation, and community service and/or tourism promotion.

(Ordinance Amended 05/16/2017)

Division 15. Museum Board
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**Secs. 2.07.446–2.07.470 Reserved**

By Laws for the Fort Concho Museum Board

1975, Amended in 1975, 1983, and 2011

Preamble:

For the purpose of establishing a certain order to the activities and responsibilities of the Fort Concho Museum Board of the City of San Angelo, Texas, as pertains to their duties and functions laid down by the city ordinances which created this governing body of the Fort Concho Museum, and in order to fully comply with the trust imposed upon this body, the following By-Laws are adopted:

I The officers of the Board, to be elected at the January meeting each year, and to serve for a term of one year, starting February 1, shall be the following:

President

Vice-President

Secretary

Treasurer

II Regular meetings shall be held at least nine (9) times a year, called for the third Tuesday of the month, with said meeting to be held on the Fort Concho property. The Board may consider additional, off-site locations with proper notice posted in accordance with the Texas Open Meetings Law. Special meetings may be called at any time by the Board President, or shall be called by the Board President at the written request of any of

five (5) members of the Board. The time and place for special meetings shall be set by the Board President.

All meetings shall be conducted in accordance with the Texas Open Meeting Law and any applicable rule of the City of San Angelo.

III The Board President shall name such Committees that in his/her judgment, and with the approval by the Board members, are necessary and proper to implement the duties and responsibilities of this Board. Such Committees shall be composed of members of the Fort Concho Museum Board in a number determined by the Board President. Said Committees shall be authorized to invite individual members whose interests, experiences, and talents would benefit the work of said Committee and the Fort Concho Museum. Such members shall serve in an advisory capacity; their opinions carefully weighed and considered, but their status remains as non-voting in any matter before the Committee or the Museum Board.

IV Eight members of the whole board of fifteen shall constitute a quorum for the transaction of business. In the event the board has fewer than fifteen members, the quorum shall consist of 50% of the Board plus one. The majority vote shall prevail upon any matter which comes before the Board for decision.

V Board members with four or more unexcused absences from regularly scheduled meetings of the Board in a calendar year shall be deemed to have resigned and shall be

replaced.

VI These By-Laws may be amended at any regularly scheduled meeting following a regular meeting at which the Amendment is proposed. Any member may propose such an amendment in writing at a regular meeting.

VII The Officers of the Board shall exercise and perform the usual duties exercised by similar officers in similar organizations, as laid down by Roberts Rules of Order, which are adopted as the regular rule for the conducting of meetings, provided such Rules are accepted as advisory and shall not be binding should the Board by its determination vary or change such Rules of conducting its meetings.

VIII The Board shall establish a non-profit corporation for the purpose of receiving Gifts, donations, and funds, and dispensing such monies for the furtherance of the Fort Concho Museum and its goals and objectives.

Originally adopted December 18, 1975  
by the Fort Concho Museum Board

Amended March 1983, increasing Board from 11 to 15 members, quorum as 8 members

Amended December 2006, new Item V regarding attendance policy, adopted at  
December 19, 2006 meeting

Reviewed/amended at October 18, 2011 board meeting

## Fort Concho Museum Board

### Guidelines for Board Recruitment and Appointments

March – 2011

The Fort Concho Museum Board has fifteen members that are appointed by the San Angelo City Council.

Fort Concho Museum, aka Fort Concho National Historic Landmark, is owned and operated by the City of San Angelo; thus, its board is subject to the guidelines and procedures set by the San Angelo City Council.

The city ordinance regarding such appointments as of March-2011 notes that prospective appointees must be residents of the City of San Angelo and at least 21 years of age.

The Fort Board has traditionally taken an active role in the recruitment, recommendation to Council, and briefing/training of its board members. While the final decision on any appointment is left to Council, the Fort Board has always taken a very close interest in finding and promoting the best citizens available.

To that end, the Fort Concho Board has established these guidelines and criteria for the appointments to the board.

1. Overall, a candidate should demonstrate an interest in the missions of Fort Concho as articulated in its Master Plan. Such missions include the full restoration of the fort, preservation of site features, and ongoing public service and education to the community, state, and nation.
2. A candidate should possess the time and flexibility of his/her schedule to attend the board meetings, set for the third Tuesday of the month at 3:30 pm. Also, future board members should have the time to spend on the various projects that take place throughout the year.
3. There are no mandatory financial commitments to be a fort board member, but the Board expects all members to be supporters of the Fort Concho Membership Association at the highest level they find appropriate. Also, the Board takes an active role in the site's Annual Membership Drive and new board members are expected to participate in recommending prospects and contracting people. Overall, board members should be willing to play a role in the assisting staff in identifying and acquiring the resources and support necessary for Fort Concho to achieve its objectives.

4. The Board should represent all areas of the city; therefore it should take care to have members who live in all areas of San Angelo. The Board also wishes to have a board member who resides in the immediate Fort Concho neighborhood.
5. The Fort Board should have appropriate diversity in gender and race to represent the City of San Angelo's citizenry.
6. The Fort Board recognizes its many needs and responsibilities, and thus should seek members with these talents and/or affiliations:
  - a) Architecture/Engineering/Design
  - b) Historic Preservation
  - c) Finance/Accounting
  - d) Education/Teaching/Research
  - e) Community Service/Volunteering
  - f) Fundraising/Development
  - g) Legal
7. The Board also recognizes various organizations that have similar missions, and thus it should strive to have representation from:
  - a) Angelo State University
  - b) San Angelo ISD
  - c) Standard-Times
  - d) Downtown San Angelo & Historic San Angelo, Inc.
  - e) Goodfellow AFB
8. In sum, the Fort Concho strives for the best combination of people and experiences that brings the "time, talents and treasure" to the Fort Board, allowing it to work with staff, volunteers, city officials, and the citizenry. The overall goal is to promote, advance, and improve Fort Concho so it reaches its highest potential of site preservation and public service.



## Investment Oversight Committee

Under Section Nine of the City Investment Policy, the City Council shall appoint an Investment Oversight Committee to review the City's investment portfolio with the Finance Director and City Manager, or his designee, at least quarterly and to then report to the City Council. The Investment Oversight Committee shall be comprised of two City Council members, two citizens with experience as investment advisors or analysts, the City's independent auditor (as a non-voting member), the City Manager or his designee, and the City's Finance Director. The duties of the Investment Oversight Committee shall include:

- 1) Review of the quarterly report submitted by the Investment Officers of the City,
- 2) Review and adoption of a list of authorized qualified brokers and counter-parties that have provided the required certification and are authorized to engage in investment transactions with the City,
- 3) Review of the list of authorized brokers at least annually, and
- 4) Approval of the independent training provider as required in this Policy (Addendum A).

The Investment Oversight Committee shall have the authority, subject to City Council review, to make such rules as deemed necessary for the orderly operation of the Investment Oversight Committee. All changes to the Policy must be reviewed and adopted by the City Council before changes are made in the investment process.

Meetings are scheduled when necessary and are held in the South Meeting Room of the McNease Convention Center

Staff Liaison: Tina Dierschke, 325-657-4239

Board Roster:

Name	Status	Role
David Byrd	Current	Citizen Representative
Steve Cecil	Current	Citizen Representative
Tina Dierschke	Current	Finance Director
Lane Carter	Current	City Council Member
Harry Thomas	Current	City Council Member
Michael Dane	Current	City Manager Designee
Gayla Thornton	Current	Independent Auditor (non-voting)

## EXHIBIT "A"

### CITY OF SAN ANGELO, TEXAS INVESTMENT POLICY AND STRATEGIES

2017

It is the policy of the City of San Angelo (the "City") to invest public funds in a manner which will provide the highest reasonable market return with the maximum security while meeting the daily cash flow demands of the City and conforming to all State and local statutes governing the investment of public funds.

This policy satisfies the requirement of the Public Funds Investment Act (the "Act"), Texas Government Code 2256, which requires the creation and annual adoption of a written Investment Policy (the "Policy") and its addendums. The City Council shall review and adopt, no less than annually, the Policy and its incorporated strategies. Any changes to the Policy will be detailed in the adopting resolution.

#### **Section One: Scope**

This Policy applies to all the financial assets of the City except funds of Lake Nasworthy. The funds are accounted for in the City's Comprehensive Annual Financial Report and include:

- Operating Funds
- Debt Service Funds
- Bond, Capital and Special Project Funds
- Reserve Funds
- Non-expendable Trust Funds

#### **Section Two: Investment Objectives and Standard of Care**

The objectives of the City's investment program shall be, in order of priority, safety, liquidity and yield. Safety of principal shall be the foremost objective of the City's investment program. Each investment transaction shall seek to first insure that capital losses are avoided, whether they are from securities, defaults or erosion of market value. The portfolio shall be managed with the objective of obtaining a reasonable market yield.

The standard of prudence to be used by investment officers shall be the *prudent person standard* and shall be applied in the context of managing the overall portfolio. Investments shall be made with judgment and care under circumstances then prevailing which a person of prudence, discretion and intelligence would exercise in the management of his/her own affairs with consideration given to the probable safety of capital as well as the probable income to be derived. Investments shall not be made for speculative purposes.

Investment officers acting in accordance with written procedures and the Policy and exercising

due diligence shall be relieved of personal liability for an individual security's credit or market risk, provided that deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

### **Section Three: Investment Strategy**

The City of San Angelo funds shall be commingled for investment purposes recognizing the cash flow needs of the individual funds which make up the portfolio. The total portfolio will maintain a maximum weighted average maturity of one (1) year which is based on the cash flow analysis and cash requirements of the City.

The City of San Angelo's investment portfolio shall be diversified for safety and shall consist of a variety of securities and maturities which may include any or all of the authorized investments listed in Section Four, Authorized Investments, of this Policy. In order to meet Policy objective, securities will be of the highest credit quality and marketability. The portfolio's objectives can be attained by utilization of high credit quality securities and a modified ladder structure in the short-term area to match known liabilities.

- (1) Operating Funds - Operating funds assure that anticipated cash flows are matched for adequate liquidity on major payment obligations such as payroll.
- (2) Debt Service Funds - Debt service funds must cover the upcoming debt service obligations on the required payment dates.
- (3) Bond, Capital and Special Project Funds - Bond proceeds and special project funds are used for anticipated liabilities on the projects.
- (4) Reserve Funds - Reserve funds provide liquidity for fund obligations and generate a dependable revenue stream from securities.
- (5) Non-expendable Trust Funds - Non-expendable trust funds generate dependable revenue streams for their designated uses.

It is the City of San Angelo's intent to hold purchased securities to maturity investing in such a manner as to insure both the safety and liquidity of such transactions. However, under conditions defined and procedures approved by the Investment Oversight Committee securities may be sold or "swapped" before maturity to capture capital gains and allow for reinvestment into the portfolio. Securities purchased specifically for non-expendable trust funds shall be valued continuously and may be sold prior to the stated maturity date in order to capture capital gains.

The City of San Angelo's Investment Officers, or designated Investment Advisors, will evaluate the City's cash position daily to determine the amount of funds available for investment and to project the term for such investments and will then decide on placement of the investment based

on fund type and market conditions, fund cash flow, the offering yield for eligible investment and diversity in the portfolio

#### **Section Four: Authorized Investments**

The City shall invest only in those instruments authorized by law of the State of Texas (Texas Government Code 2256, Public Funds Investment Act – the “Act”) as further defined by this Policy. Insofar as they meet this requirement, the City may invest in the following:

(1) Depository certificates of deposit issued by State and national banks doing business in Texas that do not exceed one (1) year to maturity from date of issue, and :

- a. are guaranteed or insured by the Federal Deposit Insurance Corporation or its successor; or
- b. are collateralized at 102% by obligations of the United States or its agencies and instrumentalities (excluding letters of credit) or direct obligations of any state, its subdivisions, or its agencies which have been rated as to investment quality by a nationally recognized investment rating firm and have received a rating of not less than “A” or the equivalent.

(2) Obligations of the United States Government, its agencies and instrumentalities not to exceed three (3) years to their stated maturity date;

(3) Fully collateralized repurchase agreements having a defined termination date not to exceed six (6) months, secured by obligations of the United States or its agencies and instrumentalities, collateralized at 102%, executed under a written Master Repurchase Agreement, with securities safe-kept with a third party selected or approved by the City, and placed through a bank doing business in Texas or a primary government securities dealer as defined by the Federal Reserve. Flex repurchase agreements used for bond funds or special project funds may have a stated termination date not to exceed the estimated completion date of the project(s).

(4) Constant dollar, local government investment pools as defined by the Act, which are rated as to investment quality by a nationally recognized credit rating agency and have received a rating of not less than “AAA” or its equivalent. Investment in each pool must be specifically authorized by Resolution of the City Council.

(5) AAA-rated, SEC registered money market mutual funds striving to maintain a \$1 net asset value.

(6) General obligation bonds of states, agencies, counties, cities and other political subdivisions of any state rated “A” or better or its equivalent by two nationally recognized rating agencies and with a stated maturity not to exceed two (2) years.

(7) FDIC insured brokered certificate of deposit securities from banks in any US state, delivered versus payment to the City’s safekeeping depository, not to exceed one year to maturity. Before

purchase, the Investment Officer or Investment advisor must verify the FDIC status of the bank on [www.fdic.gov](http://www.fdic.gov) to assure that bank is FDIC insured.

(8) Fully insured or collateralized, interest bearing accounts of any bank doing business in Texas.

(9) A1/P1 domestic commercial paper with a maximum maturity of one hundred-eighty (180) days.

In order to provide diversification in the portfolio which reduces market and credit risk exposures the following diversification parameters are established for the Portfolio. Diversification parameters must be met at the time of purchase although cash flows may change the percentages over time. Effort will be made to maintain the diversification guidelines through cyclical cash flow periods.

<u>Security Type</u>	<u>Max. % in Overall Portfolio</u>
CDs	40%
Per bank	10%
US Treasuries	80%
US Agencies & Instrumentalities	80%
Repurchase Agreements	50%
Flex for bond funds	100%
Constant Dollar LGIP	80%
Ownership of the pool	10%
Money Market Mutual Funds	75%
Municipal and State Obligations	40%
Issuer limitation	5%
FDIC Brokered CDs	20%
Commercial paper	20%
Issuer limitation	5%

#### **Delivery versus Payment**

All security transactions (with the exception of pool or fund participation) by the City shall be purchased "delivery versus payment". That is, the City shall authorize release of its *funds* only after a purchased security has been received by its safekeeping agent or after the City has received notification from its safekeeping agent that a purchased security has been received in the City's safekeeping account.

#### **Competitive Bidding Required**

All investments shall be purchased or sold on a competitive basis with bids or offers from three City authorized brokers/dealers for the best yield and maturity. Offers of new issue agencies need not be competitively bid but must be made from City authorized brokers/dealers.

#### **Loss of Rating**

The City is not required to liquidate investments that were authorized investments at the time of purchase. (2256.017) However, should a security that requires a minimum rating under State law not have that required rating, the Investment Officer shall take all prudent measures to liquidate the security. (2256.021)

#### **Monitoring FDIC Coverage**

The Investment Officer or Investment Advisor shall monitor, on no less than a weekly basis, the status and ownership of all banks issuing brokered CDs owned by the City based upon information from the FDIC. If any bank has been acquired or merged with another bank in which brokered CDs are owned, the Investment Officer or Investment Advisor shall immediately liquidate any brokered CD which places the City above the FDIC insurance level.

#### **Monitoring Credit Ratings**

The Investment Officer or Investment Advisor shall monitor, on no less than a weekly basis, the credit rating on all authorized investments in the portfolio based upon independent information from a nationally recognized rating agency. If any security falls below the minimum rating required by Policy, the Investment Officer or Investment Advisor shall notify the Finance Director and City Manager of the loss of rating, conditions affecting the rating and possible loss of principal with liquidation options available, within two weeks after the loss of the required rating.

#### **Section Five: Collateral and Safekeeping**

##### **Time and Demand Bank Deposits Pledged Collateral**

Collateralization is required on all bank time and demand deposits over the applicable FDIC insurance coverage. All securities pledged to the City for these deposits shall be held by an independent third party institution outside the holding company of the pledging bank.

In order to anticipate market changes and provide a level of additional security for all funds, the market value of the collateral will be maintained at 102% of total principal and accrued interest. The depository will be responsible for monitoring and maintaining the collateral and margins at all times. The custodian will provide monthly reports to the City detailing the collateral.

Collateral will be pledged under the terms of a written depository agreement addressing acceptance, substitution and valuation of collateral, executed under the terms of FIRREA<sup>1</sup>. (If the custodian is the Federal Reserve the City will execute as an alternate a FRBP Pledgee Agreement of Circular 7 form.) The agreement shall be approved by resolution of the bank's board or loan committee.

Acceptable collateral shall include only obligations of the U.S. Government, its agencies and instrumentalities, including mortgage backed securities passing the bank test, municipal securities rated "A" or better by two nationally recognized rating agencies and letters of credit. A monthly report of collateral will be provided directly from the custodian.

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<sup>1</sup> The Financial Institutions Resource and Recovery Enforcement Act (FIRREA) governs the deliberations of the FDIC in the case of default or bankruptcy of the bank.

### **Repurchase Agreements Owned Collateral**

Collateral under a repurchase agreement is owned by the City. It will be held by an independent third party safekeeping agent approved by the City under an executed SIFMA<sup>2</sup> Master Repurchase Agreement. Collateral with a market value totaling 102% of the principal and accrued interest is required and the counter-party is responsible for the monitoring and maintaining of collateral and margins at all times.

### **Safekeeping**

The laws of the State, this Policy, and prudent treasury management require that all securities be settled on a delivery versus payment basis and be held in safekeeping by an independent third party financial institution approved by the City.

Securities shall not be bought from the banking services bank in order to perfect delivery versus payment separation in the transaction.

All safekeeping arrangements shall be approved by the Investment Officers and an agreement of the terms executed in writing. The third party custodian shall be required to issue original safekeeping receipts to the City listing each specific security, rate, description, maturity, cusip, and other pertinent information. Each safekeeping receipt shall be clearly marked that the security is held for the City.

### **Section Six: Investment Officer Designation**

The City Council hereby designates the Finance Director, or his designated representative, and the Finance Department position handling the daily treasury functions (currently the Cash and Debt Analyst), as duly authorized investment officers of the City and grants to them the authority to invest City funds as outlined herein. The City may further contract with a registered investment advisor to advise in the management of the City's portfolio. No person may engage in an investment transaction except as provided under the terms of this Policy and supporting procedures. Any disbursement of City funds for the purchase of investment instruments must bear the signature of two Investment Officers.

The Investment Officers will establish written procedures for the operation of the investment program consistent with this Policy.

Officers, employees and advisors involved in the investment process shall refrain from personal business activity that could conflict with proper and unbiased execution of the investment program or which could impair their ability to make impartial investment decisions. Any business or personal relationship shall be disclosed to the City Council. If the relationship falls within the second degree of blood or marriage disclosure should also be sent to the Texas Ethics Commission.

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<sup>2</sup>Security Industry and Financial Markets Association, formerly the Bond Market Association.  
Investment Policy and Strategies 2017  
City of San Angelo

### **Section Seven: Training**

The Finance Director and all City officials designated herein as Investment Officers and their designated representatives within the parameters of this Policy shall attend ten (10) hours of training within twelve (12) months of taking the position and eight (8) hours in each succeeding two year fiscal periods (beginning on the first day of the fiscal year) relating to investment responsibilities. The training must include investment controls, security risks, strategy risks, market risks, portfolio diversification and compliance with the Act.

The training provider must be an independent source approved by the Investment Oversight Committee. A list of approved training sources is attached as Addendum A.

### **Section Eight: Investment Activity Reporting**

Reporting for investments will be made in accordance with State law. (Chapter 2256.023) Reports of investments should be prepared and presented at least quarterly to the City Council and City Manager and should reflect the cost, term, yield, market value, purchase date, maturity date, description and cusip number for each investment. Market values shall be obtained at least monthly from the trust department of the City's depository bank or other independent source as approved by the Investment Oversight Committee.

On a quarterly basis the Investment Officer, or his designee, shall prepare a series of detailed and management level signed investment reports in accordance with the Act, disclosing at a minimum:

- 1) The investment activity for the previous quarter;
- 2) The book and market value of investments at the beginning and end of the quarter;
- 3) Assessments of the market value of each investment and change in market value;
- 4) Fully accrued interest and earnings for the period in accordance with generally accepted accounting principles;
- 5) The change in market value, and
- 6) Compliance with the Act and this Policy.

Prices for the valuation of securities' market value shall be obtained from an independent source.

### **Section Nine: Investment Oversight Committee**

The City Council shall appoint an Investment Oversight Committee to review the City's investment portfolio with the Finance Director and City Manager, or his designee, at least quarterly and to then report to the City Council. The Investment Oversight Committee shall be comprised of two City Council members, two citizens with experience as investment advisors or analysts, the City's independent auditor (as a non-voting member), the City Manager or his designee, and the City's Finance Director. The duties of the Investment Oversight Committee shall include:

- 1) Review of the quarterly report submitted by the Investment Officers of the City,
- 2) Review and adoption of a list of authorized qualified brokers and counter-parties that

have provided the required certification and are authorized to engage in investment transactions with the City,

- 3) Review of the list of authorized brokers at least annually, and
- 4) Approval of the independent training provider as required in this Policy (Addendum A).

The Investment Oversight Committee shall have the authority, subject to City Council review, to make such rules as deemed necessary for the orderly operation of the Investment Oversight Committee. All changes to the Policy must be reviewed and adopted by the City Council before changes are made in the investment process.

#### **Section Ten: Audit**

The City's independent auditor shall formally review the quarterly investment reports prepared in accordance with this Policy and applicable State statutes (Chapter 2256.023). The review shall be conducted annually and the results of the review shall be reported to the City Council. In addition, in conjunction with the annual audit the City shall perform a compliance audit of management controls on investments and adherence to this Policy. Results of this audit will be reported to the Investment Oversight Committee. [Chapter 2256.005(m)].

#### **Section Eleven: Authorized Financial Institutions and Broker/Dealers**

The Investment Officer will maintain a list of financial institutions and brokers/dealers authorized to do business with the City. These pools will be selected according to creditworthiness and service. Brokers may include "primary dealers" or regional dealers that qualify under the SEC's Rule 15C3-1 (uniform net capital rule). All brokers/dealers must provide the Investment Officer with:

- Proof of Financial Industry Regulatory Authority (FINRA) registration,
- Proof of registration with the Texas State Securities Commission, and
- Completed City questionnaire

In accordance with the Act [Chapter 2256.005(k)] a copy of the City's Investment Policy shall be presented to any pool offering to engage in an investment transaction with the City. The pool must execute a written certificate in a form acceptable to the City that they have (1) reviewed the Policy and (2) acknowledged that they have implemented reasonable procedures and controls to preclude investment transactions conducted between the City and the pool which are not authorized by the Policy.

The City Council or the Investment Oversight Committee will at least annually review, revise and adopt a list of authorized brokers authorized to engage in investment transactions. The list of authorized counter-parties is shown as Addendum B of this Policy and approved with adoption of this Policy.

#### **Section Twelve: Policy Adoption and Revisions**

The City Council will review the Policy not less than annually and adopt a resolution stating that the Policy and incorporated strategies have been reviewed and including all changes to the Policy.

This Policy may be amended only by action of the City Council.

The City Manager and Investment Oversight Committee are authorized to recommend revisions to the Policy to the City Council whenever such revisions are necessary and prudent due to changes in State Law, the needs of the City, or the economy and market opportunities. All changes to the Policy must be reviewed and adopted by the City Council before changes are made in the investment process.

ADOPTED on this the \_3rd\_ day of \_October\_, 2017.

CITY OF SAN ANGELO, TEXAS

DocuSigned by:



Brenda Gunter, Mayor

ATTEST:

DocuSigned by:



Bryan Kendrick, City Clerk

Approved as to Content:

DocuSigned by:



Tina Dierschke, Finance Director

Approved as to Form:

DocuSigned by:



Theresa James, City Attorney

## ADDENDUM A

By adoption of this Investment Policy, the following associations and organizations are approved for Investment Officer training.

- Texas Municipal League
- Government Finance Officers Association of Texas
- Government Treasurers Organization of Texas

## ADDENDUM B

### Broker/Dealer List

The authorized list for City of San Angelo is shown below. Each of these firms, and the individual covering the account, are sent the current Investment Policy.

The City's Policy establishes specific criteria for the brokers and requires that the list of brokers/dealers be approved annually by the City Council or Investment Oversight Committee established by the Council. The City's Investment Advisor, Patterson & Associates, maintains the brokerage compliance files for the City.

When any material changes are made to the Investment Policy the new Policy is sent out for re-certification.

The brokers/dealers certified by the City are:

- Bank of America/Merrill Lynch
- Cantor Fitzgerald
- Morgan Stanley
- G.X. Clarke & Co.
- Mizuho Securities
- Piper Jaffray
- BOK Financial
- Raymond James
- Mutual Securities
- Stifel Nicolaus
- Wells Fargo

**EXHIBIT "A"**

**LAKE NASWORTHY - SAN ANGELO, TEXAS**  
**INVESTMENT POLICY AND STRATEGIES**  
**2017**

It is the policy of the City of San Angelo (the "City") to invest public funds in a manner which will provide the highest reasonable market return with the maximum security while meeting the objectives of the City and conforming to all State and local statutes governing the investment of public funds.

This policy satisfies the requirement of the Public Funds Investment Act (the "Act"), Texas Government Code 2256 which requires the creation and annual adoption of a written investment policy. The City Council shall no less than annually review and adopt the Investment Policy (the "Policy") and its incorporated strategies. Any changes to the Policy will be detailed in the adopting resolution.

**Section One: Scope**

This Policy applies solely to the financial assets applied to the maintenance and support of Lake Nasworthy, San Angelo, Texas.

**Section Two: Investment Objectives and Standard of Care**

The objective of the Lake Nasworthy portfolio is to produce a revenue stream which can be used in the maintenance of the Lake Nasworthy area. The principal is not intended to be used for operational purposes.

The objectives of this Policy shall be, in order of priority, safety, liquidity, diversification, and yield. Safety of principal shall be the foremost objective of the City's investment program. Each investment transaction shall seek to first ensure that capital losses are avoided, whether they be from market, credit or collateral risk. Investments shall not be made for speculative purposes. The portfolio shall be managed with the objective of obtaining a reasonable market yield in keeping with the capital appreciation and cash flow requirements of the fund.

The standard of prudence to be used by investment officers shall be the prudent person standard and shall be applied in the context of managing the overall portfolio. The standard states: Investments shall be made with judgment and care under circumstance then prevailing which a person of prudence, discretion and intelligence would exercise in the management of his or her own affairs with consideration given to the probable safety of capital as well as the probable income to be derived.

Investment officers acting in accordance with written procedures and the Policy and exercising due diligence shall be relieved of personal liability for an individual security's credit or market risk, provided that deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

### **Section Three: Investment Strategy**

The investment strategy for Lake Nasworthy funds will focus on utilization of high credit quality, intermediate term securities which will generate a reasonable stream of income for the ongoing maintenance of Lake Nasworthy. The principal of the fund is not expected to be used for any ongoing expenditures. The investment strategy is designed to generate a revenue stream and a low degree of volatility and market risk. Securities will be of a high quality, with short to intermediate term maturities chosen to hold their market value. The portfolio will use a range of maturities dependent on market conditions.

The City, or its designated investment advisors, will evaluate cash flow needs and the portfolio's position on a regular basis to determine ongoing market strategy. Market conditions and interest rate forecasts will determine portfolio structure. Securities may be sold or "swapped" before maturity to capture capital gains and allow for reinvestment into the portfolio.

The portfolio will maintain a maximum weighted average maturity (WAM) of three (3) years and the maximum expected or stated maturity in the fund will be ten (10) years for any individual security. The benchmark for risk and performance on the portfolio will be the three (3) year Treasury Note for the comparable period in accordance with the anticipated WAM.

### **Section Four: Authorized Investments**

The City shall invest only in those instruments authorized by the Act. Insofar as they meet this requirement, the City may invest in the following:

(1) Depository Certificates of Deposit issued by state and national banks doing business in Texas that do not exceed two (2) years to maturity from date of issue, and:

- a. are guaranteed or insured by the Federal Deposit Insurance Corporation ("FDIC") or its successor; or
- b. are collateralized at 102% by obligations of the United States or its agencies and instrumentalities or direct obligations of the State of Texas, its subdivisions, or its agencies which have been rated as to investment quality by a nationally recognized investment rating firm and have received a rating of not less than "A" or the equivalent.

(2) Obligations of the United States Government, its agencies and instrumentalities not to exceed ten (10) years to their stated maturity date, to include mortgage backed securities passing the bank test;

(3) Fully collateralized repurchase agreements including reverse repurchase agreements, having a defined termination date not to exceed six (6) months, secured by obligations of the United States or its agencies and instrumentalities, collateralized at 102%, executed under a written Bond Market Association Master Repurchase Agreement, safe-kept with a third party selected or approved by the City, and placed through a bank doing business in Texas or a primary government securities dealer as defined by the Federal Reserve. Flex repurchase agreements used for bond funds or special project funds may have a stated termination date not to exceed the estimated

completion date of the project(s).

(4) Constant dollar, local government investment pools as defined by the Act, as amended, which are rated as to investment quality by a nationally recognized credit rating agency and have received a rating of not less than "AAA" or its equivalent. Investment in each pool must be specifically authorized by Resolution of the City Council.

(5) AAA-rated, SEC registered money market mutual funds which strive to maintain a \$1 net asset value.

(6) General debt obligation bonds of states, agencies, counties, cities and other political subdivisions of any state rated "A" or better or its equivalent by two nationally recognized rating agencies and with a stated maturity not to exceed two (2) years.

(7) FDIC insured *brokered* certificate of deposit securities from banks in any US state, delivered versus payment to the City's safekeeping depository, not to exceed one year to maturity. Before purchase, the Investment Officer or Investment Advisor must verify the FDIC status of the bank on [www.fdic.gov](http://www.fdic.gov) to assure that bank is FDIC insured.

(8) Fully insured or collateralized, interest bearing accounts of any bank doing business in Texas.

#### **Diversification**

The Fund will strive for diversification in the portfolio by market sector and maturity to reduce market and credit risk exposures.

#### **Delivery versus Payment**

All security transactions (with the exception of pool or fund participation) by the City shall be purchased "delivery versus payment". That is, the City shall authorize release of its *funds* only after a purchased security has been received by its safekeeping agent or after the City has received notification from its safekeeping agent that a purchased security has been received in the City's safekeeping account.

#### **Competitive Bidding Required**

All investments shall be purchased or sold on a competitive basis with bids or offers from three City authorized broker/dealers for the best yield and maturity. Offers of new issue agencies need not be competitively bid but must be made from City authorized broker/dealers.

#### **Loss of Rating**

The City is not required to liquidate investments that were authorized investments at the time of purchase. (2256.017) However, should a security that requires a minimum rating under State law not have that required rating, the Investment Officer shall take all prudent measures to liquidate the security. (2256.021)

### **Monitoring FDIC Coverage**

The Investment Officer or Investment Advisor shall monitor, on no less than a weekly basis, the status and ownership of all banks issuing brokered CDs owned by the City based upon information from the FDIC. If any bank has been acquired or merged with another bank in which brokered CDs are owned, the Investment Officer or Investment Advisor shall immediately liquidate any brokered CD which places the City above the FDIC insurance level.

### **Monitoring Credit Ratings**

The Investment Officer or Investment Advisor shall monitor, on no less than a weekly basis, the credit rating on all authorized investments in the portfolio based upon independent information from a nationally recognized rating agency. If any security falls below the minimum rating required by the Policy, the Investment Officer or Investment Advisor shall notify the Finance Director and City Manager of the loss of rating, conditions affecting the rating and possible loss of principal with liquidation options available, within two weeks after the loss of the required rating.

### **Time and Demand Bank Deposits Pledged Collateral**

Collateralization is required on all bank time and demand deposits over the applicable FDIC insurance coverage. All securities pledged to the City for these deposits shall be held by an independent third party institution outside the holding company of the pledging bank.

In order to anticipate market changes and provide a level of additional security for all funds, the market value of the collateral will be maintained at 102% of total principal and accrued interest. The depository will be responsible for monitoring and maintaining the collateral and margins at all times. The custodian will provide monthly reports to the City detailing the collateral.

Collateral will be pledged under the terms of a written depository agreement addressing acceptance, substitution and valuation of collateral, executed under the terms of FIRREA<sup>1</sup>. (If the custodian is the Federal Reserve, the City will execute the Pledgee Agreement of Circular 7 form.) The agreement shall be approved by resolution of the bank's board or loan committee.

Acceptable collateral shall include only obligations of the U.S. Government, its agencies and instrumentalities, including mortgage backed securities passing the bank test, municipal securities rated "A" or better by two nationally recognized rating agencies and letters of credit. A monthly report of collateral will be provided directly from the custodian.

### **Repurchase Agreements Owned Collateral**

Collateral under a repurchase agreement is owned by the City. It will be held by an independent third party safekeeping agent approved by the City under an executed Bond Market Master

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<sup>1</sup> The Financial Institutions Resource and Recovery Enforcement Act governs the deliberations of the FDIC in the case of default or bankruptcy of the bank.

Repurchase Agreement. Collateral with a market value totaling 102% of the principal and accrued interest is required and the counter-party is responsible for the monitoring and maintaining of collateral and margins at all times.

### **Safekeeping**

The laws of the State, this Policy, and prudent treasury management require that all securities be settled on a delivery versus payment basis and be held in safekeeping by an independent third party financial institution approved by the City.

Securities shall not be bought from the banking services bank in order to perfect delivery versus payment separation in the transaction.

All safekeeping arrangements shall be approved by the Investment Officers and an agreement of the terms executed in writing. The third party custodian shall be required to issue original safekeeping receipts to the City listing each specific security, rate, description, maturity, cusip, and other pertinent information. Each safekeeping receipt shall be clearly marked that the security is held for the City.

### **Section Five: Investment Officer Designation**

The City Council has designated the Finance Director, or his designated representative, and the Finance Department position handling the daily treasury functions (currently the Cash and Debt Analyst), as duly authorized Investment Officers of the City and grants to them the authority to invest Lake Nasworthy funds as outlined herein. The City may further contract with a registered Investment Advisor to advise in the management of this portfolio.

No person may engage in an investment transaction except as provided under the terms of this Policy and supporting procedures. Any disbursement of City funds for the purchase of investment instruments must bear the signature of two Investment Officers.

The Investment Officers will establish written procedures for the operation of the investment program consistent with this Policy.

Officers, employees and advisors involved in the investment process shall refrain from personal business activity that could conflict with proper and unbiased execution of the investment program or which could impair their ability to make impartial investment decisions. Any business or personal relationship shall be disclosed to the City Council. If the relationship falls within the second degree of blood or marriage disclosure should also be sent to the Texas Ethics Commission.

### **Section Six: Training**

The Finance Director and all City officials designated herein as Investment Officers and their designated representatives within the parameters of this Policy shall attend ten (10) hours of training within twelve months of taking the position and eight (8) hours in each succeeding two fiscal year periods (beginning on the first day of the fiscal year) relating to investment

responsibilities. The training must include investment controls, security risks, strategy risks, market risks, portfolio diversification and compliance with the Act.

The training provider must be an independent source approved by the Investment Oversight Committee. A list of approved training sources is attached as Addendum A.

### **Section Seven: Investment Activity Reporting**

Reporting for investments will be made in accordance with State law. (Chapter 2256.023) Reports of investments should be issued at least quarterly to the City Council and City Manager and should reflect the cost, term, yield, market value, purchase date, maturity date, description and cusip number for each investment. Market values shall be obtained monthly from the trust department of the City's depository bank or other independent source as approved by the Investment Oversight Committee.

On a quarterly basis, the Investment Officer, or his designee, shall prepare a series of detailed and management level signed investment reports in accordance with the Act, disclosing at a minimum:

- 1) The investment activity for the previous quarter;
- 2) The book and market value of investments at the beginning and end of the quarter;
- 3) Assessments of the market value of each investment and change in market value;
- 4) Fully accrued interest and earnings for the period in accordance with generally accepted accounting principles;
- 5) The change in market value, and
- 6) Compliance with the Public Funds Investment Act and this Policy.

Prices for the valuation of securities' market value shall be obtained from an independent source.

### **Section Eight: Oversight Committee**

The City Council shall appoint an Investment Oversight Committee to review the City's investment portfolio with the Finance Director and City Manager, or his designee, at least quarterly and to then report to the City Council. The Committee shall be comprised of two City Council members, two citizens with experience as investment advisors or analysts, the City's independent auditor (as a non-voting member), the City Manager or his designee, and the City's Finance Director. The duties of the Investment Oversight Committee shall include:

- 1) Review of the quarterly report submitted by the Investment Officers of the City,
- 2) Review and adopt the list of counter-parties that have provided the required certification and are authorized to engage in investment transactions with the City,
- 3) Review of the list of authorized brokers at least annually, and
- 4) Approval of the independent training provider as required in this Policy.

The Investment Oversight Committee shall have the authority, subject to City Council review, to make such rules as deemed necessary for the orderly operation of the Committee. All changes to the Policy must be reviewed and adopted by the City Council before changes are made in the

investment process.

#### **Section Nine: Audit**

The City's independent auditor shall formally review the quarterly investment reports prepared in accordance with this Policy and applicable State statutes (Chapter 2256.023). The review shall be conducted annually and the results of the review shall be reported to the City Council. In addition, in conjunction with the annual audit, the City shall perform a compliance audit of management controls on investments and adherence to this Policy. Results of this audit will be reported to the Investment Oversight Committee. [(Chapter 2256.005(m))].

#### **Section Ten: Authorized Financial Institutions and Broker/Dealers**

The Investment Officer will maintain a list of financial institutions and broker/dealers authorized to do business with the City. These pools will be selected according to credit worthiness and service. Brokers may include "primary dealers" or regional dealers that qualify under the SEC's Rule 15C3-1 (uniform net capital rule). All broker/dealers must provide the Investment Officer with:

Proof of National Association of Securities Dealers certification,  
Proof of registration with the Texas State Securities Commission, and  
Completed City questionnaire.

In accordance with the Act [(Chapter 2256.005(k))] a copy of the Policy shall be presented to any pool offering to engage in an investment transaction with the City. The pool must execute a written certificate in a form acceptable to the City that they have (1) reviewed the Policy and (2) acknowledged that they have implemented reasonable procedures and controls to preclude investment transactions conducted between the City and the pool which are not authorized by the Policy.

The City Council or the Investment Oversight Committee will at least annually review, revise and adopt a list of authorized brokers authorized to engage in investment transactions. The list of authorized counter-parties is shown as Addendum B of this Policy and approved with Council adoption of this Policy.

#### **Section Eleven: Policy Adoption and Revisions**

The City Council will review the Policy not less than annually and adopt a resolution stating that the Policy and its incorporated strategies has been reviewed and including all changes to the Policy. This Policy may be amended only by action of the City Council.

The City Manager and Investment Oversight Committee are authorized to recommend revisions to the Policy to the City Council whenever such revisions are necessary and prudent due to changes in State Law, the needs of the City, or the economy and market opportunities. All changes to the Policy must be reviewed and adopted by the City Council before changes are made in the investment process.

ADOPTED on this the \_\_3rd\_\_ day of \_October, 2017.

CITY OF SAN ANGELO, TEXAS


DocuSigned by:



Brenda Gunter, Mayor

ATTEST:

DocuSigned by:



Bryan Kendrick, City Clerk

Approved as to Content:

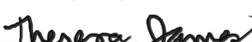
DocuSigned by:



Tina Dierschke, Finance Director

Approved as to Form:

DocuSigned by:



Theresa James, City Attorney

## ADDENDUM A

By adoption of this Investment Policy, the following associations and organizations are approved for Investment Officer training.

- Texas Municipal League
- Government Finance Officers Association of Texas
- Government Treasurers Organization of Texas

## ADDENDUM B

### Broker/Dealer List

The authorized list for City of San Angelo is shown below. Each of these firms, and the individual covering the account, are sent the current Investment Policy. In accordance with the Public Funds Investment Act (TX Gov't Code 2256.005(k)) before any broker/dealer transacts business with the City it will have had to certify in writing to a review of the Policy and have certified that procedures are in place to assure compliance with that Policy.

The City's Policy establishes specific criteria for the brokers and requires that the list of brokers/dealers be approved annually by the City Council or Investment Oversight Committee established by the City Council. A standardized City certification form is used for certification purposes. The City's Investment Advisor, Patterson & Associates, maintains the brokerage compliance files for the City.

When any material changes are made to the Investment Policy the new Policy is sent out for re-certification.

The brokers/dealers certified by the City are:

- Bank of America/Merrill Lynch
- Cantor Fitzgerald
- Morgan Stanley
- G.X. Clarke & Co.
- Mizuho Securities
- Piper Jaffray
- BOK Financial
- Raymond James
- Mutual Securities
- Stifel Nicolaus
- Wells Fargo



## Park Commission

The Santa Fe Park Commission has general oversight for the Santa Fe Park system, which includes all of the Santa Fe Golf Course, Kids' Kingdom and most of the park land to the east (or north) of the North Concho River from Caddo Street in the north to Randolph Street in the east.

The commission provides advice and develops policy for the Santa Fe Park system.

Meetings are scheduled when necessary and are held in the South Meeting Room of the McNease Convention Center

Staff Liaison: Roger Havlak, 325-659-8563

Board Roster is Self-Perpetuating Since 1913

Board Roster:

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Don Griffis	Current	3	01/31/2015	01/31/2019	Citizen Representative	1
Bitsy Stone	Current	2	01/31/2015	01/31/2019	Citizen Representative	2
Allison Watkins	Current	UNEX	01/31/2015	01/31/2019	Citizen Representative	3

8-4-1915

Ordinance

A N O R D I N A N C E  
DESIGNATING THE SANTA FE PARKS IN THE  
CITY OF SAN ANGELO, CREATING A PARK COMMISSION, PRE-  
SCRIBING THE DUTIES AND AUTHORITY THEREOF, AND VEST-  
ING THE CONTROL AND SUPERVISION OVER THE CITY PARKS  
WITHIN THE CORPORATE LIMITS OF THE CITY OF SAN ANGELO  
~~IN SUCH COMMISSION PROHIBITING TRESPASSES UPON AND~~  
UNLAWFUL USE OF THE PARK GROUNDS, AND ESTABLISHING  
POLICE REGULATIONS GOVERNING SAME.

1 - BE IT ORDAINED by the City Council of  
the City of San Angelo, Texas, that the following de-  
scribed lots, parcels and tracts of land within the  
corporate limits of the City of San Angelo, be and  
the same are hereby designated as the SANTA FE PARKS,  
to-wit:

All the lots, tracts or parcels of land  
described in the three several deeds respectively  
from R. A. Hall, C. A. Broome and Louis L. Farr to  
the City of San Angelo, all dated June 30, 1913, filed  
for record 5 day of Aug, A. D. 1913, and  
respectively recorded in Vol. 80, page 458, Vol.  
74, page 434, Vol. 74, page 432 records of  
deeds of Tom Green County, Texas, to which reference  
is here made.

2 - There is hereby created and established  
a park commission to be composed of three members,  
all resident citizens of the City of San Angelo, and  
W C Blanks and J C Wynn  
and C. A. Broome are hereby appointed as  
members thereof, and shall be officially designated  
as the Park Commissioners of the said City of San  
Angelo.

shall elect a member of its own choice.

7 - No salary or compensation of any sort shall be paid to said park commissioners, of either of them, for their services.

8 - When not otherwise engaged, the city engineer of the city of San Angelo shall be subject to the direction of said park commissioners in laying off any grounds contained in said parks, supervising the construction of improvements therein, and performing such other services as he may be called upon to perform by said park commissioners, or either of them, provided that for such services said city engineer shall receive no compensation in addition to that already allowed him under his general employment by the City.

9 - Said park commissioners shall have the right and authority to utilize the tools <sup>teams,</sup> and implements belonging to the City of San Angelo, when same are not otherwise engaged, in the improvement, grading and maintenance of the parks.

10 - No debt shall be contracted by said park commission, nor any member thereof, on account of the parks, unless so directed and authorized by the City Council, nor shall any debts ever be created by said park commission, on account of the parks, in any one year in excess of the appropriation for such purposes for the current year.

14 - It shall be unlawful to cut or remove, or in any way injure any flowers, plants, shrubs or ~~a~~ standing timber within the limits of any public parks, without the consent or under the direction of said park commissioners, and any person, firm, or corporation violating the provisions of this section of this ordinance shall be deemed guilty of a misdemeanor.

15 - It shall be unlawful for any person, or persons to camp upon any of the grounds contained within any of the public parks in the City of San Angelo, or to erect thereon any tents, houses or structures of any kind, or to maintain thereon any entertainment, booth or stand, unless same is done under the instruction or with the consent of said park commissioners, and each day upon which the provisions of this section of this ordinance shall be violated, will be deemed a separate offense.

16 - It shall be unlawful for any person, firm or corporation to deposit any waste, trash, refuse or garbage upon any land contained within any public park in said City, except under the direction of said park commissioners.

17 - It shall be unlawful for any person, firm or corporation to deposit or scatter any papers, hand-bills, cards or other similar materials upon any of the public parks of the City of San Angelo, and any person, firm or cor-

corporation so adjudged guilty shall be punished by a fine in any amount not exceeding fifty (\$50.00) dollars.

22 - There being no adequate ordinances of the City of San Angelo covering the subjects expressed in this ordinance, an imperative public necessity exists requiring the suspension of the rules requiring three several readings of this ordinance, and such rules are hereby suspended, and this ordinance shall take effect and be in force from and after its passage.

*Passed and approved this 4, day of  
August 1913.*

*W. J. Bishop  
Mayor.*

*Attest S. J. Jenkins  
City Sec.*



## Parks and Recreation Advisory Board

The Parks & Recreation Advisory Board was authorized and approved on Aug. 7, 2012. This newly created board combined the former Recreation and Senior Services advisory boards, and includes one member from the Santa Fe Park Commission.

The Parks & Recreation Board acts as an advisory board to the City Council in matters of oversight, policy and administration relating to City parks to recreation programs and facilities, with the exception of the Santa Fe Parks, for which the Santa Fe Park Commission shall continue to act as the advisory commission to the City Council.

The board generally meets at 3:30 p.m. on the fourth Thursday each month in the South Meeting Room of the McNease Convention Center

Staff Liaison: Carl White 325-657-4279

Board Roster:

Name	Status	Term	Term Start	Term End	Role	Position/Seat
<b>Kenneth Dierschke</b>	Current	1	12/31/2016	12/31/2018	SMD1	1
<b>Edward Dotson</b>	Current	2	12/31/2015	12/31/2019	SMD2	2
<b>Laurie Dicello</b>	Current	1	12/31/2016	12/31/2018	SMD3	3
<b>Debbie Wilson</b>	Current	UNEX	12/31/2016	12/31/2018	SMD4	4
<b>Vacant</b>			12/31/2015	12/31/2017	SMD5	5

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Christina Woodard	Current	2	12/31/2015	12/31/2019	SMD6	6
Francis Jelensperger	Current	3	12/31/2015	12/31/2019	Mayor	7
Bitsy Stone	Current		N/A	N/A	Park Commission	8

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 17. Parks and Recreation Advisory Board****Division 17. Parks and Recreation Advisory Board****Sec. 2.07.501 Creation; members**

A parks and recreation advisory board is hereby created and established within the city. Said parks and recreation advisory board shall be composed of eight (8) members, seven (7) of whom shall be appointed by the city council. The eighth member shall be a member of the park commission, nominated by the park commission and approved by the city council. The appointments to the board shall be on the basis of the nominee's educational and professional qualifications and general knowledge of, interest in, and experience relevant to youth or adult sports, senior activities, recreation activities, other organized social activities, parks, nature or conservation. (Sec. 2, Ordinance adopted 8/7/12)

**Division 17. Parks and Recreation Advisory Board****Sec. 2.07.502 Qualifications**

All members of the board shall be eighteen (18) years of age or older and residents of the city. (Sec. 2, Ordinance adopted 8/7/12)

**Division 17. Parks and Recreation Advisory Board****Sec. 2.07.503 Terms**

Of the members first appointed by the city council, four (4) appointments shall be for three (3) year terms and three (3) appointments shall be for two (2) year terms. The first appointment selected by the parks commission and approved by the city council shall be for a two (2) year term. Thereafter, appointments shall be for two (2) year terms, except vacancies for unexpired terms, which shall be filled by appointment of the city council for the remainder of the unexpired term. Board members shall serve without compensation at the pleasure of the city council, subject to termination at any time without cause. (Sec. 2, Ordinance adopted 8/7/12)

**Division 17. Parks and Recreation Advisory Board****Sec. 2.07.504 Duties**

The parks and recreation board shall act as an advisory board to the city council in matters of oversight, policy and administration relating to city parks, recreation programs and facilities, with the exception of the Santa Fe Parks, for which the parks commission shall continue to act as the advisory commission to the city council. The responsibility of the parks and recreation board within the scope of its general authority shall include to:

- (1) Communicate with and make recommendations to the city manager and parks and recreation director regarding parks, recreation programs and senior services programs.
- (2) Make recommendations to the city manager, parks and recreation director and city council regarding the administration of parks, recreation programs and senior services programs.

- (3) Make recommendations to the city manager, parks and recreation director and city council regarding the creation of a parks and recreation system.
- (4) Make recommendations to the city manager, parks and recreation director and city council regarding maintenance of parks and park improvements.
- (5) Make recommendations to the city manager, parks and recreation director and city council regarding maintenance of recreation and/or senior facilities.
- (6) Make recommendations to the city manager, parks and recreation director and city council regarding the acquisition of physical improvements and equipment for parks, recreation and senior services programs.
- (7) Make recommendations to the city manager, parks and recreation director and city council regarding rules or regulations for parks, recreation and senior services programs.

(Sec. 2, Ordinance adopted 8/7/12)

Division 17. Parks and Recreation Advisory Board
--

**Sec. 2.07.505 Officers**

The board shall elect from the appointed members of the board a chairperson and a co-chairperson to serve in the absence of the chairperson. The board shall elect such other officers as the board may establish in its bylaws. (Sec. 2, Ordinance adopted 8/7/12)

Division 17. Parks and Recreation Advisory Board
--

**Sec. 2.07.506 Quorum and voting**

All members of the board shall have voting rights. Five (5) duly appointed members of the board shall constitute a quorum. The affirmative vote of a majority of the members present at a properly called meeting with a quorum present shall be the act of the board. (Sec. 2, Ordinance adopted 8/7/12)

Division 17. Parks and Recreation Advisory Board
--

**Sec. 2.07.507 Rules, regulations and bylaws**

The board shall adopt and may amend from time to time its bylaws, establishing rules for its regulation, effective upon approval of the city council. Said bylaws and amendments thereto as approved by the city council shall be filed with the city clerk. The board may adopt rules or regulations in conformity with its bylaws relating to the administration of its business. (Sec. 2, Ordinance adopted 8/7/12)

Division 17. Parks and Recreation Advisory Board
--

**Sec. 2.07.508 Meetings**

The board shall adopt a schedule providing for at least one regular meeting per calendar month and may make provision for such other meetings as it deems appropriate. Meetings of the board shall be held pursuant to public notice and shall be open to the public in compliance with the Texas Open Meetings Act. (Sec. 2, Ordinance adopted 8/7/12)

Division 17. Parks and Recreation Advisory Board

**Sec. 2.07.509 Minutes**

The board shall keep minutes of its proceedings in a permanent record, and a certified copy of said minutes shall be filed with the city clerk. (Sec. 2, Ordinance adopted 8/7/12)

Division 17. Parks and Recreation Advisory Board

**Sec. 2.07.510 Committees**

The board may create ad hoc or standing committees of less than a quorum of the board members, which may include residents of the city who are not board members, as needed or deemed desirable to address specific matters within the purview of the board. Committees shall report to the board and shall have the authority to gather information, make reports and prepare recommendations for consideration by the board. (Sec. 2, Ordinance adopted 8/7/12)

Division 17. Parks and Recreation Advisory Board

**Sec. 2.07.511 Absenteeism of members**

In the event of four (4) absences from regularly scheduled meetings during the course of any year, a board member shall be deemed to have resigned. (Sec. 2, Ordinance adopted 8/7/12)

Division 17. Parks and Recreation Advisory Board

**Sec. 2.07.512 Severability**

The terms and provisions of this division shall be deemed to be severable in that, if any portion of this division shall be declared to be invalid, the same shall not affect the validity of the other provisions of this division. (Sec. 2, Ordinance adopted 8/7/12)

Division 17. Parks and Recreation Advisory Board

**Secs. 2.07.513–2.07.540 Reserved**

BY-LAWS  
OF THE  
CITY OF SAN ANGELO  
Parks & Recreation Advisory Board



ADOPTED:

January 31, 2013

## **ARTICLE I**

### **Purpose, Duties and Powers**

**Section 1. Purpose.** The Parks & Recreation Board shall act as an advisory Board to the City Council in matters of oversight, policy and administration relating to City parks, recreation programs and facilities, with the exception of the Santa Fe Parks, for which the Parks Commission shall continue to act as the advisory commission to the City Council.

**Section 2. Duties.** The responsibility of the Parks & Recreation Advisory Board, as defined in Chapter 2, Administration, Article 2.600 Parks & Recreation Advisory Board, within the scope of its general authority, shall include:

- 1.) Communicate with and make recommendations to the City Manager and Parks & Recreation Director regarding parks, recreation programs and senior services programs.
- 2.) Make recommendations to City Manager, Parks & Recreation Director and City Council regarding the administration of parks, recreation programs and senior services programs.
- 3.) Make recommendations to City Manager, Parks & Recreation Director and City Council regarding the creation of a parks and recreation system.
- 4.) Make recommendations to City Manager, Parks & Recreation Director and City Council regarding maintenance of parks and park improvements.
- 5.) Make recommendations to City Manager, Parks & Recreation Director and City Council regarding maintenance of recreation and/or senior facilities.
- 6.) Make recommendations to City Manager, Parks & Recreation Director and City Council regarding the acquisition of physical improvements and equipment for parks, recreation and senior services programs.
- 7.) Make recommendations to City Manager, Parks & Recreation Director and City Council regarding rules or regulations for parks, recreation and senior services programs.

## **ARTICLE II**

### **MEMBERS OF THE PARKS & RECREATION ADVISORY BOARD**

**Section 1. Members.** The Parks & Recreation Advisory Board shall be composed of eight (8) members, seven (7) of whom shall be appointed by the City Council. The eighth member shall be a member of the Park Commission, nominated by the Park Commission and approved by the City Council.

**Section 2. Appointment.** The Parks & Recreation Advisory Board members shall be appointed by the City Council of the City of San Angelo under such procedures designated by the City Council. The appointments to the Board shall be on the basis of the nominee's educational and professional qualifications and general knowledge of, interest in, and experience relevant to youth or adult sports, senior activities, recreation activities, other organized social activities, parks, nature or conservation.

**Section 3. Qualifications.** All members of the Board shall be eighteen (18) years of age or older and residents of the City of San Angelo, Tom Green County, Texas.

**Section 4. Terms of Office.** Of the members first appointed by the City Council, four (4) appointments shall be for a term of three (3)-years each and three (3) appointments shall be for a term of two (2)-years each. The first appointment selected by the Parks Commission and approved by the City Council shall be for a term of two (2)-years each. Thereafter, appointments shall be for a term of two (2)-years each, except vacancies for unexpired terms which shall be filled by appointment of the City Council for the remainder of the unexpired term. Board members shall serve without compensation at the pleasure of the City Council, subject to termination at any time without cause.

**Section 5. Vacancies.** Any vacancy occurring on the Parks & Recreation Advisory Board shall be filled by the appointment of the City Council under such procedures as it prescribes and such appointment shall be for the unexpired term of the member whose position is vacated; provided however, that a person serving such unexpired term shall nevertheless be eligible to serve two full consecutive terms after the completion of the unexpired term as appointed hereunder.

## **ARTICLE III**

### **MEETINGS**

**Section 1. Meetings.** The Board shall adopt a schedule providing for at least one regular meeting per calendar month and may make provision for such other special meetings as it deems appropriate. An agenda of the Parks & Recreation Advisory Board shall be posted in a public area and filed with the City of San Angelo City Clerk's office at least 72 hours in advance of the called meeting. Meetings of the Board shall be held pursuant to public notice and shall be open to the public in compliance with the Texas Open Meetings Act.

**Section 2. Committees.** The Board may create ad hoc or standing committees of less than a quorum of the Board members, which may include residents of the City who are not Board members, as needed or deemed desirable to address specific matters within the purview of the Board. Committees shall report to the Board and shall have the authority to gather information, make reports and prepare recommendations for consideration by the Board.

**Section 3. Attendance.** In the event any member is absent from four (4) regularly scheduled meetings during the course of any year, a Board member shall be deemed to have resigned, unless such absence from the meeting is "excused" (i.e., family emergency, work-related commitments, medical necessity or vacation outside the City of San Angelo).

**Section 4. Quorum and Vote.** All members of the Board shall have voting rights. A quorum shall consist of a simple majority [five (5)] of the duly appointed members of the Board. The affirmative vote of a majority of the members present at a properly called meeting with a quorum present shall be the act of the Board.

**Section 5. Staff Liaison.** The Parks and Recreation Director shall be designated as the Parks & Recreation Advisory Board's staff liaison and shall cause copies of the Parks & Recreation Advisory Board's agenda, minutes and notices to be filed with the City of San Angelo City Clerk. Said liaison may designate other City staff to facilitate matters of the Parks & Recreation Advisory Board as he/she deems necessary.

## ARTICLE IV

### OFFICERS

**Section 1. Designation and Election of Officers.** At a regular meeting, generally in February, each year, the members shall elect a Chair and Co-Chair. The method for nomination and election shall be determined by a vote of the majority of those members in attendance at such meeting. The Chair shall appoint committees for any purpose deemed necessary by the Board in order to execute more effectively its duties and responsibilities.

**Section 2. Terms.** The officers shall serve a term of one year and thereafter until their successors are elected. Any member chosen as an officer shall be eligible for reelection not to exceed two consecutive terms; but having served two consecutive terms in an office, such person shall not be eligible for reelection to the same office until the expiration of one year after the completion of such second consecutive term.

**Section 3. Duties and Authority of Officers.**

a. Chair: Shall preside at all meetings of the Parks & Recreation Advisory Board, have responsibility for the accomplishment of all directions of the City Council and be primarily responsible for the accomplishment of the purpose and discharge of the duties and responsibilities imposed on the Board by the City Council. The Chair shall appoint members of all committees and shall appoint such committees as deemed necessary and appropriate to carry on the business of the Parks & Recreation Advisory Board and shall designate the Chair of such committees.

b. Co-Chair: Shall, in the absence of or disability of the Chair, perform the duties and exercise the powers of the Chair and shall perform such other duties as the Parks & Recreation Advisory Board may prescribe.

## ARTICLE V

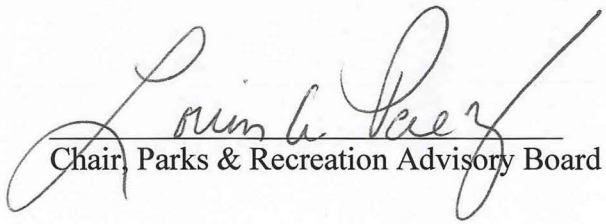
### AMENDMENTS

The Board shall adopt and may amend from time to time its bylaws, establishing rules for its regulation, effective upon approval of the City Council. Said bylaws and amendments thereto as approved by the City Council shall be filed with the City Clerk. The Board may adopt rules or regulations in conformity with its bylaws relating to the administration of its business.


ADOPTED AND APPROVED by the Parks & Recreation Advisory Board on this 31<sup>st</sup> day of January, 2013.

[SIGNATURE PAGE TO FOLLOW]

BYLAWS  
PARKS & RECREATION ADVISORY BOARD

  
Chair, Parks & Recreation Advisory Board

ATTEST:

 Carl White 16 April 2013  
Director, Parks & Recreation Department

APPROVED by the City Council on April 16, 2013



## Planning Commission

The Planning Commission's purpose is to ensure planned and purposeful development of the City of San Angelo and its extraterritorial jurisdiction, to protect the integrity of the community's natural resources and neighborhoods, and to enforce state and local statues and ordinances.

The commission generally meets at 9 a.m. on the third Monday each month in the South Meeting Room of the McNease Convention Center

Staff Liaison: Rebeca Guerra 325-657-4210

Board Roster:

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Luke Uherik	Current	UNEX	01/31/2017	01/31/2020	SMD1	1
Joe Self	Current	UNEX	01/31/2017	01/31/2020	SMD2	2
Teri Jackson	Current	1	01/31/2016	01/31/2019	SMD3	3
Ryan Smith	Current	2	01/31/2015	01/31/2021	SMD4	4
Travis Stribling	Current	1	01/31/2018	01/31/2021	Chair	5
Joe Spano	Current	1	01/31/2017	01/31/2020	Vice Chair	6
Conoly Brooks, III	Current	UNEX	01/31/2017	01/31/2020	Mayor	7

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 2. Planning Commission\*****Division 2. Planning Commission\*****Sec. 2.07.031 Creation; members; terms**

(a) There is hereby created within the city a planning board to be known as the planning commission. Said commission shall be composed of seven (7) members, all of whom shall be representative, insofar as possible, of different businesses, professions or occupations. All members shall be residents of the city. No more than three (3) members of the commission shall be in the same, similar or related business, profession or occupation. The term of office for each member shall be three (3) years and no member may serve more than two (2) terms. All members shall be appointed by the city council. All vacancies shall be filled for unexpired terms in the same manner provided for original appointment. In order to provide for a smooth transition from the six-year terms of the old ordinance to the three-year terms of this division, and to provide for staggered terms, the current terms of the members of the commission shall expire as follows.

(b) Of the present nine (9) members of the commission:

- (1) Three (3) shall serve a term to expire on January 1, 1975;
- (2) Three (3) shall serve a term to expire on January 1, 1976; and
- (3) Three (3) shall serve a term to expire on January 1, 1977.

(1959 Code, sec. 2-2-1; 1996 Code, sec. 2.3101; Ordinance adopted 9/21/10)

**Division 2. Planning Commission\*****Sec. 2.07.032 Removal or resignation of members**

Members of the planning commission may be removed by the mayor with the approval of the city council after a public hearing and for cause assigned in writing. Any member who fails to attend at least two-thirds (2/3) of the meetings in any one-year period shall be deemed to have automatically resigned from office, unless such absences were excused as set forth in the planning commission bylaws. The director of planning shall make periodic attendance reports to the planning commission, and a replacement shall be appointed in the manner provided above for any planning commission member who has automatically resigned under this section. (1959 Code, sec. 2-2-2; 1996 Code, sec. 2.3102)

**Division 2. Planning Commission\*****Sec. 2.07.033 Ex-officio members**

The director of planning and the director of public works shall be ex-officio, nonvoting members of the planning commission. The director of planning, assisted by staff, shall furthermore serve as recording secretary for the planning commission. (1996 Code, sec. 2.3103; Ordinance adopted 1/4/00)

**Division 2. Planning Commission\***

**Sec. 2.07.034 Election of officers; committees**

The planning commission shall elect a chairman and vice-chairman from its membership for terms to be determined by that organization. The chairman shall appoint those committees to hear evidence or for any other purpose as deemed necessary by the planning commission in order to execute more effectively its duties and responsibilities. (1959 Code, sec. 2-2-4; 1996 Code, sec. 2.3104)

Division 2. Planning Commission\*

**Sec. 2.07.035 Meetings**

The planning commission shall hold regular monthly meetings on a day to be selected by that commission and on such other occasions as called by the chairman, provided that, if a quorum is not present on any regular meeting day in which there is business to be transacted, the chairman shall call a special meeting within three (3) days of the regular meeting in order to transact said business with minimum delay, and said chairman shall continue to call special meetings until a quorum is present. (1959 Code, sec. 2-2-5; 1996 Code, sec. 2.3105)

Division 2. Planning Commission\*

**Sec. 2.07.036 Quorum**

A quorum shall consist of a majority of the members excluding ex-officio members. (1959 Code, sec. 2-2-6; 1996 Code, sec. 2.3106)

Division 2. Planning Commission\*

**Sec. 2.07.037 Rules, regulations and bylaws**

The planning commission shall have the power to make rules, regulations and bylaws for its own government in conformity with the laws of the state; all of said rules, regulations and bylaws shall be approved by the city council. (1959 Code, sec. 2-2-7; 1996 Code, sec. 2.3107)

Division 2. Planning Commission\*

**Sec. 2.07.038 Additional duties**

In addition to duties delegated to the planning commission by other laws of the city, it shall be the duty of the planning commission to prepare, amend and keep current a master plan for the development of the city, and to make recommendations to the city council relative to long-range planning of all phases of city development that it deems necessary. (1959 Code, sec. 2-2-8; 1996 Code, sec. 2.3108)

Division 2. Planning Commission\*

**Secs. 2.07.039–2.07.060 Reserved**

## **BY-LAWS OF THE PLANNING COMMISSION OF THE CITY OF SAN ANGELO**

1. **General Governing Statutes, Ordinances and Rules.** The Planning Commission of the City of San Angelo, hereinafter referred to as the "Planning Commission" or simply the "Commission", shall be governed by these By-Laws, subject to ordinances establishing and governing the Planning Commission now in effect or hereinafter adopted, and state law including:
  - a. Chapter 211 in the State of Texas Local Government Code, concerning municipal zoning authority;
  - b. Chapter 212 in the State of Texas Local Government Code, concerning municipal regulation of subdivisions and property development;
  - c. Chapter 171 in the State of Texas Local Government Code, concerning conflicts-of-interest by officers of municipalities;
  - d. Chapter 551 in the State of Texas Government Code, concerning the open conduct of meetings, recording and notices of meetings;
  - e. Article 2.3100 in Chapter 2 (Administration) of the Code of Ordinances, 1996, San Angelo, Texas, concerning the Planning Commission;
  - f. the Zoning Ordinance of the City of San Angelo, as described in Exhibit "A" of Chapter 12 (Planning and Development) in the Code of Ordinances, 1996, San Angelo, Texas;
  - g. the Land Development and Subdivision Ordinance of the City of San Angelo, as described in Exhibit "C" of Chapter 12 (Planning and Development) in the Code of Ordinances, 1996, San Angelo, Texas.
2. **Duties of the Planning Commission.** In addition to duties delegated to the Planning Commission by City ordinances, and statutes of the State of Texas, it shall be the duty of the Planning Commission to prepare, amend and keep current a comprehensive plan for the development of San Angelo, and to make recommendations to City Council relative to long-range planning of all phases of city development that it deems necessary.
3. **Membership of the Commission.** The Planning Commission shall consist of seven (7) members appointed by City Council. All members shall be residents within the city limits of San Angelo. The following additional rules shall apply to the Commission.
  - a. The term of each member shall be three (3) years.
  - b. The City Council may remove a Commission member for cause, assigned in writing and after a public hearing on the matter.

- c. Any member proposing to resign, shall give notice of that intent to the chairman and secretary. When a member resigns or a position otherwise becomes vacant, the secretary shall promptly indicate to the City Clerk that a vacancy exists.
- d. Any vacancy occurring on the Commission shall be filled by the appointment of an interim member by the City Council, under such procedures as it prescribes. Such interim appointment shall be for the unexpired term of the member whose position is vacated; provided, however, that a person serving such an interim appointment shall nevertheless be eligible to serve two (2) full consecutive terms after completion of his or her interim appointment.
- e. No Commission member shall serve more than two (2) consecutive three-year terms as a regular member. However, a member shall continue to serve until his successor is duly appointed and qualified.
- f. A member may serve consecutive one-year terms as chairman or vice chairman.
- g. Any Commission member who misses five (5) of the regular scheduled meetings in any twelve month period shall be deemed to have automatically resigned from office. The secretary shall make periodic attendance reports to the Commission, which may form the basis for declaration of a vacancy by the Commission. The vacancy shall be filled in the manner provided for herein.

**4. Meeting Date, Time and Place.** Regular meetings of the Commission shall be on the third Monday of each month, at 9:00 a.m. in an appropriate venue made available by the City Manager and located inside the corporate limits of the City of San Angelo, unless otherwise as provided herein.

- a. The number of meetings per month, the schedule of meeting dates, and the place of meetings, may be changed by the Commission at any regularly scheduled meeting or upon call of the chairman or secretary.
- b. Additional special meetings may be held at any time, upon the call of the chairman or by a majority of voting members of the Commission or upon request of the City Council, following at least a seventy-two hour notice to each member of the Commission. Call of special meeting (at a specified time and place and for specified purposes) at a regular meeting shall be notice thereof to members in attendance at such regular meeting, but other members shall receive written notice thereof. If a special meeting is called on a case or cases subject to notice of hearing, the required notice provisions for the public hearing shall be complied with.

**5. Conduct of Meetings.**

- a. A majority of the members of the Commission entitled to vote shall constitute a quorum for the transaction of business.
- b. Each case heard before the Commission must be heard by at least four (4) Commission members, that being a quorum.
- c. The concurring vote of a simple majority of members present (and constituting a quorum) is required to approve any motion on a matter.
- d. It shall be customary for the chairman to vote on all matters pending before the Commission, except when he or she may otherwise be disqualified from voting.
- e. Meetings of the Commission shall be open to the public in compliance with the requirements of the Open Meetings Act, Chapter 551, of the Texas Government Code. The Commission may meet in closed executive session during an open meeting in compliance with the Open Meetings Act.
- f. Order of consideration of each agenda item. The following procedure shall generally be observed for the presentation of relevant evidence and information; however, it may be amended by the chairman for individual items, if necessary for the expeditious conduct of business:
  - (1) The chair introduces the item to be considered, summarizing the nature of the request and its location, as described on the meeting agenda.
  - (2) The City staff describes in more detail the nature of the request and its relation to applicable ordinances and regulations of the City. Other relevant evidence available, including witness testimony, is presented by the staff, and a recommendation is provided.
  - (3) The Planning Commission may ask questions of the staff or witnesses, concerning its presentation and report.
  - (4) The applicant outlines the nature of the request and presents supporting evidence including witness testimony, if so desired.
  - (5) Commission members may ask questions of the applicant and supporting witnesses.
  - (6) Members of the public, in attendance at the meeting, are given an opportunity to speak and present evidence in favor of or in opposition to the request.
  - (7) Applicant may make rebuttal or add points not previously covered.

- (8) Staff may respond to points of evidence provided by the applicant or other members of the public, or to points not previously covered.
  - (9) Commission members may ask any final questions of the applicants, witnesses, supporters, opponents, or staff.
  - (10) Commission members shall then deliberate and render a decision, or take the matter under advisement.
- g. Orderly procedure requires that each side shall proceed without interruption by the other.
- h. During the hearing, the chairman, Commission members and City staff may ask questions and make appropriate comment pertinent to the case; however, no Commission member should debate or argue an issue with the applicant or any person addressing the Commission.
- i. The chairman and other Commission members may direct questions to the applicant or to any person speaking, in order to bring out all relevant facts, and may call for questions from members of City staff or counsel present representing interested parties.
- j. All deliberations and votes taken by the Commission shall be made at a public meeting by a motion made and seconded, and by a show of hands. On conclusion of the presentations at a hearing, the Commission may:
  - (1) proceed immediately to deliberation and vote; or
  - (2) defer deliberations and vote until later in the same meeting; or
  - (3) defer deliberation and vote to another specified regular or special meeting of the Commission, in order to obtain additional information or for other good cause.
- l. On any matter for which the Planning Commission offers a recommendation to City Council, a tie vote by the Planning Commission shall be forwarded without recommendation to the City Council for approval or disapproval by the Council in an open meeting with a quorum present.
- m. Recess. Any regular or special meeting may be recessed or adjourned to the following business day, or to the time of any future regular or special meeting properly convened with notice as required by law.
- n. Cancellation. If no business is scheduled before the Commission, or if it is apparent that a quorum will not be available, any meeting may be canceled by the chairman or acting chairman.

## **6. Minute Record.**

- a. The Commission shall maintain a minute record book which shall be kept posted to date. In the minute record book shall be recorded the Commission's proceedings, showing attendance, all absences, any disqualifications of members, the subject of each deliberation, each vote, each order, decision or action, and all other official actions.
- b. The draft minute record of a Commission meeting shall be presented for approval at next subsequent meeting of the Commission after preparation of the draft. The minute record must be approved by a majority of the Commission members who were present at the meeting described in the minutes. If this is not possible due to change in the make-up of the Commission or other cause, then a majority of the members present and voting shall be all that is necessary to approve the minute record.
- c. The minute record shall be considered filed after each of the following has occurred:
  - (1) the minute record has been approved by the Commission;
  - (2) the secretary has posted the approved minute record in the record book contained in offices of the Planning Division.

## **7. Requests to Withdraw**

- a. Once a public hearing has been scheduled in accordance with the Zoning Ordinance, the applicant may request postponement or withdrawal of the application by notifying the Planning Division in writing by 12:00 noon on the Friday preceding the scheduled hearing. If the Planning Division does not receive such notification, the case will be heard as scheduled.
- b. An applicant will be allowed no more than one such postponement of a public hearing. If review of an application is postponed at the request of the applicant and set for hearing on a later date, such application will be reviewed at that time, without recourse to additional requests for postponement by the applicant.
- c. After a public hearing on any matter within the scope of the Zoning Ordinance, the Planning Commission may defer action on it, for a period of time necessary to gather additional information.

## **8. Rules for a Rehearing (withdrawal)**

If an applicant withdraws an application for any of the following matters, such application shall not be heard within (1) one year thereafter, except as specifically directed by a majority vote of the City Council:

- a. amendment to the Official Zoning Map;
- b. Conditional Use approval; and
- c. Special Use approval.

**9. Rules for a Rehearing (final decision)**

The Planning Commission will not hear a request for amendment to the Official Zoning Map, Conditional Use approval or Special Use approval on the same tract of land within one year following the final decision on any previous such request unless:

- a. the Planning Commission is specifically directed by majority vote of the City Council, to hear the subsequent request; or
- b. the subsequent request is for a more restrictive zoning; or
- c. the zoning classification of other nearby properties in the immediate vicinity has changed.

**10. Officers of the Planning Commission**

- a. Election of Chairman and Vice-Chairman.

Annually, at its first regular meeting in January, as the first item of new business, the Commission shall elect a chairman and vice-chairman. The election shall be determined by a majority of those Commission members present and constituting a quorum at said meeting. If such regular meeting is canceled or quorum is lacking, the election shall be held at the next regular or special meeting.

- b. Presiding at Meetings.

If present and able, the chairman shall preside at all meetings of the Commission. During the absence or inability of the chairman to preside, the vice-chairman shall exercise or perform all the duties and be subject to all the responsibilities of the chairman. If both are absent or unable to preside, the members present shall appoint an acting chairman to preside.

In accordance with these and other applicable rules, the presiding officer shall decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on a motion duly made and passed. The presiding officer shall maintain order and decorum, and to that end, may order removal of disorderly or disruptive persons. The presiding officer shall, furthermore, vote on all matters and motions pending before the Commission.

- c. Other Duties and Powers of Chairman.

In addition to presiding at all meetings and hearings of the Planning Commission, the chairman shall have the following additional powers and duties:

- (1) The chairman shall appoint such committees as may be found necessary.
- (2) The chairman shall call special meetings of the Planning Commission in accordance with the by-laws.
- (3) The chairman shall execute official documents as the presiding officer of the Planning Commission.

d. Succession of vice-chairman to chairman.

The vice-chairman shall succeed the chairman if the chairman vacates office before the term is completed. The installation of the vice chairman as chairman, and the election of a new vice chairman shall occur at the next regular meeting following vacation of the chairman's seat on the Commission.

e. Delegation to vice-chairman.

The chairman may delegate specific duties generally to the vice-chairman or may authorize the vice-chairman to perform specific duties, during the chairman's absence, so that the necessary Commission functions are performed in a timely manner. The vice-chairman shall perform all duties so delegated. In case of absence or incapacity of the chairman, and on approval by a majority of the Commission, the vice-chairman shall perform any or all duties of the chairman, whether or not so delegated.

f. Appointment of secretary; duties.

The Planning Manager shall serve as secretary to the Planning Commission. The secretary shall attend to correspondence relating to business of the Commission; serve or publish all notices required; attend meetings of the Commission; prepare staff reports and make recommendations to the Commission on matters under deliberation; scrutinize all matters to ensure compliance with applicable rules, ordinances and statutes; maintain custody of the records of the Commission; and generally perform or supervise all clerical work of the Commission.

## **11. Conduct of Board Members**

a. Conflict of Interest.

No member of the Commission shall participate in any case in which he or she has a substantial interest in the business or property concerned, or has any other conflict of interest as defined by applicable law, except as may be otherwise permitted pursuant

to Chapter 171 of the Texas Local Government Code. "Substantial interest" and "Business entity" are as defined in Chapter 171 of the Texas Government Code. To this end, the conflicted Commission member shall execute an appropriate affidavit, as required by statute, and shall furthermore be required to leave the meeting room during discussion and/or deliberation of the case in which the Commission member has a conflict of interest. After all deliberation and voting by the Planning Commission on the matter is complete, the excused member shall rejoin the Commission.

- (1) If any member has a perceived conflict of interest other than as stated above, for a specific matter from which he or she desires to be excused, then that Commission member may be excused by a majority vote of the remaining commission members. The Commission member excused must leave the meeting room. After all deliberation and voting by the Planning Commission on that matter is complete, the excluded Commission member shall rejoin the Commission.

b. Required to Vote.

Unless excused or disqualified from voting, for any of the reasons or circumstances itemized herein this Section 11 of these By-Laws, Commission members shall cast a vote on each and every motion duly made and seconded. A failure to cast a vote by a Commission member required and eligible to vote, shall be deemed a vote in the affirmative.

c. Expressions of Bias, Prior to Hearing.

Commission members shall not express any bias, prejudice or individual opinion or judgment on any matter pending before the Commission prior to deliberation on the matter at a scheduled public hearing.

d. Representation.

No member of the Commission shall represent applicants on matters pending or likely to become pending before the Commission. This provision does not limit the right of a Commission member to represent himself on his or her personal application to the Planning Commission.

e. Members Not to Vote Unless Present at Hearing.

No Commission member shall vote on any matter deciding an application pending before the Commission, except after attending the public hearing on that particular matter.

**12. Criteria, Required Findings and Other Considerations for Approval from Zoning Regulations.**

In exercising its power to grant approval of individual requests, the Planning Commission will apply criteria as applicable and referenced in Chapter 2 of the Zoning Ordinance.

### **13. Deadline for Applications.**

In December of each year, the City Planning Commission shall adopt a schedule of regular meetings and appropriate deadline dates therefor, based on guidelines provided by these By-Laws and making allowances for holidays. Applications for presentation of matters to the Planning Commission shall be properly completed and submitted with all attachments and supplementation, and applicable fees paid in full, prior to 5:00 p.m. on the last business day at least 21 days prior to the regularly scheduled Commission meeting at which the matter is to be considered.

### **14. Miscellaneous.**

- a. All maps, plats, site plans or photographs, or a copy thereof, submitted to the Planning Commission for presentation purposes shall become the property of the City.
- b. All maps, plats, site plans, photographs or any other exhibits, or a copy thereof, shown to the Planning Commission for presentation by an outside party shall become part of the minute record for that meeting.
- c. Matters referred to the Planning Commission by the City Council shall be placed on the calendar for consideration at the first meeting of the Commission after such references.

### **15. Amending These By-Laws.**

These rules may be amended at any regular or special meeting of the Planning Commission, by a majority of a quorum of the Commission, provided that notice of said proposed amendment is given to each member in writing at least two weeks prior to said meeting.



## Public Art Commission

The Public Art Commission acts as an advisory board to the City Council and City Manager on the selection and placement of art on city-owned or -controlled property.

Meetings are held on a called basis in the South Meeting Room of the McNease Convention Center

Staff Liaison: Carl White 325-657-4279

Board Roster:

Name	Status	Term	Term Start	Term End	Role
<b>Teri Covert</b>	Current	2	04/30/2015	04/30/2019	SMD1 - SACAC/SAMFA Member
<b>Vacant</b>			04/30/2015	04/30/2017	SMD2 - Art Teacher/ Professor
<b>Suzanna Aguirre</b>	Current	1	04/30/2016	04/30/2020	SMD3
<b>Lori Francks</b>	Current	3	04/30/2015	04/30/2019	SMD4
<b>Heidi Meyer-Brooks</b>	Current	2	04/30/2015	04/30/2019	SMD5
<b>Julie Raymond</b>	Current	2	04/30/2015	04/30/2019	SMD6 - PAC - Artist
<b>Cynthia Lackey</b>	Current	2	04/30/2015	04/30/2019	Mayor

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 16. Public Art Commission****Division 16. Public Art Commission****Sec. 2.07.471 Creation; members**

(a) There is hereby created a city public art commission ("commission" hereinafter), which shall be composed of seven (7) members who shall be appointed by the city council.

(b) To the extent available, the city council shall appoint to the commission:

(1) At least one (1) member who is a teacher or professor of art.

(2) At least one (1) member who is a member of the San Angelo Cultural Affairs Council or the San Angelo Museum of Fine Arts.

(3) At least one (1) member who is an artist.

(4) At least one (1) member who is a landscape architect, architect, engineer, or other type of design professional.

(c) There may be one (1) ex-officio nonvoting member who represents the parks and recreation department or parks and recreation advisory board as designated by the city council from time to time.

(1996 Code, sec. 2.4201; Ordinance adopted 8/3/04; sec. 4, Ordinance adopted 8/7/12)

**Division 16. Public Art Commission****Sec. 2.07.472 Terms**

Of the members first appointed, three (3) shall be appointed for a term of two (2) years and four (4) shall be appointed for a term of three (3) years. All additional appointments shall be for a term of two (2) years except vacancies for unexpired terms, which shall be filled for the remainder of the unexpired term. A commission member may be terminated by the city council at any time. (1996 Code, sec. 2.4202; Ordinance adopted 8/3/04)

**Division 16. Public Art Commission****Sec. 2.07.473 Election of officers**

The commission shall elect a chairperson and such other officers as it may determine necessary. The chairperson shall appoint committees for any purpose deemed necessary by the commission in order to execute more effectively its duties and responsibilities. (1996 Code, sec. 2.4203; Ordinance adopted 8/3/04)

**Division 16. Public Art Commission****Sec. 2.07.474 Quorum**

A quorum shall consist of a simple majority of the members. (1996 Code, sec. 2.4204; Ordinance adopted 8/3/04)

Division 16. Public Art Commission

**Sec. 2.07.475 Rules, regulations and bylaws**

The commission shall have the power to make rules, regulations and bylaws for its own government in conformity with the laws of the state. All of said rules, regulations and bylaws shall be approved by the city council. (1996 Code, sec. 2.4205; Ordinance adopted 8/3/04)

Division 16. Public Art Commission

**Sec. 2.07.476 Duties**

The commission shall act as an advisory board to the city council and city manager on the selection and placement of art on city owned or controlled property, and this shall be accomplished through:

- (1) Developing a plan for the appropriate location for works of art;
- (2) Developing a plan for the type of art that will be recommended at the different locations;
- (3) Evaluating and making recommendation on art that is proposed for donation to the city; and
- (4) Assisting with related projects which the city council directs it to investigate, study and make recommendations on from time to time.

(1996 Code, sec. 2.4206; Ordinance adopted 8/3/04)

Division 16. Public Art Commission

**Sec. 2.07.477 Staff representative**

The city manager or his designee shall act as staff representative to the commission. The city manager or his designee shall provide for public notice of all meetings and the agenda of all such meetings and shall represent the city at all meetings of the commission. (1996 Code, sec. 2.4207; Ordinance adopted 8/3/04)

Division 16. Public Art Commission

**Sec. 2.07.478 Compensation**

Members of the commission shall serve without compensation. (1996 Code, sec. 2.4208; Ordinance adopted 8/3/04)

Division 16. Public Art Commission

**Secs. 2.07.479–2.07.500 Reserved**

BY-LAWS  
OF THE  
CITY OF SAN ANGELO  
Public Art Commission



ADOPTED: May 12, 2005  
REVISED: April 7, 2009 & November 2, 2010

# ARTICLE I

## Purpose, Duties and Powers

**Section 1. Purpose.** The Public Art Commission is organized and created to advise the City Council of the City of San Angelo and the City Manager on the selection and placement of art on city owned or controlled property, and this shall be accomplished through: (1) developing a plan for the appropriate location for works of art; (2) developing a plan for the type of art that will be recommended at the different locations; (3) evaluating and making recommendation on art that is proposed for donation to the city; and (4) assisting with related projects which the city council directs it to investigate, study and make recommendations on from time to time.

**Section 2. Duties.** The Public Art Commission shall act as an advisory board to the City Council and City Manager on the selection and placement of art on city owned or controlled property.

**Section 3. Powers.** The Public Art Commission shall have the power to make rules, regulations and by-laws for its own government in conformity with the laws of the State of Texas. All of said rules, regulations and by-laws shall be approved by the City Council.

# ARTICLE II

## MEMBERS OF THE PUBLIC ART COMMISSION

**Section 1. Members.** The Public Art Commission shall consist of seven (7) members.

**Section 2. Appointment.** The Public Art Commission members shall be appointed by the City Council of the City of San Angelo under such procedures designated by the City Council.

**Section 3. Qualifications.** Members shall be 21 years of age or older and shall be residents of the City of San Angelo.

**Section 4. Terms of Office.** Of the members first appointed, three (3) shall be appointed for a term of two (2) years and four (4) shall be appointed for a term of three (3) years. All additional appointments shall be for a term of two (2) years. Upon the expiration of a term, a member may continue to serve until a successor is appointed by the City Council. No member shall be eligible to serve more than two full consecutive terms; providing however, that after any period of time off the board, a person shall then become eligible to serve two more consecutive terms without regard to the number of terms or amount of time service on the Board prior thereto. A member may be terminated by the City Council at any time. Members of the Public Art Commission shall serve without compensation, but may be reimbursed for expenses for education or professional conferences as approved by the City Council.

**Section 5. Vacancies.** Any vacancy occurring on the Public Art Commission shall be filled by the appointment of the City Council under such procedures as it prescribes and such appointment shall be for the unexpired term of the members whose position is vacated; provided however, that a person serving such unexpired appointment shall nevertheless be eligible to serve two full consecutive terms after the completion of his/her unexpired appointment.

## ARTICLE III

### MEETINGS

**Section 1. Regular Meeting.** The Public Art Commission shall hold meetings on a called, “as needed,” basis. The called meetings of the Public Art Commission shall be held at the Kenneth McNease Convention Center or at the time and location selected by the Chair. An agenda of the Public Art Commission shall be posted in a public area and filed with the City of San Angelo City Clerk’s Office at least 72 hours in advance of the called meeting. Other notices will be posted in accordance with State Law.

**Section 2. Special Meetings.** A special meeting of the Public Art Commission may be held upon the call of the Chair, or by the Chair at the request of three members of the Public Art Commission. An agenda of the special meeting shall be posted in a public area and filed with the City of San Angelo City Clerk’s Office at least 72 hours in advance of the regular meeting.

**Section 3. Attendance.** Any member missing 25% or  $\frac{1}{4}$  of the regular meetings per calendar year that is unexcused will be considered to be a terminated member. An absence will be defined as excused in instances of family emergency, work-related commitments, medical necessity or vacation outside the City of San Angelo involving the commission member. An absence will be defined as "unexcused" when no prior notification is provided to the chair or staff liaison. An absence can also be deemed unexcused when notification is provided to the chair or staff liaison, but the reason for absence does not meet the requirements of an excused absence. An absence is unexcused when it is not related to the instances defined under an excused absence.

**Section 4. Quorum and Vote.** A quorum shall consist of a simple majority of the members. Provided said quorum is present, a simple majority voting in a like manner for or against an issue shall constitute the passing or rejection of the issue.

**Section 5. Support Staff.** The Parks and Recreation Director shall be designated as the Public Art Commission’s staff liaison and shall cause copies of the Public Art Commission’s agenda, minutes and notices to be filed with the City of San Angelo City Clerk. Said liaison may designate other City staff to facilitate matters of the Public Art Commission as he/she deems necessary.

## ARTICLE IV

### OFFICERS

**Section 1. Designation and Election of Officers.** At a regular meeting in May of each year, the members shall elect a Chair, Vice-Chair and Secretary. The method for nomination and election shall be determined by a vote of the majority of those members in attendance at such meeting. The Chair shall appoint committees for any purpose deemed necessary by the commission in order to execute more effectively its duties and responsibilities.

**Section 2. Terms.** The officers shall serve a term of one year and thereafter until their successors are elected. Any member chosen as an officer shall be eligible for reelection not to

exceed two consecutive terms; but having served two consecutive terms in an office, such person shall not be eligible for reelection to the same office until the expiration of one year after the completion of such second consecutive term.

### **Section 3. Duties and Authority of Officers.**

- a. Chair: Shall preside at all meetings of the Public Art Commission, have responsibility for the accomplishment of all directions of the City Council and be primarily responsible for the accomplishment of the purpose and discharge of the duties and responsibilities imposed on the Board by the City Council. He/She shall appoint members of all committees and shall appoint such committees as he/she deems necessary and appropriate to carry on the business of the Public Art Commission and shall designate the Chair of such committees.
- b. Vice-Chair: Shall, in the absence of or disability of the Chair, perform the duties and exercise the powers of the Chair and shall perform such other duties as the Public Art Commission may prescribe.
- c. Secretary: Shall keep the minutes of all meetings of the Public Art Commission, shall be custodian of all books and records of the Commission, prepare and send or deliver such notices as directed by the Commission and in general, perform all duties as may be required by the Public Art Commission.

## **ARTICLE V**

### **AMENDMENTS**

Changes in the By-Laws of the Public Art Commission shall require a two-thirds (2/3) vote of all members of the Public Art Commission. The proposed changes must be noticed at 72 hours prior to the meeting at which such changes will be considered. Changes will not become effective until they are approved by the City Council.

ADOPTED AND APPROVED by the Public Art Commission on this 2<sup>nd</sup> day of November, 2010.

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Chair, Public Art Commission

ATTEST:

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Secretary

APPROVED by the City Council on November 2, 2010.



## Public Housing Authority

The Public Housing Authority Commission decides all issues which pertain to use of federal funds granted to the city by the Department of Housing and Urban Development which pertain to public housing.

Executive Director: Becki Salandy 325.486.3371 [execdirector@sanangelopha.com](mailto:execdirector@sanangelopha.com)

Board Roster:

Name	Status	Term	Term Start	Term End	Role
Monette Molinar	Current	1	05/01/2016	04/30/2018	Regular
<b>Vacant</b>			05/01/2017	04/30/2019	Regular
Troyce Wilcox	Current	3	05/01/2016	04/30/2018	Regular
Becky Frazier	Current	1	05/01/2016	04/30/2018	Resident Commissioner
Wes Masters	Current	3	05/01/2017	04/30/2019	Regular
Jesse Martinez	Current	3	05/01/2017	04/30/2019	Regular
Jaime Bucks	Current	1	05/01/2017	04/30/2019	Resident Commissioner

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 7. Housing Authority<sup>\*</sup>****Division 7. Housing Authority<sup>\*</sup>****Sec. 2.07.181 Creation; members; terms**

(a) There is hereby created within and for the city a public housing authority to be known as the Housing Authority of the City of San Angelo which shall be composed of seven (7) members. The members shall be appointed to the authority by the mayor of the city.

(b) Members shall serve two (2) year terms.

(c) All members shall be representative of the general public, residents of the city and qualified voters of the city. Two (2) members shall be tenants of a public housing project over which the authority has jurisdiction.

(d) Members shall draw no salary and may not be elected officers of any governmental agency or in the employ of the city.

(1996 Code, sec. 2.2701; Ordinance adopted 11/3/09; Ordinance adopted 5/20/14)

**Division 7. Housing Authority<sup>\*</sup>****Sec. 2.07.182 Ex-officio members**

The mayor of the city and the city manager or their respective designates shall be ex-officio members of the authority. Ex-officio members shall have no vote. (1959 Code, sec. 2-18-2; 1996 Code, sec. 2.2702)

**Division 7. Housing Authority<sup>\*</sup>****Sec. 2.07.183 Officers**

The authority shall elect a chairman and a vice-chairman from its membership for terms to be determined by the authority. The chairman shall appoint committees to hear evidence or for any other purpose as deemed necessary by the authority to expeditiously and effectively execute its duties and responsibilities. (1959 Code, sec. 2-18-3; 1996 Code, sec. 2.2703)

**Division 7. Housing Authority<sup>\*</sup>****Sec. 2.07.184 Meetings**

The authority shall hold a regular meeting once a month on a day to be selected by the authority. Special meetings may be called by the chairman. If a quorum is not present at a regular meeting at which there is business to be transacted, the chairman shall call a special meeting to be held within three (3) days of the regular meeting in order to transact said business with minimum delay. (1959 Code, sec. 2-18-4; 1996 Code, sec. 2.2704)

Division 7. Housing Authority\*

**Sec. 2.07.185 Rules, regulations and bylaws**

The authority shall have the power to make rules, regulations and bylaws for the conduct of its business. Such rules, regulations and bylaws shall be in conformity with the rules, regulations, guidelines and laws of the United States, the state and the city. (1959 Code, sec. 2-18-6; 1996 Code, sec. 2.2706)

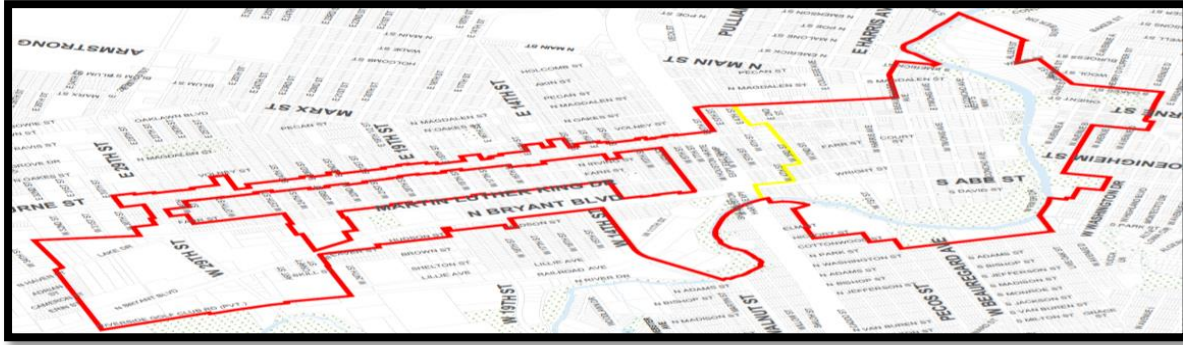
Division 7. Housing Authority\*

**Sec. 2.07.186 Duties**

In addition to duties delegated to the authority by the city council by contract agreement or policy directives, the authority shall have the power to decide all issues which pertain to use of federal funds granted to the city by the Department of Housing and Urban Development which pertain to public housing. The authority shall submit annually to the city council for approval and review any and all requests for housing funds from any other governmental agencies. The authority shall also submit and recommend to the city council annually for approval of a housing assistance plan for the city. The authority shall also have any and all other duties imposed on it by V.T.C.A., Local Government Code, chapter 392. The authority shall advise the city council regarding the use of public funds intended as grant monies to homeowners for improvement and rehabilitation of substandard dwellings within the city. (1959 Code, sec. 2-18-7; 1996 Code, sec. 2.2707)

Division 7. Housing Authority\*

**Secs. 2.07.187–2.07.210 Reserved**



## Tax Increment Reinvestment Zone Board

The Tax Increment Reinvestment Zone, or TIRZ, was created in 2006 to preserve the near- and long-term integrity of the economic and social investment in the designated area and to encourage additional new projects within that area. The TIRZ board makes recommendations related to that mission and those efforts to the City Council. The TIRZ board was reorganized by ordinance on May 18, 2016. The details of the new TIRZ board - effective June 21 - are outlined below.

The TIRZ district has two eligibility areas for incentives: the TIRZ-North and the TIRZ-South. Within these areas, a variety of incentive types are available to encourage revitalization and infill development of properties in these key locations. For 2017, there will be 2 application cycles. The first cycle will begin March 1st and end March, 31st. The second cycle will begin July 1st and all application and required documents must be submitted to Shannon Scott in the Economic Development Department by July 31st. Currently, both application cycles are closed. As the next application cycle nears, the application and all required documents will be posted on the website to download, print and complete.

The board generally meets at 3 p.m. on the fourth Tuesday of the month in the South Meeting Room of the McNease Convention Center.

Staff Liaison: Jon James at 325-657-4210.

Board Roster (City Appointed Positions):

Name	Status	Term	Term Start	Term End	Role
<b>Casey Barrett</b>	Current	1	07/31/2016	07/31/2018	SMD1/TIRZ South
<b>Greg Gayler</b> <i>scheduled 5/1/18</i>	Current	UNEX	07/31/2016	07/31/2018	SMD2/TIRZ North

Name	Status	Term	Term Start	Term End	Role
Jason Fernandez	Current	1	07/31/2016	07/31/2019	SMD3/TIRZ North
Dudra Butler	Current	1	07/31/2016	07/31/2018	SMD4/TIRZ North
Toni Hunter	Current	UNEX	07/31/2016	07/31/2019	SMD5
Vacant			07/31/2016	07/31/2019	SMD6/TIRZ South
Jim Cummings	Current	UNEX	07/31/2016	07/31/2018	Mayor - Chairman

**Other Voting Members:**

County Commissioner Representatives: Lee Pfluger – Vice Chairman (exp. 07/31/19) and Mike Biggerstaff (exp. 07/31/18)

**Non-Voting Members:**

Angelo State University – John Klingemann

Chamber of Commerce – vacant

Downtown San Angelo – Del Velasquez

Goodfellow Air Force Base– Kevin Bruce

San Angelo Independent School District – Dr. Jeff Bright

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 10. Tax Increment Reinvestment Zone Board\*****Division 10. Tax Increment Reinvestment Zone Board\*****Sec. 2.07.281 Organization and procedure**

(a) There is hereby created within the city a tax increment reinvestment zone board that consists of nine (9) regular board members to be filled by nomination and appointment as follows:

(1) One (1) board seat shall be appointed by city council from a nomination of the mayor;

(2) Each of six board member seats shall be appointed by city council, designated for city council single member districts one through six respectively, from nomination of each councilmember representing each designated single member district;

(3) Two (2) board member seats shall be appointed by the county commissioners court;

(b) In addition, there shall be five (5) nonvoting, ex-officio members who will attend and participate in an advisory capacity. Each one of the five will be a representative of each of the following organizations: San Angelo Chamber of Commerce, Downtown San Angelo, San Angelo Independent School District, Goodfellow Air Force Base, and Angelo State University.

(1996 Code, sec. 2.4301; sec. 2, Ordinance adopted 12/19/06; Ordinance adopted 5/18/16)

**Division 10. Tax Increment Reinvestment Zone Board\*****Sec. 2.07.282 Qualifications**

(a) All regular and alternate board members shall be at least eighteen (18) years of age and a resident of the county. Any regular board member who ceases to possess such qualifications shall automatically be deemed to have vacated his or her membership on the board.

(b) Appointees of councilmembers representing single member districts (SMDs) two, three, and four shall live, work and/or own property within the TIRZ - North. Appointees of councilmembers representing single member districts (SMDs) one, five, and six shall live, work and/or own property within the TIRZ - South.

(1996 Code, sec. 2.4302; sec. 2, Ordinance adopted 12/19/06; Ordinance adopted 5/18/16)

**Division 10. Tax Increment Reinvestment Zone Board\*****Sec. 2.07.283 Terms**

(a) Of the initial board member appointments by city council after the effective date of this section, four (4) shall be for a two (2) year term, and three (3) shall be for a three (3) year term. Of the initial board member appointments by the county commissioners' court after the effective date of this section, one (1) shall be for a two (2) year term, and one (1) shall be for a three (3) year term.

(b) All appointments for regular members made after the initial appointments shall be for a term of two (2) years, except vacancies for unexpired terms, which shall be filled for the remainder of the unexpired term, thereby maintaining staggered terms. Ex-officio members will not have terms or term limitations.

(c) No individual may serve more than three, full consecutive board member terms, except after one full year from the date of last service as a board member.

(1996 Code, sec. 2.4303; sec. 2, Ordinance adopted 12/19/06; Ordinance adopted 5/18/16)

Division 10. Tax Increment Reinvestment Zone Board*
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### **Sec. 2.07.284 Duties**

The TIRZ board shall act as an advisory board to the city council in the operation and administration of the TIRZ; all action by the board is subject to city council approval. The authority and responsibility of the board expressly includes:

- (1) Make recommendations to the city council regarding the administration of this division.
- (2) Make recommendations to the city council regarding agreements that are necessary or convenient to implement the project plan and reinvestment zone financing plan.
- (3) Make recommendations to the city council regarding agreements with local governments or political subdivisions for management of the zone or implementing the project plan and reinvestment zone financing plan.
- (4) Make recommendations to the city council regarding establishing and providing for the establishment of programs that:
  - (A) Develop and diversify the economy of the zone;
  - (B) Eliminate unemployment and underemployment in the zone;
  - (C) Develop or expand transportation, business and commercial activity in the zone;
  - (D) Make grants and loans; and
  - (E) Stimulate business and commercial activity in the zone.
- (5) Contract with the city regarding allocation from the tax increment fund to pay for the incremental costs of providing municipal services incurred as a result of the creation of the zone or the development or redevelopment of land within the zone.
- (6) Make recommendations to the city council regarding the expenditure of TIRZ funds related to development and redevelopment of land within the zone, in conformance with the following process:
  - (A) An affirmative recommendation to expend TIRZ funds for a project in the same area as that from which the funds are derived requires a simple majority vote of the TIRZ board members present when the matter is voted upon. The city council may approve expenditures under this subsection by a simple majority vote if such expenditure is recommended by the TIRZ board.
  - (B) An affirmative recommendation to expend TIRZ funds for a project located in the area outside that from which the funds are derived requires an affirmative vote by three-quarters of the TIRZ board members present when the matter is voted upon. The city council may only approve expenditures under this subsection when such expenditures are recommended by the TIRZ board and with an affirmative vote of six (6) members of the city council.
- (7) Acting as the lead entity in working with other boards and commissions regarding incentives, regulations, infrastructure and all other physical and economic development decisions related to the TIRZ district.
- (8) Providing a progress report to the city council annually, or as requested by the city council.

(1996 Code, sec. 2.4304; Ordinance adopted 6/17/08; Ordinance adopted 5/18/16)

Division 10. Tax Increment Reinvestment Zone Board\*

**Sec. 2.07.285 Officers**

The city council shall appoint a chair, as established in section 311.009.f of the Local Government Code, for a term of one year, beginning in January. The board may appoint other officers as it may establish in its bylaws. (1996 Code, sec. 2.4305; sec. 2, Ordinance adopted 12/19/06; Ordinance adopted 5/18/16)

Division 10. Tax Increment Reinvestment Zone Board\*

**Sec. 2.07.286 Quorum**

A simple majority of the duly appointed voting members of the board shall constitute a quorum. In the event that a regular or specially called meeting of the board occurs without appointment of a new member (if the vacancy is that of a voting member), a majority of the remaining voting members shall constitute a quorum. (1996 Code, sec. 2.4306; sec. 2, Ordinance adopted 12/19/06)

Division 10. Tax Increment Reinvestment Zone Board\*

**Sec. 2.07.287 Bylaws**

The board shall write its own bylaws establishing its own rules for its regulation. Said bylaws and amendments thereto shall be filed with the city clerk. (1996 Code, sec. 2.4307; sec. 2, Ordinance adopted 12/19/06)

Division 10. Tax Increment Reinvestment Zone Board\*

**Sec. 2.07.288 Meetings**

The board shall hold regular monthly meetings that shall be open to the public and at a time and place to be established in its bylaws. It may also hold such other meetings as may be necessary to accomplish the purpose of its creation and as established in its bylaws. All meetings shall be public and shall conform to law. (1996 Code, sec. 2.4308; sec. 2, Ordinance adopted 12/19/06)

Division 10. Tax Increment Reinvestment Zone Board\*

**Sec. 2.07.289 Minutes**

The board shall keep a record of its proceedings in a permanent book, and a signed copy of said minutes shall be given to the city clerk. (1996 Code, sec. 2.4309; sec. 2, Ordinance adopted 12/19/06)

Division 10. Tax Increment Reinvestment Zone Board\*

**Sec. 2.07.290 Absent members**

In the event of three (3) consecutive absences or a cumulative total of four (4) absences by a member within a calendar year from regularly scheduled meetings, a board member shall be deemed to have resigned unless the board excused such absences by procedures established in its bylaws. (1996 Code, sec. 2.4310; sec. 2, Ordinance adopted 12/19/06)

Division 10. Tax Increment Reinvestment Zone Board*
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**Sec. 2.07.291 Severability**

The terms and provisions of this division shall be deemed to be severable in that, if any portion of this division shall be declared to be invalid, the same shall not affect the validity of the other provisions of this division. (1996 Code, sec. 2.4311; sec. 2, Ordinance adopted 12/19/06)

Division 10. Tax Increment Reinvestment Zone Board*
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**Sec. 2.07.292 Conflicts of interest**

(a) No member of the board shall participate in any case in which he or she has financial or personal interest in the property concerned, or will be directly affected by the decision, or has any other conflict of interest as defined by applicable law. The determination of "substantial" interest in a business entity, as well as rules affecting participation of board members in cases affected thereby, are described in chapter 171 in the Texas Local Government Code.

(b) No member of the city council, or person related to a councilmember within the second degree by consanguinity or affinity, shall be eligible for a grant or assistance from the board during his/her tenure or for six months thereafter.

(c) No member of the TIRZ board, or person related to a board member within the second degree by consanguinity or affinity, shall be eligible for a grant or assistance from the board during his/her tenure or for six months thereafter.

(d) No employee of the planning and development services department, or person related to an employee or supervisor of this department within the second degree by consanguinity or affinity, shall be eligible for assistance from the TIRZ during his/her employment or for six months thereafter.

(e) A member may disqualify himself/herself from voting whenever any requestor, or his/her agent, has sought to influence the vote of the member in any setting, other than in the public meeting.

(Ordinance adopted 5/18/16)

Division 10. Tax Increment Reinvestment Zone Board*
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**Secs. 2.07.293–2.07.310 Reserved**

**BY-LAWS OF THE TAX INCREMENT REINVESTMENT ZONE BOARD**  
**OF THE CITY OF SAN ANGELO**

**Article 1. General Governing Statutes, Ordinances and Rules**

The Tax Increment Reinvestment Zone Board, hereinafter referred to as the “Board”, shall be governed by the following statutes and rules, to the extent that they remain in force and effect, as they are amended, and as they may be added to:

- 1.1 Chapter 551 of the Texas Government Code, concerning the open conduct of meetings and posting of meeting agendas.
- 1.2 Chapter 171 in the State of Texas Local Government Code, regulating conflicts of interest of officers of municipalities.
- 1.3 Division 10 of Article 2.07 “Committees and Commissions”, Chapter 2 of the Code of Ordinances of the City of San Angelo, Texas.
- 1.4 By-laws of the Tax Increment Reinvestment Zone Board, as set forth herein.

**Article 2. Authority of the Board**

The Tax Increment Reinvestment Zone Board shall have authority as outlined in the regulations adopted by City Council under Chapter 2, Article 2.07, Division 10, Section 2.07.284, “Duties”.

**Article 3. Membership of the Board**

The Tax Increment Reinvestment Zone Board shall be composed of nine (9) members. The members shall be appointed as outlined in the regulations adopted by City Council under Chapter 2, Article 2.07, Division 10, Section 2.07.281, “Organization and Procedure”.

- 3.1 The term of each member shall be as outlined in the regulations adopted by City Council under Chapter 2, Article 2.07, Division 10, Section 2.07.283, “Terms”.
- 3.2 When members propose to resign, they shall give notice of their intent to the chair and board staff liaison. When a member resigns or a position otherwise becomes vacant for other causes, the liaison shall promptly indicate to the City Council that a vacancy exists.
- 3.3 Any vacancy occurring on the Board shall be filled by the appointment of an interim member by the City Council or other appointing agency as designated. Such interim appointment shall be for the unexpired term of the member whose position is vacated; provided, however, that a person serving such an interim appointment shall nevertheless be eligible to serve two full consecutive terms after completion of his or her interim appointment.
- 3.4 No board member shall serve more than three (3) consecutive two-year terms, but may be reappointed after one (1) year has passed. However, in the event that a successor is not named to serve in place of a

member whose term has expired, said member shall continue to serve as board member until the City Council or other designated agency duly appoints a successor.

- 3.5 In the event of three (3) consecutive absences or a cumulative total of four (4) absences by a member within a calendar year from regularly scheduled meetings, a board member shall be deemed to have resigned unless the board excused such absences by procedures established herein. The board staff liaison shall make periodic attendance reports to the Tax Increment Reinvestment Zone Board, and a replacement shall be appointed in the manner provided above for any Tax Increment Reinvestment Zone Board member who has automatically resigned.

#### **Article 4. Meeting date, time and place.**

Meeting date, time, place and regularity will vary depending upon requests for funding and the need to conduct business related to other duties as previously described; at a minimum, the board will meet quarterly.

#### **Article 5. Conduct of Meetings**

- 5.1 Each meeting of the Tax Increment Reinvestment Zone Board must be attended by a simple majority of appointed members of the board in order to constitute a quorum.
- 5.2 A majority vote of the membership present (at any duly-advertised meeting attended by a quorum of voting members) shall be necessary for the Tax Increment Reinvestment Zone Board to approve any motion made before it.
- 5.3 It shall be customary for the chair to vote on all matters pending before the Tax Increment Reinvestment Zone Board, except whereas he or she may otherwise be disqualified from voting.
- 5.4 All meetings of the board shall be open to the public and in compliance with Chapter 551 of the Texas Government Code. This requirement for open meetings does not prevent the board from convening in executive session, under the limitations of said Chapter 551.
- 5.5 Robert's Rules of Order, Newly Revised shall be adopted as the regular rule for the conduct of meetings, provided such rules do not conflict with the bylaws adopted herein, in which case these bylaws shall supersede Robert's Rules of Order. Furthermore, such rules of order are accepted to be advisory and shall not be binding should the board, by its determination, vary or change such rules of conduct for its meeting.
- 5.6 Order for consideration of each agenda item. The following procedure shall generally be observed for the presentation of relevant evidence and information; however, it may be rearranged by the chair for individual items, if necessary for the expeditious conduct of business:
- a. The chair introduces the item to be considered, summarizing the nature of the request as described on the meeting agenda.
  - b. City staff describes in more detail the nature of the item provides relevant background information and a recommendation.
  - c. The board may ask questions of the staff, concerning its presentation and report.
  - d. Members of the public, in attendance at the meeting, are given an opportunity to speak and present relevant information prior to a decision by the board.

- 5.7 All decisions of the board shall be made at a public meeting by a motion made and seconded, and by a show of hands.
- 5.8 The chair may elect, subject to being overruled by a majority of the board members in attendance, on a motion duly passed, to:
- a. proceed immediately to determination and decision, on conclusion of the hearing on the particular agenda item
  - b. defer determination and decision until later in the same meeting; or
  - c. defer determination and decision until another specified regular or special meeting of the Board, in order to obtain additional information or for other good cause.
- 5.9 Recess. Any regular or special meeting may be recessed or adjourned from day to day, or to the time of any previously announced regular or special meeting.
- 5.10 Cancellation. If no business is scheduled before the board, or if it is apparent that a quorum will not be available, any meeting may be canceled by the chair.

#### **Article 6. Minutes**

- 6.1 The board shall maintain a minute record book which shall be kept posted to date. In the minute record book shall be recorded the board's proceedings, showing attendance and all absences, any disqualifications of members, the records of its deliberations and other official actions, as well as the vote of each member voting on every question.
- 6.2 The draft minute record of a board meeting shall be presented for approval at any subsequent meeting of the Tax Increment Reinvestment Zone Board. This minute record must be approved by a majority of the members who were present at the meeting applicable to the subject minutes. If this not possible due to resignations, deaths, or the fact that other members were present at the applicable meeting and not present at the current meeting, then a majority of the members present and voting shall be all that is necessary to approve the minutes.
- 6.3 The minutes shall be considered filed after each of the following has occurred: a) the minutes have been approved by the Board, b) the Chair or Vice Chair has signed the minutes, and c) the board staff liaison has posted the minutes in the record book contained in the office of the City of San Angelo's Planning Division. The minutes of the board shall be a public record, kept in the offices of the Planning Division.

#### **Article 7. Officers of the Tax Increment Reinvestment Zone Board**

- 7.1 Election of Chair and Vice-Chair. The City Council shall appoint a chair, as established in Section 311.009.f of the Local Government Code, for a term of one year, beginning in January. The Tax Increment Reinvestment Zone Board shall elect a vice-chair, for the same term.
- 7.2 Succession of Vice-Chair to office of Chair. If the chair resigns his office or becomes no longer a member of the board, the vice-chair shall succeed him in office until the City Council appoints a new chair. If the vice-chair resigns his office, becomes no longer a member of the board, or succeeds to the chair's office,

a special election shall be held at the next regular meeting of the board to select a vice-chair to complete the term.

- 7.3 Presiding at Meetings. If present and able, the chair shall preside at all meetings and hearings. If the chair is absent or unable to preside, the vice-chair shall preside. If both are absent or unable to preside, the members present shall appoint a temporary chair to preside.

In accordance with these and other applicable rules, the presiding officer shall decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on motion duly made and passed. The presiding officer shall maintain order and decorum, and to that end, may order removal of disorderly or disruptive persons. The presiding officer shall administer oaths to all witnesses, if so desired by the board, or arrange for such oaths to be administered.

- 7.4 Other Responsibilities and Duties of Chair. The chair shall have further duties and responsibilities, as indicated below:

- 7.5 The chair shall appoint such committees as may be found necessary.

- 7.6 Delegation to Vice-Chair. The chair may delegate specific duties generally to the vice-chair or may authorize the vice-chair to perform specific duties, during the chair's absence or in case of his other disability, so that necessary board functions are performed in a timely manner. The vice-chair shall perform all duties so delegated. In case of absence or incapacity of the chair, and on approval by a majority of the board, the vice-chair shall perform any or all duties of the chair, whether or not so delegated.

- 7.7 Appointment of Staff Liaison. The Director of Planning or his/her designee shall serve as staff liaison to the Tax Increment Reinvestment Zone Board. The liaison shall in general attend to all correspondence of the board, send out or cause to be published all notices required; attend all meetings of the board and all hearings (except when excused by the chair and with temporary services arranged); prepare staff reports and make recommendations on individual items to be heard by the board; scrutinize all matters to assure compliance with State law and municipal regulations and these rules; compile all required records; maintain the necessary schedule, files and indexes; and generally perform or supervise all clerical work of the board.

## **Article 8. Conduct of Board Members**

- 8.1 Conflict of Interest. No member of the board shall participate in any case in which he or she has financial or personal interest in the property concerned, or will be directly affected by the decision, or has any other conflict of interest as defined by applicable law. The determination of "substantial" interest in a business entity, as well as rules affecting participation of board members in cases affected thereby, are described in Chapter 171 in the State of Texas Local Government Code.
- 8.2 No member of the San Angelo city council, or person related to a council member within the second degree by consanguinity or affinity, shall be eligible for a grant or assistance from the board during his/her tenure or for six months thereafter.

- 8.3 No member of the TIRZ board, or person related to a board member within the second degree by consanguinity or affinity, shall be eligible for a grant or assistance from the board during his/her tenure or for six months thereafter.
- 8.4 No employee of the Planning & Development Services Department, or person related to an employee or supervisor of this Department within the second degree by consanguinity or affinity, shall be eligible for assistance from the TIRZ during his/her employment or for six months thereafter.
- 8.5 Influence Other Than at Public Hearing. A member may disqualify himself/herself from voting whenever any requestor, or his/her agent, has sought to influence the vote of the member in any setting, other than in the public meeting.

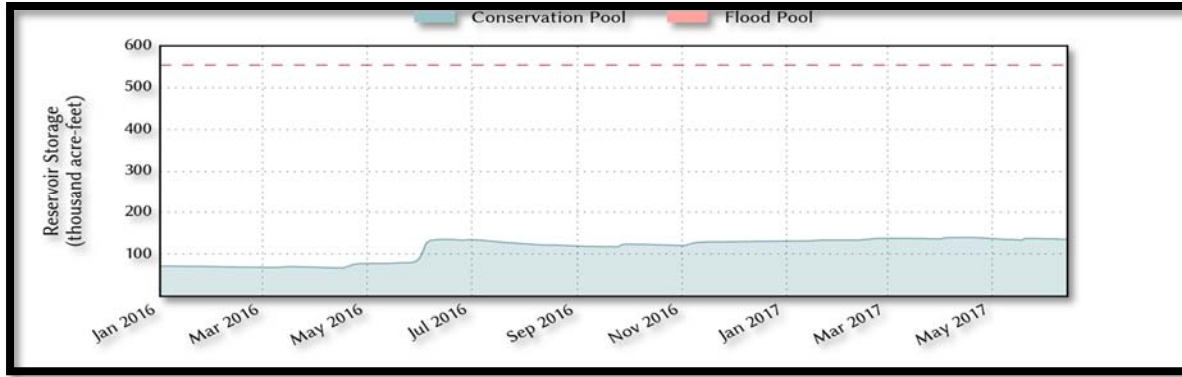
#### **Article 9. Miscellaneous**

- 9.1 The deadline for submission of a request for funding or for the placement of an item on an agenda of the Tax Increment Reinvestment Zone Board shall be no less than 15 days before the regular scheduled meeting of the Tax Increment Reinvestment Zone Board.
- 9.2 All materials related to said requests including maps, site plans, photographs or any other exhibits (or copies thereof) shown to the board for presentation purposes shall become the property of the City and part of the file record.

#### **Article 10. Amending or Waiving These By-laws**

- 10.1 Amending By-Laws. These rules may be amended at any regular or special called meeting of the Tax Increment Reinvestment Zone Board, by a majority of a quorum of board members present, provided that each of the following conditions is met:
  - a. Such amendment will not be contrary to any requirement or limitation set by State law or City ordinance.
  - b. Notice of said proposed amendment is furnished to each member, in writing, at least seven days prior to said meeting.
- 10.2 Waiving By-Laws. A rule of procedure may be suspended at any meeting by a majority vote of all board members present, unless such rule is set by State law or City ordinance.





## Water Advisory Board

The mission of the Water Advisory Board shall be to recommend strategies to the City Council designed to obtain and ensure adequate and affordable water supply resources both now and in the future.

Meetings are held on an "as-called" basis at the McNease Convention Center, 501 Rio Concho Drive. Agendas are posted on this website and at City Hall, 72 W. College Ave.

Staff Liaison: Allison Strube 325-657-4260

Board Roster:

Name	Status	Term	Term Start	Term End	Role
Kendall Hirschfeld	Current	1	04/30/2015	04/30/2018	WAB- Former Government Official
Jonathon Jennings	Current	1	04/30/2015	04/30/2018	WAB – Meteorologist
Mike Boyd	Current	1	04/30/2015	04/30/2018	WAB - Banker
Ben Wiese	Current	1	04/30/2015	04/30/2018	WAB - Rural Water
Steve Floyd	Current	1	04/30/2015	04/30/2018	WAB - TGC Representative
Chuck Brown	Current	1	04/30/2015	04/30/2018	WAB - UCRA Representative
Vacant			04/30/2015	04/30/2018	WAB - COSADC Representative

Name	Status	Term	Term Start	Term End	Role
Stan Meador	Current	1	04/30/2015	04/30/2018	WAB - Chamber of Commerce Representative
Allison Strube					WAB - Water Utilities Director

ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS
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**Division 13. Water Advisory Board**

Division 13. Water Advisory Board
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**Sec. 2.07.381 Creation; members**

There is hereby created a water advisory board ("board"), which shall be composed of nine (9) members, seven (7) of whom shall be voting members and two (2) of whom shall be non-voting members appointed or designated as follows:

(1) Voting members; appointment or designation.

(A) City council shall appoint four (4) voting members to board. For city council appointments, the city manager shall conduct a review of potential appointees to identify the most qualified candidates for board membership and make recommendations to city council for city council appointment of appointees to serve as members of board. Of the four (4) city council appointees:

(i) One (1) member shall be an individual who is either an engineer, a hydrologist, a meteorologist or a water well driller;

(ii) One (1) member shall be an individual who is involved in either the industry of banking, accounting or financial services with a specialization in agricultural lending or water financing;

(iii) One (1) member shall be an individual involved either in agriculture or rural water issues; and

(iv) One (1) member shall be an individual who is either an attorney, a former municipal water district or other governmental officer, a legislator or a person who has experience in legal issues related to water.

(B) The city development corporation board shall appoint one (1) voting member to board who shall be an individual who is either a member of the city development corporation board or a city employee who performs staff services by contract for the city development corporation;

(C) The county commissioners court shall appoint one (1) voting member to board who shall be an individual who is a member of the commissioners court, including the county judge; and

(D) One (1) voting member who shall be an individual employed by the Upper Colorado River Authority as director of operations.

(2) Non-voting members; appointment or designation.

(A) The chamber of commerce shall appoint one (1) non-voting member to board who shall be an individual who is a member of the chamber of commerce board or a staff employee of the chamber of commerce.

(B) One (1) non-voting member who shall be an individual employed by the city as water utilities director or a designee of such director. Furthermore, the water utilities director or a designee of such director shall serve as secretary for board.

(1996 Code, sec. 2.3901; Ordinance adopted 1/20/04; Ordinance adopted 9/16/14)

Division 13. Water Advisory Board

**Sec. 2.07.382 Terms**

Of the members first appointed, three (3) shall be appointed for a term of two (2) years and four (4) shall be appointed for a term of three (3) years. All additional appointments shall be for a term of two (2) years except vacancies for unexpired terms, which shall be filled for the remainder of the unexpired term. A board member may be terminated by the city council at any time. (1996 Code, sec. 2.3902; Ordinance adopted 6/18/02)

Division 13. Water Advisory Board

**Sec. 2.07.383 Election of officers**

The board shall elect a chairman and such other officers as it may determine necessary. The chairman shall appoint committees for any purpose deemed necessary by the board in order to execute more effectively its duties and responsibilities. (1996 Code, sec. 2.3903; Ordinance adopted 6/18/02)

Division 13. Water Advisory Board

**Sec. 2.07.384 Quorum**

A quorum shall consist of a simple majority of the members. (1996 Code, sec. 2.3904; Ordinance adopted 6/18/02)

Division 13. Water Advisory Board

**Sec. 2.07.385 Rules, regulations and bylaws**

The board shall have the power to make rules, regulations and bylaws for its own government in conformity with the laws of the state; all of said rules, regulations and bylaws shall be approved by the city council. (1996 Code, sec. 2.3905; Ordinance adopted 6/18/02)

Division 13. Water Advisory Board

**Sec. 2.07.386 Duties**

The board shall act as an advisory board to the city council and city manager on matters of water supply, conservation, reuse and other water-related projects which the city council directs it to investigate, study and make recommendations on from time to time. (1996 Code, sec. 2.3906; Ordinance adopted 6/18/02)

Division 13. Water Advisory Board

**Sec. 2.07.387 Staff representative**

The city manager or his designee shall act as staff representative to the board. The city manager or his designee shall provide for public notice of all meetings and the agenda of all such meetings and shall represent the city at all meetings of the board. (1996 Code, sec. 2.3907; Ordinance adopted 6/18/02)

Division 13. Water Advisory Board

**Sec. 2.07.388 Compensation**

Members of the board shall serve without compensation. (1996 Code, sec. 2.3908; Ordinance adopted 6/18/02)

Division 13. Water Advisory Board

**Sec. 2.07.389 Meetings**

The board shall adopt a schedule providing for at least one (1) regular meeting per quarter and may make provision for such other meetings as it deems appropriate. Meetings of the board shall be held pursuant to public notice and shall be open to the public in compliance with the Texas Open Meetings Act. (Ordinance adopted 9/16/14)

Division 13. Water Advisory Board

**Sec. 2.07.390 Absenteeism of members**

In the event of two (2) unexcused absences from regularly scheduled meetings, a board member shall be deemed to have resigned. The city manager shall recommend a policy for excusing absences to be adopted by the board in its bylaws. (Ordinance adopted 9/16/14)

Division 13. Water Advisory Board

**Sec. 2.07.391 Minutes**

The board shall keep minutes of its proceedings in a permanent record and a certified copy of said minutes shall be filed with the secretary for the board. (Ordinance adopted 9/16/14)

Division 13. Water Advisory Board

**Secs. 2.07.392–2.07.410 Reserved**

# WATER ADVISORY BOARD

## BYLAWS

### Article I

#### Purposes, Duties, Powers and Conduct

Section 1. Purposes: The Water Advisory Board ("Board" herein) is organized and created by City ordinance, Article 2.07, Division 13, to advise the City Council of the City of San Angelo, the City Manager and his/her representatives.

Section 2. Duties: The Board shall advise the City Council and the City Manager and his/her representatives on matters regarding the development, management, and preservation of the City's water supply and other water-related projects the City Council may direct it to investigate, study and make recommendations on.

Section 3. Powers: The Board may exercise all powers and do all lawful acts delegated to it or permitted by City ordinances, state statutes and these bylaws.

Section 4. Conduct: The Board and its members shall conduct itself in a manner that is in keeping with the standards, rules, regulations, policies and practices established by the City Council for itself and all City Boards and Commissions.

### Article II

#### Members of the Board

Section 1. Members: The Board shall consist of seven (7) voting and two (2) non-voting members. Board members shall receive no compensation for services.

Section 2. Appointment: Voting and non-voting board members shall be appointed by the City Council in accordance with the procedures established by the City Council in Article 2.07, Division 13 of the City Code of Ordinances.

Section 3. Qualifications: Board members shall have such qualifications as prescribed by the City Council and as stated in City ordinance, Article 2.07, Division 13. All members must be of voting age.

Section 4. Term of Office: Board members shall be appointed for two (2) year terms, except for vacancies of unexpired terms, which shall be filled for the remainder of the unexpired term.

There shall be no limit on the number of terms a board member may serve. A board member may be terminated by the City Council at any time.

### Article III

#### Meetings

Section 1. Meetings: The Board shall hold meetings at least quarterly. The meetings shall normally be held at 9:00 a.m. at the McNease Convention Center. The Board may periodically meet at other venues. All meetings shall be public and conform to law.

Section 2. Attendance: Members must attend all Board meetings unless they notify the Board Chairman or Secretary they will be absent. Absences without notification shall be considered unexcused.

Section 3. Quorum: A quorum of at least four (4) voting members is necessary to conduct any Board meeting.

Section 4. Vote: Each Voting Board member shall have one vote, which must be exercised in person. The vote of a majority of voting members present and voting at a meeting at which a quorum is present shall be the vote of the Board.

### Article IV

#### Officers

Section 1. Designation of Officers: The Board shall have a Chair and Vice-Chair. The Water Utilities Director or his/her designee shall perform the duties of Secretary, but will not be a voting member of any Committee or the Board.

Section 2. Election: At the first meeting each calendar year, the members shall elect a Chair and Vice-Chair. Election shall be determined by a majority vote of the members present.

Section 3. Terms: The Chair and Vice-Chair shall serve a term of one year and thereafter until their successors are elected.

Section 4. Duties and Authority of Officers:

- A. Chair – The Chair shall preside over all meetings of the Board and shall be responsible for accomplishing all directives, purposes, duties and responsibilities imposed on the Board by the City Council. The Chair shall appoint members of all committees as

he/she deems necessary and shall designate the Chairman of all committees. The Chair shall sign official documents on the Board's behalf.

- B. Vice-Chair – In the absence, disability or disqualification of the Chair, the Vice-Chair shall perform the duties and exercise the powers of the Chair. The Vice-Chair shall also perform other duties prescribed by the Board.
- C. Secretary – The Secretary shall keep the minutes of all Board meetings, be the custodian of all books and records of the Board, make appointments for the Board, prepare the agenda for Board meetings, prepare and send or deliver notices as directed by the Board and perform all secretarial duties required by the Board. Minutes of all proceedings shall be recorded in a permanent book and a signed copy of the minutes given to the City Clerk

#### Article V

#### Amendments

These bylaws may be amended, altered or changed only by a majority vote of the Board, subject to final approval by the City Council. The bylaws and amendments shall be filed with the City Clerk.

Adopted and approved by the Water Advisory Board this the 13<sup>th</sup> day of May, 2015.

Mike Beal  
Chairman

Bill Riley  
Bill Riley, Secretary

Adopted and approved by the City Council this the 16<sup>th</sup> day of August, 2016.

Dwain Morrison  
Mayor, Dwain Morrison

ATTEST:

Bryan Padrick





## Zoning Board of Adjustment

The Zoning Board of Adjustment was established to consider variances, special exceptions and appeals to the standards established in the zoning ordinances.

The board generally meets at 1:30 p.m. on the first Monday each month in the South Meeting Room of the McNease Convention Center

Staff Liaison: Rebeca Guerra 325-657-4210

Board Roster:

Name	Status	Term	Term Start	Term End	Role	Position/Seat
Debbie Cunningham	Current	2	01/31/2016	01/31/2020	Regular	SMD 1
Haydn John	Current	3	01/31/2017	01/31/2019	Regular	SMD2
Darrin Fentress	Current	2	01/31/2016	01/31/2020	Regular	SMD3
David Morales	Current	1	01/31/2017	01/31/2019	Regular	SMD4
Louis Rork	Current	3	01/31/2016	01/31/2020	Regular	SMD5
Jean Cornell	Current	1	04/30/2016	01/31/2020	Regular	SMD6
Jim Turner	Current	3	01/31/2016	01/31/2020	Regular	Mayor
Gary Cortese	Current	2	01/31/2016	01/31/2020	Alternate	Mayor
Aaron Nelson	Current	2	01/31/2016	01/31/2020	Alternate	Mayor

**ARTICLE 2.07 BOARDS, COMMITTEES AND COMMISSIONS****Division 3. Zoning Board of Adjustment\*****Division 3. Zoning Board of Adjustment\*****Sec. 2.07.061 Organization and procedure**

(a) There shall be a zoning board of adjustment that consists of seven (7) regular board member seats and two alternate board member seats to be filled by nomination and appointment by the city council as follows:

- (1) One regular board member seat shall be designated to be filled by a nomination of the mayor;
- (2) Two alternate board member seats shall be designated to be filled by nominations of the mayor;
- (3) Each of six regular board member seats shall be designated for a single member district one through six respectively, to be filled by nomination of the councilmember representing the designated single member district;
- (4) The appointment of any regular board member or alternate board member nominated pursuant to this section shall be made by vote of the city council. Should any nominee not secure at least four affirmative votes of councilmembers, the mayor or single member district city council member having made the nomination shall make a new nomination for vote of the council;
- (5) The city clerk shall maintain a record of board members that includes the board member's designation as regular board member or as alternate board member, whether the nomination is by mayor or single member district councilmember, including the designated single member district, the date of appointment by city council, and the date of expiration of the term of appointment;
- (6) For purposes of expanding the regular board membership from five regular members to seven regular members after the effective date of this section, the city clerk shall, based on the record of current appointments to the board, designate each current regular member of the board as representative of mayor or specific single councilmember district. Each of the two additional regular board member seats shall be designated by the city clerk for nomination by the mayor or specific single member district councilmember so as to provide the mayor and each single member district councilmember with a designated regular board member seat and the right to make nominations for vacancies or expired terms for such designated regular board member seat.

(b) Each case before the zoning board of adjustment must be heard by at least six (6) members.

(c) The board shall adopt rules in accordance with the Texas Local Government Code.

(d) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

(e) Any member who fails to attend at least two-thirds (2/3) of the regular meetings in any one-year period shall be deemed to have automatically resigned from office, unless such absences were excused as set forth: the absence shall be termed "excused" by notification to the board secretary no later than 12:00 noon on the Friday before the regularly scheduled zoning board of adjustment meeting. The board secretary shall make periodic attendance reports to the zoning board of adjustment, and a replacement shall be appointed in the manner provided above, for any zoning board of adjustment member who has resigned.

(f) The following rules shall apply to the zoning board of adjustment:

- (1) The term of each board member or alternate board member shall be two (2) years.

(2) The city council may remove a regular board member or alternate board member for cause on a written charge after a public hearing.

(3) A vacancy on the board in a regular board member seat or in an alternate board member seat shall be filled for the unexpired term in the same manner as provided for nomination and appointment of a member to fill such member seat.

(1959 Code, sec. 2-1-1; 1996 Code, sec. 2.3201; Ordinance adopted 5/21/96; Ordinance adopted 1/16/01; Ordinance adopted 6/2/15, sec. 1; Ordinance adopted 1/5/16, sec. 1)

### Division 3. Zoning Board of Adjustment\*

#### **Sec. 2.07.062 Authority**

(a) The zoning board of adjustment may:

(1) Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this division or the zoning ordinance.

(2) Hear and decide special exceptions to the terms of the zoning ordinance when the ordinance requires the board to do so.

(3) Authorize in specific cases, and subject to appropriate conditions and safeguards, a variance from the terms of the zoning ordinance, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the regulation is observed and substantial justice is done.

(b) In exercising its authority under subsection (a), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for the purpose of the board has the same authority as the administrative official.

(c) The concurring vote of six (6) members of the board is necessary to:

(1) Reverse an order, requirement, decision, or determination of an administrative official;

(2) Decide in favor of any applicant on a matter on which the board is required to pass under the zoning ordinance; or

(3) Authorize a variation from the terms of the zoning ordinance;

(1959 Code, sec. 2-1-2; 1996 Code, sec. 2.3202; Ordinance adopted 1/5/16, sec. 2)

### Division 3. Zoning Board of Adjustment\*

#### **Sec. 2.07.063 Appeal to the board**

(a) Any of the following persons may appeal to the zoning board of adjustment a decision made by an administrative official:

(1) A person aggrieved by the decision; or

(2) Any officer, department, board, or bureau of the city affected by the decision.

(b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the

rules of the board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

(e) Prior to the public hearing in which the zoning board of adjustment shall hear an appeal, the following actions shall be made by the board at a separate public hearing:

- (1) Designating of the parties in interest;
- (2) Setting of a reasonable time and date for the appeal hearing;
- (3) Giving of due notice of the appeal hearing to parties in interest;
- (4) Giving of public notice of the appeal hearing; and
- (5) Establishing of protocol for conducting the appeal hearing.

(f) The public hearing for any appeal shall follow the following procedural order except as may otherwise be directed by consensus of the board:

- (1) Identification of parties.
- (2) Identification of documents constituting the record on appeal to the board.
- (3) Identification and admission as evidence of pre-filed documents and any additional documents offered into evidence.
- (4) Presentation by city staff.
- (5) Presentations by identified parties in interest.
- (6) Public comment.
- (7) Rebuttals.
- (8) Discussion and deliberation by board members.
- (9) Motion and decision to affirm, modify, or reverse the decision of the administrative official, with supporting findings of fact applicable under the zoning ordinance.

(1959 Code, sec. 2-1-3; 1996 Code, sec. 2.3203; Ordinance adopted 6/2/15, sec. 2)

Division 3. Zoning Board of Adjustment*
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**Sec. 2.07.064 Judicial review of board decision**

(a) Any of the following persons may present to a court of record a verified petition stating that the decision of the zoning board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

- (1) A person aggrieved by a decision of the board;
- (2) A taxpayer; or

(3) An officer, department, board, or bureau of the city.

(b) The petition must be presented within ten (10) days after the date the decision is filed in the board's office.

(c) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time by which the board's return must be made and served on the petitioner's attorney, which must be after ten (10) days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, both [but] on application and after notice to the board, the court may grant a restraining order if due cause is shown.

(d) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

(e) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

(f) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

(1959 Code, sec. 2-1-4; 1996 Code, sec. 2.3204)

#### Division 3. Zoning Board of Adjustment\*

##### **Sec. 2.07.065 Fee**

(a) No application to the zoning board of adjustment shall be processed unless such application is accompanied with the appropriate processing fee as established by the city council.

(b) In the case of a second hearing, the fee, or a portion thereof, may be waived by the board.

(1959 Code, sec. 2-1-5; 1996 Code, sec. 2.3205)

#### Division 3. Zoning Board of Adjustment\*

##### **Sec. 2.07.066 Notification of property owners**

(a) The zoning board of adjustment shall mail notices of each hearing to the petitioner and to the owners of property lying within two hundred feet (200') of any point of the lot, or portion thereof, on which a variance or special exception is desired, and to all other persons deemed by the board to be affected thereby, such owners and persons being determined according to the current tax rolls of the Tom Green County tax appraisal district.

(b) Written notice of the public hearing shall be sent within not less than ten (10) days before any such hearing is held. Depositing such written notification in the mail shall be deemed sufficient compliance.

(1959 Code, sec. 2-1-6; 1996 Code, sec. 2.3206)

#### Division 3. Zoning Board of Adjustment\*

##### **Sec. 2.07.067 Second hearing**

(a) An appeal of a denial by the zoning board of adjustment shall not be allowed on the same piece of property prior to the expiration of six months from a ruling of the board, unless other property in the same zoned area shall have been, within such six (6) month period, altered or changed by a ruling of the zoning board of adjustment.

(b) Such circumstance shall permit the allowance of a second hearing but shall in no way have any force in law to compel the zoning board of adjustment, after a hearing, to grant the variance or special exception; such request shall be considered on its individual merits.

(1959 Code, sec. 2-1-7; 1996 Code, sec. 2.3207)

Division 3. Zoning Board of Adjustment*
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**Sec. 2.07.068 Time limitation on approved requests**

(a) Unless otherwise specified in the minute record of the zoning board of adjustment's action on a request, an application to commence construction of improvements that were the subject of the request must be applied for and approved within 12 months from the date of approval of that request; otherwise, the board's action on that request shall automatically become null and void. Permitted time frames do not change with successive owners.

(b) Upon written request, only one extension of the 12-month period may be granted by the planning director if it is determined that conditions of the site and immediately surrounding area are substantially changed.

(1996 Code, sec. 2.3208; Ordinance adopted 1/4/00)

Division 3. Zoning Board of Adjustment*
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**Secs. 2.07.069–2.07.090 Reserved**

## BY-LAWS OF THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF SAN ANGELO

### **Article 1. General Governing Statutes, Ordinances and Rules**

The Zoning Board of Adjustment, hereinafter referred to as the “Board,” shall be governed by the following statutes and rules, to the extent that they remain in force and effect, as they are amended, and as they may be added to:

- 1.01 The State of Texas Local Government Code.
- 1.02 Vernon’s Annotated Revised Civil Statutes (V.A.R.C.S.) of the State of Texas.
- 1.03 The Official Code of the City of San Angelo.
- 1.04 The By-laws of the Zoning Board of Adjustment, as set forth herein.

### **Article 2. Authority of the Board**

The Zoning Board of Adjustment shall:

- 2.01 Hear and decide an appeal which alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of the City of San Angelo.
- 2.02 Hear and decide special exceptions to the terms of the Zoning Chapter, when that ordinance requires the Board to do so.
- 2.03 Authorize in specific cases and subject to appropriate conditions and safeguards, a variance from the terms of the Zoning Chapter, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the regulation will result in unnecessary hardship, and so that the spirit of the regulation is observed and substantial justice is done.

### **Article 3.      Membership of the Board**

The Zoning Board of Adjustment shall consist of seven (7) regular board member seats and two (2) alternate board member seats to be filled by nomination and appointment by the City Council. All board members and alternates shall be residents within City limits of San Angelo. The following additional rules shall apply to the board:

- 3.01    The term of each member shall be (2) years.
- 3.02    The City Council may remove a regular board member or alternate board member for cause, on a written charge and after a public hearing on the matter.
- 3.03    When members propose to resign, they shall give notice of their intent to the chairman and secretary. When any member resigns or a position otherwise becomes vacant for other causes, the secretary shall promptly indicate to the City Council that a vacancy exists.
- 3.04    Any vacancy on the board in a regular board member seat or in an alternate board member seat shall be filled for the unexpired term in the same manner as provided for nomination and appointment of a member to fill such member seat.
- 3.05    No board member shall serve more than three (3) consecutive two-year terms, either as a regular and/or an alternate member. However, in the event that a successor is not named (by City Council) to serve in place of a member whose term has expired, said member shall continue to serve as board member until the City Council duly appoints a successor.
- 3.06    Any member who fails to attend at least two-thirds (2/3) of the meetings in any one year period shall be deemed to have automatically resigned from office, unless such absences were excused as set forth as follows: The absence shall be termed unexcused by notification to the Board Secretary no later than 12:00 noon on the Friday before the regularly scheduled Zoning Board of Adjustment meeting. The Director of the Planning & Development Services Department, or his/her designee, shall make periodic attendance reports to the Zoning Board of Adjustment, and a replacement shall be appointed in the manner provided above for any Zoning Board of Adjustment member who has automatically resigned.
- 3.07    Member Seats to be filled by nomination and appointment by the city council shall be as follows:
  - a.      One (1) regular board member seat shall be designated to be filled by a nomination of the mayor.
  - b.      Two (2) alternate board member seats shall be designated to be filled by nominations of the mayor.

- c. Each of six regular board member seats shall be designated for a single member district one through six respectively, to be filled by nomination of the council member representing the designated single member district.
- d. The appointment of any regular board member or alternate board member nominated pursuant to this section shall be made by vote of the City Council. Should any nominee not secure at least four affirmative votes of council members, the mayor or single member district city council member having made the nomination shall make a new nomination for vote of the council.
- e. The City Clerk shall maintain a record of board members that includes the board member's designation as regular board member or as alternate board member, whether the nomination is by mayor or single member district council member, including the designated single member district, the date of appointment by city council, and the date of expiration of the term of appointment.
- f. For purposes of expanding the regular board membership from five regular members to seven regular members after the effective date of this ordinance, the City Clerk shall, based on the record of current appointments to the board, designate each current regular member of the board as representative of mayor or specific single council member district. Each of the two additional regular board member seats shall be designated by the City Clerk for nomination by the mayor or specific single member district council member so as to provide the mayor and each single member district council member with a designated regular board member seat and the right to make nominations for vacancies or expired terms for such designated regular board member seat.

#### **Article 4. Meeting date, time and place.**

One regular meeting date and time of the Zoning Board of Adjustment shall be on the first Monday of each month, beginning at 1:30 p.m. in the City Council chambers of City Hall or other appropriate location in San Angelo, Texas.

- 4.01 The number of meetings per month and schedule of meeting dates, as well as the place of meetings, may be altered or changed at any regularly scheduled meeting or upon call of the Chairman or Secretary.
- 4.02 Additional special meetings may be held at any time, upon the call of the board chairman or upon written request of three (3) other members, following at least seventy-two hours notice to each member of the board. Call of special meeting (at a specified time and place and for specified purposes) at a regular meeting shall be notice thereof to members in attendance at

such regular meeting, but other members shall receive written notice thereof. If a special meeting is called on a case or cases subject to notice of hearing, the required notice provisions for the hearing shall be met.

## **Article 5. Conduct of Meetings**

5.01 Each case heard before the Zoning Board of Adjustment must be heard by at least six (6) but no more than seven (7) members, regular or alternate.

5.02 The concurring vote of at least six (6) members is necessary to:

- a. Reverse an order, requirement, decision or determination of an administrative official;
- b. Decide in favor of an applicant on a matter which the Board is required to pass, under the terms of the Zoning Chapter, including requests for special exception as set forth in the Zoning Chapter;
- c. Authorize a variation from the terms of the Zoning Chapter.

The concurring vote of a simple majority of members present (and constituting a quorum) is required to approve any motion on a matter other than specified directly above and herein this paragraph 5.02.

5.03 It shall be customary for the chairman to vote on all matters pending before the Zoning Board of Adjustment, except whereas he or she may otherwise be disqualified from voting.

5.04 All meetings of the board shall be open to the public and in compliance with the open meeting requirements of Vernon's Annotated Revised Civil Statutes (V.A.R.C.S.) of the State of Texas. This requirement for open meetings does not prevent the board from convening in executive session, under the limitations of said Statutes.

5.05 Robert's Rules of Order, Newly Revised shall be adopted as the regular rule for the conduct of meetings, provided such rules do not conflict with the bylaws adopted herein, in which case these bylaws shall supersede Robert's Rules of Order. Furthermore, such rules of order are accepted to be advisory and shall not be binding should the board, by its determination, vary or change such rules of conduct for its meeting.

5.06 Order for consideration of each agenda item, except appeals. The following procedure shall generally be observed for the presentation of relevant evidence and information; however, it may be rearranged by the chairman for individual items, if necessary for the expeditious conduct of business:

- a. The chair introduces the item to be considered, summarizing the nature of the request and its location, as described on the meeting agenda.
  - b. The City staff describes in more detail the nature of the request and its relation to applicable ordinances and regulations of the City. Other relevant evidence available is presented by the staff and a recommendation is provided. If the staff recommends approval of a variance, then one or more criteria listed in subsection 11.01 of these by-laws shall be identified as the basis for its recommendation.
  - c. The board may ask questions of the staff, concerning its presentation and report.
  - d. The applicant or appellant outlines the nature of the request and presents supporting evidence including witnesses, if so desired.
  - e. Board members may ask questions of the applicant (appellant) and supporting witnesses.
  - f. Members of the public, in attendance at the meeting, are given an opportunity to speak and present evidence in favor or in opposition to the request.
  - g. Applicant (appellant) makes rebuttal or adds points not previously covered. The applicant (appellant) may also cross-examine any witness or member of the staff.
  - h. Objectors are also given an opportunity to make rebuttal or add points not previously covered.
  - i. Board members may ask any final questions it may have of the applicants, appellants, opponents or staff, and then make a decision on the matter.
- 5.07 Prior to the public hearing in which the zoning board of adjustment shall hear an appeal, the following actions shall be made by the board at a separate public hearing:
- a. Designating of the parties in interest;
  - b. Setting of a reasonable time and date for the appeal hearing;
  - c. Giving of due notice of the appeal hearing to parties in interest;
  - d. Giving of public notice of the appeal hearing; and
  - e. Establishing of protocol for conducting the appeal hearing.

5.08 The public hearing for any appeal shall follow the following procedural order:

- a. Identification of Parties
- b. Identification of documents constituting the record on appeal to the Board
- c. Identification and admission as evidence of pre-filed documents and any additional documents offered into evidence
- d. Presentation by City staff
- e. Presentations by identified Parties in Interest
- f. Public comment
- g. Rebuttals by identified Parties in Interest
- h. Discussion and deliberation by Board members
- i. Motion and decision to affirm, modify, or reverse the decision of the administrative official, with supporting findings of fact applicable under the Zoning Ordinance

5.09 Orderly procedure requires that each side shall proceed without interruption by the other.

5.10 During the hearing, the chairman, board members and the staff may ask questions and make appropriate comment pertinent to the case; however, no member should debate or argue an issue with the applicant.

5.11 The chairman and board members may direct any questions to the applicant or to any person speaking, in order to bring out all relevant facts, and may call for questions from members of the staff.

5.12 The board shall not be bound by strict rules of evidence, not limited to consideration of such evidence as would be admissible in a court of law, but it may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony or evidence. The chairman shall rule on all questions relating to admissibility of evidence, but may be overruled by a majority of board members present.

5.13 All decisions of the board shall be made at a public meeting by a motion made and seconded, and by a show of hands.

5.14 The chair may elect, subject to being overruled by a majority of the board members in attendance, on a motion duly passed, to:

- a. Proceed immediately to determination and decision, on conclusion of the hearing on the particular case; or
- b. Defer determination and decision until later in the same meeting; or
- c. Defer determination and decision until another specified regular or special meeting of the Board, in order to obtain additional information or for other good cause.

5.15 Recess. Any regular or special meeting may be recessed or adjourned from day to day, or to the time of any previously announced regular or special meeting.

5.16 Cancellation. If no business is scheduled before the board, or if it is apparent that a quorum will not be available, any meeting may be canceled by the chairman.

## **Article 6. Minutes**

6.01 The board shall maintain a minute book which shall be kept posted to date. In the minute book shall be recorded the board's proceedings, showing attendance and all absences, any disqualifications of members, the records of its examinations and all other official actions, as well as the vote of each member voting on every question.

6.02 The draft minute record of a board meeting shall be presented for approval at any subsequent meeting of the Zoning Board of Adjustment. This minute record must be approved by a majority of the members who were present at the meeting applicable to the subject minutes. If this not possible due to resignations, deaths, or the fact that alternate members were present at the applicable meeting and not present at the current meeting, then a majority of the members present and voting shall be all that is necessary to approve the minutes.

6.03 The minutes shall be considered filed after each of the following has occurred: a) the minutes have been approved by the Board, b) the Chairman or Vice Chairman has signed the minutes, and c) the Secretary has posted the minutes in the record book contained in the office of the Planning & Development Services Department. The minutes of the board shall be a public record, kept in the offices of the Planning & Development Services Department.

## **Article 7. Requests to Withdraw, to Defer or Continue Hearings, or to Amend Applications and Appeals**

7.01 On written request from the applicant (appellant) or authorized agent, an application or appeal may be withdrawn at any time before the board makes its decision in the case.

- 7.02 On its own motion, or on approval of requests by applicants (appellants) or their authorized agents, the board may defer the hearing of cases or provide for later continuance of cases on which hearings have begun. Such deferrals or continuances shall be permitted only for good cause, stated in the motion and shall require new public notice, with fees paid by applicants or appellants if deferrals or continuances are at their request or result from their actions. No such additional fees shall be required of applicants, if their request to defer a public hearing results from there being less than six (6) board members attending the meeting at which said hearing is scheduled.
- 7.03 Applicants (appellants) or their authorized agents may amend any previously-accepted application or appeal, on written request delivered to the secretary of the board, not less than fifteen days prior to the scheduled hearing date. As an alternative, an applicant (appellant) or authorized agent may request an amendment to an application or appeal to the board at the hearing, and shall include a written description of the nature and purpose of the proposed amendment.

In the latter circumstances described immediately above, the board shall make a finding as to: (1) whether there is a substantial difference between the case as it has been described in public notice and the case as amended, and (2) whether the amended request is seeking more restrictive conditions than the request described in public notice. If substantial difference is found and/or the amended request seeks less restrictive conditions than the request described in public notice, a new public notice shall be requested, with additional fees paid by the applicant or appellant, before the hearing on the case may proceed. The board shall also determine whether the nature of the proposed amendment is such as to require referral for re-examination by counsel or staff members having made reports on the original application or appeal. If such referral is found necessary, the board may proceed with the hearing or may defer it to a time and place specified, but the board shall not decide the case until it has considered the response from counsel or staff. If the proposed amendment involves no substantial change and seeks more restrictive conditions than the request initially publicized, then no new public notice or referral is necessary, and the board may proceed with a hearing and decision on the amended request.

## **Article 8. Rules for Rehearings**

A request for rehearing of an application or appeal denied by the Zoning Board of Adjustment shall not be allowed on the same piece of property, prior to the expiration of six (6) months from the initial ruling of the board, unless other property in the same district shall have been (within the same six-month period) altered or changed by a ruling of the Zoning Board of Adjustment. Such circumstances shall allow a second hearing, but in no way have any force in law to compel the Zoning Board of Adjustment, after a hearing, to grant the application or appeal; such request shall be considered on its individual merits. The Director of the Planning & Development Services Department, or his/her designee, shall determine whether a new application is substantially different from an application or appeal which has been denied during the previous six months and which

affects the same piece of property. If said application or appeal is determined to be substantially different, then it may be heard and decided by the board.

## **Article 9. Officers of the Zoning Board of Adjustment**

- 9.01 Election of Chairman and Vice-Chairman. Annually, as the first item of new business at the regular meeting of the board in the month of January, the board shall elect a chairman and vice-chairman. The election shall be determined by a majority of those members present and constituting a quorum at said meeting. If such regular meeting is canceled or a quorum is lacking, the election shall be held within 36 days thereafter at a regular or special meeting. If no quorum can be obtained within 36 days, the secretary shall notify the City Council which shall appoint a chairman and vice-chairman to serve until the next regular election in the month of January.
- 9.02 Succession of Vice-Chairman to office of Chairman. If the chairman resigns his office or becomes no longer a member of the board, the vice-chairman shall succeed him in office for the remainder of the term of the chairman. If the vice-chairman resigns his office, becomes no longer a member of the board, or succeeds to the chairman's office, a special election shall be held at the next regular meeting of the board to select a vice-chairman to complete the term.
- 9.03 Presiding at Meetings. If present and able, the chairman shall preside at all meetings and hearings. If the chairman is absent or unable to preside, the vice-chairman shall preside. If both are absent or unable to preside, the members present shall appoint a temporary chairman to preside.

In accordance with these and other applicable rules, the presiding officer shall decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on motion duly made and passed. The presiding officer shall maintain order and decorum, and to that end, may order removal of disorderly or disruptive persons. The presiding officer shall administer oaths to all witnesses, if so desired by the board, or arrange for such oaths to be administered.

- 9.04 Other Responsibilities and Duties of Chairman. The chairman shall have further duties and responsibilities, as indicated below:
- a. The chairman may designate members of the board to make personal inspections, when necessary for the proper consideration of cases.
  - b. The chairman shall assign alternates to serve in the absence or disability of regular board members, or the chairman shall assign this duty to the secretary of the board.
  - c. The chairman shall appoint such committees as may be found necessary.

- 9.05 Delegation to Vice-Chairman. The chairman may delegate specific duties generally to the vice-chairman or may authorize the vice-chairman to perform specific duties, during the chairman's absence or in case of his other disability, so that necessary board functions are performed in a timely manner. The vice-chairman shall perform all duties so delegated. In case of absence or incapacity of the chairman, and on approval by a majority of the board, the vice-chairman shall perform any or all duties of the chairman, whether or not so delegated.
- 9.06 Appointment of Secretary; Duties. The Director of the Planning & Development Department, or his/her designee, shall serve as secretary to the Zoning Board of Adjustment. The secretary shall in general attend to all correspondence of the board, send out or cause to be published all notices required; attend all meetings of the board and all hearings (except when excused by the chairman and with temporary services arranged); prepare staff reports and make recommendations on individual cases to be heard by the board (including reasons for recommending approval of a variance, based on criteria contained in subsection 11.01 of these by-laws); scrutinize all matters to assure compliance with the Zoning Chapter and these rules; compile all required records; maintain the necessary scheduled, files and indexes; and generally perform or supervise all clerical work of the board.

#### **Article 10. Conduct of Board Members**

- 10.01 Conflict of Interest. No member of the board shall participate in any case in which he or she has financial or personal interest in the property concerned, or will be directly affected by the decision, or has any other conflict of interest as defined by applicable law. The determination of a substantial interest in a business entity, as well as rules affecting participation of board members in cases affected thereby, are described in the State of Texas Local Government Code.
- 10.02 Influence Other Than at Public Hearing. A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the vote of the member on his appeal or application, other than in the public hearing.
- 10.03 Expressions of Bias, Prior to Hearing. Board members may seek information from other members, the Secretary, counsel to the board or staff serving the board, as well as from applicants or appellants, prior to public hearing, but no member shall express any bias, prejudice or individual opinion on proper judgment of the case prior to its hearing.
- 10.04 No member of the board shall represent applicants or appellants on matters for which the board is to make determinations. This provision does not limit the right of a board member to represent himself or herself, on his or her own application or appeal to the Zoning Board of Adjustment.
- 10.05 Members Not to Vote Unless Present at Hearing. No board member shall vote on any matter

deciding an application or appeal, except after attending the public hearing on the application or appeal.

**Article 11. Criteria, Required Findings and Other Considerations for Approval of Variances From Zoning Regulations**

11.01 Criteria. In exercising its power to grant a variance in accordance with zoning regulations, the Zoning Board of Adjustment, in making its findings, shall show in its minute record that one or more of the following circumstances exist:

- a. Special Conditions Resulting in Unnecessary Hardship. A variance may be granted if there are special circumstances existing on the property (for which the application is made) related to size, shape, area, topography, surrounding conditions or location that do not apply generally to other property in the same zoning district, and that said circumstances or conditions are such that the strict application of the zoning regulations will deprive the application of reasonable use of such land or building.
- b. Special Reasons of Public Interest or Concern. A variance may be granted if such variance will further an identifiable public interest of concern, such as:
  - 1) Saving trees,
  - 2) Promoting maintenance and reuse of older urban or historic buildings,
  - 3) Helping to eliminate a nonconforming use at another location.
- c. Equity. A variance may be granted to permit modifications of height or yard regulations as may be necessary to secure equity in the development of a parcel of land where it has been demonstrated that, due to the existence of nonconforming structures, a substantial proportion of the other properties in the same area and zoning district are legally enjoying the conditions which the applicant is requesting.
- d. Minor encroachment. A variance may be granted to:
  - 1) Permit the placement of air conditioners and other similar equipment and machinery within minimum side yard areas contrary to the setback regulations of the zoning regulations, where circumstances would render such placement unobjectionable;
  - 2) Permit architectural or other projections of a minor extent beyond a height limit or into required front, side or rear yard areas, provided the board determines that the variance will not be contrary to the intent of the zoning code.
  - 3) Literal Enforcement. A variance may be granted if it is found that the literal

enforcement and strict application of this provision of the zoning ordinance will result in extraordinary circumstances or conditions inconsistent with the general provisions and intent of this ordinance and that, in granting such variance, the spirit of the ordinance will be preserved and substantial justice done. The board shall state in the minute record the nature of the circumstance or condition which justifies the variance.

11.02 Considerations. In exercising its authority, the board shall be mindful that a variance shall not be granted where:

- a. The effect of this variance on the specific property will adversely affect the land use pattern as outlined by any City land use plan or policy; or
- b. The variance, if granted, will be a material detriment to the public welfare or injury to the use, enjoyment or value of property in the vicinity; or
- c. The variance to be granted is not the minimum variance that will relieve the proven hardship.
- d. The variance will operate to relieve the applicant of conditions or circumstances:
  - 1) Which are caused by the illegal subdivision of land after the effective date of subdivision regulations, which subdivision of land caused the property to be unusable for any reasonable development under the existing regulations, or
  - 2) Which are otherwise self-imposed;
- e. The variance is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner; or
- f. The variance will modify any provision of a special permit; or
- g. The variance will not only affect a specific parcel of property, but would be of such general nature as to constitute, in effect, a change in zoning of said parcel or a larger area, or would merit consideration or an amendment to the zoning regulations.

## **Article 12. Miscellaneous**

12.01 The deadline for submission of a complete application for consideration of an appeal, variance or special exception (by the Zoning Board of Adjustment) shall be no less than 21 days before the regularly scheduled meeting of the Zoning Board of Adjustment. A complete application fee, as determined by City Council.

- 12.02 All maps, plats, site plans, photographs or any other exhibits (or copies thereof) shown to the board for presentation purposes shall become the property of the City and par of the file record for that case.
- 12.03 If a majority of regular board members elect to do so, the City staff may routinely assign pending cases to individual board members on a rotating basis. Board members assigned to a case are strongly encouraged to visit the subject site and become especially familiar with details of that pending request, so they may share their special insight with other board members at the hearing on that matter. The board member assigned to any particular case, however, is not under any obligation to introduce a motion to decide the matter.

### **Article 13. Amending or Waiving These By-laws**

- 13.01 Amending By-Laws. These rules may be amended at any regular or special called meeting of the Zoning Board of Adjustment, by a majority of a quorum of board members present, provided that each of the following conditions is met:
- a. Such amendment will not be contrary to any requirement or limitation set by State law or City ordinance.
  - b. Notice of said proposed amendment is furnished to each member, in writing, at least seven (7) days prior to said meeting.
- 13.02 Waiving By-Laws. A rule of procedure may be suspended at any meeting by a majority vote of all board members present, unless such rule is set by State law or City ordinance.



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>> **Questions or Comments:**  
[watermaster@tceq.texas.gov](mailto:watermaster@tceq.texas.gov)

## Concho River Watermaster Advisory Committee

Explanation of the Concho River Watermaster Advisory Committee.

On this page:

- [Members](#)
- [Meetings](#)
  - [Agendas](#)
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### The advisory committee:

1. makes recommendations regarding activities of benefit to the holders of water rights;
2. reviews and comments on the annual budget of the watermaster program;
3. performs other advisory duties as requested by TCEQ regarding watermaster operations;
4. considers requests by water right holders that may provide benefits to the administration of the program.

### Members

[CRWAC Current Membership](#) 

## **LIST OF MEMBERS**

### **CONCHO RIVER WATERMASTER ADVISORY COMMITTEE**

#### **CITY OF SAN ANGELO:**

The Honorable Dwain Morrison, Mayor  
City of San Angelo

**Term Expires: August 31, 2017**

The Honorable Marty Self, Councilman  
City of San Angelo

**Term Expires: August 31, 2017**

Vacant  
City of San Angelo

**Term Expires: August 31, 2016**

Mr. Daniel Valenzuela, Manager  
City of San Angelo

**Term Expires: August 31, 2016**

Mr. Ricky Dickson, Director of Water Utilities  
City of San Angelo

**Term Expires: August 31, 2016**

Mr. Stephen Brown, Consultant  
Upper Colorado River Authority

**Term Expires: August 31, 2016**

#### **CITY OF PAINT ROCK:**

The Honorable Debbie Brown, Mayor  
City of Paint Rock

**Term Expires: August 31, 2016**

#### **DOVE CREEK:**

Mr. Eddie J. (Jack) Pool

**Term Expires: August 31, 2016**

#### **SPRING CREEK:**

Dr. Marc Wimpee

**Term Expires: August 31, 2017**

#### **SOUTH CONCHO:**

Mr. Stuart Seidel

**Term Expires: August 31, 2017**

#### **MIDDLE CONCHO:**

Mr. Billy D. Gassiot

**Term Expires: August 31, 2017**

As of June 6, 2017:

The Honorable Brenda Gunter, Mayor  
City of San Angelo

The Honorable Tom Thompson, Council Member SMD2  
City of San Angelo

The Honorable Tommy Hiebert, Council Member SMD1  
City of San Angelo

Mr. Daniel Valenzuela, City Manager  
City of San Angelo

Mr. Bill Riley, Director of Water Utilities  
City of San Angelo

Mr. Stephen Brown, Consultant  
Upper Colorado River Authority

**MAINSTREAM CONCHO:**

Mr. A. J. Jones

**Term Expires: August 31, 2016**

**EXECUTIVE DIRECTOR'S CHOICE AT THE CONCHO RIVER WATERMASTER  
ADVISORY COMMITTEE**

**Steven Hoelscher**

**Term Expires: August 31, 2017**

**EXECUTIVE DIRECTOR'S NOMINEE (NON-VOTING MEMBER OF THE SOUTH  
TEXAS WATERMASTER ADVISORY COMMITTEE)**

**Mr. A. J. Jones**

**Term Expires: August 31, 2016**

**CONCHO RIVER WATERMASTER PROGRAM PERSONNEL:**

Steve Ramos, Watermaster

14250 Judson Road

San Antonio, TX 78233

(210) 403-4040

[steve.ramos@tceq.texas.gov](mailto:steve.ramos@tceq.texas.gov)

Alisha Multer, Watermaster Specialist

622 South Oakes, Suite K

San Angelo, TX 76903

(866) 314-4894 or (325) 481-8069

[alisha.multer@tceq.texas.gov](mailto:alisha.multer@tceq.texas.gov)

John Woiton, Watermaster Specialist

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San Angelo, TX 76903

(866) 314-4894 or (325) 481-8068

[john.woiton@tceq.texas.gov](mailto:john.woiton@tceq.texas.gov)



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**325.481.2800**



## BOARD

The San Angelo Metropolitan Planning Organization Policy Board is comprised of representatives from the City of San Angelo, Texas Department of Transportation, Tom Green County, San Angelo Chamber of Commerce, and Concho Valley Council of Governments. State and Federal elected officials are represented as non-voting members.

The Policy Board provides direction and guidance for transportation planning within the MPO boundary. The Board is responsible for ensuring conformance with federal regulations, which include requiring that highways, mass transit, and other transportation facilities and services are consistent with urban development.

The board is also responsible for reviewing and approving the Metropolitan Transportation Plan (MTP), Transportation Improvement Program (TIP), and Unified Planning Work Program (UPWP).

Board Liaison: Major Hofheins 325-481-2800

### **San Angelo MPO Policy Board Members**

Brenda Gunter\* - Chairperson - Mayor, City of San Angelo

Steve Floyd\* - County Judge, Tom Green County

Mark Jones - District Engineer, San Angelo TxDOT

John DeWitt - Director of Transportation Planning & Development, San Angelo TxDOT

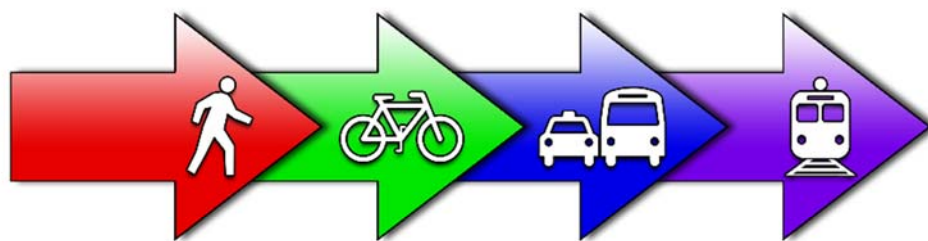
Daniel Valenzuela - City Manager, City of San Angelo

John Austin Stokes - Executive Director, CVTD

Daniel Koenig - President, San Angelo Chamber of Commerce

\* denotes elected official

BYLAWS OF THE SAN ANGELO  
METROPOLITAN PLANNING  
ORGANIZATION POLICY BOARD



METROPOLITAN PLANNING ORGANIZATION  
S A N   A N G E L O

## **INTRODUCTION**

The Metropolitan Planning Organization is a forum for cooperative transportation decision-making as designated by the Governor of Texas.

In 1988, the Governor of Texas designated the City of San Angelo as the Metropolitan Planning Organization (MPO) for transportation planning in the San Angelo urbanized area using the Committee structure established pursuant to Section 134 of Chapter 1 of Title 23 U.S.C. as the group responsible for giving the MPO overall transportation guidance.

On October 19, 2010, the Council for the City of San Angelo agreed to re-designate the City of San Angelo Metropolitan Planning Organization to the San Angelo Metropolitan Planning Organization relinquishing the organization as a component (department) of the City.

Concurrently, the City of San Angelo MPO Policy Board agreed with the decision of the San Angelo City Council to redesignate the organization. At the Texas Transportation Commission meeting on January 27, 2011, the request from both parties was approved and the San Angelo Metropolitan Planning Organization (SA-MPO) was created.

As the transportation policy-making authority, SA-MPO is under the sole guidance and direction of the San Angelo Policy Board. The San Angelo MPO is responsible for carrying out the required transportation planning process for the San Angelo Metropolitan planning area. The 3-C (continuing, cooperative, and comprehensive) planning process includes highways, streets, bicycle, pedestrian, public transportation, and safety of the transportation network system.

The following constitutes the bylaws, responsibilities, membership, and procedures for organizational conduct, which shall serve to guide the transportation planning process.

## **OVERVIEW**

### **Organization Name**

The San Angelo Metropolitan Planning Organization, known as SA-MPO, is the designated transportation planning and policy-making authority for San Angelo and all adjacent areas of Tom Green County within the metropolitan planning boundary.

### **Metropolitan Planning Organization Purpose**

The purpose of the San Angelo Metropolitan Planning Organization is to carry out the metropolitan planning organization transportation planning process in accordance with 23 United States Code 134 and 49 United States Code 53, and any applicable federal and state regulations. The MPO shall provide a forum through which local decision makers develop regional plans and programs.

### **Geographic Planning Area**

The San Angelo planning area boundary encompasses the entire city limits of San Angelo and some areas within Tom Green County. When appropriate or necessary, the San Angelo MPO Policy Board may choose to expand the Urbanized Area Boundary (UAB).

## Organizational Structure

The San Angelo Metropolitan Planning Organization shall be comprised of a Policy Board, Technical Advisory Committee, advisory committees (as needed), and professional staff.

## **POLICY BOARD**

### Responsibility

1. The San Angelo Metropolitan Planning Organization Policy Board shall provide governance, policy direction, decision-making, and direction for the organization. Furthermore, it shall be the responsibility of the policy board to adopt plans and programs, approve reports and transportation studies, and prioritize and select transportation projects. As to metropolitan planning organization functions, the SAMPO Policy Board shall have the joint responsibility with City Management to hire, supervise, evaluate and terminate the MPO Director. Notwithstanding anything to the contrary in the City of San Angelo Personnel Policy and in lieu of the provision therein for employee evaluations to be performed by City as set forth in the "Employee Handbook", **Exhibit A** attached. The SAMPO Policy Board shall develop a performance plan for the SAMPO Director and evaluate the performance of the SAMPO Director as it relates to the planning functions of the SAMPO on an annual basis.

### Membership

The San Angelo Metropolitan Planning Organization Policy Board shall be comprised of voting and non-voting members. Designated Representatives of the Voting members shall be chosen by the board, commission, council, or governing body of that respective organization. Vacancies for any voting member shall be filled in the same manner. Policy Board membership shall consist of representatives from the following:

#### Voting Members:

- |  |   |
|--|---|
| 1. City of San Angelo                    | Elected Official                              |
| 2. City of San Angelo                    | Elected Official or Designated Representative |
| 3. Tom Green County                      | Elected Official                              |
| 4. Concho Valley Transit District        | Elected Official or Designated Representative |
| 5. SA Texas Department of Transportation | Designated Representative                     |
| 6. SA Texas Department of Transportation | Designated Representative                     |
| 7. SA Chamber of Commerce                | Designated Representative                     |

#### Non-Voting Members:

- |                                 |                           |
|---------------------------------|---------------------------|
| 1. United States Representative | Designated Representative |
| 2. Texas State Representative   | Designated Representative |
| 3. Texas State Senator          | Designated Representative |

### Officers

The San Angelo Metropolitan Planning Organization Policy Board shall consist of a Chairperson and Vice Chairperson selected from the voting members. It shall be the responsibility of the Chair to preside over meetings and have execution authority on all MPO Policy Documents.

The Vice Chairperson shall serve in the same capacity in the absence of, or upon the request of the Chairperson. An officer may succeed with no limitation to number of terms. The Chairperson and Vice Chairperson shall each be separately nominated and elected to a term of 1 year, selected at the 1<sup>st</sup>

meeting of the calendar year. The term of office shall be from January to January or until such time new officers are elected. Appointments and vacancies of officers shall be filled by election.

#### Quorum

For purposes of convening a meeting, a quorum shall consist of fifty-one percent (51%) of the voting members or proxies of the Policy Board. In the event that a quorum cannot be obtained, the Chair may adjourn the meeting or invite the discussion of items to be transacted at the meeting; however, no action shall be taken.

#### Attendance

The voting members of the Policy Board shall make every effort to attend meetings to fulfill the obligations and responsibilities of the Board. If any member fails to attend more than two meetings (excluding proxies) in a calendar year, it shall be the responsibility of the MPO Director to draft a letter for signature of the Chairperson. The letter shall be to the attention of the absent board member and board member's representative organization stating the dates of absences. After the third meeting absence, the board members may request a replacement for the absent member.

#### Proxy Voting

A Policy Board member may designate one (1) proxy representative to exercise some or all of that member's authority. The proxy shall count toward a quorum and may vote on any matter authorized by the member designating the proxy. The proxy must be an employee of the same agency as the voting member. If a member abstains from voting on an item, then that member's proxy shall not be allowed to vote on that same item. The Metropolitan Planning Organization Director shall keep a written notice on file from the voting board member designating the proxy's name and voting authority. A proxy member shall be allowed only twice during a calendar year.

#### Meeting Protocol

Meetings of the Policy Board shall occur at least quarterly per calendar year. The Chair, MPO Director, or any two members of the Policy board may call meetings by written request. Meeting notices shall be posted at least seventy-two (72) hours prior to a meeting and notices shall be posted at appropriate government offices and public locations. The MPO Policy Board shall hold meetings as necessary to conduct business. The board may designate a regular meeting schedule.

#### Committees

The San Angelo Metropolitan Planning Organization Policy Board may create advisory committees as necessary for fulfilling specific tasks or project assignments.

#### Administrative Support

The MPO Director shall furnish administrative support (Secretary), including minutes, attendance records, agendas, and resolutions. As Secretary to the board, the MPO Director shall be responsible for all records of the Policy Board.

## TECHNICAL ADVISORY COMMITTEE

The San Angelo Metropolitan Planning Organization Technical Advisory Committee shall be a standing committee and provide technical review, assistance, and make recommendations to the Voting membership of MPO Policy Board. The TAC shall work cooperatively with the MPO Director as necessary to fulfil the obligations and responsibilities of the transportation planning process.

### Membership

Policy Board members shall appoint no more than two (2) employees or affiliates of that representative's organization to serve on the Technical Advisory Committee. Policy Board members may appoint one (1) additional representative to serve as an alternate member in the event of an absence by a Technical Advisory Committee voting member. All appointments made by Policy Board members shall be written and kept on file by the MPO Director.

The Technical Advisory Committee membership shall consist of the following:

- |                                       |                   |
|---------------------------------------|-------------------|
| 1. City of San Angelo                 | 2 Representatives |
| 2. Tom Green County                   | 2 Representatives |
| 3. Concho Valley Transit District     | 2 Representatives |
| 4. Texas Department of Transportation | 2 Representatives |
| 5. SA Chamber of Commerce             | 2 Representatives |

Each member of the Technical Advisory Committee shall be a voting member of the TAC.

### Officers

The Technical Advisory Committee shall elect a Chairperson and Vice-Chairperson. The Chairperson and Vice Chairperson shall each be separately nominated and elected to a term of 1 year, selected at the 1<sup>st</sup> meeting of the calendar year. The term of office shall be from January to January or until such time new officers are elected. In the event, that the Chairperson cannot continue to serve in the same capacity, the Vice Chairperson shall automatically become Chair. A new election shall be held to fill the vacancy of the Vice Chair.

The Chairperson shall preside at all meetings of the Technical Advisory Committee. During the absence of the Chairperson, the Vice Chairperson shall preside over meetings and shall exercise all the duties of the Chairperson.

### Meetings

The Technical Advisory Committee meetings shall be held a minimum of four (4) times per calendar year. At the 1<sup>st</sup> meeting of the year, a regular meeting schedule shall be adopted by the Technical Advisory Committee. Special committee meetings shall be held as necessary. TAC meetings shall not be open to the public. No Quorum shall be necessary to conduct business at TAC meetings.

### Attendance

The voting Policy Board member shall be responsible for the attendance of his or her Technical representative. It is the responsibility of the voting Policy Board member to notify his or her alternate to attend a meeting in the absence of the Technical member. Any alternates appointed by a voting Policy Board member shall have the same voting privileges as a Technical representative.

### Administrative Support

The MPO Director or his or her designee shall furnish administrative support (Secretary) for Technical Advisory Committee meetings, including keeping minutes and records.

### Responsibilities

The functions and/or responsibilities of the Technical Advisory Committee shall include:

- Provide technical and/or advisory recommendations to the Policy Board on the Long-Range Transportation Plan, Transportation Improvement Program, Unified Planning Work Program, and any other documents required for approval by the Policy Board.
- To act as the technical body of the organization.
- Assist the Policy Board and the MPO Director on technical matters.
- Recommend policies and programs for improving the transportation system.
- Review and make recommendations for projects or special assignments as directed by the Policy Board.
- Communicate with the Policy Board on all matters considered by the Technical Advisory Committee.
- Participate in discussions and provide expertise on various areas of subject matter.
- Provide a written progress report twice during a calendar year to the Policy Board.

### Committees

The Technical Advisory Committee shall have the authority to create subcommittees or working groups as necessary to fulfill the obligations and responsibilities of the transportation planning process. Subcommittees of the TAC shall consist of TAC members only. All recommendations of a TAC subcommittee shall be discussed at a TAC meeting before being heard by the Policy Board.

## **ADVISORY COMMITTEES**

The San Angelo Metropolitan Planning Organization Policy Board or Technical Advisory Committee shall have the authority to create special or specifically tasked subcommittees for purposes of providing technical or advisory assistance. Advisory committee representatives shall generally consist of individuals not on the Policy Board or TAC; however, members of both shall be allowed to participate in advisory committee meetings. Examples of advisory committees include citizen advisory committee, freight committee, bicycle-pedestrian committee, public participation committee, etc.

Advisory committee meetings shall use the same protocol as meetings of the Policy Board and TAC. The MPO Director or designee shall provide administrative support during advisory committee

meetings. Advisory committee meetings shall not be open to the public. No Quorum shall be necessary to conduct business at any advisory committee meeting.

## **MPO DIRECTOR**

To perform the necessary functions and oversee daily operations of the organization, the MPO Director shall:

- Take direction from and be responsible and accountable to the Metropolitan Planning Organization Policy Board.
- Supervise (hire, terminate, and evaluate) all MPO staff. The MPO Director shall maintain necessary staff to continually execute the transportation planning responsibilities necessary to fulfil the transportation planning requirements.
- Work cooperatively with TxDOT, Technical Advisory Committee, advisory committees, and subcommittees to develop, revise, and maintain the Long-Range Plan, Unified Planning Work Program, Transportation Improvement Program, and any other plans or reports necessary.
- Assure compliance with federal and state transportation planning regulations.
- Provide administrative support for the MPO Policy Board, Technical Advisory Committee, or advisory committees including maintaining records, meeting minutes, and other documents associated with the Metropolitan Planning Organization.
- Coordinate and maintain liaison between local governmental entities, transit operators, public transportation operators, and other transportation providers to ensure a cooperative transportation planning process.
- Maintain regular contact with TxDOT and City of San Angelo (fiscal agent) to ensure financial, employee, technical, and legal records are kept up to date and are compliant with federal and state requirements.

## **GENERAL GUIDELINES**

### Compensation

Members shall serve on the Policy Board and Technical Advisory Committee without special compensation from any agency, entity, person, private entity, or governmental entity. Many members serve as a part of their employment and that compensation is not referred to by this section.

### Standards of Conduct (Ethics Policy)

A Policy Board member or employee of the Metropolitan Planning Organization shall not:

- Accept or solicit any gift, favor, or service that might reasonably tend to influence the member or employee in the discharge of official duties or that the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct;
- Accept other employment or engage in a business or professional activity that the member or employee might reasonably expect would require or induce the member or employee to disclose confidential information acquired by reason of the official position;

- Accept other employment or compensation that could reasonably be expected to impair the member or employee's independence of judgment in the performance of the member or employee's official duties;
- Make personal investments that could reasonably be expected to create a substantial conflict between the member's or employee's private interest and the public interest; or
- Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the member or employee's official powers or performed the member or employee's official duties in favor of another; or

An employee of a metropolitan planning organization who violates any of the ethics provisions outlined above can be subject to termination of the employee's employment or another employment-related sanction.

Any member of the Policy Board, Technical Advisory Committee, advisory committees, affiliates, or employees who violate any of the ethics provisions outlined above is subject to any applicable civil or criminal penalty if the violation also constitutes violations of another statute or rule.

To ensure members of the Policy Board, Technical Advisory Committee, advisory committees, affiliates, or employees in the MPO transportation planning process maintain a certain level of ethical compliance, a copy of the ethics policy (Attachment A) shall be distributed to all persons as soon as possible. The MPO Director shall keep executed ethics policy forms.

#### General Meeting Provisions

All Policy Board meetings of the Metropolitan Planning Organization shall be open to the public. All Policy Board meetings shall comply with the requirements of the Texas Open Meetings Act and the Texas Open Records Act. Technical Advisory Committee meetings and advisory committees' meetings shall not be open to the public.

#### Special Meetings

Special meetings shall be held whenever necessary, if in the opinion of the Policy Board Chairperson, Technical Advisory Committee Chairperson or MPO Director deems proposed topic(s) of discussion merit full board or committee consideration.

Notice of any meetings of the Policy Board, Technical Advisory Committee, or advisory committees whether a regular or a special meeting, shall be given to members at least seventy-two (72) hours in advance of the meeting by written notice, delivered personally, sent by mail, or electronically transmitted. Such notice shall contain the time, date, place, and the agenda to be considered.

#### Bylaw Revisions

Upon adoption of these bylaws, the Policy Board, by a vote of two-thirds (2/3) of its members present may make, alter, amend, or rescind these bylaws at any regular meeting, after at least 10 days' notice subject to all applicable meeting requirements. Changes to the bylaws shall never occur other than at a regular meeting. Electronic, proxy, or written votes shall not be allowed for changes, amendments, or modifications to bylaws.

It shall be the duty of the Chair to include in notice of such meeting, notice of proposed amendment setting out the exact form of the proposed amendment. Such amendment shall be adopted if it receives the affirmative vote required.

Amendment Notes

Notes of all amendments, changes, or modifications shall be recorded in the bylaws. Each note shall contain the meeting date on which amendment was approved, a description of the amendment, and the recorded vote for said amendment.

The bylaws shall be revised, updated, or amended as the circumstances dictate. This shall be the responsibility of the MPO Director and have the approval of the MPO Policy Board.

APPROVED and ADOPTED by the San Angelo Metropolitan Planning Organization Policy Board on MARCH 15, 2015.

\_\_\_\_\_  
Dwain Morrison, Mayor/Chairperson,  
San Angelo Metropolitan Planning Organization

ATTEST:

\_\_\_\_\_  
Doray Hill, Jr., MPO Director,  
San Angelo Metropolitan Planning Organization



## PROPERTY SEARCH

See results for your district

Name [Property Address](#) [Legal Description](#) [Geographic ID](#) [Property ID](#) [Return to Home](#)

### SEARCH BY OWNER NAME

Search

Hint: "Smith A" Enter only the first part of the last name. Enter at least two characters with no spaces.

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[BOARD OF DIRECTORS](#)

[ARB MEMBERS](#)

## Board of Directors

---

### Bob Reeves

Member

### John Begnaud

Vice-Chairman

### John Conn

Secretary

### Louis Gomez

Chairman

### Russell DeVore

Member

NOMINATION OF CANDIDATES FOR BOARD OF DIRECTORS OF TOM GREEN COUNTY APPRAISAL DISTRICT

The City Manager reviewed the background information. Councilwoman Tucker stated that the current directors have performed well.

Motion, to nominate Mr. Dick Burnett, Mr. A. H. "Chico" Denis, Mr. John Fuentes, Mr. Walter Pfluger, and Mr. John Phillips as candidates for the Board of Directors of Tom Green County Appraisal District for 1993-95, was made by Councilman Izzard and seconded by Councilman Hiebert. Motion carried unanimously.

ADOPTION OF RESOLUTION NOMINATING CANDIDATES FOR BOARD OF DIRECTORS OF TOM GREEN COUNTY APPRAISAL DISTRICT

The Council discussed the function of the board. The City Manager explained the process for selection of the board.

Motion, to adopt the resolution nominating Mr. Dick Burnett, Mr. A. H. "Chico" Denis, Mr. John Fuentes, Mr. Walter Pfluger, and Mr. John Phillips for the Board of Directors of the Tom Green County Appraisal District, was made by Councilmember Izzard and seconded by Councilmember Burrows. Motion carried unanimously.

Annex F, Page 168, "Resolution"

ADOPTION OF RESOLUTION SETTING NUMBER OF VOTES TO BE CAST FOR NOMINEES FOR BOARD OF DIRECTORS OF TOM GREEN COUNTY APPRAISAL DISTRICT FOR 1998-2000 TERM

City Clerk Carol Rigby presented the results of each Councilmembers vote. Each Councilmember cast 232.5 votes (1/6 of the 1,395 total votes allocated to the City of San Angelo) among the 6 nominees. Councilmember Shrum cast his votes as follows: Mr. Pfluger - 132.5; Mr. Phillips - 100. Councilmember Burrows cast his votes as follows: Mr. Phillips - 232.5. Councilmember Holguin cast his votes as follows: Mr. Bastardo - 232.5. Councilmember Tucker cast her votes as follows: Mr. Burnett - 232.5. Councilmember Ryon cast her votes as follows: Mr. Bastardo - 46; Mr. Burnett - 46; Mr. Denis - 46; Mr. Pfluger - 46; Mr. Phillips - 48.5. Councilmember Mahon cast his votes as follows: Mr. Fuentes - 77.5; Mr. Pfluger - 77.5; Mr. Phillips - 77.5.

Motion, to adopt a resolution setting the number of votes to be cast for nominees for the Board of Directors of the Tom Green County Appraisal District for the 1998-2000 term as follows: Mr. Richard Bastardo - 278.5; Mr. Dick Burnett - 278.5; Mr. A.H. AChico@, III - 46; Mr. John Fuentes - 77.5; Mr. Walter Pfluger - 256; Mr. John Phillips - 458.5, was made by Councilmember

Holguin and seconded by Councilmember Burrows. Motion carried unanimously.

Annex F, Page 83, AResolution@

*Page 610*  
*Vol. 89*

*Minutes*  
*October 5, 1999*

ADOPTION OF RESOLUTION NOMINATING CANDIDATES FOR BOARD OF DIRECTORS OF TOM GREEN COUNTY APPRAISAL DISTRICT

City Clerk Kathy Keane presented background information, noting that the Appraisal Board has five members up for reappointment, and Council will need to nominate for these five positions. Ms. Keane further noted that everyone currently serving on the board is eligible for reappointment and willing to serve except Mr. John Fuentes.

City Manager Tom Adams noted that this is a two step process.

A discussion followed regarding the qualifications needed.

Responding to a question from Councilmember Holguin, Ms. Keane noted that Mr. Dean had indicated that Mr. Walter Pfluger and Mr. Louis Gomez had expressed interest in holding these positions.

Noting that Mr. Pfluger would be an asset, Councilmember Ryon explained that she had spoken with Mr. Pfluger and she would like to consider him for one of the positions.

Councilmembers Shrum and Holguin agreed.

Responding to a question from Councilmember Bastardo, Ms. Keane stated that she had not made contact with the Chief Appraiser, but had spoken with Mr. Rusty Dean, the attorney for the Appraisal District, who prepared the Resolution.

Noting a possible problem with a Councilmember serving on the Tax Appraisal Board, Councilmember Shrum stated that Louis Gomez was interested as well. Councilmember Shrum further suggested that Mr. Gomez and Mr. Pfluger be substituted for present members John Fuentes and Richard Bastardo.

Councilmember Mahon explained that there is a perceived problem with Mr. Bastardo being able to set the tax rate as a member on this board. While this is legally permissible, it is the perception which could be harmful.

Councilmember Ryon agreed that this is a problem and questioned if Council should make a rule that Councilmembers can not serve on other boards.

Councilmember Shrum noted that some boards have requested City Council representation, however, perception of is the matter of concern.

Mr. Adams noted that involvement in certain areas needs to be watched.

Councilmember Bastardo noted that it was this Council who voted him in as a member of the Tax Appraisal Board. Mr. Bastardo stated that all the present board members are good people, but

explained that he has not been on the board for long and has the time to serve. Serving on the Tax Appraisal Board does not hamper his agenda to stay open-minded and attend all the meetings.

Mayor Fender explained that when Council voted to have Mr. Bastardo serve, he was not on the Council at the time. Mayor Fender further explained that this is not a personal decision.

Councilmember Holguin nominated Councilmember Bastardo.

Council discussed how the vote would take place. Each Councilmember will get five votes.

An initial vote was taken. The nominees received the following number of votes:

Richard Bastardo: 4 votes; Councilmembers Burrows, Holguin, Bastardo and Ryon  
Dick Burnett: 4 votes; Councilmembers Shrum, Burrows, Holguin and Mahon  
Chico Dennis: 4 votes; Councilmembers Shrum, Burrows, Ryon and Mahon  
John Phillips: 4 votes; Councilmembers Shrum, Burrows, Mahon and Mayor Fender  
Walter Pfluger: 5 votes; Councilmembers Shrum, Burrows, Ryon, Mahon and Mayor Fender  
Louis Gomez: 4 votes; Councilmembers Shrum, Burrows, Mahon and Mayor Fender

Mr. Walter Pfluger was nominated and the Council voted again on the remaining nominees with each Councilmember receiving four votes. The nominees received the following number of votes:

Richard Bastardo: 4 votes; Councilmembers Burrows, Holguin, Bastardo and Ryon  
Dick Burnett: 5 votes; Councilmembers Shrum, Burrows, Holguin, Mahon and Mayor Fender  
Chico Dennis: 4 votes; Councilmembers Shrum, Ryon, Mahon and Mayor Fender  
John Phillips: 7 votes; Full Council  
Louis Gomez: 7 votes; Full Council

At this point the following additional persons were nominated: Dick Burnett, John Phillips, and Louis Gomez. Because the number of votes received for Mr. Bastardo and Mr. Dennis were tied, another vote was taken.

Richard Bastardo: 3 votes; Councilmembers Burrows, Holguin, and Bastardo  
Chico Dennis: 4 votes; Councilmembers Shrum, Ryon, Mahon, and Mayor Fender

Motion, to adopt a resolution nominating Walter Pfluger, Dick Burnett, John Phillips, Louis Gomez, and Chico Dennis for Board of Directors of the Tom Green County Appraisal District, was made by Councilmember Shrum and seconded by Councilmember Mahon. Aye: Shrum, Mahon, Fender, Burrows, Bastardo, and Ryon. Nay: Holguin. Motion carried 6-1.

Annex B, Page 619, AResolution@

**Page 400**  
**Vol. 92**

**Minutes**  
**October 2, 2001**

ADOPTION OF A RESOLUTION NOMINATING CANDIDATES FOR BOARD OF DIRECTORS OF TOM GREEN COUNTY APPRAISAL DISTRICT

Responding to questions of Councilmembers Holguin and Wardlaw, City Manager Tom Adams

informed that Directors did not have term limits but that the Council was free to nominate their own slate of nominees. He further agreed that future nominations could include information regarding the length of service for each nominee.

Motion, to adopt a Resolution nominating candidates for the Board of Directors of the Tom Green County Appraisal District, as presented, was made by Councilmember Mahon and seconded by Councilmember Darby. Motion carried unanimously.

Annex C, Page 425, AResolution@

***Minutes***  
***October 7, 2003***

***Page 439***  
***Vol. 95***

**ADOPTION OF A RESOLUTION NOMINATING CANDIDATES FOR THE TOM GREEN COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS**

City Manager Tom Adams presented background information.

Responding to the request of Councilmember Holguin to delay the nomination process, Councilmember Bates noted the Resolution nominating candidates was required to be submitted prior to October 15, 2003.

By consensus, the Council requested a letter be drafted for the Mayor's signature to the Tom Green County Appraisal District requesting the City receive this notice of nomination earlier, perhaps mid August, to ensure sufficient time to more fully consider the nominations to be forwarded to the Chief Appraiser.

Councilmember Holguin advised he had other individuals he would have preferred to bring forward.

Motion, to adopt a Resolution nominating the following individuals for the Tom Green County Appraisal District Board of Directors: Dick Burnett, A.H. "Chico" Denis III, Louis Gomez, Walter Pfluger and John Phillips, as presented, was made by Councilmember Mahon and seconded by Councilmember Rainey. Aye: Mahon, Rainey, Lown, Morrison, Reeves and Bates. Nay: Holguin. Motion carried 6-1.

Annex C, Page 453, "Resolution"

***Page 271***  
***Vol. 98***

***Minutes***  
***December 13, 2005***

**APPROVAL OF A RESOLUTION SETTING OUT NUMBER OF VOTES TO BE CAST FOR NOMINEES FOR BOARD OF DIRECTORS OF TOM GREEN COUNTY APPRAISAL DISTRICT FOR 2006-2007**

*NOTE: Nominations were not made in 2005*

City Manager Harold Dominguez presented background information.

Councilmember Holguin commented on the nominations and repeated requests to facilitate the process. General discussion was held on the time provided to submit votes and required turnaround of the nomination process. Mayor Lown requested staff work with Tom Green County Appraisal District on future nominations.

Motion, to divide votes equally among nominees, was made by Mayor Lown and seconded by Councilmember Rainey. AYE: Lown, Bates, Farmer, Morrison, and Rainey NAY: Holguin. Motion carried 5-1.

Annex J, Page 295, "Resolution"

***Page 5***  
***Vol. 99***

***Minutes***  
***September 18, 2007***

APPROVAL OF CANDIDATE NOMINATIONS TO SERVE ON THE BOARD OF DIRECTORS OF THE TOM GREEN COUNTY (TGC) APPRAISAL DISTRICT FOR THE 2008-2009 TERM

Mayor Lown suggested the Council consider reviewing the criteria and nominating individuals to serve on the TGC Appraisal District board. He commented the existing board consisted of the same members serving numerous terms. Finance Director Michael Dane stated the nomination process was time sensitive and noted the nomination should be finalized no later than October 15, 2007. Mayor Lown recommended Mr. Louis Hall.

Councilmember Perez-Jimenez requested the item be considered at the Visions meeting on September 27 and 28, 2007. Council concurred. Mayor Lown informed the TGC board meets approximately 7 times a year for 1 to 3 hours.

Mayor Lown recommended the nominees complete an application and forward such to City Clerk Alicia Ramirez.

***Page 5***  
***Vol. 100***

***Minutes***  
***October 2, 2007***

ADOPTION OF A RESOLUTION NOMINATING LOUIS HALL AS A CANDIDATE FOR BOARD OF DIRECTORS OF TOM GREEN COUNTY APPRAISAL DISTRICT

Motion, to adopt a Resolution nominating Louis Hall as a candidate for Board of Directors of Tom Green County Appraisal District, was made by Mayor Lown and seconded by Councilmember Perez-Jimenez. Motion carried unanimously.

Annex F, Page 25, "Resolution"

***Minutes***  
***November 6, 2007***

***Page 5***  
***Vol. 100***

ADOPTION OF A RESOLUTION SETTING OUT THE NUMBER OF VOTES TO BE CAST FOR NOMINEES FOR BOARD OF DIRECTORS OF TOM GREEN COUNTY APPRAISAL DISTRICT

Councilmembers submitted their votes as follows: Councilmember Farmer, 199 for Louis Hall; Councilmember Hogg, 49.75 each for Dick Burnett, Louis Hall, Chico Denis, and Walter Pfluger; Councilmember Perez-Jimenez, 199 for Louis Hall; Mayor Lown, 199 for Louis Hall; Councilmember Cárdenas, 199 for Louis Hall; Councilmember Morrison, 199 for John Phillips; and Councilmember Fields, 199 for Louis Hall.

Motion, to adopt a Resolution setting out 49.75 votes for Dick Burnett, 49.75 votes for A.H. “Chico” Denis, 0 votes for Louis P. Gomez, 1044.75 votes for Louis Hall, 49.75 votes for Walter W. Pfluger, and 199 votes for John D. Phillips to be cast for nominees for Board of Directors of Tom Green County Appraisal District, was made by Mayor Lown and seconded by Councilmember Farmer. Motion carried unanimously.

Annex G, Page 89, “Resolution”

***Minutes***  
***October 6, 2009***

***Page 505***  
***Vol. 101***

ADOPTION OF A RESOLUTION NOMINATING CANDIDATES EMILIO PEREZ-JIMENEZ, TIM EDWARDS, VICKIE BOULDEN, BOB REEVES, AND JOHN BEGNAUD AS CANDIDATES FOR THE BOARD OF DIRECTORS OF THE TOM GREEN COUNTY APPRAISAL DISTRICT FOR THE 2010-2012 TERM

City Clerk Alicia Ramirez presented background information. General discussion and nominations were made by the Councilmembers.

Motion, to close nominations, was made by Councilmember Farmer and seconded by Councilmember Silvas. Motion carried unanimously.

In conclusion, the following nominations were made.

Motion, to adopt a resolution nominating candidates Emilio Perez-Jimenez, Tim Edwards, Vickie Boulden, Bob Reeves, and John Begnaud as candidates for the Board of Directors of the Tom Green County Appraisal District for the 2010-2012 Term, was made by Mayor Pro Tempore Hogg and seconded by Councilmember Adams. Motion carried unanimously.

Annex A, Page, “Resolution”

***Page 58***  
***Vol. 103***

***Minutes***  
***October 4, 2011***

ADOPTION OF A [RESOLUTION](#) NOMINATING CANDIDATES FOR BOARD OF DIRECTORS OF TOM GREEN COUNTY APPRAISAL DISTRICT (ANNEX E, PAGE 71, RESOLUTION #2011-09-109R)

City Clerk Alicia Ramirez presented background information.

Motion, to adopt the Resolution, as presented, was made by Councilmember Morrison and seconded by Councilmember Adams. Motion carried unanimously.

Nominees: John Begnaud, John Conn, Russell DeVore, Louis Gomez, and Bob Reeves

ADOPTION OF A [RESOLUTION](#) NOMINATING CANDIDATE(S) FOR BOARD OF DIRECTORS OF TOM GREEN COUNTY APPRAISAL DISTRICT (ANNEX E, PAGE 71, RESOLUTION #2011-09-109R)

City Clerk Alicia Ramirez presented background information.

Mayor Morrison suggested nominating the existing members: John Begnaud, John Conn, Russell DeVore, Louis Gomez, and Bob Reeves. Council concurred.

Motion, to adopt the Resolution, as presented, was made by Councilmember Vardeman and seconded by Councilmember Farmer. Motion carried unanimously.



## TOM GREEN COUNTY APPRAISAL DISTRICT

2302 Pulliam • P.O. Box 3307 • San Angelo, TX 76902

Office 325-658-5575 • Fax 325-657-8197



October 19, 2015

COPY

Mayor Dwain Morrison  
City of San Angelo  
72 West College Avenue  
San Angelo, Texas 76903

Re: Election of Five Members To The Appraisal District Board of Directors For  
The Two Year Term Beginning January 1, 2016.

Dear Mayor Morrison,

The governing bodies have concluded the nomination process and have provided me with a listing of their nominees to be placed on the election ballot. The following six individuals were nominated:

- (1) Begnaud, John
- (2) Conn, John
- (3) DeVore, Russell
- (4) Diaz, Mike
- (5) Gomez, Louis
- (6) Reeves, Bob

Chapter 6 of the Property Tax Code provides for the following procedures during the election process.

- (1) Prior to October 30, 2015, the chief appraiser will prepare and deliver a ballot to the presiding officer of each taxing unit that is entitled to vote.

The ballot for each taxing unit is attached hereto.

- (2) Prior to December 15, 2015, the governing body of each taxing unit shall determine its votes by resolution. The taxing unit may cast all its votes for

Election of Board of Directors – Page 2

one candidate or may distribute the votes among any number of the five candidates. There is no provision for write-in candidates. The board of directors is a five (5) member board.

- (3) Prior to December 15, 2015, the taxing unit shall deliver its completed resolution and ballot to the chief appraiser.
- (4) Prior to December 31, 2015, the chief appraiser shall count the votes, Declare the five (5) candidates who receive the largest vote totals elected and submit the results to the taxing units and the candidates.

The chief appraiser may not count votes cast for someone not listed on the official ballot.

- (5) The five newly elected board members will begin serving their two year term of office on January 1, 2016.

For your information and use, I have attached a schedule of the taxing units eligible to vote their voting entitlement and the ballot for your taxing entity.

Please notify us of any question you may have or of any way we may be of assistance to you.

Respectfully.



Bill H. Benson, Chief Appraiser  
Tom Green County Appraisal District

BHB:tc  
Encl.

BALLOT

FOR THE SELECTION OF MEMBERS

TO THE BOARD OF DIRECTORS

OF THE TOM GREEN COUNTY APPRAISAL DISTRICT

FOR THE 2016-2017 TERM

COPY

NAME OF THE TAXING UNIT: City of San Angelo

NUMBER OF VOTES TO WHICH THIS UNIT IS ENTITLED: 1,293

NOMINEE NAME:

NUMBER OF VOTES CAST

Begnaud, John (Incumbent).....	_____
Conn, John (Incumbent).....	_____
DeVore, Russell (Incumbent) .....	_____
Diaz, Mike.....	_____
Gomez, Louis (Incumbent).....	_____
Reeves, Bob (Incumbent).....	_____

TOTAL ..... \_\_\_\_\_

DATE OF VOTING ACTION: \_\_\_\_\_

PRESIDING OFFICER SIGNATURE: \_\_\_\_\_

**TOM GREEN COUNTY APPRAISAL DISTRICT  
ORIGINAL TAX LEVIES AND ELIGIBLE VOTES FOR BOARD ELECTION OF 2015**

	<u>ELIGIBLE TAXING UNIT NAME</u>	<u>2014 TOTAL TAX LEVY</u>	<u>2014 PERCENT OF LEVY</u>	<u>2015 ELIGIBLE VOTES</u>
1	Christoval I. S. D.	\$ 2,675,232.47	2.11%	105
2	City of San Angelo	\$ 32,841,960.19	25.86%	1,293
3	Grape Creek I. S. D.	\$ 2,989,789.76	2.35%	118
4	Miles I. S. D. (Tom Green Part)	\$ 417,891.01	0.33%	16
5	San Angelo I. S. D.	\$ 53,268,844.60	41.94%	2,097
6	Tom Green County	\$ 27,949,868.74	22.01%	1,101
7	Veribest I. S. D.	\$ 1,380,768.29	1.09%	55
8	Wall I. S. D.	\$ 3,979,327.99	3.13%	156
9	Water Valley I. S. D.(TGC Part)	\$ 1,503,603.33	1.18%	59
<b>TOTAL TAX LEVY, LEVY PERCENT &amp; ELIGIBLE VOTES</b>		<b>\$ 127,007,286.38</b>	<b>100.00%</b>	<b>5,000</b>

**MEMO:**

The above is the calculation & schedule of the eligible votes for each taxing unit that is eligible to vote in the election of TGCAD Board of Directors for the two year term beginning on January 01, 2016 and ending on December 31, 2017.



## APPLICATION FOR BOARDS and COMMISSIONS

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone (Home): \_\_\_\_\_ (Office): \_\_\_\_\_

Resident of San Angelo since: \_\_\_\_\_ SMD: \_\_\_\_\_

Are you a registered voter of San Angelo? Yes: \_\_\_\_\_ No: \_\_\_\_\_

Occupation / Business Affiliation: \_\_\_\_\_

Occupation / Business Address: \_\_\_\_\_

Title/Position: \_\_\_\_\_

Email: \_\_\_\_\_

**By executing this document, the applicant does hereby certify and affirm the truth and accuracy of the information contained herein. The applicant further authorizes the City Council, or its designee, to verify any information. The applicant agrees to release and hold harmless the City from all claims incident to the verification of information contained herein.**

X

Applicant's Signature

Date

*NOTE: This application is information of public record.\* Public Service opportunities are offered by the City of San Angelo without regard to race, color, national origin, religion, sex or disability.*

RETURN TO: City of San Angelo, c/o City Clerk, 72 W. College, San Angelo, Texas 76903

### Applying for:

- \_\_\_\_ Airport Advisory Board
- \_\_\_\_ Animal Shelter Advisory Cmm\*
- \_\_\_\_ Civic Events Advisory Board
- \_\_\_\_ Civil Service Commission
- \_\_\_\_ Construction Board of Adj/Appls\*
- \_\_\_\_ Design & Historic Review Cmm\*
- \_\_\_\_ Development Corporation
- \_\_\_\_ Fort Concho Museum Board
- \_\_\_\_ Park Commission
- \_\_\_\_ Parks & Recreation Adv Board
- \_\_\_\_ Planning Commission
- \_\_\_\_ Public Art Commission\*
- \_\_\_\_ Public Housing Authority
- \_\_\_\_ Tax Incrmt Reinvsmt Zone Board\*
- \_\_\_\_ Water Advisory Board\*
- \_\_\_\_ Zoning Board of Adjustment

*\*specific membership criteria requirements apply-See back page for more information*

### Recommended by:

*Tell us about yourself. Feel free to attach additional sheets, if necessary.*

**Based on you board selection, do you meet the membership criteria\*? Yes No If so, which criteria: \_\_\_\_\_**  
**(see back page for board criteria)**

**Education and/or Professional Licenses:** \_\_\_\_\_

**Current Municipal and Civic Organization Memberships (Positions & Dates):** \_\_\_\_\_

**Previous Municipal Experience (Positions, Dates, Where):** \_\_\_\_\_

**What personal qualifications can you bring to this board?** \_\_\_\_\_

**What is your personal vision for the City?** \_\_\_\_\_

**Why do you want to serve on this board?** \_\_\_\_\_

**Anything else you would like for us to know?** \_\_\_\_\_

\*The City Council adopted the Code of Ethics for members of the City Council and for the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation. Therefore, all Members shall comply with the laws of the nation, the State of Texas, and the City of San Angelo in the performance of their public duties. If you been convicted of a MISDEMEANOR or FELONY, and/or placed on probation, fined or given a suspended sentence such as pretrial diversion or deferred adjudication in court within the last ten years, disclosure of such should be forwarded under separate cover. For a complete copy of the Code of Ethics, contact the City Clerk at 657-4405.

## BOARD / COMMISSION MEMBERSHIP CRITERIA

**Airport Advisory Board:** City resident

**Animal Shelter Advisory Committee:** 1) Position one shall be filled by a veterinarian. 2) Position two shall be filled by a municipal or county official. 3) Position three shall be filled by a person whose duties include the daily operation of an “animal shelter” as that term is defined in section 823.001 of the Health and Safety Code. 4) Position four shall be filled by a person who is an officer or employee of an animal welfare organization. 5) Positions five through seven shall be filled by residents of the city.

**Civic Events Board:** All Members must be Age 18 or older and a City Resident

**Civil Service Commission:** City Manager appointed, City Council confirmed. Age 25 and City resident

**Construction Board of Adj & Appeals:** One architect/engineer, one commercial building contractor, one residential building contractor, one electrical contractor, one plumber, one mechanical contractor, one realtor/real estate inspector/real estate appraiser (member at large from the building industry), one homeowner (member at large from the public), and one commercial business owner.

**Design & Historic Review Commission:** All Members must be Age 18 or older and a City Resident. At least: 2 licensed or otherwise recognized as professional in architecture, landscape architecture, design, engineering, surveying, or related profession; 1 historian or a member of a local historic preservation group; 1 real property owner within the River Corridor; 1 real property owner designated or recognized as a community landmark, or within a designated historic district; 2 Board of Directors of Downtown San Angelo, Inc.

**Development Corporation:** (1) Be appointed by a majority vote of the City Council; (2) Serve a two year term of office; (3) City residents. (c) No person shall be appointed as a director who is an employee, officer or member of the City Council, of the City of San Angelo, or a member of any board or commission of the City of San Angelo.

**Fairmount Cemetery Board:** Self-perpetuating

**Ft Concho Museum Board:** City resident.

**Park & Recreation Advisory Board:** 18 years of age or older and City resident. Appointments based on nominee’s educational and professional qualifications and general knowledge of, interest in, and experience relevant to youth or adult sports, senior activities, recreation activities, other organized social activities, parks, nature or conservation

**Park Commission:** Self-perpetuating. City Council confirms nominations submitted by existing 2 members. City resident.

**Planning Commission:** Of different businesses, professions or occupations. City resident. No more than three (3) members of the commission shall be in the same, similar or related business, profession or occupation.

**Public Art Commission:** 1 who is a teacher or professor of art. 1 who is a member of the San Angelo Cultural Affairs Council or the San Angelo Museum of Fine Arts; 1 who is an artist; 1 who is a landscape architect, architect, engineer, or other type of design professional; and 1 ex officio non-voting member who represents the Parks Department or Park commission as designated by the City Council or by the City Manager.

**Public Housing Board:** Appointed by the mayor; all members shall be representative of the general public, City resident and qualified voters of the city. Two members shall be a tenant of a public housing project over which the authority has jurisdiction.

**Tax Increment Reinvestment Zone:** (a) All regular and alternate board members shall be at least eighteen (18) years of age and a resident of the county. Any regular board member who ceases to possess such qualifications shall automatically be deemed to have vacated his or her membership on the board. (b) Appointees of Council Members representing single member districts (SMDs) two, three, and four shall live, work and/or own property within the TIRZ North. Appointees of Council Members representing single member districts (SMDs) one, five, and six shall live, work and/or own property within the TIRZ South.

**Water Advisory Board:** 1 who is an engineer, a hydrologist, a meteorologist or a water well driller; 1 who is in the industry of banking, accounting or financial services industry. with a specialization in agricultural lending or water financing; 1 who is in agriculture or rural water issues; and 1 who is either an attorney, a former municipal, water district or other governmental officer, a legislator or other a person who has experience in legal issues related to water; 1 appointee by the City of San Angelo Development Corporation Board who shall be an individual who is either a member of the City of San Angelo Development Corporation Board or a City employee who performs staff services by contract for the City of San Angelo Development Corporation; 1 appointee by the Tom Green County Commissioners Court who shall be an individual who is a member of the commissioners court, including the county judge; and 1 appointee by the Upper Colorado River Authority as director of operations.

**Zoning Board of Adjustment:** None.