

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, OCTOBER 8, 2013, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, OCTOBER 8, 2013, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION offered by Pastor Noah F. Diggs, with the Mt. Olive Baptist Church.

PLEDGE OF ALLEGIANCE TO THE FLAG: led by Fire Chief Robert Ojeda.

Those in attendance may stand if they wish.

1. VISITORS/CITIZENS FORUM:

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

2. CONSENT AGENDA:

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

2A. Minutes of the city council regular meeting held September 24, 2013. (staff)

2B. Resolution No. 40-2013 adopting an ethics policy for elected and appointed officials – City of Kerrville, Texas; providing a purpose, goals, standards of conduct, implementation, compliance and enforcement; and a statement of commitment. (staff)

2C. Resolution No. 41-2013 authorizing the closure of a portion of Memorial Highway (Hwy 27) during certain hours and dates from 2013-17 for the Kerrville Main Street annual holiday lighted parade and authorizing the mayor to execute an agreement for the temporary closure of state right-of-way with the Texas Department of Transportation. (staff)

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time, October 4, 2013 at 11:45 a.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

2D. Resolution No. 38-2013 authorizing the waiver for Baptist Child and Family Services of permitting fees associated with the construction of their transition center for youth; said waiver to remain in effect through October 8, 2014. (staff)

2E. Resolution No. 37-2013 authorizing the waiver for Hill Country Home Opportunity Council, Inc. of various fees associated with the construction of homes; said waiver to remain in effect through September 30, 2014, or the construction of ten homes, whichever occurs first. (staff)

2F. Resolution No. 36-2013 authorizing the waiver for Habitat for Humanity Kerr County Affiliate, Inc. of various fees associated with the construction of homes; said waiver to remain in effect through September 30, 2014, or the construction of nine homes, whichever occurs first. (staff)

2G. Purchase of a new Type I ambulance from Dallas Dodge Chrysler Jeep at a price not to exceed \$156,800. (staff)

2H. Purchase of four new vehicles for the police department at a price not to exceed \$127,636. (staff)

END OF CONSENT AGENDA

3. ORDINANCE, SECOND AND FINAL READING:

3A. Ordinance No. 2013-19 amending various sections of the Code of Ordinances of the City of Kerrville, Texas, to delete and remove fees for various services and amenities provided or offered by the City as said fees are established by the city's fee schedule, which is adopted by resolution of the City Council; containing a savings and severability clause; providing for an effective date; and providing other matters relating to the subject. (staff)

4. ORDINANCES, FIRST READING:

4A. Ordinance No. 2013-20, approving a negotiated resolution between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division regarding the company's 2013 annual rate review mechanism filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; requiring the company to reimburse cities'

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reasonable ratemaking expenses; repealing conflicting resolutions or ordinances; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; providing a most favored nations clause; and requiring deliver of this ordinance to the company and the steering committee's legal counsel. (staff)

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Resolution No. 45-2013 approving/disapproving KCAD budget amendment for Fiscal Year 2012. (Coates)

5B. Appeals by the applicant/operator for reasonable accommodations in accordance with the Ordinance No. 2013-06 group home and boarding home facilities at the following addresses:

1. 615 East Lane
2. 1612 First Street.

5C. Resolution No. 47-2013 adopting an automatic bill pay program for the city's water/wastewater utility service. (staff)

6. ITEMS FOR FUTURE AGENDAS

7. ANNOUNCEMENTS OF COMMUNITY INTEREST:

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

8. EXECUTIVE SESSION:

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

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Deputy City Secretary, City of Kerrville, Texas

Pursuant to Section 551.071:

- Appeals by the applicant/operator for reasonable accommodations in accordance with the Ordinance No. 2013-06 group home and boarding home facilities at the following addresses:

1. 615 East Lane
2. 1612 First Street.

Pursuant to Sections 551.071 and 551.072:

Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the City's bargaining position with third parties, regarding property interests related to the following projects:

- Jefferson lift station
- River Trail.

Section 551.074:

- Annual review of city manager.

9. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

10. ADJOURNMENT.

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 for further information.

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Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

Agenda Item:

- 2A. Minutes of the City Council regular meeting held September 24, 2013. (staff)

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
SEPTEMBER 24, 2013

On September 24, 2013, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by Matt Gallo, Chaplain at Peterson Hospice, followed by the Pledge of Allegiance led by Barbara Heckman-Sauer, Associates of Vietnam Veterans of America.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Carson Conklin	Mayor Pro Tem
Stacie Keeble	Councilmember
Justin MacDonald	Councilmember
Gene Allen	Councilmember

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Sandra Yarbrough	Director of Finance
Robert Ojeda	Fire Chief
John Young	Police Chief
Charlie Hastings	Director of Public Works
Ashlea Boyle	Special Projects Coordinator

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

1. VISITORS/CITIZENS FORUM: No one spoke.

2. RECOGNITIONS:

2A. Proclamation designating Kerrville as a Purple Heart City. Presented by Mayor Pratt.

2B. Proclamation proclaiming October 1, 2013 as National Night Out. Presented by Mayor Pratt.

3. CONSENT AGENDA:

Mr. Conklin moved for approval of agenda items 3A through 3G; Ms. Keeble seconded the motion and it passed 5-0:

3A. Minutes of the city council regular meeting held September 10, 2013.

3B. Resolution No. 34-2013 amending the City of Kerrville fee schedule by revising fees charged for various services and uses provided or offered by the city.

3C. Grant application to the Federal Emergency Management Agency (FEMA), Assistance to Firefighters Grant Program.

3D. Independent brokerage agreement for the sale of City property at 800 Junction Highway, former City Hall site.

3E. Renewal of Geographic Information System Enterprise License Agreement with Environmental Systems Research Institute, Inc.

3F. Administrative services contract between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville, Texas.

3G. Request by Baptist Children and Family Services' (BCFS) to waive permitting fees associated with the planned construction of a new transition center for youth.

END CONSENT AGENDA

4. ORDINANCES, SECOND AND FINAL READING:

4A. Ordinance No. 2013-16 levying an ad valorem tax for the use and the support of the municipal government for the City of Kerrville, Texas, for the fiscal year 2014; providing for apportioning each levy for specific purposes; and providing when taxes shall become due and when same shall become delinquent if not paid. Mayor Pratt read the ordinance by title only.

Mr. Parton reviewed the schedule of meeting held and noted no changes to the ordinance since first reading. He recommended approval of the ordinance.

Mr. MacDonald moved that the property tax rate be increased by the adoption of a tax rate of \$0.5625, which was effectively at .14% increase in the tax rate, and for approval of Ordinance No. 2013-16 on first reading; Mr. Conklin seconded the motion and it passed 5-0 upon record vote as follows:

Mayor Pratt	Aye
Mayor Pro Tem Conklin	Aye
Councilmember Allen	Aye
Councilmember Keeble	Aye
Councilmember MacDonald	Aye.

No one voted against the motion.

4B. Ordinance No. 2013-17, adopting the annual budget for the fiscal year 2014; providing appropriations for each department and fund; containing a cumulative clause; and containing a savings and severability clause. Mayor Pratt read the ordinance by title only.

Mr. Parton noted the budget was based on council's core concepts and prioritized programs and objectives, and it was balanced and sustainable. The FY2014 general fund budget totaled \$21.8 million in revenue, \$21 million in expenditures, and added \$800,000 to the reserve fund in anticipation of the expiration of the interlocal agreements with the county due to expire and the end of FY2014. No changes had been made to the ordinance since first reading; he recommended approval.

Mr. Conklin moved for approval of Ordinance No. 2013-17, as presented, on second and final reading; Mr. MacDonald seconded the motion and it passed 5-0.

4C. Ordinance No. 2013-18 amending in part Ordinance No. 99-18, as amended, by adopting a new residential rate tariff: Burned Veterans' Discount Program rider BVDP for residential electric service administered by the Kerrville Public Utility Board; containing a cumulative clause; containing a savings and severability clause; and establishing an effective date. Mayor Pratt read the ordinance by title only.

Mike Wittler, KPUB Chief Operating Officer, recommended approval of the ordinance that would implement a bill payment assistance program for veterans who suffered from severe burns received in combat.

Mr. MacDonald moved for approval of Ordinance No. 2013-18, as presented, on second and final reading; Mr. Conklin seconded the motion and it passed 5-0.

5. ORDINANCE, FIRST READING:

5A. Ordinance No. 2013-19 amending various sections of the Code of Ordinances of the City of Kerrville, Texas, to delete and remove fees for various services and amenities provided or offered by the City as said fees are established by the city's fee schedule, which is adopted by resolution of the City Council; containing a savings and severability clause; providing for an effective date; and providing other matters relating to the subject. Mayor Pratt read the ordinance by title only.

Mr. Hayes noted the ordinance would remove fees from the code of ordinances and place all fees in the fee schedule, which is adopted by the city council annually. He listed sections to be deleted.

Ms. Keeble moved for approval of Ordinance No. 2013-19, as presented, on first reading; Mr. MacDonald seconded the motion and it passed 5-0.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Request to abandon and vacate a small portion of Lucille Street from State Highway 27 (Junction Highway) to Woodlawn Avenue.

Mr. Hastings noted the city received a request to abandon a section of Lucille Street from SH27 to Woodlawn Avenue, which was the main entrance into Lone Star Lodges, property owned by the applicant. If abandoned, the applicant planned to cut off entrance to SH27 with curbing and landscaping and move traffic to the signalized intersection at SH27 and Woodlawn. The applicant would then convert the abandoned area as an entrance into their property, perhaps creating access from Woodlawn. Before proceeding with a formal request for abandonment and site development plan, the applicant requested city council's acceptance of the plan.

Council discussed an email from residents regarding safety and noted the

applicant's plan was consistent with their concerns and would provide a safer intersection.

Mr. Conklin moved that council authorize the city manager to proceed with the process of abandonment of Lucille Street from SH27 to Woodlawn; Ms. Keeble seconded the motion and it passed 5-0.

6B. Report of the 2013 Charter Review Commission regarding proposed amendments to the City Charter.

John Mosty, Chairman of CRC, reported on the recommendations of the CRC:

- Section 1.03 Special Provision for Damage Suits: Delete section as the subject is addressed and superseded by state law.
- Section 2.04 Vacancies: Clarify how a vacancy from a recall is addressed, and require council to make an appointment to fill a vacancy within 30 days.
- Section 3.02 Mayor and Mayor Pro Tem: Provide authority for the mayor to act during emergencies without council approval, and clarify that council must appoint a mayor when the position is vacant.
- Section 4.03 Application for Candidacy: Increase candidate petition signature threshold to 100 or require \$100 filing fee.
- Section 4.08 Canvassing Elections: Reflect state law which governs canvassing.
- Section 5.04 Petitions for Recall: Currently there are three methods for recall, initiative, and referendum petitions; propose to simplify process and decrease the number of signatures to 20% of the number of persons who voted in the most recent election or no fewer than 200 qualified voters.
- Section 5.10 Result of Recall Election: Majority of remaining councilmembers fill vacancies; recalled member ineligible for appointment or as a candidate.
- Section 5.11 Recall Restrictions: Delete as unnecessary due to election schedule and two year terms.
- Section 5.12 Initiative; Petition; Procedure: Clearer process and decrease signature threshold (same as Section 5.04)
- Section 5.13 Referendum; Petition; Procedure; Effect Prior to Election: Clearer process and decrease signature threshold (same as Section 5.04)
- Section 8.07 Amendments after Adoption: Clarify that budget amendments occur via ordinance.

Mr. MacDonald moved to accept the report; Mr. Conklin seconded the motion and it passed 5-0.

Mr. Hayes suggested council review the changes submitted in the report and see if there were other changes that council may want to consider and discuss proposed amendments at the second meeting in October.

Council suggested Mr. Hayes review the issue of a person running for re-election while being recalled.

6C. Appeals by the applicant/operator for reasonable accommodations in accordance with the Ordinance No. 2013-06 group home and boarding home

facilities at the following addresses:

1. 818 Bulwer Avenue

2. 929 Pecan Street.

This matter was set aside.

6D. Ethics policy.

Mr. Hayes noted that changes received from council had been incorporated into the policy.

Mr. Allen moved to accept the policy as presented; Mr. MacDonald seconded the motion and it passed 5-0.

6E. Conceptual plan for Louise Hays Park and Lehmann and Monroe Park improvements.

Architect Peter Lewis stated that improvements were designed to make the park more accessible to the public and enhance pedestrian safety and traffic circulation. Paved parking would be located under the bridge, and no vehicles would be allowed to cross pedestrian pathways near the river. The plan included access to potable water and electricity, lighting for security and amenities, and public restrooms. The interactive fountain area used treated recirculated potable water for the splash pad. The amphitheater had two stage areas one facing the river, and one facing the hillside. The existing pavilion and tennis court area would be repurposed. The Lehmann and Monroe Park would have a sand volleyball area and an enclosed dog park; pets on a leash would be allowed throughout the park.

Mayor Pratt asked if public notice had been issued to encourage citizen participation in this conceptual plan? Mr. Parton said no; however, public meetings were held and a public survey conducted, and the public's comments and input were incorporated into the parks master plan adopted in 2009.

The following persons spoke:

- Sharon Walling stated that the 2008 plan was different than what was being proposed, and the city should give the public 1-2 months to give input. She opined that the east restrooms were too far from the amphitheater and should be in the event plaza area for better access for the handicapped. The current graveled parking area should be paved for parking, and not have parking under the bridge as that would be the view from the amphitheater area. The pavilion in Peterson Plaza was not being used by any groups, such as the car show; groups could use the park pavilion for functions. The concept plan had potential, but council should give people time to give input.

- Mack McElvain asked: 1) what was proposed to replace the graveled area shown in grey on the map; and 2) with emphasis on lighting for the water feature and other amenities, was the city considering expanded hours for night time use beyond organized events? 1) Mr. Lewis noted would be grass. 2) Council noted lighting would be equipped with night sky fixtures to shield the light in the water

park; there had been no discussion to extend the hours of operation in the park, which currently closed at 10:00 p.m. on weekdays and 11:00 p.m. on weekends.

Council also discussed the following:

- The number of existing parking spaces versus the number proposed. Mr. Lewis discussed proposed parking as shown on the plan and noted that vehicle parking was located away from the river to create a pedestrian only area, and to lessen the chance of contaminants entering underground seepage and the river.
- Parking for handicapped accessibility near Tranquility Island was desired.
- Access for loading/unloading kayaks was desired. Mr. Lewis noted access was available under the bridge near the river.
- The longer the public input process was extended, the longer the park would be closed. Mr. Lewis noted the park was scheduled to open in March 2015, and in order to meet the schedule, he had to have the background plan to the consultants this week.

Mayor Pratt noted that there was public input in the overall 2009 parks master plan, but not on the detail of this specific plan, and he asked if council should encourage public input before going further with this plan, or move forward with the conceptual plan and consider modifications as the project progressed based on public input. Mr. Parton noted it would be difficult to proceed as changes could result in significant modifications and time delays. If council wanted to solicit more public input and evaluate suggestions to incorporate into the plan, it should do so, and give time for that process and then move forward.

Mr. Lewis noted the consulting team had agreed and committed to an aggressive schedule to complete the bid documents by December, and any significant changes would impact the overall schedule. Construction changes were limited because of the floodplain and floodway. The hydrology report would be a crucial element of the plan, as the city must compensate for anything that could displace water in the floodplain, and that was the reason that structures were located near Thompson Drive.

Council consensus was that the conceptual plan had citizen input for several years and the public had many opportunities to participate; e.g. tonight's meeting received good newspaper coverage, and not many people were in attendance to speak to the plan. Council consensus was to proceed with construction so that the park could be opened on schedule. Mr. Lewis was coordinating a team of consultants, and, based on council's decision tonight, they would either move forward or stop. If they stopped, this would affect the schedule that consultants had set to make their deliveries, which would delay the scheduled opening.

Mr. Conklin moved to accept and approve the conceptual plan for Louise Hays Park and Lehmann and Monroe Park improvements as discussed and presented by Mr. Lewis, including kayak loading area and additional parking by Tranquility Island Bridge. Ms. Keeble seconded the motion and it passed 5-0.

7. INFORMATION AND DISCUSSION:

7A. Budget and economic update.

Ms. Yarbrough reported the 2013 budget: 1) general fund revenue was at 110% of projection, and expenditures at 93% of budget; and 2) utility fund was at 103% of projected revenue and expenditures at 92%. There was one more pay period in both funds.

8. BOARD APPOINTMENTS:

8A. Appointments to the Zoning Board of Adjustment. Matter was deferred to executive session.

9. ITEMS FOR FUTURE AGENDAS: None

10. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Mayor Pratt noted that a recent newspaper article, which stated that Kerr County approved hiring an EMS consultant to assist them in providing EMS service for all of Kerr County, was not accurate; the county's EMS would provide service to all citizens who did not reside in the City of Kerrville.
- The Kerrville Triathlon would be held Saturday and Sunday, September 28 and 29, beginning at 7:30 a.m. at Nimitz Lake. The Kids Fun Run would be 11:00 a.m. Saturday in downtown. Mr. Parton noted that 1,200-1,300 contestants were expected, and he hoped that no one on bicycles would be run over by old people.
- Jimmie Spradling was recognized for cleaning grass and weeds from the sidewalk along Jackson Road.

11. EXECUTIVE SESSION:

Mr. MacDonald moved for the city council to go into executive closed session under Sections 551.071, 551.072, and 551.074 of the Texas Government Code; the motion was seconded by Mr. Conklin and passed 5-0 to discuss the following matters:

Section 551.074: Appointments to the Zoning Board of Adjustment

Sections 551.07: Appeals by the applicant/operator for reasonable accommodations in accordance with the Ordinance No. 2013-06 group home and boarding home facilities at the following addresses: 1) 818 Bulwer Avenue and 2) 929 Pecan Street.

Sections 551.071 and 551.072:

Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the City's bargaining position with third parties, regarding property interests related to the following projects:

- Jefferson lift station
- River Trail.

At 7:50 p.m. the regular meeting recessed and council went into executive closed session at 7:55 p.m. At 9:01 p.m. the executive closed session recessed and council returned to open session at 9:03 p.m. The mayor announced that no

action had been taken in executive session.

Ms. Keeble left the meeting at 8:47 p.m.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION:

8A. Appointments to the Zoning Board of Adjustment. Mr. Allen moved to reappoint Linda Stilwell as a regular board member with term to expire September 30, 2015; Ms. Keeble seconded the motion and it passed 5-0.

ADJOURNMENT. The meeting adjourned at 9:04 p.m.

APPROVED: _____

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

Agenda Item:

2B. Resolution No. 40-2013 adopting an ethics policy for elected and appointed officials – City of Kerrville, Texas; providing a purpose, goals, standards of conduct, implementation, compliance and enforcement; and a statement of commitment. (staff)

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

SUBJECT: Ethics Policy

FOR AGENDA OF: Oct. 8, 2013 **DATE SUBMITTED:** Sept. 25, 2013

SUBMITTED BY: Mike Hayes 
City Attorney **CLEARANCES:**

EXHIBITS: *Resolution No. 40-2013; Ethics Policy for Elected and Appointed Officials – City of Kerrville, Texas*

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$ 0	\$ 0	\$ 0	NA

PAYMENT TO BE MADE TO: NA

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

City Council has previously discussed a draft ethics policy and approved it. The attached resolution will provide formal approval of the policy.

RECOMMENDED ACTION

Consideration of Resolution No. 40-213, which approves the *Ethics Policy for Elected and Appointed Officials – City of Kerrville, Texas*.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 40-2013**

**A RESOLUTION ADOPTING AN ETHICS POLICY FOR
ELECTED AND APPOINTED OFFICIALS – CITY OF
KERRVILLE, TEXAS; PROVIDING A PURPOSE, GOALS,
STANDARDS OF CONDUCT, IMPLEMENTATION,
COMPLIANCE AND ENFORCEMENT; AND A STATEMENT
OF COMMITMENT**

WHEREAS, City officials of the City of Kerrville, Texas, should conduct public business in a way that encourages and ensures the highest standards of personal and public conduct during their time in office; and

WHEREAS, as a way of meeting these standards, City Council has discussed and reviewed a policy that will be applicable to all City Officials and which Council believes will better define in one policy document the standards of conduct that are applicable to such officials; and

WHEREAS, Council now acts to adopt the *Ethics Policy for Elected and Appointed Officials – City of Kerrville, Texas* (the “Policy”), as a way of maintaining the public’s confidence and trust in their elective officials, representatives, and decision-makers for the City, each of whom must remain independent, impartial, and accountable to the citizens and businesses that they serve; and

WHEREAS, the City Council for the City of Kerrville, Texas, finds that its adoption of the Policy will serve and promote the public interest;

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

The *Ethics Policy for Elected and Appointed Officials – City of Kerrville, Texas*, as attached at **Exhibit A**, is adopted and is effective immediately.

PASSED AND APPROVED ON this the ____ day of _____ A.D., 2013.

ATTEST

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

ETHICS POLICY

for Elected and Appointed Officials - City of Kerrville, Texas

I. Purpose.

City Council has adopted this Ethics Policy as a way to encourage and ensure the highest standards of personal and public conduct during tenure in office. Adherence to this Policy will help maintain confidence and trust in the representatives and decision-makers for the City of Kerrville, Texas ("City"), each of whom must remain independent, impartial, and accountable to the citizens and businesses that they serve. In addition to this Policy, elected and appointed officials must adhere to state laws, the City Charter, and other City policies, which govern their conduct.

II. Goals.

The goals of this Policy are that both Councilmembers and City Officials:

- A. comply with both the letter and spirit of the laws and policies affecting the operations of government;
- B. remain independent, impartial, and fair in their judgment and actions; and
- C. use their respective office or position for the public good and not for personal gain.

III. Definitions.

The following terms when used in this Policy have the following meanings:

Board means a board, commission, or committee of the City, in whatever form and whether advisory or nonadvisory and temporary or permanent.

City Council means the legislative and governing body of the City consisting of the mayor and councilmembers.

City Official means City Council and any appointed member of a Board.

IV. Standards of Conduct.

A. *Act in the Public Interest:* Recognizing that stewardship of the public interest must be their primary concern, City Officials shall work for the common good of the whole City and not for any private or personal interest. Furthermore, each City Official shall assure fair and equal treatment of all persons and matters presented to them in their service to the City. City Officials are prohibited from using their positions to influence any City-government decision in which they have a personal interest. Under the City Charter, City Council assumes the duties of office without party or partisan mark or designation.

B. *Comply with Laws:* City officials shall comply with the laws of the nation, the State of Texas, and the City in the performance of their public duties. These laws include the United States and Texas constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures, open government; and the City Charter, ordinances, and policies. City officials acknowledge that most information created by a City Official, regardless of whether it

is created on a personal electronic device or with a personal email account, is subject to public disclosure under the Texas Public Information Act.

C. Civility: The professional and personal conduct of City Officials must be above reproach and avoid even the appearance of impropriety. City Officials shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of the public or other City Officials and employees. Each Official should strive to promote and maintain courtesy, civility, and collegiality.

D. Respect the Process: City Officials shall perform their duties in accordance with the processes and rules of order established by the City Council, which govern the public deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.

E. Meeting Attendance: City Officials are obligated to attend meetings and come prepared with an awareness and a fairly good and well-informed understanding of the agenda issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. City Officials shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or to otherwise interfere with the orderly conduct of meetings, all of which is in accordance with Council's applicable meeting rules and procedures.

F. Decisions Based on Merit: City Officials should review the agenda material, participate in public discussion, and base all decisions on the merits and substance of the matter at hand.

G. Communication: Prior to taking final action on a matter under consideration, City Officials shall publicly share any substantive information, which they may have received from sources outside the public decision-making process that is relevant to such action by the Council or Board.

H. Conflicts of Interest and Disclosure: City Officials shall familiarize themselves and adhere to the following conflicts of interest and disclosure statutes and principles:

a. Ch. 171, Tx. Local Gov't Code – requires City Council and some City Officials to file an affidavit disclosing a substantial interest in a business or property that would be beneficially affected by a decision of the Council or Board and thereafter abstaining from participation in discussion and a vote. Once disclosure is made, the City Official shall leave the meeting to ensure their presence does not hinder the discussion of the item or influence the vote.

b. Ch. 176, Tx. Local Gov't Code – requires City Council to file a conflicts disclosure statement disclosing any business relationship with a person or business doing business with the City or being considered by the City for a business relationship.

c. Section 176.003(a)(2)(B), Tx. Local Gov't Code – requires the disclosure of gifts of an aggregate value of more than \$250.00 in a twelve (12) month period, other than gifts of food, lodging, transportation, or entertainment and accepted as a gift.

d. Sections 553.001-553.003, Tx. Gov't Code – requires the filing of an affidavit before the date the City will acquire a property in which a public servant has an interest.

e. Penal Code provisions concerning corruption, including Section 36.02 prohibiting bribes, Section 36.08(d) prohibiting illegal benefits, Section 36.09 prohibiting receipt of prohibited gifts, Section 39.02 concerning abuse of official capacity, and Section 39.06(a) concerning misuse of official information.

I. *Advocacy*: City Officials shall not utilize the City's name or logo for purposes of endorsing any political candidate or business. City Officials shall only represent the official policies or positions of the City Council or Board to the best of their ability, and such representation may only occur upon receiving the specific approval of City Council or Board. When presenting their individual opinions and positions, City Officials shall explicitly state they do not represent their body or the City nor will they allow any inference that they do.

J. *Confidential Information*: City Officials shall respect the confidentiality of information concerning City property, personnel, or proceedings of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal interests.

K. *Use of Public Resources*: City Officials shall not use public resources generally unavailable to the public, such as City staff time, equipment, supplies, or facilities for private gain or personal purposes.

L. *Representation of Private Interests*: In keeping with their role as stewards of public interests, City Officials shall not appear on behalf of private interests of third parties before the Council or Board.

M. *Policy Role of City Officials*: City Officials shall respect and adhere to the City's governmental structure as outlined in the City's charter, policies, and procedures. In this structure, the City Council determines the policies of the City with information, analysis, and advice provided by the public, Boards, and staff. City Officials therefore shall not interfere with the administrative functions of the City or the professional duties of the City staff; nor shall they impair the ability of staff to implement Council policy decisions.

N. *Independence of Boards*: Because of the value of the independent advice of Boards to the public decision-making process, City Officials shall refrain from using their position to unduly influence the deliberations or outcomes of Board proceedings.

O. *Positive Workplace Environment*: City Officials shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses interacting with the City. City Officials shall recognize their special role in dealing with City employees and refrain from creating the perception of inappropriate direction to staff.

V. Implementation.

As an expression of the expected standards of conduct for City Officials, the Policy is self-enforcing. It therefore is most effective when City Officials are thoroughly familiar with it and embrace its provisions. Ethical standards will be included in the orientation for new Councilmembers and new Board members. City Officials entering office must sign the attached statement affirming that they have read, understood, and agree to follow this Policy. City Council shall periodically review this Policy and consider any revisions.

VI. Compliance and Enforcement.

The Policy expresses standards of ethical conduct expected for City Officials. City Officials have the primary responsibility to assure that ethical standards are understood and met and that the public maintains full confidence in the integrity of City government. Councilmembers, as well as Board members, have the responsibility to intervene when a City Official's actions appear to be in violation of the Policy and such actions or inactions are brought to their attention. The City Council may impose sanctions, such as reprimand, formal censure, or loss of assignment on a City Official whose conduct does not comply with this Policy. The City Council also may act to remove members of Boards from office.

STATEMENT OF COMMITMENT
Ethics Policy for Elected and Appointed Officials - City of Kerrville, Texas

As a member of the Kerrville City Council or a City board, commission, or committee, I agree to uphold the Policy and conduct myself by the following model of behavior. I will:

- Recognize the worth of City Officials and employees and appreciate their individual talents, perspectives, and contributions;
- Help create an atmosphere of respect and civility where the public, City Officials, and City staff are free to express their ideas and work to their full potential;
- Conduct my personal and public affairs with honesty, integrity, fairness and respect for others;
- Respect the dignity and privacy of individuals and organizations;
- Keep the common good as my highest purpose and focus on achieving constructive solutions for public benefit;
- Avoid and discourage conduct which is divisive or harmful to the best interests of the City;
- Treat all people with whom I come in contact in a manner I wish to be treated;
- Before speaking or acting, I will ask myself the following questions:
 1. Is it the truth?
 2. Is it fair to all concerned?
 3. Will it build goodwill and better relationships?
 4. Will it be beneficial to all concerned?

I affirm that I have read and that I understand, accept and support the Policy.

Name; Position; Council, Board, etc.

Signature

Date

Agenda Item:

2C. Resolution No. 41-2013 authorizing the closure of a portion of Memorial Highway (Hwy 27) during certain hours and dates from 2013-17 for the Kerrville Main Street annual holiday lighted parade and authorizing the mayor to execute an agreement for the temporary closure of state right-of-way with the Texas Department of Transportation. (staff)

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

SUBJECT: A Resolution authorizing a five year agreement with the Texas Department of Transportation for the closure of a portion of Memorial Highway (SH 27) during certain hours for the annual Holiday Lighted Parade and authorizing the Mayor to execute the multi-year agreement for the temporary closure of state right of way.

FOR AGENDA OF: October 8, 2013 **DATE SUBMITTED:** September 27, 2013

SUBMITTED BY: Ashlea Boyle  **CLEARANCES:** Todd Parton
Main Street / Special Projects Manager City Manager

EXHIBITS: Resolution & Support Documents

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

The City of Kerrville Main Street Program is hosting the 13th annual Holiday Lighted Parade on Saturday, November 23, 2013. Each year, participation in the parade has grown to a size that can no longer safely accommodate parade entries along G and Water Streets. Due to the anticipated number of vehicular and pedestrian entries, the parade will step off at the intersection of Memorial Highway and Clearwater Paseo as done in 2011 and 2012.

The Texas Department of Transportation requires a resolution approved by the City Council, along with support documents, before a road closure can take place. This resolution provides authorization for the Mayor to execute a road closure agreement with TxDOT for 2013-2017.

RECOMMENDED ACTION

City staff is recommending approval of the resolution authorizing a five year agreement with the Texas Department of Transportation for a portion of SH 27 to be closed associated with the annual Holiday Lighted Parade as presented.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 4/-2013**

A RESOLUTION AUTHORIZING THE CLOSURE OF A PORTION OF MEMORIAL HIGHWAY (HWY 27) DURING CERTAIN HOURS AND DATES FROM 2013-17 FOR THE KERRVILLE MAIN STREET ANNUAL HOLIDAY LIGHTED PARADE AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR THE TEMPORARY CLOSURE OF STATE RIGHT-OF-WAY WITH THE TEXAS DEPARTMENT OF TRANSPORTATION

WHEREAS, the Kerrville Main Street Program seeks to close a portion of Memorial Highway (HWY 27) on various times and dates between 2013 and 2017 for the Annual Holiday Lighted Parade; and

WHEREAS, Memorial Highway (HWY 27) is a state controlled highway and as such, the Texas Department of Transportation (TxDOT) requires the City to enter into an agreement to authorize any such closures; and

WHEREAS, pursuant to the agreement between TxDOT and the City, the City agrees to accrue all costs associated with the closures, to include having the Kerrville Police Department provide traffic control; and

WHEREAS, the City Council finds that the Annual Holiday Lighted Parade serves a public purpose and that closing the road and entering into an agreement with TxDOT will accomplish this goal;

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

The Mayor is authorized to execute a multiyear agreement with TxDOT to authorize the City's closure and use of Memorial Highway (HWY 27) between Clearwater Paseo and Water Street for various times and dates between 2013-17.


PASSED AND APPROVED ON this the _____ day of _____, A.D., 2013.

ATTEST:

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney



City of Kerrville

701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

September 23, 2013

Mr. Mike Boyd, P.E.
Texas Depart of Transportation
1832 Sidney Baker North
Kerrville, Texas 78028

Dear Mr. Boyd:

The City of Kerrville/Kerrville Main Street Program will be conducting our annual Holiday Lighted Christmas Parade on Saturday November 23, 2013. We are requesting the closure of three lane of SH 27 from the 2200 block of the 1800 block. Lane closures would include the two-way left turn lane and the two inside main lanes. The hours of closure would be from 5:00 p.m. to 7:00 p.m.

There are no stops planned along the route as it is just used to move floats from Clearwater Paseo to Water Street in a timely manner. Closing the roadway during this period would accommodate the flow of the parade onto the parade route.

We anticipate having between 80-100 floats for this parade. Each float will have a different number of riders, anywhere between 10 to 30 people. Some of the floats may have pets (dogs) riding on them but they will be contained by their owners or handlers. The area created by the lane closure will contain only vehicular traffic and floats. The walkers in the parade will already be staged at the parade route at the corner of G and Water streets.

Should you need any further information feel free to contact Ashlea Boyle at 830.258.1153.

Sincerely,



Todd Parton
City Manager

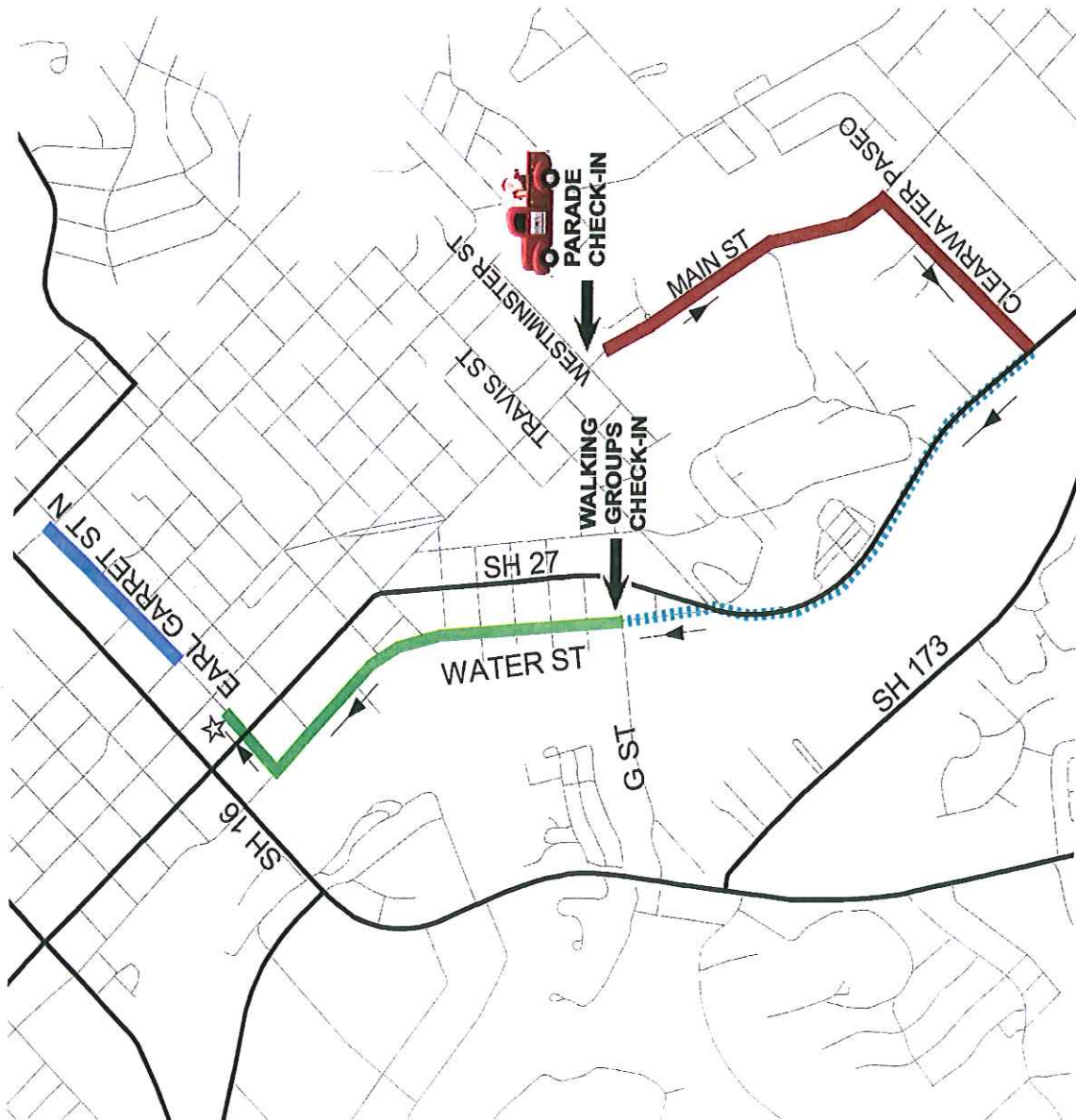
c: Ashlea Boyle
Donna Bowyer

CHECK IN & STAGING MAP FOR THE 2013 HOLIDAY LIGHTED PARADE

Saturday, November 23, 2013

REMEMBER:

1. Your entry **MUST** arrive to check in during your designated time. No early or late arrivals. You will receive parade confirmation and further instructions regarding check-in time, your group and individual parade number, one (1) week prior to the parade date. Please list the contact person, email address, and email address to which this information should be mailed and or/emailed on the entry form.
2. Floats, trailers, large vehicles, cars, etc., check in at the corner of East Main & Westminster Street beginning at 4:00 p.m. for Group A, 4:30 for Group B, and 5:00 for Group C. The best way to enter the check in site is to come up Sidney Baker Street, turn onto Main Street and then follow it until it intersects with Westminster.
3. Marching bands, walking groups, horse & rider clubs, etc., check in at the Culligan Water Store (1612 Water Street) by 4:30 p.m. You will remain at this location and be fed into the parade once it hits this location. The best way to enter this check in site is to go east on SH 27, turn right on G Street and Culligan will be on your right.
4. Do NOT throw candy. The Kerrville Police Department will remove violators from the parade.
5. You **MUST** have a fire extinguisher on your float or the Kerrville Fire Department will remove you from lineup.



- = PARADE ROUTE
- = LINE UP/STAGING AREA
- = PARADE PROCESSION TO PARADE ROUTE
- = DISBAND AREA



City of Kerrville

701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

September 23, 2013

Mr. Mike Boyd, P.E.
Texas Department of Transportation
1832 Sidney Baker North
Kerrville, Texas 78028

Dear Mr. Boyd:

The City of Kerrville/Kerrville Main Street Program will be conducting our annual Holiday Lighted Christmas Parade on Saturday November 23, 2013. We are requesting the closure of three lane of SH 27 from the 2200 block of the 1800 block. Lane closures would include the two-way left turn lane and the two inside main lanes. The hours of closure would be from 5:00 p.m. to 7:00 p.m.

There are no stops planned along the route as it is just used to move floats from Clearwater Paseo to Water Street in a timely manner. Closing the roadway during this period would accommodate the flow of the parade onto the parade route.

We anticipate having between 80-100 floats for this parade. Each float will have a different number of riders, anywhere between 10 to 30 people. Some of the floats may have pets (dogs) riding on them but they will be contained by their owners or handlers. The area created by the lane closure will contain only vehicular traffic and floats. The walkers in the parade will already be staged at the parade route at the corner of G and Water streets.

Should you need any further information feel free to contact Ashlea Boyle at 830.258.1153.

Sincerely,

Todd Parton
City Manager

c: Ashlea Boyle
Donna Bowyer



City of Kerrville

701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

August 24, 2012

Texas Department of Transportation
1832 Sidney Baker North
Kerrville, TX 78028

Sir or Madam,

The City of Kerrville will be conducting its annual Christmas Parade on November 17th, 2012. We are requesting the closure of three lanes of State Highway 27 from the 2200 Block to the 1800 Block. Lane closures would be from 5:30 pm until 7 pm. These lane closures are solely within the City Limits of Kerrville and would be established by City of Kerrville Street Department employees. Control of the lane closures will be conducted by City of Kerrville Police Officers.

Closing the roadway during this period would accommodate the flow of the parade onto the parade route. The outside lanes of State Highway 27 would remain open and flow at the direction of assigned traffic officers. The parade units would utilize the two way left turn lane while the two inside turn lanes would be used as a safety zone between passing traffic and the parade units.

The area created by the lane closures will contain vehicular traffic only. The lane closures will be monitored by traffic officers to ensure the absence of conflicting pedestrian traffic.

Sincerely,

A handwritten signature in black ink, appearing to read 'John M. Young, Jr.', is written over a horizontal line.

John M. Young, Jr.
Chief of Police

Phil Engstrom
Lieutenant
Field Operations Division

Agenda Item:

2D. Resolution No. 38-2013 authorizing the waiver for Baptist Child and Family Services of permitting fees associated with the construction of their transition center for youth; said waiver to remain in effect through October 8, 2014.
(staff)

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

SUBJECT: Resolution to waive permitting fees associated with the planned construction of a new transition center for youth by Baptist Child and Family Services (BCFS)

FOR AGENDA OF: Oct. 8, 2013

DATE SUBMITTED: Oct. 3, 2013

SUBMITTED BY: Todd Parton
City Manager

CLEARANCES:

EXHIBITS: Resolution No. 38-2013

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

At its regular meeting of September 24, 2013, the City Council voted unanimously to approve the request by BCFS to waive permitting fees related to the planned construction of their new transition center for youth. A variety of services will be offered to area youth and young adults in need and who are dealing with issues like homelessness, substance abuse, unemployment, illiteracy, and teen pregnancy. The center will also house other non-profit agencies that serve related needs. Other agencies to be located within the center will include Partners in Ministry, Families & Literacy, The Pregnancy Resource Center, and Art 2 Heart.

BCFS is a global non-profit organization that teams up with many non-profit organizations to achieve its mission of partnering with other agencies to meet the needs of targeted, at-risk populations. Its various initiatives are implemented to meet a wide range of challenges in the field of health and human services.

RECOMMENDED ACTION

Staff recommends approval of Resolution No. 38-2013.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 38-2013**

**A RESOLUTION AUTHORIZING THE WAIVER FOR BAPTIST CHILD
AND FAMILY SERVICES OF PERMITTING FEES ASSOCIATED WITH
THE CONSTRUCTION OF THEIR TRANSITION CENTER FOR YOUTH;
SAID WAIVER TO REMAIN IN EFFECT THROUGH OCTOBER 8, 2014**

WHEREAS, the work of Baptist Child and Family Services ("BCFS") benefits the youth and adult populations of Kerrville and surrounding area by providing assistance on key issues like homelessness, substance abuse, unemployment, illiteracy and teen pregnancy; and

WHEREAS, BCFS intends to construct a new transition center for youth within the City;
and

WHEREAS, BCFS has requested that the City waive the payment of permitting fees related to the construction of the transition center for youth; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds that the transition center for youth will serve a vital need that will greatly enhance the community, and as such, it is in the public interest to waive the fees specified below which would result from BCFS construction , as specified above;

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

SECTION ONE. Subject to Sections Two and Three, below, the payment of the following fees shall be waived for BCFS through October 8, 2014, or with the construction of the center, whichever event occurs first:

1. Building, Electrical, Plumbing and Mechanical Fees; and
2. Platting and replatting fee.

SECTION TWO. The waiver of fees described in Section One, above, shall apply only to the application filed by BCFS, and for the development and construction of the transition center for youth.

SECTION THREE. The waiver of the various fees listed in Section One, above, shall not be construed as waiving any requirements for obtaining the various permits and inspections required by the Code of Ordinances of the City of Kerrville, Texas, or any other applicable federal, state, or local law or regulation, nor shall it be construed as granting any waivers or variances to the subdivision regulations of the City of Kerrville.

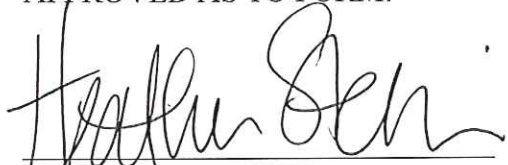
PASSED AND APPROVED ON this the _____ day of _____, A.D., 2013.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Heather Stebbins, Assistant City Attorney

Agenda Item:

2E. Resolution No. 37-2013 authorizing the waiver for Hill Country Home Opportunity Council, Inc. of various fees associated with the construction of homes; said waiver to remain in effect through September 30, 2014, or the construction of ten homes, whichever occurs first. (staff)

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

SUBJECT: Resolution, Waiver of Development Fees Request – Consider a resolution to waive property development fees for the Hill Country Home Opportunity Council.

FOR AGENDA OF: October 8, 2013 **DATE SUBMITTED:** Sept. 26, 2013

SUBMITTED BY: Jason Lutz **CLEARANCES:** Kristine Ondrias

EXHIBITS: Letter of request from Hill Country Home Opportunity Council

AGENDA MAILED TO: Teresa Offutt - 550 Earl Garrett Street, Suite 202. Kerrville, TX 78028

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The Hill Country Home Opportunity Council has requested that the City of Kerrville waive the payment of various fees related to the development of property through their program. This resolution presented replaces a similar resolution passed in September, 2012.

The resolution presented allows for:

- A general exemption of development fees, including planning/platting fees, building permit fees, and parkland dedication fees, and
- Allows this exception to run through September 30, 2014.

The resolution presented does not:

- Waive any fee related to utility service or connection, nor release the Hill Country Home Opportunity Council Inc., its contractor or agents, from the requirement to acquire permits, inspections, or plat approvals, nor
- Create any other waiver or variance of any law, code, or ordinance, other than the forgiveness of fees.

The Hill Country Home Opportunity Council has received eight (8) permits for new residential construction during the 2013 fiscal year.

RECOMMENDED ACTION

1. Approve the resolution as presented.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 37-2013**

**A RESOLUTION AUTHORIZING THE WAIVER FOR HILL COUNTRY
HOME OPPORTUNITY COUNCIL, INC. OF VARIOUS FEES
ASSOCIATED WITH THE CONSTRUCTION OF HOMES; SAID WAIVER
TO REMAIN IN EFFECT THROUGH SEPTEMBER 30, 2014, OR THE
CONSTRUCTION OF TEN HOMES, WHICHEVER OCCURS FIRST**

WHEREAS, the work of Hill Country Home Opportunity Council, Inc. ("HCHOC") benefits the citizens of Kerrville by providing a means of increasing affordable housing within the City of Kerrville; and

WHEREAS, HCHOC intends to construct ten homes within the City, which addresses are unspecified at this time; and

WHEREAS, HCHOC has requested that the City waive the payment of various fees related to the development of the lots and construction of the homes; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds that increasing the inventory of affordable housing in the City, encouraging in-fill development on property which for-profit home builders generally find unprofitable, and encouraging new construction in areas of the City where neighborhood revitalization is needed, all serve a public purpose, and as such, it is in the public interest to waive the fees specified below which would result from HCHOC's construction of the homes, specified above;

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

SECTION ONE. Subject to Sections Two and Three, below, the payment of the following fees shall be waived for HCHOC through September 30, 2014, or with the construction of ten homes, whichever event occurs first:

1. Parkland Dedication Fee;
2. Building, Electrical, Plumbing and Mechanical Fees; and
3. Platting and replatting fee.

SECTION TWO. The waiver of fees described in Section One, above, shall apply only to applications filed by HCHOC, and for the development and construction of a maximum of ten homes.

SECTION THREE. The waiver of the various fees listed in Section One, above, shall not be construed as waiving any requirements for obtaining the various permits and inspections required by the Code of Ordinances of the City of Kerrville, Texas, or any other applicable federal, state, or

local law or regulation, nor shall it be construed as granting any waivers or variances to the subdivision regulations of the City of Kerrville.

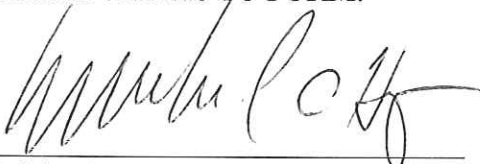
PASSED AND APPROVED ON this the _____ day of _____, A.D., 2013.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney



September 13, 2013

City Council - City of Kerrville
200 Sidney Baker
Kerrville, TX 78028
Re: Waiver of Fees

Dear City Council, City of Kerrville, TX:

The Hill Country Home Opportunity Council, Inc. (HCHOC) would like to thank you for all the help you have given us, so far, toward our Pinto Trail subdivision. From the start the City has been very generous in waiving the permit fees related to the construction of housing that is affordable to the low-income and moderate-income people in Kerrville, Texas.

On September 19, 2012 HCHOC asked the City to waive the permit fees for ten lots with an expiration date of September 30, 2013. The City Council approved this request. To date out of 11 platted lots in Pinto Trail, three homes have been built with the new homeowners living in them, two homes are presently under construction and three more lots have contracts on them awaiting financing through USDA Rural Development. We are presently getting our last two lots platted (lots 12 and 13), which will be presented to the City within a month for plat approval.

HCHOC is also ready to move forward with a Reconstruct project located at 201 W. Schreiner Street, in Kerrville. The home owner is Jewel Wren, who according to TDHCA standards is a low-income homeowner. This Reconstruct project requires the demolition of the existing home and the building of a new 1080 sf site built home in its place. TDHCA will only grant \$80,000 for the total project. Because funds are limited, HCHOC also asks the City to waive all permit fees for the 201 W. Schreiner Street project. HCHOC is required to obtain matching funds in the amount of \$2000 and if fees are waived, HCHOC would like a receipt of all waved fees to send to TDHCA as proof of obtaining a portion of our matched funds. West Schreiner Street is a depressed area of our city and the Reconstruct project will be our first step toward the revitalization of that area, with hopefully more to come.

HCHOC would like to ask the City to extend the waiver of permit fees until September 30, 2014 for our remaining lots in Pinto Trail, which will include lots 12 and 13, and for 201 W. Schreiner Street.

Sincerely,

Teresa Offutt
Executive Director
Hill Country Home Opportunity Council, Inc.
550 Earl Garrett Street, Suite 116
Kerrville, TX 78028

Agenda Item:

2F. Resolution No. 36-2013 authorizing the waiver for Habitat for Humanity Kerr County Affiliate, Inc. of various fees associated with the construction of homes; said waiver to remain in effect through September 30, 2014, or the construction of nine homes, whichever occurs first. (staff)

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

SUBJECT: Resolution, Waiver of Development Fees Request – Consider a resolution to waive property development fees for the Habitat for Humanity Kerr County Affiliate, Inc.

FOR AGENDA OF: October 8, 2013 **DATE SUBMITTED:** Sept. 26, 2013

SUBMITTED BY: Jason Lutz **CLEARANCES:** Kristine Ondrias

EXHIBITS: Letter of request from Habitat for Humanity Kerr County Affiliate, Inc.

AGENDA MAILED TO: P.O. Box 2140 Kerrville, TX 78028

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Habitat for Humanity Kerr County Affiliate, Inc. has requested that the City of Kerrville waive the payment of various fees related to the development of property through their program. This resolution presented replaces a similar resolution passed in September, 2012.

The resolution presented allows for:

- A general exemption of development fees, including planning/platting fees, building permit fees, and parkland dedication fees, and
- Allows this exception to run through September 30, 2014.

The resolution presented does not:

- Waive any fee related to utility service or connection, nor release Habitat for Humanity Kerr County Affiliate, Inc., its contractor or agents, from the requirement to acquire permits, inspections, or plat approvals, nor
- Create any other waiver or variance of any law, code, or ordinance, other than the forgiveness of fees.

The Habitat for Humanity Kerr County Affiliate has received three (3) permits for new residential construction during the 2013 fiscal year.

RECOMMENDED ACTION

1. Approve the resolution as presented.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 36-2013**

A RESOLUTION AUTHORIZING THE WAIVER FOR HABITAT FOR HUMANITY KERR COUNTY AFFILIATE, INC. OF VARIOUS FEES ASSOCIATED WITH THE CONSTRUCTION OF HOMES; SAID WAIVER TO REMAIN IN EFFECT THROUGH SEPTEMBER 30, 2014, OR THE CONSTRUCTION OF NINE HOMES, WHICHEVER OCCURS FIRST

WHEREAS, the work of Habitat for Humanity Kerr County Affiliate, Inc. ("Habitat-Kerr County") benefits the citizens of Kerrville by providing a means of increasing affordable housing within the City of Kerrville; and

WHEREAS, Habitat-Kerr County intends to construct nine homes within the City, which addresses are unspecified at this time; and

WHEREAS, Habitat-Kerr County has requested that the City waive the payment of various fees related to the development of the lots and construction of the homes; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds that increasing the inventory of affordable housing in the City, encouraging in-fill development on property which for-profit home builders generally find unprofitable, and encouraging new construction in areas of the City where neighborhood revitalization is needed, all serve a public purpose, and as such, it is in the public interest to waive the fees specified below which would result from Habitat-Kerr County's construction of the homes, specified above;

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

SECTION ONE. Subject to Sections Two and Three, below, the payment of the following fees shall be waived for Habitat-Kerr County through September 30, 2014, or with the construction of nine homes, whichever event occurs first:

1. Parkland Dedication Fee;
2. Building, Electrical, Plumbing and Mechanical Fees; and
3. Platting and replatting fee.

SECTION TWO. The waiver of fees described in Section One, above, shall apply only to applications filed by Habitat-Kerr County, and for the development and construction of a maximum of nine homes.

SECTION THREE. The waiver of the various fees listed in Section One, above, shall not be construed as waiving any requirements for obtaining the various permits and inspections required by the Code of Ordinances of the City of Kerrville, Texas, or any other applicable federal, state, or

local law or regulation, nor shall it be construed as granting any waivers or variances to the subdivision regulations of the City of Kerrville.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2013.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney



Building houses, building hope

September 25, 2013

City Council-City of Kerrville
701 Main Street
Kerrville, Texas 78028
Attn: Brenda Craig

Dear Ms. Craig

RE: Waiver of Fees

Habitat for Humanity Kerr County has had a long and satisfying relationship with the City of Kerrville during our 24 years of existence. The City has been kind enough to waive permit fees related to the construction of decent, affordable homes in this community. Instead of taking city staff and Council time to consider a waiver for each individual lot we hope to build on, it has been more efficient to request a waiver for the amount of lots intend to build on in a given year. Therefore, we are requesting that Council consider a waiver for all development fees related to the improvement of property for low income, single-family home ownership opportunities available by the construction of homes by Habitat for Humanity Kerr County. This waiver will apply to a maximum of 9 (nine) homes between now and 9/30/2014.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in purple ink, appearing to read "Karen Q".

Karen Quanstrom
Executive Director

cc: Jason Lutz

Agenda Item:

2G. Purchase of a new Type I ambulance from Dallas Dodge Chrysler Jeep at a price not to exceed \$156,800. (staff)

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

SUBJECT: Authorize the purchase of a Type 1 Ambulance from Dallas Dodge Chrysler Jeep at a price not to exceed \$156,800

FOR AGENDA OF: October 08, 2013 **DATE SUBMITTED:** September 27, 2013

SUBMITTED BY: Robert Ojeda
Fire Chief

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Frazer - BuyBoard Quote

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$156,800	\$221,093	\$156,800	01-830-503

PAYMENT TO BE MADE TO: DALLAS DODGE CHYSLER JEEP
REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

The Fire Chief is requesting authorization from the City Council to award a contract for the purchase of a Type 1 Ambulance from Buyboard Quote #8387A-BuyBoard. This contract was awarded to Frazer Ambulance Company through their licensed dealer, Dallas Dodge Chrysler Jeep. By contracting through Buyboard we will be able to purchase an ambulance using their bid price. Such agreements are allowable under State Law. The purchase of this ambulance is scheduled in the 7-year vehicle replacement plan.

One (1) 2014 Dodge 4500 Chassis and 14' Module-----\$156,800.00

The required funds were approved by the City Council on September 24, 2013 and are available in the FY2013/2014 Budget

RECOMMENDED ACTION

Authorize the City Manager to purchase a Type 1 Ambulance from Dallas Dodge Chrysler Jeep at a price not to exceed \$156,800.00.



FRAZER

The Leader in Generator Powered EMS Modules

October 2, 2013

Eric Maloney
EMS Coordinator
Kerrville Fire Department
Email: eric.maloney@kerrvilletx.gov

Quote #8387A-BuyBoard

Mr. Maloney,

Below is itemized pricing for contract number Ambulance #400-12 for one (1) Frazer 14' Generator Powered Module mounted on a Dodge Ram 4500 6.7L diesel chassis with an air suspension system.

Item 1 - 14' Modular Body on Additional Duty Dodge Ram 4500 Cummins diesel chassis	\$ 135,250.00
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Published Options:

Heat shielding for diesel chassis	\$ 1,500.00
Module has single color paint scheme – NOT white	\$ 850.00
Conspicuity on the entire rear of the module including the doors in a chevron pattern	\$ 1,500.00
Striping and lettering - \$2600	\$ 2,600.00
Buell dual 10" & 12" air horns	\$ 800.00
Mount the air horn compressor below the front I/O	\$ 800.00
Blue EVS captain's chair with built-in child safety seat	\$ 700.00
22 pocket acrylic organizer above squad bench (was PD1)	\$ 450.00
Extra O2 outlet in the ceiling raceway	\$ 350.00
Chrome nerf bars for Ram 3500, 4500	\$ 450.00
Arm rests on the console	\$ 200.00
Double Squad bench cabinet w/ padding on end	\$ 600.00
Shore power ignition kill switch	\$ 225.00
Black Ranch Hand grille guard/full replacement bumper with wrap-arounds for Dodge Ram 3500/Ram 4500 (2010-2012)	\$ 1,300.00
Sound-Off red/clear map lights in truck cab above passenger's seat	\$ 150.00
(1) large aluminum map holder	\$ 175.00
2 high "D" cylinder holder in the O2 compartment next to the laydown O2	\$ 175.00
Extra overhead grab rail on a 14' unit	\$ 275.00
Install a customer provided Knox Medvault in the corner area – includes running DC	\$ 450.00
Exhaust buzzer cut off switch at the rear door switch panel	\$ 200.00

Unpublished Options:

R4Tech air suspension system	\$ 7,000.00
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Base Price	\$ 135,250.00
Published Options	\$ 13,750.00
Unpublished Options	\$ 7,000.00
Buy Board fee	\$ 800.00
Total	\$ 156,800.00

All pricing is F.O.B Houston.

Per TMVCC we are quoting this through our licensed franchise dealer, Dallas Dodge Chrysler Jeep.

Please make your purchase order out to Dallas Dodge Chrysler Jeep (11550 LBJ Frwy, Dallas, TX 75238). Please email a copy of your purchase order and this quote to Tim Middlebrooks with Dallas Dodge Chrysler Jeep at tmiddlebrooks@kag-1.net, BuyBoard at buyboard@tasb.org, and to Laura Richardson at sales@frazerbilt.com.

Thank you for the opportunity to quote this job. If you have any questions please call me at 888-372-9371.

Best Regards,

A handwritten signature in black ink, appearing to read "Laura Richardson", enclosed within a simple oval outline.

Laura Richardson
Frazer, Ltd.

LGR:SH

Agenda Item:

2H. Purchase of four new vehicles for the police department at a price not to exceed \$127,636. (staff)

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

SUBJECT: Approval of bid and authorization to purchase new vehicles for the police department.

FOR AGENDA OF: October 8, 2013 **DATE SUBMITTED:** September 27, 2013

SUBMITTED BY: Chief John Young **CLEARANCES:** Todd Parton, City Manager

EXHIBITS: Vehicle Specification Sheet/Purchase Costs

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$ 127,636	\$150,000	\$150,000	18-800-503

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

The staff contacted the local government-purchasing cooperative to determine the availability and cost of purchasing 4 new vehicles which are approved in the FY14 budget. Buyboard purchases city fleet vehicles and equipment in large numbers for numerous cities. Their ability to purchase in bulk, translates into cost savings of equipment for purchasing cities. The listed prices for four (4) new Chevrolet Caprice marked police vehicles with extended warranties were obtained from the local government-purchasing cooperative, Buyboard. The total cost of four (4) vehicles is \$127,636 including a \$400 Buyboard fee.

4---2013 Chevrolet Caprices -----18-800-503-----\$127,236+\$400 Buyboard fee = \$127,636

RECOMMENDED ACTION

The Chief of Police recommends that City Council approve the bid and authorize the purchase of four (4) vehicles from the local government-purchasing cooperative, Buyboard. The vehicles purchased will replace patrol vehicles within the current fleet that are high mileage and/or require excessive maintenance.

QUOTE# 00A

CONTRACT PRICING WORKSHEET

End User: CITY OF KERRVILLE		Contractor: CALDWELL COUNTRY			
Contact Name: CHIEF JOHN M. YOUNG		CALDWELL COUNTRY			
Email: JOHN.YOUNG@KERRVILLETX.GOV		Prepared By: Averyt Knapp			
Phone #: 830-258-1301 830-739-2701		Email: aknapp@caldwellcountry.com			
Fax #:		Phone #: 800-299-7283 or 979-567-6116			
Location City & State: KERRVILLE		Fax #: 979-567-0853			
Date Prepared: SEPTEMBER 25, 2013		Address: P. O. Box 27, Caldwell, TX 77836			
Contract Number: BUY BOARD #358-10		Tax ID # 14-1856872			
Product Description: 2014 CHEVROLET CAPRICE PPV 1EW19					
A Base Price & Options:			\$31,809.		
B Published Options					
Code	Description	Cost	Code	Description	Cost
	6.0LV8-FFV, REAR WHEEL DRIVE, 6-SPD AUTOMATIC, AIR CONDITION, AMFM-CD, TILT, CRUISE, POWER SEATS/LUMBAR-DRIVER PASSENGER, CLOTH BUCKET FRONT/VINYL REAR BENCH, FULL RUBBER FLOOR, FULL SIZE SPARE, DUAL BATTERIES, TRUNK SLIDE TRAY, FRONT/REAR STROBES, POWER SUPPLY, CONSOLE MOUNTING BASE, SA315P, FLASHER SYSTEM FRONT/REAR, LH SPOTLIGHT, POWER MIRRORS, POWER WINDOWS, POWER LOCKS, TILT, CRUISE, REAR DEFOGGER, SINGLE KEY FLEET 6E3, GRILLE LAMP SIREN/SPEAKER WIRING, AUXILARY DOME LAMP, TRUNK CARGO MAT, WIRING FOR CUSTOMER CONNECTION, WIRING- HORN SIREN CIRCUIT- INLINE, SPECIAL TWO TONE PAINT-FOUR DOORS/ROOF, GM WARRANTY 5YR/100,000 POWERTRAIN @ N/C	INCL			
				CALDWELL COUNTRY	
				PO BOX 27	

				CALDWELL, TEXAS	77836	
Subtotal B						INCL
C Unpublished Options						
Code	Description	Cost	Code	Description	Cost	
Subtotal C						
D Other Price Adjustments (Installation, Delivery, Etc...)						
Subtotal D						INCL
E Unit Cost Before Fee & Non-Equipment Charges (A+B+C+D)						\$31,809
Quantity Ordered						4
X						
Subtotal E						\$127,236
F Non-Equipment Charges (Trade-In, Warranty, Etc...)						
BUY BOARD						\$400
G. Color of Vehicle: BLACK & WHITE (4 DOORS/ROOF)						INCL
H. Total Purchase Price (E+F)						\$127,636
				Estimated Delivery Date:	60 DAYS APPX	

Agenda Item:

3A. Ordinance No. 2013-19 amending various sections of the Code of Ordinances of the City of Kerrville, Texas, to delete and remove fees for various services and amenities provided or offered by the City as said fees are established by the city's fee schedule, which is adopted by resolution of the City Council; containing a savings and severability clause; providing for an effective date; and providing other matters relating to the subject. (staff)

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

SUBJECT: Ordinance No. 2013-19 amending various sections of the Code of Ordinances of the City of Kerrville, Texas, to delete and remove fees for various services and amenities provided or offered by the City as said fees are established by the City's Fee Schedule, which is adopted by resolution of the City Council; containing a savings and severability clause; providing for an effective date, and providing other matters relating to the subject

FOR AGENDA OF: Oct. 8, 2013 **DATE SUBMITTED:** Sept. 26, 2013

SUBMITTED BY: Mike Hayes 
City Attorney **CLEARANCES:**

EXHIBITS: Ordinance No. 2013-19

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$ 0	\$ 0	\$ 0	NA

PAYMENT TO BE MADE TO: NA
REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

City staff continues to compile and list all fees that the City charges for various services and amenities into the City's Fee Schedule. The Fee Schedule is adopted each year by City Council via resolution and as part of the budget adoption process. As there are fees which still exist within the Code of Ordinances for the City of Kerrville, Texas ("Code"), staff is recommending the deletion and removal of those fees so as to avoid confusion and conflict. This action is really nothing more than a "housekeeping" measure. The attached ordinance will delete the various fees found within the Code.

RECOMMENDED ACTION

Consideration and adoption of an ordinance on second reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2013-19**

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE CODE OF ORDINANCES OF THE CITY OF KERRVILLE, TEXAS, TO DELETE AND REMOVE FEES FOR VARIOUS SERVICES AND AMENITIES PROVIDED OR OFFERED BY THE CITY AS SAID FEES ARE ESTABLISHED BY THE CITY'S FEE SCHEDULE, WHICH IS ADOPTED BY RESOLUTION OF THE CITY COUNCIL; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, the City of Kerrville charges fees for the services and amenities it provides or offers; and

WHEREAS, such fees include charges for water usage, permits relating to building construction, and the use of park facilities; and

WHEREAS, the fees are listed in the City's Fee Schedule, which is adopted yearly by the City Council via a resolution, and which fees are amended from time to time; and

WHEREAS, some fees are listed in the Code of Ordinances for the City of Kerrville, Texas ("Code") and to avoid conflict and confusion, City staff recommends deleting and removing these from the Code; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to delete and remove various fees found within multiple sections of the Code for the reasons provided above;

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

SECTION ONE. The following sections of the Code of Ordinances for the City of Kerrville, Texas, are amended by deleting and removing the fees specified in those sections:

Sec. 2-62	Sec. 34-44	Sec. 66-39(f)
Sec. 2-131	Sec. 42-32(b, k)	Sec. 78-33
Sec. 6-47	Sec. 42-37 (c)	Sec. 86-2(b)(1-6)
Sec. 14-53(a)	Sec. 42-39(a)	Sec. 102-40
Sec. 18-4	Sec. 42-41	Sec. 110-33 (c)
Sec. 18-31(b)	Sec. 58-74	Sec. 110-35(d)
Sec. 18-37(4)	Sec. 58-106	Sec. 110-43
Sec. 18-80(b)	Sec. 58-161(b)	Sec. 110-44(a)
Sec. 30-104	Sec. 58-203	Sec. 110-48(c, d, f)
Sec. 30-133	Sec. 62-1	Sec. 110-49

Sec. 110-50
Sec. 110-51(a, g)
Sec. 110-52

Sec. 110-54(d)
Sec. 110-58
Sec. 110-135

Sec. 110-136
Sec. 110-208
Sec. 114-5

SECTION TWO. To the extent any other fees found within sections of the Code are specified in the City's Fee Schedule, such fees found within the Code are hereby deleted and removed as if done so by specific listing within Section One, above.

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

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

SECTION FIVE. This Ordinance is effective immediately upon final passage.

PASSED AND APPROVED ON FIRST READING, this 24 day of Sept., 2013.

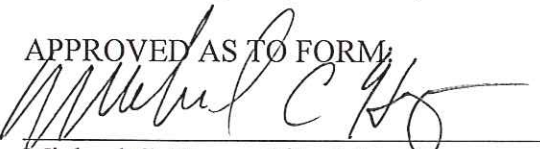
PASSED AND APPROVED ON SECOND AND FINAL READING, this _____ day of _____, 2013.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:

4A. Ordinance No. 2013-20, approving a negotiated resolution between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division regarding the company's 2013 annual rate review mechanism filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; requiring the company to reimburse cities' reasonable ratemaking expenses; repealing conflicting resolutions or ordinances; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; providing a most favored nations clause; and requiring deliver of this ordinance to the company and the steering committee's legal counsel. (staff)

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

SUBJECT: Ordinance approving settlement with Atmos Energy Corporation,
Mid-Tex Division regarding 2013 Rate Review Mechanism filing

FOR AGENDA OF: Oct. 8, 2013 **DATE SUBMITTED:** Sept. 25, 2013

SUBMITTED BY: Mike Hayes *mc*
City Attorney **CLEARANCES:**

EXHIBITS: Ordinance No. 2013-20

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *mp*

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$ 0	\$ 0	\$ 0	NA

PAYMENT TO BE MADE TO: NA

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

The City, along with approximately 164 other cities served by Atmos Energy Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC"). On or about July 15, 2013, Atmos Mid-Tex filed with the City an application to increase natural gas rates pursuant to the Rate Review Mechanism ("RRM") tariff renewed by the City in 2013 as a continuation and refinement of the previous RRM rate review process. This is the first annual RRM filing under the renewed RRM tariff.

The Atmos Mid-Tex RRM filing sought a \$22.7 million rate increase system-wide based on an alleged test-year cost of service revenue deficiency of \$25.7 million. The City worked with ACSC to analyze the schedules and evidence offered by Atmos Mid-Tex to support its request to increase rates. The Ordinance and attached rate tariffs are the result of negotiations between ACSC and the Company to resolve issues raised by ACSC during the review and evaluation of Atmos Mid-Tex's RRM filing.

The Ordinance resolves the Company's RRM filing by authorizing additional revenues to the Company of \$16.6 million system-wide. For purposes of comparison, this negotiated result is about \$11 million less than what ACSC's consultants calculated that Atmos would have been entitled to if Atmos had filed a case under the Gas Reliability Infrastructure Program ("GRIP") rather than an RRM case. The settlement is expected to increase the average residential customer's bill by approximately \$0.74 per month. An Average Bill Comparison of base rates has been prepared for residential, commercial, industrial, and transportation customers.

The ACSC Executive Committee and ACSC legal counsel recommend that all ACSC Cities adopt the Ordinance implementing the rate change.

RRM Background:

The RRM tariff was originally approved by ACSC Cities as part of the settlement agreement to resolve the Atmos Mid-Tex 2007 system-wide rate filing at the Railroad Commission. In early 2013, the City adopted a renewed RRM tariff for an additional five years. Atmos Mid-Tex's July 2013 filing was made pursuant to the renewed RRM tariff.

The RRM tariff and the process implementing that tariff were created collaboratively by ACSC and Atmos Mid-Tex as an alternative to the legislatively-authorized GRIP surcharge process. ACSC has opposed GRIP because it constitutes piecemeal ratemaking, does not allow any review of the reasonableness of Atmos' expenditures, and does not allow participation by cities or recovery of cities' rate case expenses. In contrast, the RRM process has allowed for a more comprehensive rate review and annual adjustment as a substitute for GRIP filings. ACSC's consultants have calculated that had Atmos filed under the GRIP provisions, it would have received additional revenues from ratepayers in excess of \$28 million.

Purpose of the Ordinance:

Rates cannot change without the adoption of rate ordinances by cities. No related matter is pending at the Railroad Commission. The purpose of the Ordinance is to approve rates (shown on "Attachment A" to the Ordinance) that reflect the negotiated rate changes pursuant to the RRM process and to ratify the recommendation of the ACSC Executive Committee.

As a result of the negotiations, ACSC was able to reduce the Company's requested \$22.7 million RRM increase to \$16.6 million. Approval of the Ordinance will result in the implementation of new rates that increase Atmos Mid-Tex's revenues effective November 1, 2013.

Reasons Justifying Approval of the Negotiated Resolution:

Consultants working on behalf of ACSC Cities have investigated the support for the Company's requested rate increase. While the evidence does not support the \$22.7 million increase requested by the Company, ACSC's consultants agree that the Company can justify an increase in revenues of some lesser amount. The agreement on \$16.6 million is a compromise between the positions of the parties.

The alternative to a resolution of the RRM filing would be a GRIP filing by the Company, based upon the Railroad Commission's decision in the 2012 rate case. A GRIP filing would entitle the Company to receive more than \$28 million in additional revenues, with ACSC being precluded from reviewing the reasonableness of the GRIP filing. The ACSC Executive Committee recommends that ACSC members take action to approve the Ordinance authorizing new rate tariffs.

No Changes to Residential Customer Charges:

For the first annual filing under the revised RRM tariff, the Company agreed to forgo any change to the residential customer charge. Therefore, for the 2013 RRM, the result of

the filing will not increase the residential customer charge, and the entirety of the increase to the residential class will be applied to the commodity (natural gas consumption) component of rates.

Explanation of "Be It Ordained" Paragraphs:

1. This paragraph approves all findings in the Ordinance.
2. This section adopts the attached tariffs ("Attachment A") in all respects and finds the rates set pursuant to the attached tariffs to be just, reasonable, and in the public interest. Note that only new tariffs or existing tariffs being revised are attached to the Ordinance. Existing tariffs not being changed in any way are not attached to the Ordinance.
3. This section requires the Company to reimburse ACSC for reasonable ratemaking costs associated with reviewing and processing the RRM application.
4. This section repeals any resolution or ordinance that is inconsistent with this Ordinance.
5. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
6. This section is a savings clause, which provides that if any section(s) is later found to be unconstitutional or invalid, that finding shall not affect, impair or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.
7. This section is a "most favored nations" clause. It provides that if the Company settles with other parties on better terms than agreed to with the ACSC Cities, the ACSC Cities (including the City) will automatically receive the benefit of those better terms.
8. This section provides for an effective date upon passage.
9. This paragraph directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for ACSC.

RECOMMENDED ACTION

Adoption of ordinance on first reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2013-20**

AN ORDINANCE APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY'S 2013 ANNUAL RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; REPEALING CONFLICTING RESOLUTIONS OR ORDINANCES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; PROVIDING A MOST FAVORED NATIONS CLAUSE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL

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

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of approximately 164 similarly situated cities served by Atmos Mid-Tex that have joined together to facilitate the review of and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, pursuant to the terms of the agreement settling the Company's 2007 Statement of Intent to increase rates, ACSC Cities and the Company worked collaboratively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review

process controlled in a three-year experiment by ACSC Cities as a substitute to the current Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature; and

WHEREAS, the City took action in 2008 to approve a Settlement Agreement with Atmos Mid-Tex resolving the Company’s 2007 rate case and authorizing the RRM tariff; and

WHEREAS, in 2013, ACSC and the Company negotiated a renewal of the RRM tariff process for an additional five years; and

WHEREAS, the City passed an ordinance renewing the RRM tariff process for the City for an additional five years; and

WHEREAS, the RRM renewal tariff contemplates reimbursement of ACSC Cities’ reasonable expenses associated with RRM applications; and

WHEREAS, on or about July 15, 2013, the Company filed with the City its first annual RRM filing under the renewed RRM tariff, requesting to increase natural gas base rates by \$22.7 million; and

WHEREAS, ACSC coordinated its review of Atmos Mid-Tex’s RRM filing through its Executive Committee, assisted by ACSC attorneys and consultants, to resolve issues identified by ACSC in the Company’s RRM filing; and

WHEREAS, the ACSC Executive Committee, as well as ACSC’s counsel and consultants, recommend that ACSC Cities approve the attached rate tariffs (“Attachment A” to this Ordinance), which will increase the Company’s revenues by \$16.6 million; and

WHEREAS, the attached tariffs implementing new rates are consistent with the negotiated resolution reached by ACSC Cities and are just, reasonable, and in the public interest;

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

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

SECTION TWO. The City Council finds the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable and new tariffs which are attached hereto and incorporated herein as **Attachment A**, are just and reasonable and are hereby adopted.

SECTION THREE. Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC Cities in processing the Company's RRM application.

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

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

SECTION SIX. If any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

SECTION SEVEN. If ACSC determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in Atmos' 2013 RRM filing would be more beneficial to the ACSC Cities than the terms of the attached tariffs, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally and automatically accrue to the ACSC Cities, including the City, without the need for City to take any further action. If this automatic

adjustment occurs, Atmos Mid-Tex shall promptly thereafter file with the City an amended tariff documenting the adjustment to rates.

SECTION EIGHT. This Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after November 1, 2013.

SECTION NINE. A copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Manager of Rates and Regulatory Affairs, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

PASSED AND APPROVED ON FIRST READING, this the ____ day of _____, A.D., 2013.

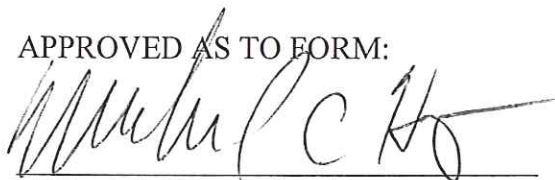
PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ day of _____, A.D., 2013.

ATTEST:

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Attachment A

Atmos Mid-Tex Tariffs
Effective November 1, 2013

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 17.70 per month
Rider CEE Surcharge	\$ 0.02 per month ¹
Total Customer Charge	\$ 17.72 per month
Commodity Charge – All <u>Ccf</u>	\$0.05831 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹ Reference Rider CEE - Conservation And Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2013.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 35.75 per month
Rider CEE Surcharge	\$ 0.10 per month ¹
Total Customer Charge	\$ 35.85 per month
Commodity Charge – All Ccf	\$ 0.06893 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹ Reference Rider CEE - Conservation And Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2013.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 620.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2565 per MMBtu
Next 3,500 MMBtu	\$ 0.1879 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0403 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 620.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2565 per MMBtu
Next 3,500 MMBtu	\$ 0.1879 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0403 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where
 i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification

$WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf

R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.

HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class

NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.

ADD = billing cycle actual heating degree days.

BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2013	

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	9.97	0.1318	96.50	0.5659
Austin	11.05	0.1262	189.59	0.7195
Dallas	13.13	0.1832	171.84	0.8797
Waco	9.78	0.1262	117.60	0.5774
Wichita Falls	10.99	0.1297	107.70	0.5041

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNAs factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and a Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

Agenda Item:

5A. Resolution No. 45-2013 approving/disapproving KCAD budget amendment for Fiscal Year 2012. (Coates)

SUBJECT: Consider resolution approving/disapproving an amendment to Kerr Central Appraisal District (KCAD) FY12 budget to retain budget surplus funds for future renovations to the KCAD property

SUBMITTED BY: Sandra Yarbrough
Director of Finance

CLEARANCES: Todd Parton
City Manager

AGENDA MAILED TO:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$	\$	\$	

REVIEWED BY THE DIRECTOR OR FINANCE:

The FY12 financial audit for KCAD has been completed with a budget surplus of \$24,805.60; the City of Kerrville's portion of this surplus is \$3,492.42. The KCAD Board of Directors is requesting an amendment of their FY12 budget to allow KCAD to retain FY12 budget surplus funds for future renovations to the KCAD property, as detailed in the attached letter.

The proposed budget amendment will take effect 30 days after the date of notification by KCAD, which was September 27, 2013, unless a majority of the governing bodies of the taxing entities served by the appraisal district pass resolutions disapproving the amendment.

The attaché resolution will either approve or disapprove the budget amendment. No action on this item will in effect approve the proposed budget amendment.

Staff recommends approval of the attached resolution approving the budget amendment.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 45-2013**

**A RESOLUTION PROVIDING FOR THE CITY'S APPROVAL OR
DISAPPROVAL OF AN AMENDMENT TO THE KERR CENTRAL
APPRAISAL DISTRICT'S 2014 FISCAL YEAR BUDGET**

WHEREAS, the Kerr Central Appraisal District (KCAD) is requesting an amendment to their 2014 Fiscal Year Budget to allow for the transfer of surplus funds in the amount of \$24,805.60 to the Building Reserve Fund to be used solely for repairs or additions to the KCAD building and property; and

WHEREAS, the amendment will require no additional funding; and

WHEREAS, pursuant to state law, the City Council must consider KCAD's budget amendment and in the event Council does not approve, it must indicate this action via a resolution; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to either approve or disapprove of said proposed amendment as is indicated below;

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

That the Kerr Central Appraisal District's proposed 2014 fiscal budget amendment, the provisions being substantially as set forth in **Exhibit A**, attached hereto and incorporated herein by reference, is hereby _____ (APPROVED OR DISAPPROVED).

PASSED AND APPROVED ON this the _____ day of _____ A.D., 2013.

Jack Pratt, Jr., Mayor

APPROVED AS TO FORM:

ATTEST:



Heather Stebbins, Assistant City Attorney

Brenda G. Craig, City Secretary

EXHIBIT "A"

KERR CENTRAL APPRAISAL DISTRICT
P.O. BOX 294387
1836 JUNCTION HIGHWAY
KERRVILLE, TEXAS 78029

Date: September 18, 2013

Re: Kerr CAD 2012 Budget Surplus Amendment

To: Taxing Entities Served by Kerr CAD

From: Kerr CAD Board of Directors

Message: The 2012 Budget Audit Report conducted by Pressler, Thompson and Company CPAs shows a budget surplus of **\$24,805.60**. The Kerr CAD Board of Directors is requesting this amount to be applied to the Building Reserve Fund via budget amendment. The addition of the surplus amount will give the fund a balance of **\$159,439**.

Voting taxing units may veto the amendment to the 2012 Budget to retain the surplus amount of **\$24,805.60**. To veto, a majority of the voting taxing units must pass resolutions disapproving the amendment to the budget. These units must file resolutions with the appraisal district's board of director's secretary within 30 days after the date of notification. If enough veto resolutions are filed, the amendment does not take effect. The board must then return the surplus amount to the taxing entities based on their prorated share as found in the attached schedule.

In the past the Building Reserve Fund was used to put a new roof on the building as well as to repair and renovate the plumbing and connect to the City of Kerrville's sewage system after the septic system failed. It has also been used to repair the floor in the equipment room caused by termite damage. There is also other termite damage in the walls in several areas. This year the parking lot was repaired using this fund. The building was built in 1979 as a radio station at a time when energy efficiency was not a high priority. Most of the exterior walls are floor to ceiling single pane glass making them very energy wasteful. Extensive future expenditures are anticipated including flooring replacement, installation of handicapped entry access, renovation and repairs to the interior. Additional insulation and weather proofing is also needed. The parking lot is in need of additional modifications for the future. There is an AM radio tower located at the rear of the property that is of concern. The lease on this tower will end March 2015.

Because of the anticipated expenditures to the present building the Kerr CAD board of directors has elected to do a comprehensive study of the different options available for future building requirements.

PHONE 830-895-5223

FAX 830-895-5227

22- 1/1

Kerr Central Appraisal District
Refund due Entitles
12/31/2012

Total due entitles if would be refunded		\$ 24,805.60
City of Ingram	0.46933%	116.42
City of Kerrville	14.07916%	3,492.42
Kerr Fire District 1	0.16059%	39.84
Kerr Fire District 2	0.05136%	12.74
Kerr County	22.80879%	5,657.86
Ingram Hill Road District	0.00762%	1.89
Lateral Roads	1.80538%	447.83
Lake Ingram Estates Rd Dist	0.03214%	7.97
Center Point ISD	3.56769%	884.99
Comfort ISD	2.58214%	640.51
Divide ISD	0.66889%	165.92
Harper ISD	0.60887%	151.03
Hunt ISD	4.74028%	1,175.86
Ingram ISD	7.21641%	1,790.07
Kerrville ISD	39.11245%	9,702.08
Medina ISD	0.15622%	38.75
UGRA	1.49126%	369.92
Headwaters Underground	0.44142%	109.50
	100.00000%	24,805.60

Agenda Item:

5B. Appeals by the applicant/operator for reasonable accommodations in accordance with the Ordinance No. 2013-06 group home and boarding home facilities at the following addresses:

1. 615 East Lane
2. 1612 First Street.

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

SUBJECT: Appeals by the applicants/operators to the City Council for Reasonable Accommodations in accordance with the Ordinance No. 2013-06 Group Home and Boarding Home Facilities at the following addresses:

615 East Lane – Cheryl Arterburn
1612 First Street – Cheryl Arterburn

FOR AGENDA OF: October 8, 2013 **DATE SUBMITTED:** October 3, 2013

SUBMITTED BY: Kristine Ondrias  **CLEARANCES:** Todd Parton

EXHIBITS: For each address: Application including floor plan
 KCAD information
 Zoning Maps (2)
 Group Home Inspection Checklist
 Reasonable Accommodation Request
 Reasonable Accommodation Response
 Appeal Letter

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Following the enactment of the Group Home Ordinance in June 2013, staff developed a process to meet with operators and work through the requirements of the ordinance. This process includes the submission of their application, an initial meeting with staff and the operator, an inspection of the property and a follow-up inspection to ensure final compliance with any noted items. To date, 23 homes have submitted for permit and have met with staff to review their housing requirements as well as receive initial inspection. In each circumstance through the accommodation process and inspections, staff allowed operators no less than 60 days to become fully compliant. Staff is currently in the process of completing follow-up inspections for each property.

The above referenced addresses have submitted appeal letters for City Council to review staff's decision to deny requested accommodations in the four boarding home facilities run

by two separate operators based on staff's meeting with the operator and home inspections. The following is a summary of each home's information as well as the number of residents staff permitted as part of the process. Additionally, attached is information that staff used to determine the appropriate number of residents in order to protect the fundamental nature of the zoning scheme.

615 East Lane – Cheryl Arterburn

Number of residents allowed by zoning	8
Number of residents allowed by ordinance	8
Residents requested	10
Residents granted	8
Zoning	R1

1612 First Street – Cheryl Arterburn

Number of residents allowed by zoning	8
Number of residents allowed by ordinance	8
Residents requested	10
Residents granted	8
Zoning	R1

RECOMMENDED ACTION

Staff recommends City Council review each request to determine the appropriate number of residents and determine if compliance in each situation should be immediate or determine the date compliance must be met.

615 EAST LANE
CHERYL ARTERBURN

RECEIVED
6/3/13



City of Kerrville

200 Sidney Baker St. North
Kerrville, TX 78028
(830) 258-1172

BOARDING HOME PERMIT APPLICATION

0201300436

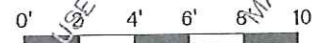
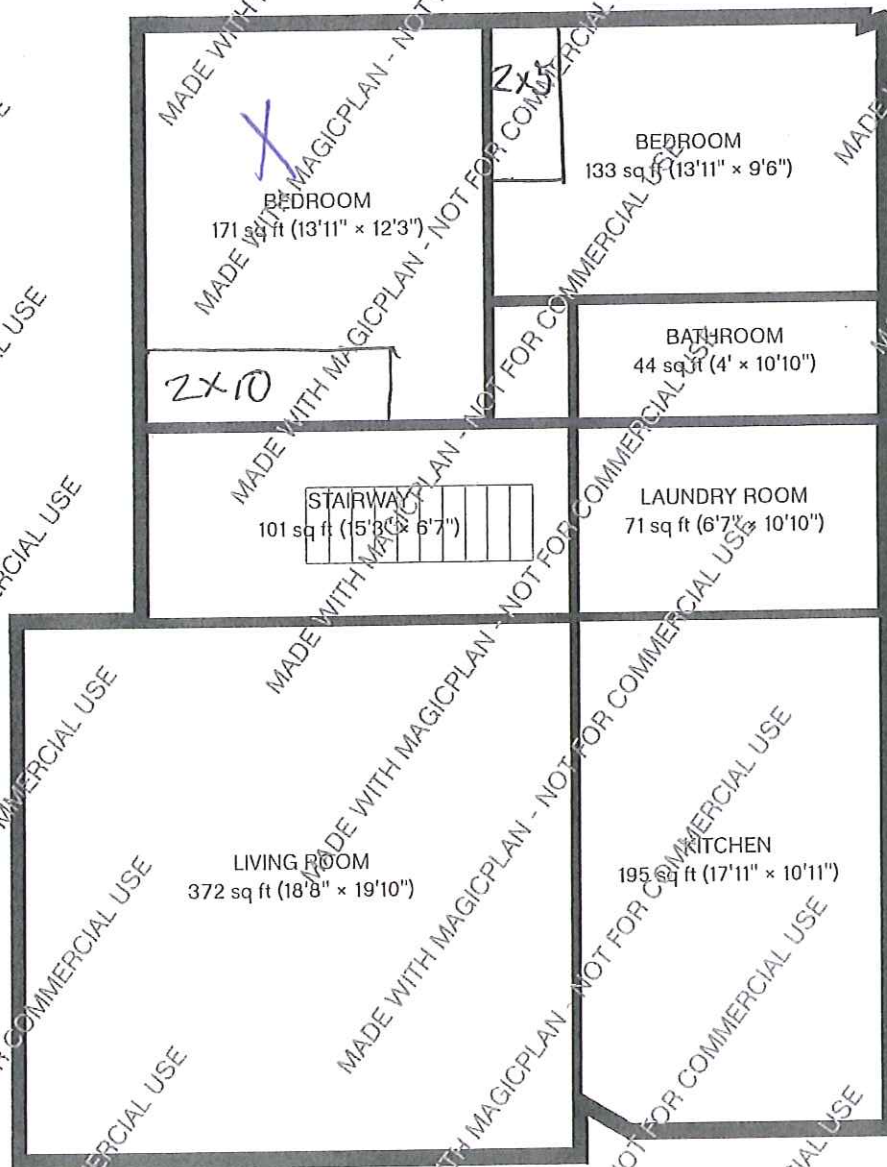
Boarding Home Application Number:

1.	Boarding Home Name: <i>The House of Hope Foundation "Chip's Chateau"</i>		Building #	Suite #
	Site Address: <i>615 East Ln. Kerrville, TX</i>		Block: <i>7</i>	Existing Zoning: <i>RI</i>
	Legal Description: <i>highlands Blk 7 Lot 2 Acres. 53</i>		Lots: <i>2</i>	
2.	Is this Boarding Home facility within 1/2 mile of another licensed Boarding Home? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
	Has the applicant received a variance for the 1/2 - mile distance requirement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>			
3.	Boarding Home Owner/Operator: <i>Cheryl Arterburn</i>		Date of Birth: <i>10/28/58</i>	Phone: <i>281 777-8346</i>
	Home Address: <i>544 Sand Bend Dr.</i>		Email:	
	City: <i>Kerrville</i>	State: <i>TX</i>	Zip Code: <i>78028</i>	
	Driver's License/I.D. # <i>08035979</i>			
	Is this facility rented from property owner? <input checked="" type="checkbox"/> Owner Approval Letter attached? <input type="checkbox"/>			
	Emergency Contact # <i>281 777-8346</i>			
	Name: <i>Cheryl Arterburn</i>			
	Address: <i>544 Sand Bend Dr. Kerrville, TX. 78028</i>			
	Phone: <i>281 777-8346</i>			
	Email: <i>CherylMeachamArterburn@yahoo.com</i>			
4.	Property Owner (If not Same): <i>Paul & Ardie Vargas</i>		Phone: <i>830-469-2009</i>	Fax: <i>830-896-5110</i>
	Home Address: <i>2913 Hunt St</i>		Email: <i>Ardievs@gmail.com</i>	
	City: <i>Kerrville</i>	State: <i>TX</i>	Zip Code: <i>78028</i>	
	Driver's License/I.D. # <i>091606115</i>			
	Property Owner (If not Same):		Phone:	Fax:
	Home Address:		Email:	
	City:	State:	Zip Code:	
	Driver's License/I.D. #			
5.	Does the property owner or operator own/operate another Boarding Home within the City of Kerrville? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the name, address, Boarding Home permit number, owner/operator's name and address. Use additional sheets as needed. <i>Cheryl Arterburn</i>			
6.	Documentary evidence of payment of ad valorem taxes, fees, fines and penalties owed to the City in connection with real property used to operate the Boarding Home facility <i>attached</i> <input type="checkbox"/>			
7.	Desired number of residents <i>10</i> Use attached formula sheet to determine number of residents allowed.			
8.	Attach: Sketch of Floor Plan - Detailing the total square footage of the Habitable Space as defined by the Ordinance. Include detailed dimensions of Bedrooms and number of Bathrooms. Attached? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			

PAID
JUN 03 2013
City of Kerrville

9.	Off-Street Parking Requirements: To determine the number of off street parking space requirements, multiply the number of residents by 75%, with any resulting fraction for the number of spaces being rounded up. Total spaces required _____.																				
10.	Fees: Annual Permit Fee.....\$1,000.00 Re-Inspection Fee.....\$75.00 <i>*The fee(s) are due upon submission of permit application and fee(s) are non-refundable*</i>																				
11.	<div style="text-align: center; border: 1px solid black; padding: 5px; margin-bottom: 10px;">NOTICE</div> <p><i>I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified or not. The granting of a permit does not presume to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction. I acknowledge that my project may be subject to the requirements of the Fair Housing Act (FHA), the Americans with Disabilities Act (ADA), the Texas Accessibility Standards (TAS), and section 504 of the Rehabilitation Act of 1973. It is my responsibility to ensure my project complies with those requirements. I affirm that for information I will contact: 1-800-949-4232 for ADA, 1-800-767-7468 for FHA, or 1-800-803-9202 for TAS.</i></p> <p><i>*By filling this application, the applicant swears or affirms under penalty of perjury that, to the best of the applicant's knowledge, all information contained in the application is true and correct and that the application is complete and includes all information required to be disclosed under this section.</i></p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 60%;"> Boarding Home Owner /Operator Signature </div> <div style="width: 35%; text-align: center;"> Date: </div> </div> <div style="margin-top: 10px;"> Printed Name: <u>Cheryl Arterburn</u> </div> <div style="border: 1px solid black; padding: 10px; margin-top: 20px;"> <p>* Owner:</p> <p>I CERTIFY THAT I AM THE PROPERTY OWNER</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%;"> Owner Signature: </div> <div style="width: 35%; text-align: center;"> Date: <u>5-20-13</u> </div> </div> <table style="width: 100%; margin-top: 10px;"> <thead> <tr> <th></th> <th style="text-align: center;">Issue</th> <th style="text-align: center;">Hold</th> <th style="text-align: center;">Initial</th> </tr> </thead> <tbody> <tr> <td>Code Compliance</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;">_____</td> </tr> <tr> <td>Building Inspection</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;">_____</td> </tr> <tr> <td>Planning</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;">_____</td> </tr> <tr> <td>Fire</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;">_____</td> </tr> </tbody> </table> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 60%;"> Approval: _____ </div> <div style="width: 35%; text-align: center;"> Date: _____ </div> </div> </div>		Issue	Hold	Initial	Code Compliance	<input type="checkbox"/>	<input type="checkbox"/>	_____	Building Inspection	<input type="checkbox"/>	<input type="checkbox"/>	_____	Planning	<input type="checkbox"/>	<input type="checkbox"/>	_____	Fire	<input type="checkbox"/>	<input type="checkbox"/>	_____
	Issue	Hold	Initial																		
Code Compliance	<input type="checkbox"/>	<input type="checkbox"/>	_____																		
Building Inspection	<input type="checkbox"/>	<input type="checkbox"/>	_____																		
Planning	<input type="checkbox"/>	<input type="checkbox"/>	_____																		
Fire	<input type="checkbox"/>	<input type="checkbox"/>	_____																		

1st Floor



Vargas house

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or copy it in your browser
<https://cloud.sensopia.com/floorplan.php?plan=51ad11a76970c>

2825 sq ft

3 Floors

14 Rooms

6 Bedrooms

3 Bathrooms



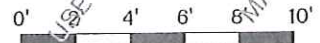
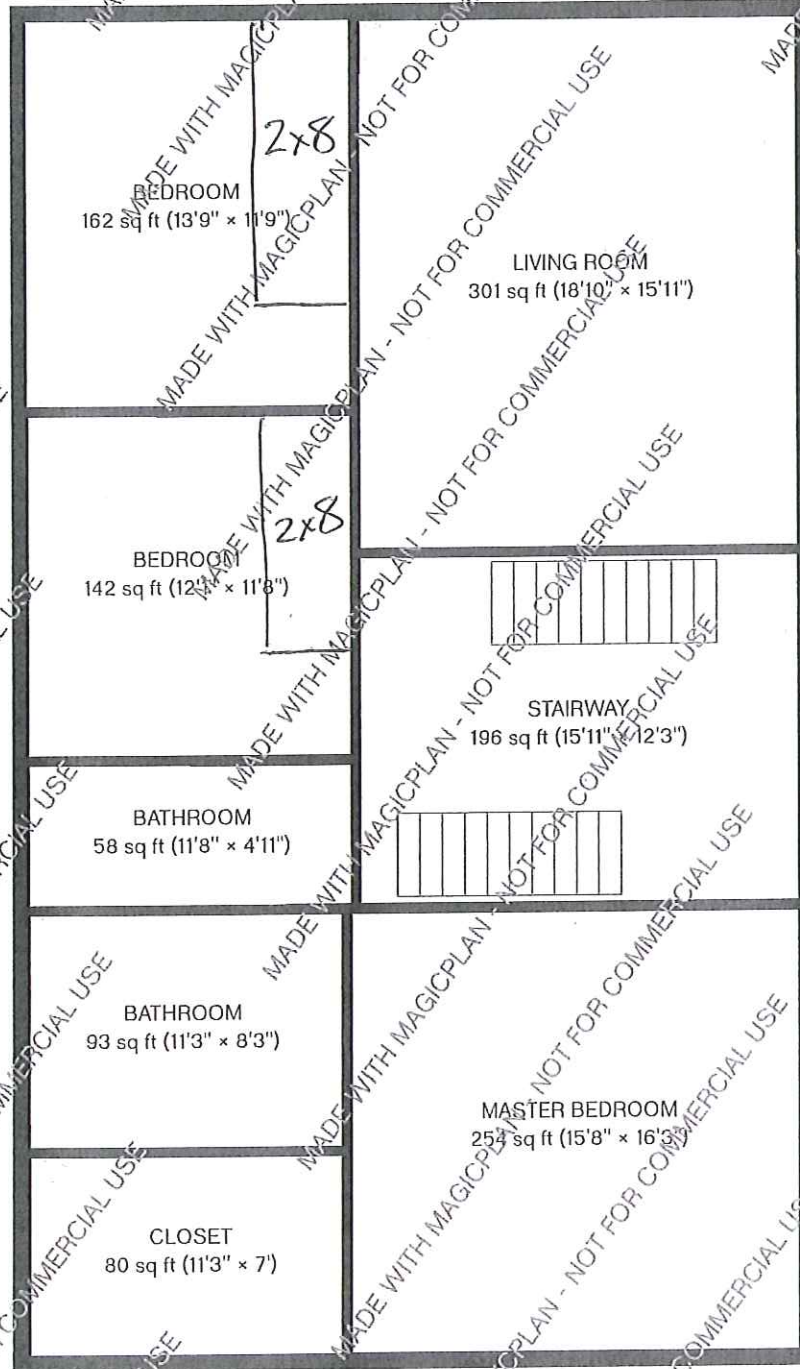
Your name

Your email address

Your phone number



2nd Floor



Vargas house

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<https://cloud.sensopia.com/floorplan.php?plan=51ad11a76970c>

2825 sq ft

3 Floors

14 Rooms

6 Bedrooms

3 Bathrooms



Your name
Your email address
Your phone number



2nd Floor

4 man - $14 \times 18\frac{1}{2}$ → Bedroom $6\frac{1}{2} \times 12$

2 man - 12×12

Bedroom 5×12

2 man - 12×12

1st Floor

Big Room - 16×14

Small Room - 12×10

Bedroom 4×11

Kerr CAD

Property Search Results > 28958 VARGAS, PAUL JR for Year 2013

Property

Account

Property ID: 28958 Legal Description: HIGHLANDS BLK 7 LOT 2 ACRES .53
 Geographic ID: 4230-0070-002000 Agent Code:
 Type: Real
 Property Use Code:
 Property Use Description:

Location

Address: 615 EAST LANE N Mapsco:
 KERRVILLE, TX 78028
 Neighborhood: HIGHLANDS Map ID: S4230
 Neighborhood CD: S4230

Owner

Name: VARGAS, PAUL JR Owner ID: 583559
 Mailing Address: 2913 HUNT ST % Ownership: 100.000000000000%
 KERRVILLE, TX 78028
 Exemptions:

Values

(+) Improvement Homesite Value: + \$202,730
 (+) Improvement Non-Homesite Value: + \$0
 (+) Land Homesite Value: + \$0
 (+) Land Non-Homesite Value: + \$12,508 Ag / Timber Use Value
 (+) Agricultural Market Valuation: + \$0 \$0
 (+) Timber Market Valuation: + \$0 \$0

 (=) Market Value: = \$215,238
 (-) Ag or Timber Use Value Reduction: - \$0

 (=) Appraised Value: = \$215,238
 (-) HS Cap: - \$0

 (=) Assessed Value: = \$215,238

Taxing Jurisdiction

Owner: VARGAS, PAUL JR
 % Ownership: 100.000000000000%
 Total Value: \$215,238

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	Central Appraisal District	0.000000	\$215,238	\$215,238	\$0.00
CKV	CITY OF KERRVILLE	0.562500	\$215,238	\$215,238	\$1,210.71
GKR	KERR COUNTY	0.412100	\$215,238	\$215,238	\$887.00
RLT	LATERAL ROADS	0.032200	\$215,238	\$215,238	\$69.31
SKV	KERRVILLE I.S.D.	1.180000	\$215,238	\$215,238	\$2,539.81
UGR	UPPER GUADALUPE RIVER AUTHORITY	0.025000	\$215,238	\$215,238	\$53.81
WHU	HEADWATERS GROUNDWATER CONSERVATION DISTRICT	0.007400	\$215,238	\$215,238	\$15.93
Total Tax Rate:		2.219200			
				Taxes w/Current Exemptions:	\$4,776.57
				Taxes w/o Exemptions:	\$4,776.56

Improvement / Building

Improvement #1:	Residential	State Code:	A1	Living Area:	2640.0 sqft	Value:	\$202,730
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
MA		F5	SD	2003	1200.0		
MA2	ACAD CONV CODE: MA2	F5		2003	1440.0		
OP	ACAD CONV CODE: OP	F5		2003	360.0		

OP	ACAD CONV CODE: OP	F5	2003	120.0
STG	ACAD CONV CODE: STG	F5	2003	240.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	A1	A1	0.5300	23086.80	0.00	0.00	\$12,508	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2014	N/A	N/A	N/A	N/A	N/A	N/A
2013	\$202,730	\$12,508	0	215,238	\$0	\$215,238
2012	\$202,730	\$12,508	0	215,238	\$0	\$215,238
2011	\$202,730	\$12,508	0	215,238	\$0	\$215,238
2010	\$202,730	\$12,508	0	215,238	\$0	\$215,238
2009	\$202,730	\$12,508	0	215,238	\$0	\$215,238
2008	\$259,641	\$12,508	0	272,149	\$0	\$272,149
2007	\$240,415	\$12,508	0	252,923	\$0	\$252,923
2006	\$218,555	\$12,508	0	231,063	\$0	\$231,063
2005	\$206,190	\$12,508	0	218,698	\$0	\$218,698
2004	\$122,011	\$12,508	0	134,519	\$0	\$134,519
2003	\$0	\$12,508	0	12,508	\$0	\$12,508
2002	\$0	\$12,190	0	12,190	\$0	\$12,190
2001	\$0	\$12,190	0	12,190	\$0	\$12,190
2000	\$0	\$10,600	0	10,600	\$0	\$10,600
1999	\$0	\$10,600	0	10,600	\$0	\$10,600
1998	\$0	\$10,600	0	10,600	\$0	\$10,600
1997	\$0	\$10,600	0	10,600	\$0	\$10,600
1996	\$0	\$10,600	0	10,600	\$0	\$10,600
1995	\$0	\$10,600	0	10,600	\$0	\$10,600

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	11/17/2008 12:00:00 AM	WDVL	Warranty Deed With Vendors Lien	CAMPBELL, MARSI	VARGAS, PAUL JR	1706	0709	008697
2	5/28/1999 12:00:00 AM	WD	Warranty Deed	KAN, TONGHAP &	CAMPBELL, MARSI	1015	0264	0
3	5/7/1998 12:00:00 AM	WD	Warranty Deed	KURTZ, JAMES H	KAN, TONGHAP &	949	646	0

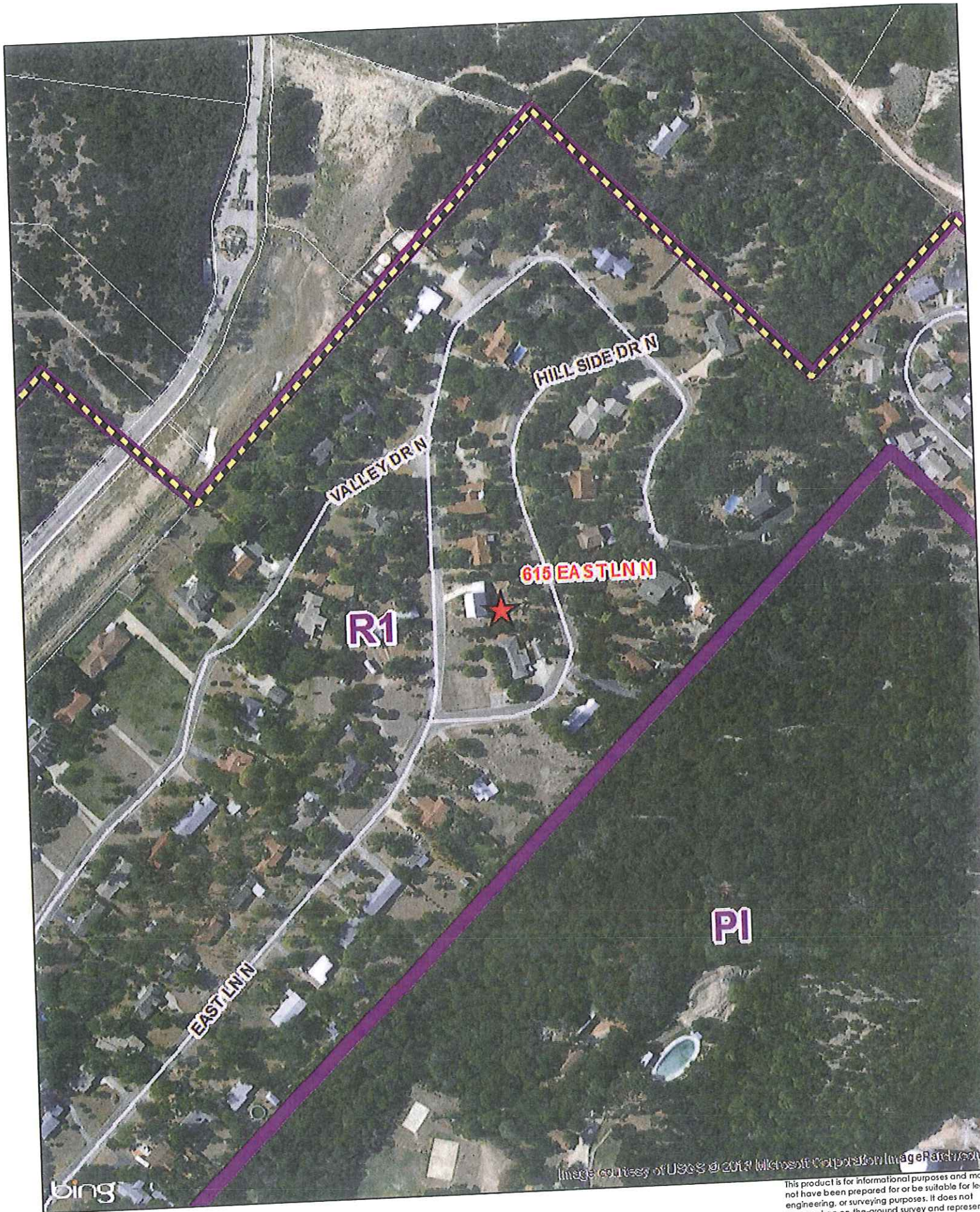
Questions Please Call (830) 895-5223

Website version: 1.2.2.2

Database last updated on: 9/16/2013 11:15 PM

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This site only supports Internet Explorer 6+, Netscape 7+ and Firefox 1.5+.



615 East Lane - Zoned R1

0 120 240 480 Feet





615 East Lane - Zoned R1

0 25 50 100 Feet



This product is for informational purposes only and may not have been prepared for or based on a legal engineering or surveying purpose. It does not represent an on-the-ground survey and represents only approximate relative locations.



Group Homes Inspection Checklist

Development Services/Engineering
City of Kerrville, 200 Sidney Baker St. N., Kerrville, TX 78028
P: 830-258-1170 / F: 830-896-0517

615 East Lane

June 27, 2013

Acceptable	Fail	Egress Windows and Doors	NOTES
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Windows	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Doors	

Acceptable	Fail	Stairs Interior and Exterior	NOTES
<input type="checkbox"/>	<input type="checkbox"/>	Gaurdrails	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Handrails	
<input type="checkbox"/>	<input type="checkbox"/>	Baluster spacing	
<input type="checkbox"/>	<input type="checkbox"/>	Tread Rise/Run	
<input type="checkbox"/>	<input type="checkbox"/>	Balconies	
<input type="checkbox"/>	<input type="checkbox"/>	Porches	

Acceptable	Fail	Housing components	NOTES
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Bedroom 1 (16' X 14')	Bedroom communicates with garage via door
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bedroom 2 (14'6" X 9'9")	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bedroom 3 (11'6" X 11'6")	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bedroom 4 (12 X 11'6")	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bedroom 5 (18'6" X 14'4")	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Number of Full Baths (3)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Number of Half Baths	
<input type="checkbox"/>	<input type="checkbox"/>	Parking requirements in compliance	
<input type="checkbox"/>	<input type="checkbox"/>	Over all condition of home	

Acceptable	Fail	Electrical Components	NOTES
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Smoke alarms in required locations	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	GFCI Protection in required locations	Back porch - inop. Front porch left - inop
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fixtures	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Main disconnect	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sub panels	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Branch Circuits	

Acceptable	Fail	HVAC / Appliances	NOTES
<input type="checkbox"/>	<input type="checkbox"/>	Heat Pump	
<input type="checkbox"/>	<input type="checkbox"/>	Electric Furnace	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Gas Furnace	Gas off to home. Has been for several years.
<input type="checkbox"/>	<input type="checkbox"/>	Vent clearance	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Proper gas connection	Flex through cabinet on both units
<input type="checkbox"/>	<input type="checkbox"/>	Adequate compustion air	
<input type="checkbox"/>	<input type="checkbox"/>	Annual Gas Test	

Acceptable	Fail	Water Heater	NOTES
<input checked="" type="checkbox"/>	<input type="checkbox"/>	installation of electrical supply	
<input type="checkbox"/>	<input type="checkbox"/>	installation of gas piping	
<input type="checkbox"/>	<input type="checkbox"/>	clearance from combustibles	
<input type="checkbox"/>	<input type="checkbox"/>	adequate combustion air	
<input type="checkbox"/>	<input type="checkbox"/>	flue pipe and termination	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Pan installed where required	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	T&P drain line properly installed	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Pan installed where required	
<input type="checkbox"/>	<input type="checkbox"/>	Unit properly elevated	

Additional Notes

Trina Sanchez

From: Pat Dunlap
Sent: Tuesday, June 25, 2013 4:53 PM
To: Dorothy Miller
Cc: Christopher F. Lee; Mike Pickard; Stephen Riggs; Trina Sanchez
Subject: 615 East Ln.

Dorothy,

Group home inspection – 615 East Ln.

1. Install interconnected smoke detectors per code.
2. Area on third floor shall not be prohibited from being used for any type of sleeping area due to windows being too small to meet emergency escape requirements for sleeping areas.
3. Bedroom escape windows must remain clear of furniture obstructing same.
4. Install a minimum 5lb capacity, ABC rated fire extinguisher in the kitchen area.
5. Carbon monoxide detectors are recommended on each floor due to heating unit being natural gas fired unit.
6. Complete a fire escape plan and post. The plan should include a meeting location outside of and away from the residence, and someone responsible for ensuring all occupants are accounted for and for communicating the info to the arriving fire fighters.

Pat L. Dunlap
Fire Marshal
830-257-8449
pat.dunlap@kervilletx.gov



Development Services Department
200 Sidney Baker St. N.
Kerrville TX 78028
(830) 258-1170

RECEIVED
6/20/13

Request for Reasonable Accommodations

Date application submitted: 6/20/13

Applicant's Name: Cheryl Meacham Arterburn

Mailing Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Street Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Telephone #: (281) 777-8346 Alternate #: _____

Email: cherylmeachamarterburn@yahoo.com

Applicant's relationship to the individual(s) with a disability, if applicable: Operator of "Sober Home" for recovering drug/alcohol addicts not using drugs or alcohol.

Property Address (where accommodations are necessary): 615 East Lane, Kerrville, Texas 78028

Type of disability (check all that apply): _____

☒ Physical or mental impairment that substantially limits one or more major life activities

☒ Individual who is regarded as having such an impairment

☒ Individual with a record of such impairment

Please give a brief explanation of why the requested accommodation is necessary for the individual(s) with disabilities to have equal access to housing: Please see attached Exhibit A.

1. Will the housing that is the subject of the request be used by one or more individuals with a disability? ☒ Yes ☐ No

2. Is the requested accommodation necessary to make specific housing available to one or more individuals with a disability? ☒ Yes ☐ No

Staff Use Only:

☐ Approved ☒ Approved with conditions ☐ Denied

Conditions: _____

Director's Initials: OB

Date: 7/9/13

Assistant City Manager: XQ

Date: 7/9/13

Legal Review: _____

Date: _____

Date written decision due: July 9, 2013

First response to applicant dated: July 9, 2013

Second response to applicant dated: July 19, 2013

Decision must be sent within 20 days of receipt of application per Ordinance 2013-06, Sec. 30-24.

EXHIBIT A TO REQUEST FOR REASONABLE ACCOMMODATIONS

Cheryl Arterburn

Men's Home

615 East Lane, Kerrville, Texas 78028

This "Exhibit A" is to respond to inquiries from the City of Kerrville in the City's form Request for Reasonable Accommodations and raised at my meeting with the City on Friday, June 7, 2013. It is to be considered part of my application for a permit to operate the sober home, categorized as a "boarding home" in Chapter 30 of the City's Code of Ordinances.

This Exhibit A accompanies my form Request for Reasonable Accommodations for my men's home located at 615 East Lane, Kerrville, Texas 78028.

Current residents/managers. There are currently seven residents in the home, plus two resident managers. Nine people total currently live in the home. As you will see below, the house requires eight residents (non-managers) to break-even. Since we moved the home to this location in July 1, 2012, the highest number of residents that we have had in this home is 15. The average number has been around 10 to 12. The residents currently range in age from 19 to the early 40s. Each resident is recovering from drug and/or alcohol addiction, and cannot use drugs or alcohol and remain in the home. Each resident must attend AA/NA meetings, initially ninety meetings in ninety days. Each resident must maintain full-time employment or be a full-time student. Each resident must also perform community service work. No visitors are allowed in the home.

The home. The home has 2825 square feet of air-conditioned space. It has six bedrooms and three baths located on three floors. I entered in to the current lease with Paul and Ardie Vargas for \$1,850 in monthly rent. My security deposit was \$1,850. In conjunction with dealing with neighborhood issues and issues posed by the Ordinance, Paul and Ardie Vargas have provided a concession lowering the monthly rent to \$1,700 per month. No further concession is possible. The lease expires on July 31, 2014. The owner consented and affirmed to the City their consent that the home be used as a sober home. The owners can no longer afford the mortgage on this house. It would have been foreclosed upon soon had I not rented it. The situation would likely be the same if I am forced to close the sober home.

Parking. The home has parking space for two cars in the garage. The home has parking space for four cars in the driveway, and two in a previously constructed addition to the driveway. There is access to the back of the lot, behind the house, to provide up to four additional paved parking space/there is no access to the back of the lot, behind the house, to provide additional parking.

Currently, six or seven of the nine residents have automobiles.

Reasonable accommodations requested:

1. Accommodation to Allow up to 10 total residents (residents and managers)(Section 30-26 of the Ordinance);
2. Accommodation to Allow 3 People to Sleep in One 254 Sq. Ft. Sleeping Room (the "Master Bedroom");
3. Accommodation to Allow for Portable Closet/Clothes Hangers in 1 Sleeping Room (the first floor bedroom of the stairs) Rather than Requiring a Newly Constructed Closet; and
4. If any Requests Nos. 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

The reasons that the reasonable accommodations requested are necessary to make this housing or housing type of the residents' choice available to these residents with a disability are as follows:

From the perspective of the disabled residents of the sober home on East Lane, they require a supportive, group living arrangement at an affordable cost. These objectives collide with the City's across the board maximum limitation of eight (8) residents in areas zoned R1.

Under the City's ordinance, if there is not reasonable accommodation, this house will be limited to six (6) men who are actually in therapeutic treatment and two (2) managers.

The number of residents in therapeutic treatment is important, because it is largely the residents themselves in a sober home to need to learn to hold one another accountable to the twelve steps of AA/NA and their commitments to themselves and to one another to remain drug and alcohol free. Trust is certainly a factor in their recovery and in the accountability process, and trust takes time to develop between each resident. As residents graduate or are, unfortunately, expelled, and new residents come in, relationships begin anew and must be developed. Given a minimum desired stay in the home of six months, people leave and new people come in, and the relationship dynamic is in constant flux. But there develop core groups around each resident of people who they have developed the strongest relationships.

Given all of this, six men sharing in therapeutic treatment is, in my opinion, too few to ensure the desired relationships between residents, and the desired support and accountability. To cap this house at a total of eight would require that I consider a different model, such as that of the Oxford Houses, in which all of the residents of the house are in therapeutic treatment and these residents self-manage to a greater extent than is true currently, with no resident manager. This would provide eight men in recovery, just as would having eight men in recovery and two resident managers, as requested.

There is also the cost aspect – these men cannot participate in a sober home if they cannot afford it. The rent at East Lane is \$1,700 per month. Insurance is \$308.33 per month. Utilities, phone, and cable average \$785 per month. Supplies for the house average \$160 per month. Debt service for money borrowed to furnish the house is \$450 per month. I have negotiated a favorable plan for payment of attorney's fees incurred over the last nine months in dealing with neighborhood issues and issues posed by the Ordinance, but I still have to pay \$400 per month (half of which, if allocated to the East Lane house, is \$200). The monthly allocation of the City's permit and inspection is \$83.33 per month. Total expenses for this house, therefore, average, \$3,686.66 per month.

The paying residents, other than the two resident managers, currently are assessed \$500 per month. This was increased from \$400 per month when I began to incur legal fees in dealing with the neighborhood residents and related to the hearings on the Ordinance. My residents struggle to pay this amount, and some have fallen behind. Generally, there is one resident per house that is, in whole or in part, on scholarship initially because their families are through with them. There is no opportunity to raise the monthly rent. To do so would deprive all or some of the residents of the opportunity to live in the sober home of their choice.

Break-even for this house, even with its very favorable rent given its size and location, is between seven and eight paying residents. At this level, the house breaks even, but returns no or little investment to me or payment for my time, which is significant. In order to be sustainable, and available for my residents, there must be eight residents. Even at this level, I can no longer offer scholarships at all, unless I reduce resident management to one or zero, tending toward the Oxford House model of self-management, or raise money elsewhere to support those who cannot pay or can only pay a reduced amount.

If my request is denied, I will have to consider whether to first cut scholarships or management. Ultimately, I will have to consider whether I can continue to provide these residents with a sober living environment. It is hard to imagine getting a more favorable lease on a suitable home. And from a practical

perspective, the home has to be relocated in or near corporate limits to address transportation issues for those who have no cars, since there are no cities in our area with public transportation systems and these residents must work or attend school, attend regular AA/NA meetings, and do community service.

In short, I believe that denial of my request will result in the denial of housing to these residents in the house or the housing type of their choice, which choice includes the choice to live in a neighborhood zoned R1, without regard to zoning.

I am further concerned that no sober home will be able to meet the economic challenges presented by the Ordinance if applied strictly. My Lease is favorable for a house of this size, quality, and location. I am concerned that others will be put in the position of either determining to close sober homes or sacrifice health and safety in order to break-even. The City's health and safety measures require money, and the City is making it difficult to comply by severely restricting rental revenue through the static limit of eight residents.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of this home are as follows:

The house has six bedrooms, three bathrooms, a kitchen, and two separate living areas (one on each of the first two floors). The third floor is attic space that is anticipated to be used for storage and not a sleeping room. No structural alterations to the home have been made since it was used as a single-family home and placed for rent – initially as a single-family home – to avoid foreclosure. The home is typical of those in the area except that it is two-story, and has a large lot to accommodate its footprint. The driveway has already been added on to, prior to its rental and use as a sober home, through a gravel driveway addition, to accommodate the requested eight cars (in conjunction with the two-car garage). If this becomes acceptable to the City, despite no one ever complaining of it in the past, additional parking could be built in the back that would be accessible from Hillside Drive, which would not be visible from the front of the house or whose children regularly have friends over.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of the surrounding neighborhood, are as follows:

The appearance of the house would remain unchanged, inside and out, and the house would continue to blend architecturally with the neighborhood to the same extent it always has. As to its use, the house has six bedrooms plus attic space. The density requested is not beyond what a single-family or nuclear-family plus extended family occupying a home of this size with this number of bedrooms might pose. Clearly, the City would not deny occupancy of this house of a family

of ten; the situation presented by this home is no different. Parking issues could be adequately dealt with the existing garage and driveway (including the driveway extension already present), or by adding additional parking in the rear of the house. The residents are not permitted to have guests, so at any given time no more than ten people will be present, which is less than that of a single-family home entertaining guests.

The reasons that the reasonable accommodations requested, if granted, would not fundamentally alter the City's regulatory scheme with regard to sober homes and boarding houses, are as follows:

The request for ten residents exceeds by less than one resident the number that the City's formulae in section 30-26 would provide for absent the absolute maximum of eight contained in subpart (a). This is not a substantial or fundamental departure from the City's regulatory scheme, which should be applied to flexibly to assure that there is equal housing opportunity to these men with a disability to live in the housing of their choice. The same is true with regard to the request for three people to be allowed to sleep in the 254 square foot master bedroom. Under the square footage requirements of 70 per resident in a sleeping room, this room is adequate to sleep three people – it is only through application of the static rule of only two residents in a sleeping room that this is forbidden. Again, this is not a significant or fundamental change that is being requested, and it should be granted to provide for equal housing opportunity for these disabled men. The same is true with the relatively minor change to allow for portable closets or, alternatively, a furniture armoire, in the place of a constructed closet. Many houses have been built historically without a closet in one or more bedrooms, requiring the use of a furniture piece. There is no real health and safety issue with use of such pieces rather than a built-in closet. The requirement of built in closets is not a fundamental part of the regulatory scheme. The request for reasonable accommodation in this regard should also be granted.

Thank you for considering my request for reasonable accommodations. If you have any questions, please do not hesitate to call me.

use of such pieces rather than a built-in closet. The requirement of built in closets is not a fundamental part of the regulatory scheme. The request for reasonable accommodation in this regard should also be granted.

Thank you for considering my request for reasonable accommodations. If you have any questions, please do not hesitate to call me.

Request for Reasonable Accommodation Arterburn

Dear City of Kerrville,

This letter is a request for reasonable accommodation pursuant to section 30-14 of the Kerrville Code of Ordinances.

I operate two sober homes in the City of Kerrville, which are located at 615 East Ln and 1612 First St. This request for reasonable accommodation is for the sober home located at 615 East Ln. A separate request is being submitted for the home located at 1612 First St.

I have requested a form designed for this purpose from the City, as section 30-24(b)(3) anticipates such a form. I have been told by the City that no such form exists. As a result, I am submitting this request via letter, as is anticipated by section 20-24(b)(3) in the alternative to a City-provided form.

I have applied for a permit to operate the sober home located at 615 East Ln. I am the operator of that home, and am acting as the representative of its residents in making this request for reasonable accommodation.

My name, address (mailing and street address are the same), telephone number, and email address are as follows:

Name:

Cheryl Arterburn

Address:

544 Sand Bend Dr.

Phone:

281 777-8346

Email:

Cheryl Meacham Arterburn@yahoo.com

Each of the individuals residing in the home have a disability under Federal law. Each of these individuals suffers from drug and/or alcohol addiction. Some of the residents were discharged from a drug and alcohol treatment center immediately prior to becoming residents. Their discharge papers, with their names redacted to protect their privacy since this letter may be of public record, are attached hereto. Unredacted copies of these discharge papers will be made available for inspection and review

upon request of the City. None of these residents is currently using drugs and/or alcohol, and such is strictly prohibited under the house rules.

As a result of their drug and/or alcohol addiction, each of these individuals is regarded as having a disability under the 1988 Amendments to the Federal Fair Housing Act.

The provision of the Ordinance for which reasonable accommodation is sought is section 30-26(a). Under the formulae in section 30-26(a)(1 – 3), the house would be permitted to have 10 total residents, but-for subsection (4). Applicant requests reasonable accommodation to allow for 10 total residents (including resident managers) at the home located at 615 East 2nd.

The requested accommodation is necessary to ensure that the objectives of group home living for the residents in recovery are met. Limiting the total number of residents to eight, including the two resident managers in this home, would defeat the objectives of group home living including the necessary support system and accountability necessary to recovery. As such, were this home limited to eight total residents, including the two managers, the City would be diminishing the prospects of maintaining sobriety for the residents, undermining their recovery, and failing to reasonably accommodate their shared disability of drug and alcohol addiction. As such, I believe that the denial of the requested accommodation would be unreasonable, discriminatory, and deny the residents equal access to housing, in violation of the 1988 Amendments to the Federal Fair Housing Act.

The house is also within .5 miles of one or more other sober homes, classified as “boarding homes” under the Ordinance, but I understand that the home is grandfathered from this requirement and that no application for a variance need be made at this time, so long as the home is in continuous operation.

To summarize, I am requesting reasonable accommodation in the form of relief from section 30-26(a)(4) to allow for the home located at 615 East 2nd to have 10 residents total, including resident managers. This is the number of residents that section 30-26(a)(1)-(3) would allow for were it not for the absolute maximum number of eight set forth in section 30-26(a)(4).

Thank you for your anticipated thoughtful consideration to this request.

VTY,

CMA

cc Thomas P. Carnes



City of Kerrville

701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

July 9, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

Re: Reasonable Accommodation Request for Chip's Chateau located at 615 East Lane

Dear Ms. Arterburn:

You requested accommodations for the above-referenced boarding home facility.

1. Accommodation to allow up to 10 total residents (residents and managers)

The Kerrville Central Appraisal District reports that this house is 2,640 square feet, limiting the number of occupants you may have in a boarding home facility to eight, including managers. You will be given 60 days to transition.

2. Accommodation to allow three people to sleep in one 254 square foot sleeping room (the master bedroom)

You will be permitted to have up to three beds in the bedroom that has 254 square feet.

3. Accommodation to allow for portable closet/clothes hangers in one sleeping room (the first floor bedroom off the stairs) rather than requiring a newly constructed closet.

It was noted during inspection that this room is attached to the garage, with an opening from the garage directly into the room. The 2006 International Residential Code, Section R309.1 prohibits such use: "Openings from a private garage directly in a room used for sleeping purposes shall not be permitted." This use must be discontinued immediately.

4. If any request numbers 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.



City of Kerrville

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If any of your residents are displaced by your inability to use the study attached to the garage, you may put their beds in another room, until such time that compliance is required.

You will have 60 days from the date of this letter to comply with the terms stated herein and with any inspection items that have been noted.

If you have any questions please contact Danny Batts, Director of Building Services/Chief Building Official at 830-258-1514.

Thank you,

A handwritten signature in black ink, appearing to read "Danny Batts", is written over a horizontal line.

Danny Batts
Director of Building Services/ Chief Building Official
City of Kerrville



City of Kerrville

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July 19, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

Re: Reasonable Accommodation Appeal for Chip's Chateau located at 615 East Lane

Dear Ms. Arterburn:

Be advised that you may appeal the decision in the letter dated July 9, 2013 to City Council. You may file your appeal with the Development Services Department located at 200 Sidney Baker St. N. You have sixty (60) days from the date of this letter to comply with our previous recommendation and inspection requirements or to appeal this determination to City Council.

Thank you,

Danny Bafts
Director of Building Services/Chief Building Official
City of Kerrville

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

SUBJECT OF REQUEST: Appeal of Denials of Requests for Reasonable Accommodations

AGENDA DATE: 09/24/13

DATE SUBMITTED: 09/06/13

REQUESTED/SUBMITTED BY: Thomas P. Carnes

PHONE: (830) 997-7790

ORGANIZATION REPRESENTING: Cheryl Meacham Arterburn

MAILING ADDRESS: 968 Braeutigam Road, Fredericksburg, TX 78624

EMAIL ADDRESS: tcarnes@thomaspccarnes.com

EXHIBITS/INFORMATION: Appeal of Requests for Reasonable Accommodations along with previously submitted Requests for Reasonable Accommodations

APPROVED FOR SUBMITTAL BY CITY MANAGER:

**WILL THIS ITEM REQUIRE CITY COUNCIL TO AUTHORIZE THE
EXPENDITURE OF CITY FUNDS?**

YES: _____

NO: X

IF YES, STATE AMOUNT REQUESTED: \$N/A

DESCRIPTION OF REQUEST

This is an appeal of the City's partial denial of two requests for reasonable accommodation, pursuant to Code of Ordinances § 30-24, by two sober homes owned by Cheryl Meacham Arterburn. The requests relate to homes located at 615 East Lane and 1612 First Street in Kerrville, Texas. The denials relate to request for the City to allow for ten (10) occupants (residents and managers) in each home. The home are zoned R-1, and without the requested reasonable accommodations, will be limited to eight (8) total occupants (residents and managers), pursuant to Code of Ordinances §30-26. In the Alternative, should such requests be denied, Appellant requests that the time for compliance be extended to allow for compliance through naturally occurring attrition, as residents voluntarily leave the homes.

RECOMMENDED COUNCIL ACTION

That Council grant the requested reasonable accommodations to allow for a maximum of ten (10) occupants (residents and managers) in each home. Should such relief be denied, that the time for compliance be extended to allow for compliance through naturally occurring attrition.

APPEAL OF REQUESTS FOR REASONABLE ACCOMMODATION

Cheryl Meacham Arterburn ("Arterburn") appeals the determinations of the City of Kerrville to her requests for reasonable accommodation for her two sober homes (defined by the City of Kerrville Code of Ordinances, section 30, to be "boarding homes") located at 615 East Lane, Kerrville, Texas 78028 and 1612 First Street, Kerrville, Texas 78028.

I.

FACTS COMMON TO EACH APPEAL

1. On June 20, 2013, Arterburn timely filed requests for reasonable accommodation with regard to two sober homes operated by her in the City of Kerrville, Chip's Chateau (a men's home), located at 615 East Lane, and House of Hope (a women's home), located at 1612 First Street. True copies of the requests for reasonable accommodation are attached hereto as Exhibits 1 and 2, respectively.

2. On July 9, 2013, the City of Kerrville responded to Arterburn's requests for reasonable accommodation. True copies of the City's responses are attached hereto as Exhibits 3 and 4.

3. In each response, the City granted some of the accommodations requested by Arterburn, and denied others.

4. By letter dated July 19, 2013, Arterburn was provided instruction on how to appeal. See Letters from City of Kerrville dated July 19, 2013, true copies of which are attached as Exhibits 5 and 6. Through the letters, Arterburn was provided sixty (60) days to comply or appeal the City's determinations within sixty (60) days of the July 9, 2013 responses. She was instructed to file the appeal with the Development Services Department.

5. Arterburn timely appeals, in conformity with the City's instructions, with regard to the requests denied by the City. The appeal is to City Council, City of Kerrville.

II.

APPEAL WITH REGARD TO CHIP'S CHATEAU, 615 EAST LANE

6. In numbered paragraph 2 of its response to Arterburn's request, Exhibit 3, the City agreed to permit three beds in the 254 square foot master bedroom. The remainder of Arterburn's requests were denied. Of these, two determinations, those in paragraph 1 and paragraph 4 are appealed.

7. In paragraph 1 of the response, Exhibit 3, the City denied Arterburn's request to have ten total occupants (residents and managers). Arterburn requested reasonable accommodation to allow ten total occupants, for each of the reasons set forth on pages 2 through

5 of Exhibit 1.A, the exhibit accompanying her request. Arterburn's request, in Exhibit 1 and 1.A is incorporated by reference as if fully repeated herein. The City permitted eight total occupants, which is the stated maximum in the City's Code of Ordinances (the Code"), section 30-26, with regard to which Arterburn sought and seeks relief through reasonable accommodation through this appeal for the reasons stated in Exhibit 1.A.

8. In paragraph 3 of the response, Exhibit 3, the City for the first time raised an issue about the sleeping room with an entry to the garage, ordering that Arterburn discontinue use of this room as a sleeping room immediately, citing the 2006 International Residential Code, section R309.1. Arterburn does not appeal from this determination, which renders moot her request for reasonable accommodation to allow portable clothes storage in this room rather than a closet, as it negates the City's requirement for a closet in that the room cannot be a sleeping room.

9. In paragraph 4 of the response, Exhibit 3, the City denied Arterburn's request for reasonable accommodation with regard to compliance time. Arterburn requested that, should her request for reasonable accommodation to allow for a maximum of ten occupants (residents and managers) be denied, she be permitted to achieve the eight occupant (residents and managers) limit over time, through natural attrition, as residents "graduate" to a more permanent living environment. The City denied Arterburn's request, and provided her only sixty (60) days to reduce the number of residents to eight. Arterburn appeals this determination of the City for the reasons set forth in Exhibit 1.A.

10. Granting the requested reasonable accommodations: (1) is necessary to make this housing or housing type of the residents choice and available to these residents with a disability, (2) would not impact the single-family nature of the home, (3) would not impact the single-family nature of the surrounding neighborhood; and (4) would not fundamentally alter the City's regulatory scheme, for reasons set forth in Arterburn's incorporated request, Exhibit 1.A, at pp. 2-5.

III.

APPEAL WITH REGARD TO HOUSE OF HOPE, 1612 FIRST STREET

11. In numbered paragraphs 2, 3, 4, and 5 of its Response, Exhibit 4, the City granted Arterburn the reasonable accommodations requested with regard to parking, a third resident in the two largest sleeping rooms, and for portable clothes storage in one sleeping room. Arterburn's two other requests, to allow up to ten occupants (residents and managers) in the home and, in the alternative, to allow time for natural attrition of residents for the number of occupants to decrease to eight, were each denied. Each of these determinations, contained in paragraphs 1 and 6 of the City's response, Exhibit 4, are appealed.

12. In paragraph 1 of the response, Exhibit 4, the City denied Arterburn's request to have ten total occupants (residents and managers). Arterburn requested reasonable accommodation to allow ten total occupants, for each of the reasons set forth pages 2 through 5 of Exhibit 2 and 2.A, the exhibit accompanying her request. Arterburn's request, Exhibit 2 and 2.A is incorporated by reference as if fully repeated herein. The City permitted eight total occupants, which is the stated maximum in the Code, section 30-26, with regard to which Arterburn sought and seeks relief through reasonable accommodation through this appeal for the reasons stated in Exhibit 2.A.

13. In paragraph 6 of the response, Exhibit 4, the City denied Arterburn's request for reasonable accommodation in the time to comply should her request for accommodation to allow for a maximum of ten occupants (residents and managers) be denied. Arterburn requested that she be permitted to achieve the eight occupant (residents and managers) limit over time, through natural attrition, as residents "graduate" to a more permanent living environment. The City denied Arterburn's request, and provided her only sixty days to reduce the number of residents to eight. Arterburn appeals this determination of the City for the reasons set forth in Exhibit 2.A to her incorporated request.

14. Granting the requested reasonable accommodations: (1) is necessary to make this housing or housing type of the residents choice and available to these residents with a disability, (2) would not impact the single-family nature of the home, (3) would not impact the single-family nature of the surrounding neighborhood; and (4) would not fundamentally alter the City's regulatory scheme, for reasons set forth in Arterburn's incorporated request, Exhibit 2.A, at pp. 2-5.

IV.

REQUEST FOR HEARING AND A STAY OF ENFORCEMENT

15. Arterburn requests notice and a hearing before the Kerrville City Council, and a stay of enforcement with regard to her two sober homes, Chip's Chateau, located at 615 East Lane, and House of Hope, located at 1612 First Street, until sixty (60) days following any denial of appeal, in whole or in part, by Council.

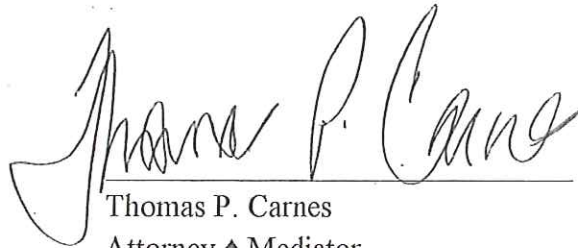
V.

REQUEST FOR RELIEF FROM CITY COUNCIL

16. Cheryl Meacham Arterburn respectfully requests that Council grant her all relief requested in her requests for reasonable accommodation, Exhibits 1 and 2 hereto, and that, specifically, Council grant her requests with regard to the relief previously denied by the City of Kerrville, namely, that each home be permitted to have a maximum of ten occupants (residents and managers) and, in the alternative, if this relief is denied, that she be permitted to reduce the

number of residents in each home to eight through natural attrition, rather than through displacing current residents with federally-recognized and legally protected disabilities.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas P. Carnes". The signature is fluid and cursive, with a large initial "T" and "C".

Thomas P. Carnes

Attorney ♦ Mediator

Texas State Bar No. 00783795

968 Braeutigam Road

Fredericksburg, Texas 78624

(830) 997-7790 (Telephone)

(830) 997-2390 (Facsimile)

tcarnes@thomaspccarnes.com (Email)

www.thomaspccarnes.com (Web)

**ATTORNEY FOR APPELLANT,
CHERYL MEACHAM ARTERBURN**



Development Services Department

200 Sidney Baker St. N.

Kerrville TX 78028

(830) 258-1170

Request for Reasonable Accommodations

Date application submitted: _____

Applicant's Name: Cheryl Meacham Arterburn

Mailing Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Street Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Telephone #: (281) 777-8346 Alternate #: _____

Email: cherylmeachamarterburn@yahoo.com

Applicant's relationship to the individual(s) with a disability, if applicable: Operator of "Sober Home" for recovering drug/alcohol addicts not using drugs or alcohol.

Property Address (where accommodations are necessary): 615 East Lane, Kerrville, Texas 78028

Type of disability (check all that apply): _____

☒ Physical or mental impairment that substantially limits one or more major life activities

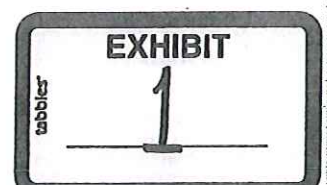
☒ Individual who is regarded as having such an impairment

☒ Individual with a record of such impairment

Please give a brief explanation of why the requested accommodation is necessary for the individual(s) with disabilities to have equal access to housing: Please see attached Exhibit A.

1. Will the housing that is the subject of the request be used by one or more individuals with a disability? ☒ Yes ☐ No

2. Is the requested accommodation necessary to make specific housing available to one or more individuals with a disability? ☒ Yes ☐ No



Staff Use Only:

☐ Approved ☐ Approved with conditions ☐ Denied

Conditions: _____

Director's Initials: _____ Date: _____

Legal Review: _____ Date: _____

Date written decision due: _____ Date sent to applicant: _____

Decision must be sent within 20 days of receipt of application per Ordinance 2013-064 Sec. 30-24.

EXHIBIT A TO REQUEST FOR REASONABLE ACCOMMODATIONS

Cheryl Arterburn

Men's Home

615 East Lane, Kerrville, Texas 78028

This "Exhibit A" is to respond to inquiries from the City of Kerrville in the City's form Request for Reasonable Accommodations and raised at my meeting with the City on Friday, June 7, 2013. It is to be considered part of my application for a permit to operate the sober home, categorized as a "boarding home" in Chapter 30 of the City's Code of Ordinances.

This Exhibit A accompanies my form Request for Reasonable Accommodations for my men's home located at 615 East Lane, Kerrville, Texas 78028.

Current residents/managers. There are currently seven residents in the home, plus two resident managers. Nine people total currently live in the home. As you will see below, the house requires eight residents (non-managers) to break-even. Since we moved the home to this location in July 1, 2012, the highest number of residents that we have had in this home is 15. The average number has been around 10 to 12. The residents currently range in age from 19 to the early 40s. Each resident is recovering from drug and/or alcohol addiction, and cannot use drugs or alcohol and remain in the home. Each resident must attend AA/NA meetings, initially ninety meetings in ninety days. Each resident must maintain full-time employment or be a full-time student. Each resident must also perform community service work. No visitors are allowed in the home.

The home. The home has 2825 square feet of air-conditioned space. It has six bedrooms and three baths located on three floors. I entered in to the current lease with Paul and Ardie Vargas for \$1,850 in monthly rent. My security deposit was \$1,850. In conjunction with dealing with neighborhood issues and issues posed by the Ordinance, Paul and Ardie Vargas have provided a concession lowering the monthly rent to \$1,700 per month. No further concession is possible. The lease expires on July 31, 2014. The owner consented and affirmed to the City their consent that the home be used as a sober home. The owners can no longer afford the mortgage on this house. It would have been foreclosed upon soon had I not rented it. The situation would likely be the same if I am forced to close the sober home.

Parking. The home has parking space for two cars in the garage. The home has parking space for four cars in the driveway, and two in a previously constructed addition to the driveway. There is access to the back of the lot, behind the house, to provide up to four additional paved parking space/there is no access to the back of the lot, behind the house, to provide additional parking.

Currently, six or seven of the nine residents have automobiles.

Reasonable accommodations requested:

1. Accommodation to Allow up to 10 total residents (residents and managers)(Section 30-26 of the Ordinance);
2. Accommodation to Allow 3 People to Sleep in One 254 Sq. Ft. Sleeping Room (the "Master Bedroom");
3. Accommodation to Allow for Portable Closet/Clothes Hangers in 1 Sleeping Room (the first floor bedroom of the stairs) Rather than Requiring a Newly Constructed Closet; and
4. If any Requests Nos. 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

The reasons that the reasonable accommodations requested are necessary to make this housing or housing type of the residents' choice available to these residents with a disability are as follows:

From the perspective of the disabled residents of the sober home on East Lane, they require a supportive, group living arrangement at an affordable cost. These objectives collide with the City's across the board maximum limitation of eight (8) residents in areas zoned R1.

Under the City's ordinance, if there is not reasonable accommodation, this house will be limited to six (6) men who are actually in therapeutic treatment and two (2) managers.

The number of residents in therapeutic treatment is important, because it is largely the residents themselves in a sober home to need to learn to hold one another accountable to the twelve steps of AA/NA and their commitments to themselves and to one another to remain drug and alcohol free. Trust is certainly a factor in their recovery and in the accountability process, and trust takes time to develop between each resident. As residents graduate or are, unfortunately, expelled, and new residents come in, relationships begin anew and must be developed. Given a minimum desired stay in the home of six months, people leave and new people come in, and the relationship dynamic is in constant flux. But there develop core groups around each resident of people who they have developed the strongest relationships.

Given all of this, six men sharing in therapeutic treatment is, in my opinion, too few to ensure the desired relationships between residents, and the desired support and accountability. To cap this house at a total of eight would require that I consider a different model, such as that of the Oxford Houses, in which all of the residents of the house are in therapeutic treatment and these residents self-manage to a greater extent than is true currently, with no resident manager. This would provide eight men in recovery, just as would having eight men in recovery and two resident managers, as requested.

There is also the cost aspect — these men cannot participate in a sober home if they cannot afford it. The rent at East Lane is \$1,700 per month. Insurance is \$308.33 per month. Utilities, phone, and cable average \$785 per month. Supplies for the house average \$160 per month. Debt service for money borrowed to furnish the house is \$450 per month. I have negotiated a favorable plan for payment of attorney's fees incurred over the last nine months in dealing with neighborhood issues and issues posed by the Ordinance, but I still have to pay \$400 per month (half of which, if allocated to the East Lane house, is \$200). The monthly allocation of the City's permit and inspection is \$83.33 per month. Total expenses for this house, therefore, average, \$3,686.66 per month.

The paying residents, other than the two resident managers, currently are assessed \$500 per month. This was increased from \$400 per month when I began to incur legal fees in dealing with the neighborhood residents and related to the hearings on the Ordinance. My residents struggle to pay this amount, and some have fallen behind. Generally, there is one resident per house that is, in whole or in part, on scholarship initially because their families are through with them. There is no opportunity to raise the monthly rent. To do so would deprive all or some of the residents of the opportunity to live in the sober home of their choice.

Break-even for this house, even with its very favorable rent given its size and location, is between seven and eight paying residents. At this level, the house breaks even, but returns no or little investment to me or payment for my time, which is significant. In order to be sustainable, and available for my residents, there must be eight residents. Even at this level, I can no longer offer scholarships at all, unless I reduce resident management to one or zero, tending toward the Oxford House model of self-management, or raise money elsewhere to support those who cannot pay or can only pay a reduced amount.

If my request is denied, I will have to consider whether to first cut scholarships or management. Ultimately, I will have to consider whether I can continue to provide these residents with a sober living environment. It is hard to imagine getting a more favorable lease on a suitable home. And from a practical

perspective, the home has to be relocated in or near corporate limits to address transportation issues for those who have no cars, since there are no cities in our area with public transportation systems and these residents must work or attend school, attend regular AA/NA meetings, and do community service.

In short, I believe that denial of my request will result in the denial of housing to these residents in the house or the housing type of their choice, which choice includes the choice to live in a neighborhood zoned R1, without regard to zoning.

I am further concerned that no sober home will be able to meet the economic challenges presented by the Ordinance if applied strictly. My Lease is favorable for a house of this size, quality, and location. I am concerned that others will be put in the position of either determining to close sober homes or sacrifice health and safety in order to break-even. The City's health and safety measures require money, and the City is making it difficult to comply by severely restricting rental revenue through the static limit of eight residents.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of this home are as follows:

The house has six bedrooms, three bathrooms, a kitchen, and two separate living areas (one on each of the first two floors). The third floor is attic space that is anticipated to be used for storage and not a sleeping room. No structural alterations to the home have been made since it was used as a single-family home and placed for rent – initially as a single-family home – to avoid foreclosure. The home is typical of those in the area except that it is two-story, and has a large lot to accommodate its footprint. The driveway has already been added on to, prior to its rental and use as a sober home, through a gravel driveway addition, to accommodate the requested eight cars (in conjunction with the two-car garage). If this becomes acceptable to the City, despite no one ever complaining of it in the past, additional parking could be built in the back that would be accessible from Hillside Drive, which would not be visible from the front of the house or whose children regularly have friends over.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of the surrounding neighborhood, are as follows:

The appearance of the house would remain unchanged, inside and out, and the house would continue to blend architecturally with the neighborhood to the same extent it always has. As to its use, the house has six bedrooms plus attic space. The density requested is not beyond what a single-family or nuclear-family plus extended family occupying a home of this size with this number of bedrooms might pose. Clearly, the City would not deny occupancy of this house of a family

of ten; the situation presented by this home is no different. Parking issues could be adequately dealt with the existing garage and driveway (including the driveway extension already present), or by adding additional parking in the rear of the house. The residents are not permitted to have guests, so at any given time no more than ten people will be present, which is less than that of a single-family home entertaining guests.

The reasons that the reasonable accommodations requested, if granted, would not fundamentally alter the City's regulatory scheme with regard to sober homes and boarding houses, are as follows:

The request for ten residents exceeds by less than one resident the number that the City's formulae in section 30-26 would provide for absent the absolute maximum of eight contained in subpart (a). This is not a substantial or fundamental departure from the City's regulatory scheme, which should be applied to flexibly to assure that there is equal housing opportunity to these men with a disability to live in the housing of their choice. The same is true with regard to the request for three people to be allowed to sleep in the 254 square foot master bedroom. Under the square footage requirements of 70 per resident in a sleeping room, this room is adequate to sleep three people – it is only through application of the static rule of only two residents in a sleeping room that this is forbidden. Again, this is not a significant or fundamental change that is being requested, and it should be granted to provide for equal housing opportunity for these disabled men. The same is true with the relatively minor change to allow for portable closets or, alternatively, a furniture armoire, in the place of a constructed closet. Many houses have been built historically without a closet in one or more bedrooms, requiring the use of a furniture piece. There is no real health and safety issue with use of such pieces rather than a built-in closet. The requirement of built in closets is not a fundamental part of the regulatory scheme. The request for reasonable accommodation in this regard should also be granted.

Thank you for considering my request for reasonable accommodations. If you have any questions, please do not hesitate to call me.



Development Services Department

200 Sidney Baker St. N.

Kerrville TX 78028

(830) 258-1170

Request for Reasonable Accommodations

Date application submitted: _____

Applicant's Name: Cheryl Meacham Arterburn

Mailing Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Street Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Telephone #: (281) 777-8346 Alternate #: _____

Email: cherylmeachamarterburn@yahoo.com

Applicant's relationship to the individual(s) with a disability, if applicable: Operator of "Sober Home" for recovering drug/alcohol addicts not using drugs or alcohol.

Property Address (where accommodations are necessary): 1612 First Street, Kerrville, Texas 78028

Type of disability (check all that apply): _____

☒ Physical or mental impairment that substantially limits one or more major life activities

☒ Individual who is regarded as having such an impairment

☒ Individual with a record of such impairment

Please give a brief explanation of why the requested accommodation is necessary for the individual(s) with disabilities to have equal access to housing: Please see attached Exhibit A.

1. Will the housing that is the subject of the request be used by one or more individuals with a disability? ☒ Yes ☐ No

2. Is the requested accommodation necessary to make specific housing available to one or more individuals with a disability? ☒ Yes ☐ No



Staff Use Only:

☐ Approved ☐ Approved with conditions ☐ Denied

Conditions: _____

Director's Initials: _____ Date: _____

Legal Review: _____ Date: _____

Date written decision due: _____ Date sent to applicant: _____

Decision must be sent within 20 days of receipt of application per Ordinance 2013-064 Sec. 30-24.

EXHIBIT A TO REQUEST FOR REASONABLE ACCOMMODATIONS

Cheryl Arterburn

Women's Home

1612 First Street, Kerrville, Texas 78028

This "Exhibit A" is to respond to inquiries from the City of Kerrville in the City's form Request for Reasonable Accommodations and raised at my meeting with the City on Friday, June 7, 2013. It is to be considered part of my application for a permit to operate the sober home, categorized as a "boarding home" in Chapter 30 of the City's Code of Ordinances.

This Exhibit A accompanies my form Request for Reasonable Accommodations for my women's home located at 1612 First Street, Kerrville, Texas 78028.

Current residents/managers. There are currently 11 residents in the home, and two resident managers. 13 people total currently live in the home. Since we moved the home to this location in January, 2013, the highest number of residents that we have had in this home is 13. The residents currently range in age from 19 to 50. Each resident is recovering from drug and/or alcohol addition, and cannot use drugs or alcohol and remain in the home. Each resident must attend AA/NA meetings, initially ninety meetings in ninety days. Each resident must maintain full-time employment or be a full-time student. Each resident must also perform community service work. No visitors are allowed in the home.

The home. The home has 2925 square feet of air-conditioned space. It has six bedrooms and four baths located on one floor. I entered in to the current lease with Donald and La Visa Young for \$1,750 in monthly rent. My security deposit was \$1,750. The lease expires on January 1, 2016. The owner consented and affirmed to the City their consent that the home be used as a sober home.

Parking. The home has no garage, the garage having been converted to living space. The home has parking space for four cars in the driveway. There is no access to the back of the lot, behind the house, to provide additional parking.

Currently, six of the 13 residents have automobiles.

Reasonable accommodations requested:

1. Accommodation to Allow up to 10 total residents (residents and managers)(Section 30-26 of the Ordinance);

2. Accommodation to Allow Off-Premises Parking in Lieu of Additional On-Site, but Off-Street Parking (Section 30-27 of the Ordinance);
3. Accommodation to Allow Only 4 Resident Vehicles in Lieu of Additional On-Site, Off-Street Parking;
4. Accommodation to Allow 3 People to Sleep in each of the two largest sleeping rooms;
5. Accommodation to Allow for Portable Closet/Clothes Hangers in 1 Sleeping Room (186 sq. ft.), which will also have access to the closet in the internal bedroom that cannot be used as a sleeping rooms, Rather than Requiring Newly Constructed Closets; and
6. If any Requests Nos. 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

The reasons that the reasonable accommodations requested are necessary to make this housing or housing type of the residents' choice available to these residents with a disability are as follows:

From the perspective of the disabled residents of the sober home on First Street, they require a supportive, group living arrangement at an affordable cost. These objectives collide with the City's across the board maximum limitation of eight (8) residents in areas zoned R1.

Under the City's ordinance, if there is not reasonable accommodation, this house will be limited to six (6) women who are actually in therapeutic treatment and two (2) managers.

The number of residents in therapeutic treatment is important, because it is largely the residents themselves in a sober home to need to learn to hold one another accountable to the twelve steps of AA/NA and their commitments to themselves and to one another to remain drug and alcohol free. Trust is certainly a factor in their recovery and in the accountability process, and trust takes time to develop between each resident. As residents graduate or are, unfortunately, expelled, and new residents come in, relationships begin anew and must be developed. Given a minimum desired stay in the home of six months, people leave and new people come in, and the relationship dynamic is in constant flux. But there develop core

groups around each resident of people who they have developed the strongest relationships.

Given all of this, six women sharing in therapeutic treatment is, in my opinion, too few to ensure the desired relationships between residents, and the desired support and accountability. To cap this house at a total of eight would require that I consider a different model, such as that of the Oxford Houses, in which all of the residents of the house are in therapeutic treatment and these residents self-manage to a greater extent than is true currently, with no resident manager. This would provide eight women in recovery, just as would having women in recovery and two resident managers, as requested.

There is also the cost aspect – these women cannot participate in a sober home if they cannot afford it. The rent at First Street is \$1,750 per month. Insurance is \$308.33 per month. Utilities, phone, and cable average \$755 per month. Supplies for the house average \$160 per month. Gas allowance for Managers and drivers averages \$100 per month. Debt service for money borrowed to furnish the house is \$450 per month. I have negotiated a favorable plan for payment of attorney's fees incurred over the last nine months in dealing with neighborhood issues and issues posed by the Ordinance, but I still have to pay \$400 per month (half of which, if allocated to the First Street house, is \$200). The monthly allocation of the City's permit and inspection is \$83.33 per month. Total expenses for this house, therefore, average, \$3,806.66 per month.

The paying residents, other than the two resident managers, currently are assessed \$500 per month. This was increased from \$400 per month when I began to incur legal fees in dealing with the neighborhood residents and related to the hearings on the Ordinance. My residents struggle to pay this amount, and some have fallen behind. Generally, there is one resident per house that is, in whole or in part, on scholarship initially because their families are through with them. There is no opportunity to raise the monthly rent. To do so would deprive all or some of the residents of the opportunity to live in the sober home of their choice.

Break-even for this house, even with its very favorable rent given its size and location, is between seven and eight paying residents. At this level, the house breaks even, but returns no investment to me or payment for my time, which is significant. In order to be sustainable, and available for my residents, there must be eight paying residents. Even at this level, I can no longer offer scholarships at all, unless I reduce resident management to one or zero, tending toward an Oxford House model of self-management, or raise money elsewhere to support those who cannot pay or can only pay a reduced amount.

If my request is denied, I will have to consider whether to first cut scholarships or management. Ultimately, I will have to consider whether I can continue to provide these residents with a sober living environment. It is hard to imagine getting a more favorable lease on a suitable home. And from a practical perspective, the home has to be relocated in or near corporate limits to address transportation issues for those who have no cars, since there are no cities in our area with public transportation systems and these residents must work or attend school, attend regular AA/NA meetings, and do community service.

In short, I believe that denial of my request will result in the denial of housing to these residents in the house or the housing type of their choice, which choice includes the choice to live in a neighborhood zoned R1, without regard to zoning.

I am further concerned that no sober home will be able to meet the economic challenges presented by the Ordinance if applied strictly. My Lease is favorable for a house of this size, quality, and location. I am concerned that others will be put in the position of either determining to close sober homes or sacrifice health and safety in order to break-even. The City's health and safety measures require money, and the City is making it difficult to comply by severely restricting rental revenue through the static limit of eight residents.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of this home are as follows:

The house has six bedrooms, four bathrooms, a kitchen, two living areas, for a total of 2925 square feet of air-conditioned space on one floor. No structural alterations to the home have been made since it was used as a single-family home and placed for rent other than one removable wall. The home is large for the area, perhaps the largest home in the subdivision. Being the nicest house in a transitional neighborhood, it would be difficult to rent or sell the home to a traditional nuclear-family. The owners, who previously occupied the home, were a blended-family with eleven children. They added on to the house to accommodate their special needs, which are similar to the needs of a group house. No additional work will be required on the home to meet these requests for reasonable accommodation, except that an additional removable privacy wall may be built in the rear bedroom to provide for privacy. In short, the character of the home will not be changed. As part of their work on the home, they enclosed the garage, leaving no garage and only four driveway parking spots off the street. Presumably, the owners of the house and their children parked additional cars on the street, as do many residents in the neighborhood currently. Despite this, to avoid street parking a neighbor has granted a license to park up to four cars in her driveway. If this is not satisfactory to the City, a parking space lease for four cars

will be entered into with a nearby apartment complex. In short, the nature and the character of the home will not change, nor will parking density.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of the surrounding neighborhood, are as follows:

The appearance of the house would remain unchanged, inside and out, and the house would continue to blend architecturally with the neighborhood to the same extent as it ever has, being the nicest home in a transitional neighborhood. As to its use, the house has six bedrooms and four bathrooms. The density requested is not beyond what a single-family or nuclear-family plus extended family occupying a home of this size with this number of bedrooms might pose. Indeed, given the owners, it is likely that ten people have lived in this house previously, and will again should the sober home have to vacate the house. Parking issues posed primarily by the garage conversion will be dealt with through securing a license to use a neighbor's driveway or, alternatively, by leasing spaces from a nearby apartment complex. As a result of the situation with the home and the driveway, the continued use of the house as a sober home with ten residents would not impact the single-family nature, to the extent it still exists as such, in this transitional neighborhood.

The reasons that the reasonable accommodations requested, if granted, would not fundamentally alter the City's regulatory scheme with regard to sober homes and boarding houses, are as follows:

The request for ten residents exceeds by less than one resident the number that the City's formulae in section 30-26 would provide for absent the absolute maximum of eight contained in subpart (a). This is not a substantial or fundamental departure from the City's regulatory scheme, which should be applied flexibly to assure that there is equal housing opportunity to these women with a disability to live in the housing of their choice. The same is true with regard to the request for three people to be allowed to sleep in two largest sleeping rooms, of 309 and 262 square feet. This will still provide well more than 70 square feet per resident in each sleeping room, and is made essential by the interior bedroom that cannot be used as a bedroom due to its lack of interior access. Such is only limited through application of the static rule of only two residents in a sleeping room. Again, this is not a significant or fundamental change that is being requested, and it should be granted to provide for equal housing opportunity for these disabled women. The same is true with the relatively minor change to allow for portable closets or, alternatively, a furniture armoire, in the place of a constructed closet. Many houses have been built historically without a closet in one or more bedrooms, requiring the use of a furniture piece. There is no real health and safety issue with

use of such pieces rather than a built-in closet. The requirement of built in closets is not a fundamental part of the regulatory scheme. The request for reasonable accommodation in this regard should also be granted.

Thank you for considering my request for reasonable accommodations. If you have any questions, please do not hesitate to call me.



City of Kerrville

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July 9, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

Re: Reasonable Accommodation Request for Chip's Chateau located at 615 East Lane

Dear Ms. Arterburn:

You requested accommodations for the above-referenced boarding home facility.

1. Accommodation to allow up to 10 total residents (residents and managers)

The Kerrville Central Appraisal District reports that this house is 2,640 square feet, limiting the number of occupants you may have in a boarding home facility to eight, including managers. You will be given 60 days to transition.

2. Accommodation to allow three people to sleep in one 254 square foot sleeping room (the master bedroom)

You will be permitted to have up to three beds in the bedroom that has 254 square feet.

3. Accommodation to allow for portable closet/clothes hangers in one sleeping room (the first floor bedroom off the stairs) rather than requiring a newly constructed closet.

It was noted during inspection that this room is attached to the garage, with an opening from the garage directly into the room. The 2006 International Residential Code, Section R309.1 prohibits such use: "Openings from a private garage directly in a room used for sleeping purposes shall not be permitted." This use must be discontinued immediately.

4. If any request numbers 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

EXHIBIT

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If any of your residents are displaced by your inability to use the study attached to the garage, you may put their beds in another room, until such time that compliance is required.

You will have 60 days from the date of this letter to comply with the terms stated herein and with any inspection items that have been noted,

If you have any questions please contact Danny Batts, Director of Building Services/Chief Building Official at 830-258-1514.

Thank you,

A handwritten signature in black ink, appearing to read "Danny Batts", is written over the printed name.

Danny Batts
Director of Building Services/ Chief Building Official
City of Kerrville



City of Kerrville

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July 9, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

Re: Reasonable Accommodation Request for House of Hope located at 1612 First Street

Dear Ms. Arterburn:

You requested accommodations for the above-referenced boarding home facility.

1. Accommodation to allow up to 10 total residents (residents and managers).

The Kerr Central Appraisal District ("KCAD") reports that this house is 2,538 square feet limiting the number of occupants you may have in a boarding home facility to eight, including managers. You will be given 60 days to transition.

2. Accommodation to allow off-premises parking in lieu of additional on-site, but off-street parking.

You may provide a copy of a lease or agreement to use other parking, as requested.

3. Accommodation to allow only 4 resident vehicles in lieu of additional on-site, off-street parking.

You may adopt a house rule, permitting 4 cars at this location, and provide a copy of the house rules to the City

4. Accommodation to allow three people to sleep in each of the two largest sleeping rooms.

You will be permitted to have up to three beds in the bedrooms that provide at least 70 square feet per occupant.

5. Accommodation to allow for portable closet/clothes hangers in one sleeping room (186 square feet), which will also have access to the closet in the internal bedroom that cannot be used as a sleeping room, rather than requiring newly constructed closets.

EXHIBIT

4



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You will be permitted to provide portable closets or hangers in the 186 square foot sleeping room that has access to the internal closet. This closet/room may not be used as a sleeping room.

6. If any request numbers 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

You will have 60 days from the date of this letter to comply with the terms stated herein and with any inspection items that have been noted.

If you have any questions please contact Danny Batts, Director of Building Services/Chief Building Official at 830-258-1514.

Thank you,

Danny Batts
Director of Building Services/ Chief Building Official
City of Kerrville



City of Kerrville

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July 19, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

~~Re: Reasonable Accommodation Appeal for Chip's Chateau located at 615 East Lane~~

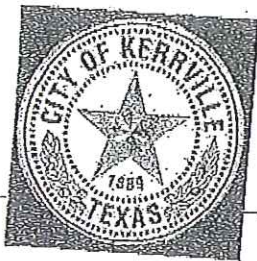
Dear Ms. Arterburn:

Be advised that you may appeal the decision in the letter dated July 9, 2013 to City Council. You may file your appeal with the Development Services Department located at 200 Sidney Baker St. N. You have sixty (60) days from the date of this letter to comply with our previous recommendation and inspection requirements or to appeal this determination to City Council.

Thank you,

Danny Batts
Director of Building Services/Chief Building Official
City of Kerrville





City of Kerrville

701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLE

July 19, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

Re: Reasonable Accommodation Appeal for House of Hope located at 1612 First Street

Dear Ms. Arterburn:

Be advised that you may appeal the decision in the letter dated July 9, 2013 to City Council. You may file your appeal with the Development Services Department located at 200 Sidney Baker St. N. You have sixty (60) days from the date of this letter to comply with our previous recommendation and inspection requirements or to appeal this determination to City Council.

Thank you,

Danny Batts
Director of Building Services/Chief Building Official
City of Kerrville

EXHIBIT

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6

1612 FIRST STREET
CHERYL ARTERBURN



City of Kerrville

200 Sidney Baker St. North
Kerrville, TX 78028
(830) 258-1172

BOARDING HOME MIT APPLICATION

Boarding Home Application Number:

0201300435

1.	Boarding Home Name: <u>The House of Hope Tourion - House of Hope I</u>	
	Site Address: <u>1612 First St. Kerrville, TX</u>	Building # Suite #
	Legal Description	Block: Lots: Existing Zoning: <u>R-1</u>
2.	Is this Boarding Home facility within 1/2 mile of a licensed Boarding Home? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
	Has the applicant received a variance for the 1/2 mile distance requirement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	
3.	Boarding Home Owner/Operator: <u>Cheryl Arterburn</u>	
	Date of Birth: <u>10/28/1958</u>	Phone: <u>281 777-8346</u>
	Home Address: <u>544 Sand Bend Dr</u>	Email: <u>CherylMearhamArterburn@yahoo.com</u>
	City: <u>Kerrville</u>	State: <u>TX</u>
	Driver's License/I.D. # <u>08035979</u>	Zip Code: <u>78028</u>
	Is this facility rented from property owner? <input checked="" type="checkbox"/> Owner Approval Letter attached? <input type="checkbox"/>	
	Emergency Contact # <u>281 777-8346</u>	
	Name: <u>Cheryl Arterburn</u>	
	Address: <u>544 Sand Bend Dr. Kerrville, TX 78028</u>	
	Phone: <u>281 777-8346</u>	
	Email: <u>CherylMearhamArterburn@yahoo.com</u>	
4.	Property Owner (If not Same): <u>Donald Ray Young</u>	
	Home Address: <u>165 Williams Trail</u>	Phone: <u>830-297-1939</u>
	City: <u>Kerrville</u>	State: <u>Texas</u>
	Driver's License/I.D. # <u>00893301</u>	Zip Code: <u>78028</u>
	Property Owner (If not Same):	
	Home Address:	
	City:	
	State:	
	Zip Code:	
	Driver's License/I.D. #	
5.	Does the property owner or operator own/operate another Boarding Home within the City of Kerrville? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the name, address, Boarding Home permit number, owner/operator's name and address. Use additional sheets as needed.	
6.	Documentary evidence of payment of ad valorem taxes, fees, fines and penalties owed to the City in connection with real property used to operate the Boarding Home facility <u>attached</u> <input type="checkbox"/>	
7.	Desired number of residents <u>10</u> Use attached formula sheet to determine number of residents allowed.	
8.	Attach: Sketch of Floor Plan - Detailing the total square footage of the Habitable Space as defined by the Ordinance. Include detailed dimensions of Bedrooms and number of Bathrooms. Attached? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	

PAID
JUN 03 2010
City of Kerrville

9. Off-Street Parking Requirements: To determine the number of off street parking space requirements, multiply the number of residents by 75%, with any resulting fraction for the number of spaces being rounded up.
Total spaces required _____

10. Fees:
Annual Permit Fee.....\$1,000.00
Re-Inspection Fee.....\$75.00
The fee(s) are due upon submission of permit application and fee(s) are non-refundable

11. **NOTICE**

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified or not. The granting of a permit does not presume to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction. I acknowledge that my project may be subject to the requirements of the Fair Housing Act (FHA), the Americans with Disabilities Act (ADA), the Texas Accessibility Standards (TAS), and section 504 of the Rehabilitation Act of 1973. It is my responsibility to ensure my project complies with those requirements. I affirm that for information I will contact: 1-800-949-4232 for ADA, 1-800-767-7468 for FHA, or 1-800-803-9202 for TAS.

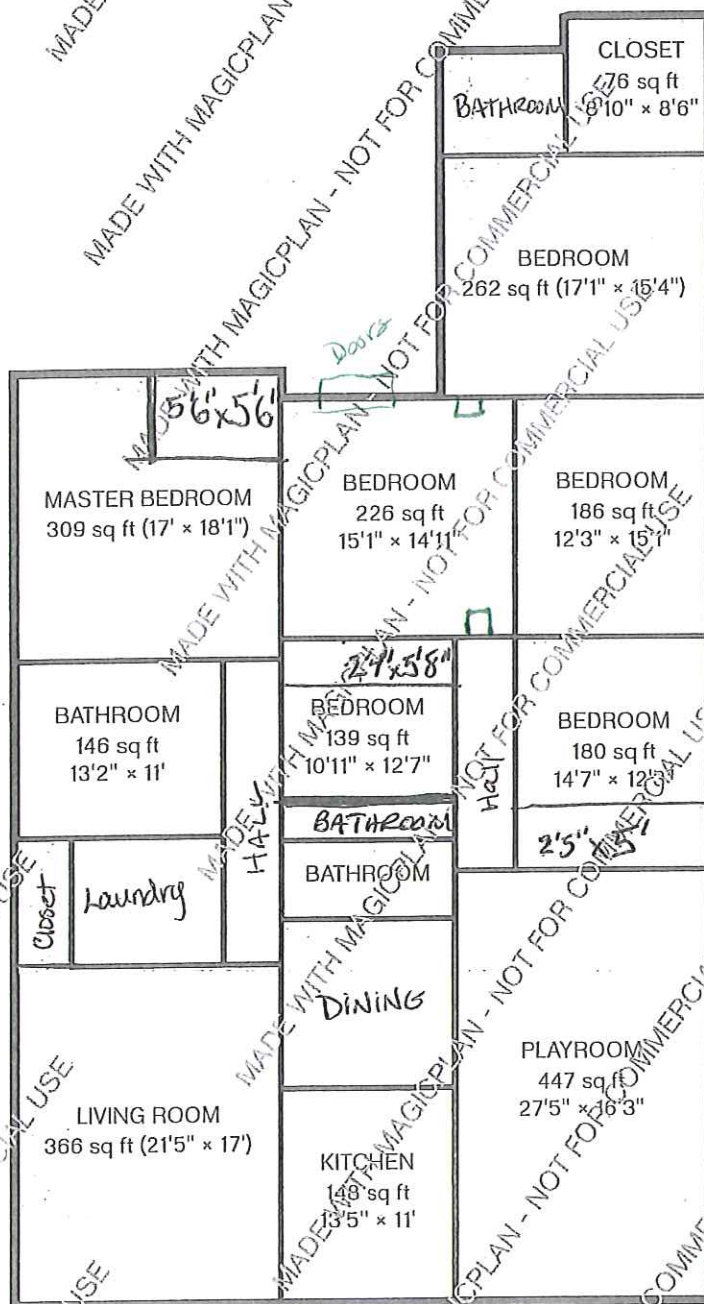
**By filling this application, the applicant swears or affirms under penalty of perjury that, to the best of the applicant's knowledge, all information contained in the application is true and correct and that the application is complete and includes all information required to be disclosed under this section.*

Boarding Home Owner / Operator Signature _____ Date: 6/1/2013
Cheryl Arterburn
Printed Name: Cheryl Arterburn

* Owner:
I CERTIFY THAT I AM THE PROPERTY OWNER
Owner Signature: Donald Ray Young Date: 5-22-13

	Issue	Hold	Initial
Code Compliance	<input type="checkbox"/>	<input type="checkbox"/>	_____
Building Inspection	<input type="checkbox"/>	<input type="checkbox"/>	_____
Planning	<input type="checkbox"/>	<input type="checkbox"/>	_____
Fire	<input type="checkbox"/>	<input type="checkbox"/>	_____

Approval: _____ Date: _____



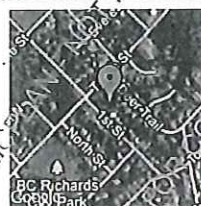
Young residence

Kerrville

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<https://cloud.sensopia.com/floorplan.php?plan=51ad02b3f3606>



Your name
Your email address
Your phone number

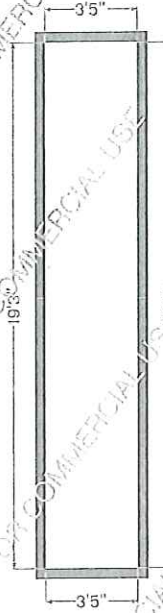


2925 sq ft
1 Floor
16 Rooms
6 Bedrooms
4 Bathrooms

Hall

Width: 3'5"
Length: 19'3"

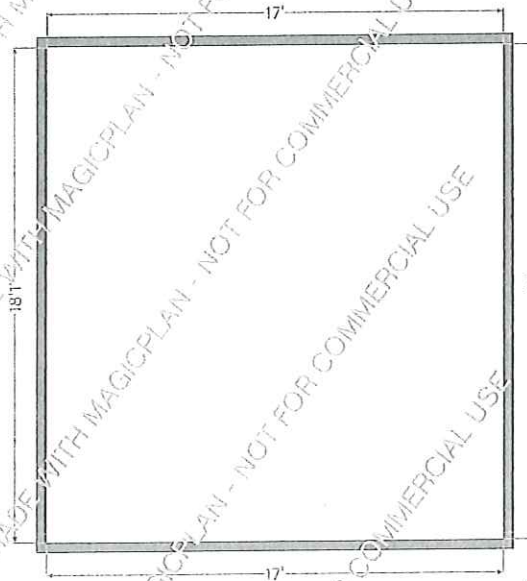
Perimeter: 45'6"
Area: 67 sq ft



Master Bedroom

Width: 17'
Length: 18'1"

Perimeter: 70'4"
Area: 309 sq ft



Young residence



Your name

Your email address

Your phone number

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<https://cloud.sensopia.com/floorplans/2ab0-51b2d02b23603>

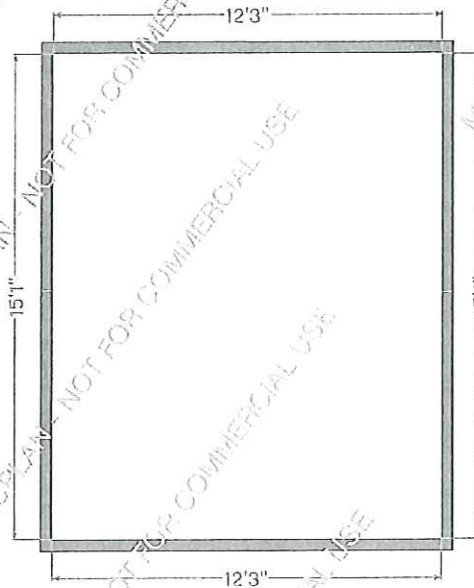


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Bedroom

Width: 12'3"
Length: 15'1"

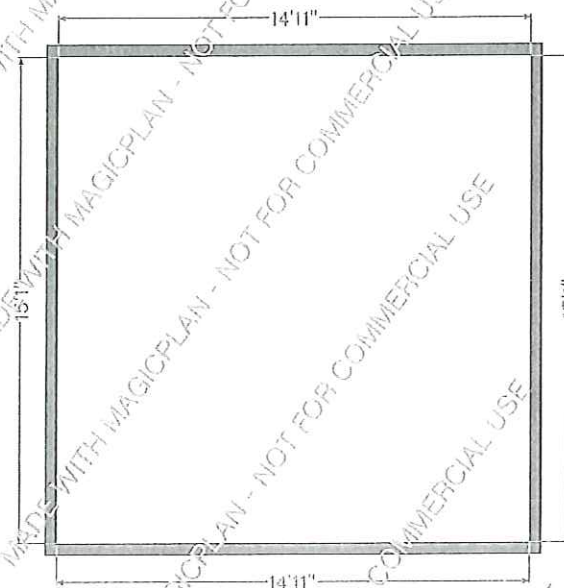
Perimeter: 54'10"
Area: 186 sq ft



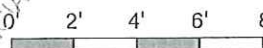
Bedroom

Width: 14'11"
Length: 15'1"

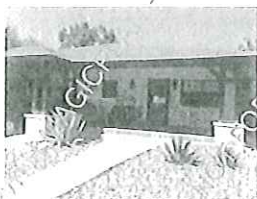
Perimeter: 60'2"
Area: 226 sq ft



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Young residence



Your name

Your email address

Your phone number

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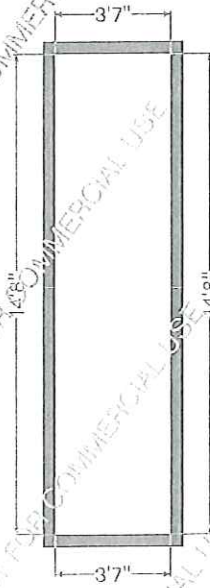
<https://cloud.sensoria.com/floorplan/2020-05-15/02153/2606>



Hall

Width: 3'7"
Length: 14'8"

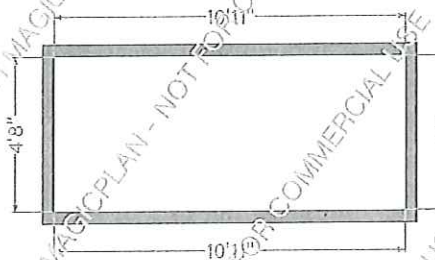
Perimeter: 36'6"
Area: 53 sq ft



Bathroom

Width: 4'8"
Length: 10'11"

Perimeter: 31'3"
Area: 51 sq ft



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Young residence



Your name

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Your phone number

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<https://cloudapp.sensio.com/floorplan/aba2alan=51ad02b3f2606>



Kerr CAD

Property Search Results > 34620 YOUNG, DONALD R for Year 2013

Property

Account

Property ID: 34620 Legal Description: RICHARDS PARK BLK 6 LOT 4
 Geographic ID: 5820-0060-004000 Agent Code:
 Type: Real
 Property Use Code:
 Property Use Description:

Location

Address: 1612 FIRST STREET N Mapsco:
 KERRVILLE, TX 78028
 Neighborhood: RICHARDS PARK & RICHARD B C Map ID: S5820
 Neighborhood CD: S5820

Owner

Name: YOUNG, DONALD R Owner ID: 580915
 Mailing Address: 1612 1ST ST % Ownership: 100.000000000000%
 KERRVILLE, TX 78028-4734
 Exemptions: HS

Values

(+) Improvement Homesite Value: + \$171,966
 (+) Improvement Non-Homesite Value: + \$0
 (+) Land Homesite Value: + \$7,130
 (+) Land Non-Homesite Value: + \$0 Ag / Timber Use Value
 (+) Agricultural Market Valuation: + \$0 \$0
 (+) Timber Market Valuation: + \$0 \$0

 (=) Market Value: = \$179,096
 (-) Ag or Timber Use Value Reduction: - \$0

 (=) Appraised Value: = \$179,096
 (-) HS Cap: - \$4,892

 (=) Assessed Value: = \$174,204

Taxing Jurisdiction

Owner: YOUNG, DONALD R
 % Ownership: 100.000000000000%
 Total Value: \$179,096

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	Central Appraisal District	0.000000	\$179,096	\$174,204	\$0.00
CKV	CITY OF KERRVILLE	0.562500	\$179,096	\$174,204	\$979.90
GKR	KERR COUNTY	0.412100	\$179,096	\$174,204	\$717.89
RLT	LATERAL ROADS	0.032200	\$179,096	\$171,204	\$55.13
SKV	KERRVILLE I.S.D.	1.180000	\$179,096	\$159,204	\$1,878.61
UGR	UPPER GUADALUPE RIVER AUTHORITY	0.025000	\$179,096	\$174,204	\$43.55
WHU	HEADWATERS GROUNDWATER CONSERVATION DISTRICT	0.007400	\$179,096	\$174,204	\$12.89
Total Tax Rate:		2.219200			
				Taxes w/Current Exemptions:	\$3,687.97
				Taxes w/o Exemptions:	\$3,865.94

Improvement / Building

Improvement #1:	Residential	State Code:	A1	Living Area:	2538.0 sqft	Value:	\$171,966
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
MA		F4	SD	1976	1350.0		
OP	ACAD CONV CODE: OP	F4			90.0		
MA		F4		2009	180.0		

MA		F4	2009	144.0
MA		F4	2009	396.0
MA		F4	2009	180.0
STG	ACAD CONV CODE: STG	F4	2009	320.0
MA		F4	2010	288.0
OP	ACAD CONV CODE: OP	F4	2010	180.0
PO	ACAD CONV CODE: PO	F4	2010	120.0
CP	conv code CP	F4	0	170.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	A1	A1	0.0000	0.00	62.00	0.00	\$7,130	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2014	N/A	N/A	N/A	N/A	N/A	N/A
2013	\$171,966	\$7,130	0	179,096	\$4,892	\$174,204
2012	\$171,966	\$7,130	0	179,096	\$20,729	\$158,367
2011	\$171,966	\$7,130	0	179,096	\$35,126	\$143,970
2010	\$169,637	\$7,130	0	176,767	\$45,885	\$130,882
2009	\$152,123	\$7,130	0	159,253	\$40,269	\$118,984
2008	\$101,037	\$7,130	0	108,167	\$0	\$108,167
2007	\$93,567	\$7,130	0	100,697	\$0	\$100,697
2006	\$85,083	\$7,130	0	92,213	\$0	\$92,213
2005	\$80,280	\$7,130	0	87,410	\$0	\$87,410
2004	\$71,103	\$6,944	0	78,047	\$0	\$78,047
2003	\$65,406	\$6,386	0	71,792	\$0	\$71,792
2002	\$64,140	\$6,262	0	70,402	\$0	\$70,402
2001	\$64,730	\$6,572	0	71,302	\$0	\$71,302
2000	\$61,077	\$6,200	0	67,277	\$449	\$66,828
1999	\$54,553	\$6,200	0	60,753	\$0	\$60,753
1998	\$51,968	\$6,200	0	58,168	\$1,605	\$56,563
1997	\$45,221	\$6,200	0	51,421	\$0	\$51,421
1996	\$45,221	\$6,200	0	51,421	\$0	\$51,421
1995	\$45,215	\$6,200	0	51,415	\$0	\$51,415

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	12/30/2004 12:00:00 AM	WDVL	Warranty Deed With Vendors Lien	MASTERS, CLAYTON	YOUNG, DONALD F	1405	0027	0
2	1/21/2002 12:00:00 AM	WDVL	Warranty Deed With Vendors Lien	LANNING, JOSEPH	MASTERS, CLAYTON	1167	0805	0
3		OT	MISC		FIELDS, HARRY B I			0

Questions Please Call (830) 895-5223

Website version: 1.2.2.2

Database last updated on: 9/16/2013 11:15 PM

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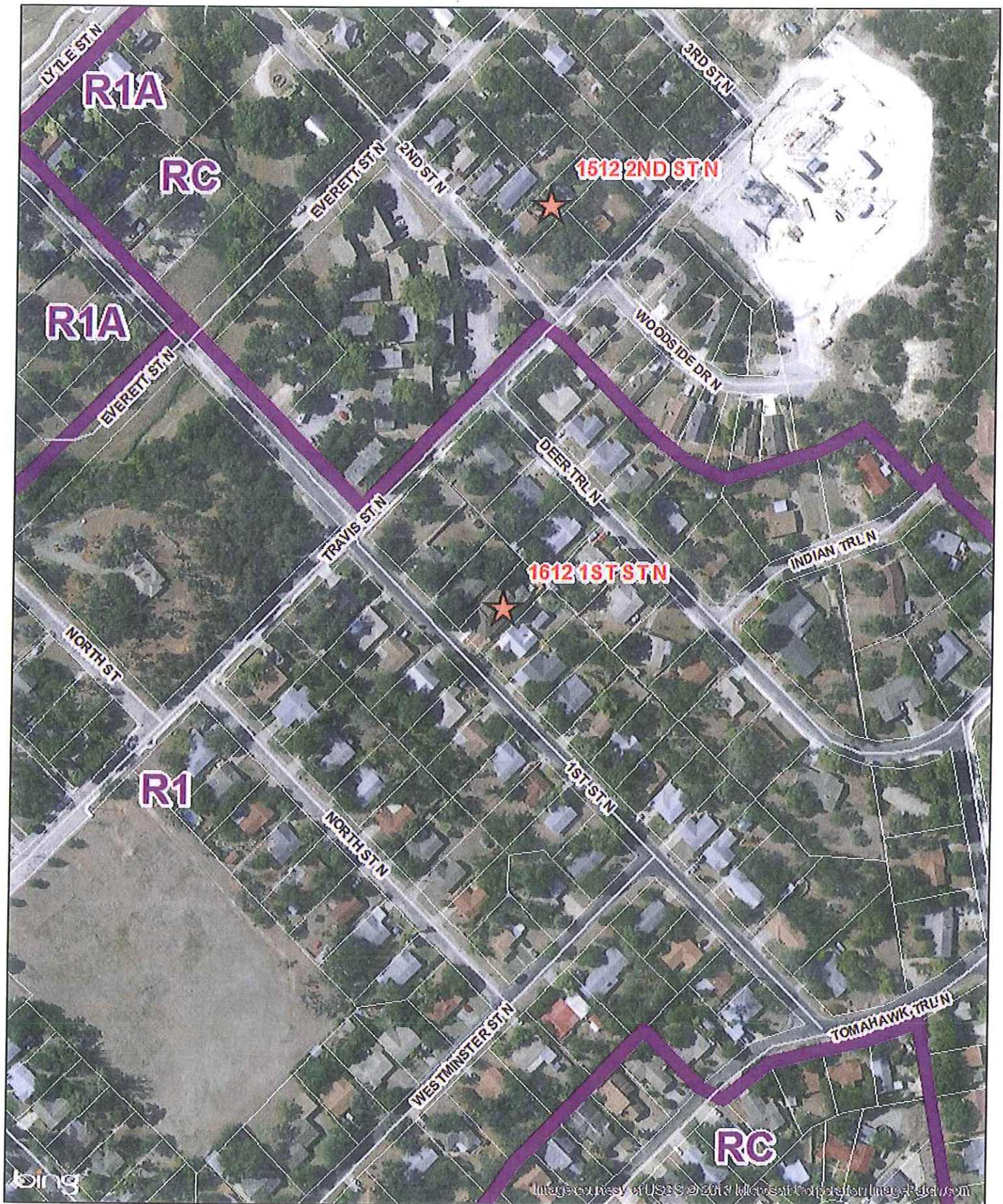


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This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

1612 First Street - Zoned R1

0 100 200 400 Feet





1612 First Street - Zoned R1

0 25 50 100 Feet



This product is for informational purposes and may not have been prepared for or be suitable for legal engineering or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.



Group Homes Inspection Checklist

Development Services/Engineering
City of Kerrville, 200 Sidney Baker St. N., Kerrville, TX 78028
P: 830-258-1170 / F: 830-896-0517

1612 First St

June 27, 2013

Acceptable	Fail	Egress Windows and Doors	NOTES
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Windows	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Doors	

Acceptable	Fail	Stairs Interior and Exterior	NOTES
<input type="checkbox"/>	<input type="checkbox"/>	Gaurdrails	
<input type="checkbox"/>	<input type="checkbox"/>	Handrails	
<input type="checkbox"/>	<input type="checkbox"/>	Baluster spacing	
<input type="checkbox"/>	<input type="checkbox"/>	Tread Rise/Run	
<input type="checkbox"/>	<input type="checkbox"/>	Balconies	
<input type="checkbox"/>	<input type="checkbox"/>	Porches	

Acceptable	Fail	Housing components	NOTES
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bedroom 1 (13' X 10'7") = 137.54	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bedroom 2 (12'3" X 15'1") = 184.73	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bedroom 3 (19'6" X 16'3") = 316.86	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bedroom 4 (15'1" X 14'11") = 224.99	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bedroom 5 (17'6" X 21'3") = 371.86	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Number of Full Baths (4)	
<input type="checkbox"/>	<input type="checkbox"/>	Number of Half Baths	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Parking requirements in compliance	Parking at Neighbors as needed
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Over all condition of home	

Acceptable	Fail	Electrical Components	NOTES
<input type="checkbox"/>	<input type="checkbox"/>	Smoke alarms in required locations	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	GFCI Protection in required locations	At panel, bath #2 did not trip. No cover at back porch. No GFCI at kitchen countertop left of sink.
<input type="checkbox"/>	<input type="checkbox"/>	Fixtures	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Main disconnect	Pointed screws used at cover. Missing inside cover at AC disconnect
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sub panels	Grounds and Neutrals not separated *Undersized feeder conductor to laundry room subpanel.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Branch Circuits	Right half of receptacle in master bath is inoperable

Acceptable	Fail	HVAC / Appliances	NOTES
<input type="checkbox"/>	<input type="checkbox"/>	Heat Pump	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Electric Furnace	
<input type="checkbox"/>	<input type="checkbox"/>	Gas Furnace	
<input type="checkbox"/>	<input type="checkbox"/>	Vent clearance	
<input type="checkbox"/>	<input type="checkbox"/>	Proper gas connection	
<input type="checkbox"/>	<input type="checkbox"/>	Adequate compustion air	
<input type="checkbox"/>	<input type="checkbox"/>	Annual Gas Test	

Acceptable	Fail	Water Heater	NOTES
<input checked="" type="checkbox"/>	<input type="checkbox"/>	installation of electrical supply	Plug in connection
<input type="checkbox"/>	<input type="checkbox"/>	Installation of gas piping	
<input type="checkbox"/>	<input type="checkbox"/>	clearance from combustibles	
<input type="checkbox"/>	<input type="checkbox"/>	adequate combustion air	
<input type="checkbox"/>	<input type="checkbox"/>	flue pipe and termination	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Pan installed where required	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	T&P drain line properly installed	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Pan installed where required	
<input type="checkbox"/>	<input type="checkbox"/>	Unit properly elevated	

Additional Notes

Middle bedroom #6 has no egress and is not an allowable sleeping area.
No apparent access to jetted tub motor in master bath
Staircase landing to roof has soft wood at landing. Goes to roof area only.

Trina Sanchez

From: Pat Dunlap
Sent: Friday, June 28, 2013 10:09 AM
To: Trina Sanchez
Cc: Christopher F. Lee; Mike Pickard; Stephen Riggs; Danny Batts
Subject: 1612 First St.

Trina,

Group home inspection -- 1612 First St:

1. Install interconnected smoke detectors per code.
2. Bedroom escape windows must remain clear of furniture obstructing same.
3. Install a minimum 5lb capacity, ABC rated fire extinguisher in the kitchen area.
4. Paint cans shall not be stored inside or around exterior of house.
5. Complete a fire escape plan and post. The plan should include a meeting location outside of and away from the residence, and someone responsible for ensuring all occupants are accounted for and for communicating the info to the arriving fire fighters.

Pat L. Dunlap
Fire Marshal
830-257-8449
pat.dunlap@kerrvilletx.gov



Development Services Department

200 Sidney Baker St. N.
Kerrville TX 78028
(830) 258-1170

RECEIVED
6/20/13

Request for Reasonable Accommodations

Date application submitted: 6/20/13

Applicant's Name: Cheryl Meacham Arterburn

Mailing Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Street Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Telephone #: (281) 777-8346

Alternate #: _____

Email: cherylmeachamarterburn@yahoo.com

Applicant's relationship to the individual(s) with a disability, if applicable: Operator of "Sober Home" for recovering drug/alcohol addicts not using drugs or alcohol.

Property Address (where accommodations are necessary): 1612 First Street, Kerrville, Texas 78028

Type of disability (check all that apply): _____

☒ Physical or mental impairment that substantially limits one or more major life activities

☒ Individual who is regarded as having such an impairment

☒ Individual with a record of such impairment

Please give a brief explanation of why the requested accommodation is necessary for the individual(s) with disabilities to have equal access to housing: Please see attached Exhibit A.

1. Will the housing that is the subject of the request be used by one or more individuals with a disability? ☒ Yes ☐ No

2. Is the requested accommodation necessary to make specific housing available to one or more individuals with a disability? ☒ Yes ☐ No

Staff Use Only:

☐ Approved ☐ Approved with conditions ☐ Denied

Conditions: _____

Director's Initials: DB

Date: 7/9/13

Assistant City Manager: XIO

Date: 7/9/13

Legal Review: _____

Date: _____

Date written decision due: July 9, 2013

First response to applicant dated: July 9, 2013

Second response to applicant dated: July 19, 2013

Decision must be sent within 20 days of receipt of application per Ordinance 2013-06, Sec. 30-24.

EXHIBIT A TO REQUEST FOR REASONABLE ACCOMMODATIONS

Cheryl Arterburn

Women's Home

1612 First Street, Kerrville, Texas 78028

This "Exhibit A" is to respond to inquiries from the City of Kerrville in the City's form Request for Reasonable Accommodations and raised at my meeting with the City on Friday, June 7, 2013. It is to be considered part of my application for a permit to operate the sober home, categorized as a "boarding home" in Chapter 30 of the City's Code of Ordinances.

This Exhibit A accompanies my form Request for Reasonable Accommodations for my women's home located at 1612 First Street, Kerrville, Texas 78028.

Current residents/managers. There are currently 11 residents in the home, and two resident managers. 13 people total currently live in the home. Since we moved the home to this location in January, 2013, the highest number of residents that we have had in this home is 13. The residents currently range in age from 19 to 50. Each resident is recovering from drug and/or alcohol addition, and cannot use drugs or alcohol and remain in the home. Each resident must attend AA/NA meetings, initially ninety meetings in ninety days. Each resident must maintain full-time employment or be a full-time student. Each resident must also perform community service work. No visitors are allowed in the home.

The home. The home has 2925 square feet of air-conditioned space. It has six bedrooms and four baths located on one floor. I entered in to the current lease with Donald and La Visa Young for \$1,750 in monthly rent. My security deposit was \$1,750. The lease expires on January 1, 2016. The owner consented and affirmed to the City their consent that the home be used as a sober home.

Parking. The home has no garage, the garage having been converted to living space. The home has parking space for four cars in the driveway. There is no access to the back of the lot, behind the house, to provide additional parking.

Currently, six of the 13 residents have automobiles.

Reasonable accommodations requested:

1. Accommodation to Allow up to 10 total residents (residents and managers)(Section 30-26 of the Ordinance);

2. Accommodation to Allow Off-Premises Parking in Lieu of Additional On-Site, but Off-Street Parking (Section 30-27 of the Ordinance);
3. Accommodation to Allow Only 4 Resident Vehicles in Lieu of Additional On-Site, Off-Street Parking;
4. Accommodation to Allow 3 People to Sleep in each of the two largest sleeping rooms;
5. Accommodation to Allow for Portable Closet/Clothes Hangers in 1 Sleeping Room (186 sq. ft.), which will also have access to the closet in the internal bedroom that cannot be used as a sleeping room, Rather than Requiring Newly Constructed Closets; and
6. If any Requests Nos. 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

The reasons that the reasonable accommodations requested are necessary to make this housing or housing type of the residents' choice available to these residents with a disability are as follows:

From the perspective of the disabled residents of the sober home on First Street, they require a supportive, group living arrangement at an affordable cost. These objectives collide with the City's across the board maximum limitation of eight (8) residents in areas zoned R1.

Under the City's ordinance, if there is not reasonable accommodation, this house will be limited to six (6) women who are actually in therapeutic treatment and two (2) managers.

The number of residents in therapeutic treatment is important, because it is largely the residents themselves in a sober home to need to learn to hold one another accountable to the twelve steps of AA/NA and their commitments to themselves and to one another to remain drug and alcohol free. Trust is certainly a factor in their recovery and in the accountability process, and trust takes time to develop between each resident. As residents graduate or are, unfortunately, expelled, and new residents come in, relationships begin anew and must be developed. Given a minimum desired stay in the home of six months, people leave and new people come in, and the relationship dynamic is in constant flux. But there develop core

groups around each resident of people who they have developed the strongest relationships.

Given all of this, six women sharing in therapeutic treatment is, in my opinion, too few to ensure the desired relationships between residents, and the desired support and accountability. To cap this house at a total of eight would require that I consider a different model, such as that of the Oxford Houses, in which all of the residents of the house are in therapeutic treatment and these residents self-manage to a greater extent than is true currently, with no resident manager. This would provide eight women in recovery, just as would having women in recovery and two resident managers, as requested.

There is also the cost aspect – these women cannot participate in a sober home if they cannot afford it. The rent at First Street is \$1,750 per month. Insurance is \$308.33 per month. Utilities, phone, and cable average \$755 per month. Supplies for the house average \$160 per month. Gas allowance for Managers and drivers averages \$100 per month. Debt service for money borrowed to furnish the house is \$450 per month. I have negotiated a favorable plan for payment of attorney's fees incurred over the last nine months in dealing with neighborhood issues and issues posed by the Ordinance, but I still have to pay \$400 per month (half of which, if allocated to the First Street house, is \$200). The monthly allocation of the City's permit and inspection is \$83.33 per month. Total expenses for this house, therefore, average, \$3,806.66 per month.

The paying residents, other than the two resident managers, currently are assessed \$500 per month. This was increased from \$400 per month when I began to incur legal fees in dealing with the neighborhood residents and related to the hearings on the Ordinance. My residents struggle to pay this amount, and some have fallen behind. Generally, there is one resident per house that is, in whole or in part, on scholarship initially because their families are through with them. There is no opportunity to raise the monthly rent. To do so would deprive all or some of the residents of the opportunity to live in the sober home of their choice.

Break-even for this house, even with its very favorable rent given its size and location, is between seven and eight paying residents. At this level, the house breaks even, but returns no investment to me or payment for my time, which is significant. In order to be sustainable, and available for my residents, there must be eight paying residents. Even at this level, I can no longer offer scholarships at all, unless I reduce resident management to one or zero, tending toward an Oxford House model of self-management, or raise money elsewhere to support those who cannot pay or can only pay a reduced amount.

If my request is denied, I will have to consider whether to first cut scholarships or management. Ultimately, I will have to consider whether I can continue to provide these residents with a sober living environment. It is hard to imagine getting a more favorable lease on a suitable home. And from a practical perspective, the home has to be relocated in or near corporate limits to address transportation issues for those who have no cars, since there are no cities in our area with public transportation systems and these residents must work or attend school, attend regular AA/NA meetings, and do community service.

In short, I believe that denial of my request will result in the denial of housing to these residents in the house or the housing type of their choice, which choice includes the choice to live in a neighborhood zoned R1, without regard to zoning.

I am further concerned that no sober home will be able to meet the economic challenges presented by the Ordinance if applied strictly. My Lease is favorable for a house of this size, quality, and location. I am concerned that others will be put in the position of either determining to close sober homes or sacrifice health and safety in order to break-even. The City's health and safety measures require money, and the City is making it difficult to comply by severely restricting rental revenue through the static limit of eight residents.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of this home are as follows:

The house has six bedrooms, four bathrooms, a kitchen, two living areas, for a total of 2925 square feet of air-conditioned space on one floor. No structural alterations to the home have been made since it was used as a single-family home and placed for rent other than one removable wall. The home is large for the area, perhaps the largest home in the subdivision. Being the nicest house in a transitional neighborhood, it would be difficult to rent or sell the home to a traditional nuclear-family. The owners, who previously occupied the home, were a blended-family with eleven children. They added on to the house to accommodate their special needs, which are similar to the needs of a group house. No additional work will be required on the home to meet these requests for reasonable accommodation, except that an additional removable privacy wall may be built in the rear bedroom to provide for privacy. In short, the character of the home will not be changed. As part of their work on the home, they enclosed the garage, leaving no garage and only four driveway parking spots off the street. Presumably, the owners of the house and their children parked additional cars on the street, as do many residents in the neighborhood currently. Despite this, to avoid street parking a neighbor has granted a license to park up to four cars in her driveway. If this is not satisfactory to the City, a parking space lease for four cars

will be entered into with a nearby apartment complex. In short, the nature and the character of the home will not change, nor will parking density.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of the surrounding neighborhood, are as follows:

The appearance of the house would remain unchanged, inside and out, and the house would continue to blend architecturally with the neighborhood to the same extent as it ever has, being the nicest home in a transitional neighborhood. As to its use, the house has six bedrooms and four bathrooms. The density requested is not beyond what a single-family or nuclear-family plus extended family occupying a home of this size with this number of bedrooms might pose. Indeed, given the owners, it is likely that ten people have lived in this house previously, and will again should the sober home have to vacate the house. Parking issues posed primarily by the garage conversion will be dealt with through securing a license to use a neighbor's driveway or, alternatively, by leasing spaces from a nearby apartment complex. As a result of the situation with the home and the driveway, the continued use of the house as a sober home with ten residents would not impact the single-family nature, to the extent it still exists as such, in this transitional neighborhood.

The reasons that the reasonable accommodations requested, if granted, would not fundamentally alter the City's regulatory scheme with regard to sober homes and boarding houses, are as follows:

The request for ten residents exceeds by less than one resident the number that the City's formulae in section 30-26 would provide for absent the absolute maximum of eight contained in subpart (a). This is not a substantial or fundamental departure from the City's regulatory scheme, which should be applied flexibly to assure that there is equal housing opportunity to these women with a disability to live in the housing of their choice. The same is true with regard to the request for three people to be allowed to sleep in two largest sleeping rooms, of 309 and 262 square feet. This will still provide well more than 70 square feet per resident in each sleeping room, and is made essential by the interior bedroom that cannot be used as a bedroom due to its lack of interior access. Such is only limited through application of the static rule of only two residents in a sleeping room. Again, this is not a significant or fundamental change that is being requested, and it should be granted to provide for equal housing opportunity for these disabled women. The same is true with the relatively minor change to allow for portable closets or, alternatively, a furniture armoire, in the place of a constructed closet. Many houses have been built historically without a closet in one or more bedrooms, requiring the use of a furniture piece. There is no real health and safety issue with

use of such pieces rather than a built-in closet. The requirement of built in closets is not a fundamental part of the regulatory scheme. The request for reasonable accommodation in this regard should also be granted.

Thank you for considering my request for reasonable accommodations. If you have any questions, please do not hesitate to call me.

Request for Reasonable Accommodation Arterburn

Dear City of Kerrville

This letter is a request for reasonable accommodation pursuant to section 30-14 of the Kerrville Code of Ordinances.

I operate two sober homes in the City of Kerrville, which are located at 1612 First and 615 East Ln. This request for reasonable accommodation is for the sober home located at 1612 First St. A separate request is being submitted for the home located at 615 East Ln.

I have requested a form designed for this purpose from the City, as section 30-24(b)(3) anticipates such a form. I have been told by the City that no such form exists. As a result, I am submitting this request via letter, as is anticipated by section 20-24(b)(3) in the alternative to a City-provided form.

I have applied for a permit to operate the sober home located at 1612 First St. I am the operator of that home, and am acting as the representative of its residents in making this request for reasonable accommodation.

My name, address (mailing and street address are the same), telephone number, and email address are as follows:

Name: Cheryl Arterburn

Address: 544 Sand Bend

Phone: (281) 777-8346

Email: CherylMarchamArterburn

Each of the individuals residing in the home have a disability under Federal law. Each of these individuals suffers from drug and/or alcohol addiction. Some of the residents were discharged from a drug and alcohol treatment center immediately prior to becoming residents. Their discharge papers, with their names redacted to protect their privacy since this letter may be of public record, are attached hereto. Unredacted copies of these discharge papers will be made available for inspection and review

upon request of the City. None of these residents is currently using drugs and/or alcohol, and such is strictly prohibited under the house rules.

As a result of their drug and/or alcohol addiction, each of these individuals is regarded as having a disability under the 1988 Amendments to the Federal Fair Housing Act.

The provision of the Ordinance for which reasonable accommodation is sought is section 30-26(a). Under the formulae in section 30-26(a)(1 – 3), the house would be permitted to have 10 total residents, but-for subsection (4). Applicant requests reasonable accommodation to allow for 10 total residents (including resident managers) at the home located at 1612 First St.

The requested accommodation is necessary to ensure that the objectives of group home living for the residents in recovery are met. Limiting the total number of residents to eight, including the two resident managers in this home, would defeat the objectives of group home living including the necessary support system and accountability necessary to recovery. As such, were this home limited to eight total residents, including the two managers, the City would be diminishing the prospects of maintaining sobriety for the residents, undermining their recovery, and failing to reasonably accommodate their shared disability of drug and alcohol addiction. As such, I believe that the denial of the requested accommodation would be unreasonable, discriminatory, and deny the residents equal access to housing, in violation of the 1988 Amendments to the Federal Fair Housing Act.

The house is also within .5 miles of one or more other sober homes, classified as “boarding homes” under the Ordinance, but I understand that the home is grandfathered from this requirement and that no application for a variance need be made at this time, so long as the home is in continuous operation.

To summarize, I am requesting reasonable accommodation in the form of relief from section 30-26(a)(4) to allow for the home located at 1612 First St. to have 10 residents total, including resident managers. This is the number of residents that section 30-26(a)(1)-(3) would allow for were it not for the absolute maximum number of eight set forth in section 30-26(a)(4).

Thank you for your anticipated thoughtful consideration to this request.

VTY,

CMA

cc Thomas P. Carnes



City of Kerrville

701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

July 9, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

Re: Reasonable Accommodation Request for House of Hope located at 1612 First Street

Dear Ms. Arterburn:

You requested accommodations for the above-referenced boarding home facility.

1. Accommodation to allow up to 10 total residents (residents and managers).

The Kerr Central Appraisal District ("KCAD") reports that this house is 2,538 square feet limiting the number of occupants you may have in a boarding home facility to eight, including managers. You will be given 60 days to transition.

2. Accommodation to allow off-premises parking in lieu of additional on-site, but off-street parking.

You may provide a copy of a lease or agreement to use other parking, as requested.

3. Accommodation to allow only 4 resident vehicles in lieu of additional on-site, off-street parking.

You may adopt a house rule, permitting 4 cars at this location, and provide a copy of the house rules to the City

4. Accommodation to allow three people to sleep in each of the two largest sleeping rooms.

You will be permitted to have up to three beds in the bedrooms that provide at least 70 square feet per occupant.

5. Accommodation to allow for portable closet/clothes hangers in one sleeping room (186 square feet), which will also have access to the closet in the internal bedroom that cannot be used as a sleeping room, rather than requiring newly constructed closets.



City of Kerrville

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You will permitted to provide portable closets or hangers in the 186 square foot sleeping room that has access to the internal closet. This closet/room may not be used as a sleeping room.

6. If any request numbers 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

You will have 60 days from the date of this letter to comply with the terms stated herein and with any inspection items that have been noted.

If you have any questions please contact Danny Batts, Director of Building Services/Chief Building Official at 830-258-1514.

Thank you,

A handwritten signature in black ink, appearing to read "Danny Batts", is written over the printed name.

Danny Batts
Director of Building Services/ Chief Building Official
City of Kerrville



City of Kerrville

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July 19, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

Re: Reasonable Accommodation Appeal for House of Hope located at 1612 First Street

Dear Ms. Arterburn:

Be advised that you may appeal the decision in the letter dated July 9, 2013 to City Council. You may file your appeal with the Development Services Department located at 200 Sidney Baker St. N. You have sixty (60) days from the date of this letter to comply with our previous recommendation and inspection requirements or to appeal this determination to City Council.

Thank you,

Danny Batts
Director of Building Services/Chief Building Official
City of Kerrville

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

SUBJECT OF REQUEST: Appeal of Denials of Requests for Reasonable Accommodations

AGENDA DATE: 09/24/13

DATE SUBMITTED: 09/06/13

REQUESTED/SUBMITTED BY: Thomas P. Carnes

PHONE: (830) 997-7790

ORGANIZATION REPRESENTING: Cheryl Meacham Arterburn

MAILING ADDRESS: 968 Braeutigam Road, Fredericksburg, TX 78624

EMAIL ADDRESS: tcarnes@thomaspccarnes.com

EXHIBITS/INFORMATION: Appeal of Requests for Reasonable Accommodations along with previously submitted Requests for Reasonable Accommodations

APPROVED FOR SUBMITTAL BY CITY MANAGER:

**WILL THIS ITEM REQUIRE CITY COUNCIL TO AUTHORIZE THE
EXPENDITURE OF CITY FUNDS?**

YES: _____

NO: X

IF YES, STATE AMOUNT REQUESTED: \$N/A

DESCRIPTION OF REQUEST

This is an appeal of the City's partial denial of two requests for reasonable accommodation, pursuant to Code of Ordinances § 30-24, by two sober homes owned by Cheryl Meacham Arterburn. The requests relate to homes located at 615 East Lane and 1612 First Street in Kerrville, Texas. The denials relate to request for the City to allow for ten (10) occupants (residents and managers) in each home. The home are zoned R-1, and without the requested reasonable accommodations, will be limited to eight (8) total occupants (residents and managers), pursuant to Code of Ordinances §30-26. In the Alternative, should such requests be denied, Appellant requests that the time for compliance be extended to allow for compliance through naturally occurring attrition, as residents voluntarily leave the homes.

RECOMMENDED COUNCIL ACTION

That Council grant the requested reasonable accommodations to allow for a maximum of ten (10) occupants (residents and managers) in each home. Should such relief be denied, that the time for compliance be extended to allow for compliance through naturally occurring attrition.

APPEAL OF REQUESTS FOR REASONABLE ACCOMMODATION

Cheryl Meacham Arterburn ("Arterburn") appeals the determinations of the City of Kerrville to her requests for reasonable accommodation for her two sober homes (defined by the City of Kerrville Code of Ordinances, section 30, to be "boarding homes") located at 615 East Lane, Kerrville, Texas 78028 and 1612 First Street, Kerrville, Texas 78028.

I.

FACTS COMMON TO EACH APPEAL

1. On June 20, 2013, Arterburn timely filed requests for reasonable accommodation with regard to two sober homes operated by her in the City of Kerrville, Chip's Chateau (a men's home), located at 615 East Lane, and House of Hope (a women's home), located at 1612 First Street. True copies of the requests for reasonable accommodation are attached hereto as Exhibits 1 and 2, respectively.

2. On July 9, 2013, the City of Kerrville responded to Arterburn's requests for reasonable accommodation. True copies of the City's responses are attached hereto as Exhibits 3 and 4.

3. In each response, the City granted some of the accommodations requested by Arterburn, and denied others.

4. By letter dated July 19, 2013, Arterburn was provided instruction on how to appeal. See Letters from City of Kerrville dated July 19, 2013, true copies of which are attached as Exhibits 5 and 6. Through the letters, Arterburn was provided sixty (60) days to comply or appeal the City's determinations within sixty (60) days of the July 9, 2013 responses. She was instructed to file the appeal with the Development Services Department.

5. Arterburn timely appeals, in conformity with the City's instructions, with regard to the requests denied by the City. The appeal is to City Council, City of Kerrville.

II.

APPEAL WITH REGARD TO CHIP'S CHATEAU, 615 EAST LANE

6. In numbered paragraph 2 of its response to Arterburn's request, Exhibit 3, the City agreed to permit three beds in the 254 square foot master bedroom. The remainder of Arterburn's requests were denied. Of these, two determinations, those in paragraph 1 and paragraph 4 are appealed.

7. In paragraph 1 of the response, Exhibit 3, the City denied Arterburn's request to have ten total occupants (residents and managers). Arterburn requested reasonable accommodation to allow ten total occupants, for each of the reasons set forth on pages 2 through

5 of Exhibit 1.A, the exhibit accompanying her request. Arterburn's request, in Exhibit 1 and 1.A is incorporated by reference as if fully repeated herein. The City permitted eight total occupants, which is the stated maximum in the City's Code of Ordinances (the Code"), section 30-26, with regard to which Arterburn sought and seeks relief through reasonable accommodation through this appeal for the reasons stated in Exhibit 1.A.

8. In paragraph 3 of the response, Exhibit 3, the City for the first time raised an issue about the sleeping room with an entry to the garage, ordering that Arterburn discontinue use of this room as a sleeping room immediately, citing the 2006 International Residential Code, section R309.1. Arterburn does not appeal from this determination, which renders moot her request for reasonable accommodation to allow portable clothes storage in this room rather than a closet, as it negates the City's requirement for a closet in that the room cannot be a sleeping room.

9. In paragraph 4 of the response, Exhibit 3, the City denied Arterburn's request for reasonable accommodation with regard to compliance time. Arterburn requested that, should her request for reasonable accommodation to allow for a maximum of ten occupants (residents and managers) be denied, she be permitted to achieve the eight occupant (residents and managers) limit over time, through natural attrition, as residents "graduate" to a more permanent living environment. The City denied Arterburn's request, and provided her only sixty (60) days to reduce the number of residents to eight. Arterburn appeals this determination of the City for the reasons set forth in Exhibit 1.A.

10. Granting the requested reasonable accommodations: (1) is necessary to make this housing or housing type of the residents choice and available to these residents with a disability, (2) would not impact the single-family nature of the home, (3) would not impact the single-family nature of the surrounding neighborhood; and (4) would not fundamentally alter the City's regulatory scheme, for reasons set forth in Arterburn's incorporated request, Exhibit 1.A, at pp. 2-5.

III.

APPEAL WITH REGARD TO HOUSE OF HOPE, 1612 FIRST STREET

11. In numbered paragraphs 2, 3, 4, and 5 of its Response, Exhibit 4, the City granted Arterburn the reasonable accommodations requested with regard to parking, a third resident in the two largest sleeping rooms, and for portable clothes storage in one sleeping room. Arterburn's two other requests, to allow up to ten occupants (residents and managers) in the home and, in the alternative, to allow time for natural attrition of residents for the number of occupants to decrease to eight, were each denied. Each of these determinations, contained in paragraphs 1 and 6 of the City's response, Exhibit 4, are appealed.

12. In paragraph 1 of the response, Exhibit 4, the City denied Arterburn's request to have ten total occupants (residents and managers). Arterburn requested reasonable accommodation to allow ten total occupants, for each of the reasons set forth pages 2 through 5 of Exhibit 2 and 2.A, the exhibit accompanying her request. Arterburn's request, Exhibit 2 and 2.A is incorporated by reference as if fully repeated herein. The City permitted eight total occupants, which is the stated maximum in the Code, section 30-26, with regard to which Arterburn sought and seeks relief through reasonable accommodation through this appeal for the reasons stated in Exhibit 2.A.

13. In paragraph 6 of the response, Exhibit 4, the City denied Arterburn's request for reasonable accommodation in the time to comply should her request for accommodation to allow for a maximum of ten occupants (residents and managers) be denied. Arterburn requested that she be permitted to achieve the eight occupant (residents and managers) limit over time, through natural attrition, as residents "graduate" to a more permanent living environment. The City denied Arterburn's request, and provided her only sixty days to reduce the number of residents to eight. Arterburn appeals this determination of the City for the reasons set forth in Exhibit 2.A to her incorporated request.

14. Granting the requested reasonable accommodations: (1) is necessary to make this housing or housing type of the residents choice and available to these residents with a disability, (2) would not impact the single-family nature of the home, (3) would not impact the single-family nature of the surrounding neighborhood; and (4) would not fundamentally alter the City's regulatory scheme, for reasons set forth in Arterburn's incorporated request, Exhibit 2.A, at pp. 2-5.

IV.

REQUEST FOR HEARING AND A STAY OF ENFORCEMENT

15. Arterburn requests notice and a hearing before the Kerrville City Council, and a stay of enforcement with regard to her two sober homes, Chip's Chateau, located at 615 East Lane, and House of Hope, located at 1612 First Street, until sixty (60) days following any denial of appeal, in whole or in part, by Council.

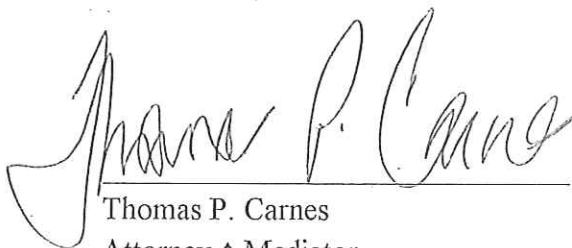
V.

REQUEST FOR RELIEF FROM CITY COUNCIL

16. Cheryl Meacham Arterburn respectfully requests that Council grant her all relief requested in her requests for reasonable accommodation, Exhibits 1 and 2 hereto, and that, specifically, Council grant her requests with regard to the relief previously denied by the City of Kerrville, namely, that each home be permitted to have a maximum of ten occupants (residents and managers) and, in the alternative, if this relief is denied, that she be permitted to reduce the

number of residents in each home to eight through natural attrition, rather than through displacing current residents with federally-recognized and legally protected disabilities.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas P. Carnes", written over a horizontal line.

Thomas P. Carnes

Attorney ♦ Mediator

Texas State Bar No. 00783795

968 Braeutigam Road

Fredericksburg, Texas 78624

(830) 997-7790 (Telephone)

(830) 997-2390 (Facsimile)

tcarnes@thomaspccarnes.com (Email)

www.thomaspccarnes.com (Web)

**ATTORNEY FOR APPELLANT,
CHERYL MEACHAM ARTERBURN**



Development Services Department

200 Sidney Baker St. N.

Kerrville TX 78028

(830) 258-1170

Request for Reasonable Accommodations

Date application submitted: _____

Applicant's Name: Cheryl Meacham Arterburn

Mailing Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Street Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Telephone #: (281) 777-8346 Alternate #: _____

Email: cherylmeachamarterburn@yahoo.com

Applicant's relationship to the individual(s) with a disability, if applicable: Operator of "Sober Home" for recovering drug/alcohol addicts not using drugs or alcohol.

Property Address (where accommodations are necessary): 615 East Lane, Kerrville, Texas 78028

Type of disability (check all that apply): _____

☒ Physical or mental impairment that substantially limits one or more major life activities

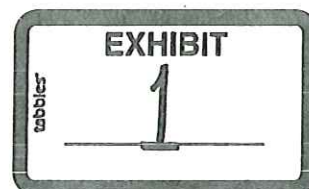
☒ Individual who is regarded as having such an impairment

☒ Individual with a record of such impairment

Please give a brief explanation of why the requested accommodation is necessary for the individual(s) with disabilities to have equal access to housing: Please see attached Exhibit A.

1. Will the housing that is the subject of the request be used by one or more individuals with a disability? ☒ Yes ☐ No

2. Is the requested accommodation necessary to make specific housing available to one or more individuals with a disability? ☒ Yes ☐ No



Staff Use Only:

☐ Approved ☐ Approved with conditions ☐ Denied

Conditions: _____

Director's Initials: _____ Date: _____

Legal Review: _____ Date: _____

Date written decision due: _____ Date sent to applicant: _____

Decision must be sent within 20 days of receipt of application per Ordinance 2013-064 Sec. 30-24.

EXHIBIT A TO REQUEST FOR REASONABLE ACCOMMODATIONS

Cheryl Arterburn

Men's Home

615 East Lane, Kerrville, Texas 78028

This "Exhibit A" is to respond to inquiries from the City of Kerrville in the City's form Request for Reasonable Accommodations and raised at my meeting with the City on Friday, June 7, 2013. It is to be considered part of my application for a permit to operate the sober home, categorized as a "boarding home" in Chapter 30 of the City's Code of Ordinances.

This Exhibit A accompanies my form Request for Reasonable Accommodations for my men's home located at 615 East Lane, Kerrville, Texas 78028.

Current residents/managers. There are currently seven residents in the home, plus two resident managers. Nine people total currently live in the home. As you will see below, the house requires eight residents (non-managers) to break-even. Since we moved the home to this location in July 1, 2012, the highest number of residents that we have had in this home is 15. The average number has been around 10 to 12. The residents currently range in age from 19 to the early 40s. Each resident is recovering from drug and/or alcohol addiction, and cannot use drugs or alcohol and remain in the home. Each resident must attend AA/NA meetings, initially ninety meetings in ninety days. Each resident must maintain full-time employment or be a full-time student. Each resident must also perform community service work. No visitors are allowed in the home.

The home. The home has 2825 square feet of air-conditioned space. It has six bedrooms and three baths located on three floors. I entered in to the current lease with Paul and Ardie Vargas for \$1,850 in monthly rent. My security deposit was \$1,850. In conjunction with dealing with neighborhood issues and issues posed by the Ordinance, Paul and Ardie Vargas have provided a concession lowering the monthly rent to \$1,700 per month. No further concession is possible. The lease expires on July 31, 2014. The owner consented and affirmed to the City their consent that the home be used as a sober home. The owners can no longer afford the mortgage on this house. It would have been foreclosed upon soon had I not rented it. The situation would likely be the same if I am forced to close the sober home.

Parking. The home has parking space for two cars in the garage. The home has parking space for four cars in the driveway, and two in a previously constructed addition to the driveway. There is access to the back of the lot, behind the house, to provide up to four additional paved parking space/there is no access to the back of the lot, behind the house, to provide additional parking.

Currently, six or seven of the nine residents have automobiles.

Reasonable accommodations requested:

1. Accommodation to Allow up to 10 total residents (residents and managers)(Section 30-26 of the Ordinance);
2. Accommodation to Allow 3 People to Sleep in One 254 Sq. Ft. Sleeping Room (the "Master Bedroom");
3. Accommodation to Allow for Portable Closet/Clothes Hangers in 1 Sleeping Room (the first floor bedroom of the stairs) Rather than Requiring a Newly Constructed Closet; and
4. If any Requests Nos. 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

The reasons that the reasonable accommodations requested are necessary to make this housing or housing type of the residents' choice available to these residents with a disability are as follows:

From the perspective of the disabled residents of the sober home on East Lane, they require a supportive, group living arrangement at an affordable cost. These objectives collide with the City's across the board maximum limitation of eight (8) residents in areas zoned R1.

Under the City's ordinance, if there is not reasonable accommodation, this house will be limited to six (6) men who are actually in therapeutic treatment and two (2) managers.

The number of residents in therapeutic treatment is important, because it is largely the residents themselves in a sober home to need to learn to hold one another accountable to the twelve steps of AA/NA and their commitments to themselves and to one another to remain drug and alcohol free. Trust is certainly a factor in their recovery and in the accountability process, and trust takes time to develop between each resident. As residents graduate or are, unfortunately, expelled, and new residents come in, relationships begin anew and must be developed. Given a minimum desired stay in the home of six months, people leave and new people come in, and the relationship dynamic is in constant flux. But there develop core groups around each resident of people who they have developed the strongest relationships.

Given all of this, six men sharing in therapeutic treatment is, in my opinion, too few to ensure the desired relationships between residents, and the desired support and accountability. To cap this house at a total of eight would require that I consider a different model, such as that of the Oxford Houses, in which all of the residents of the house are in therapeutic treatment and these residents self-manage to a greater extent than is true currently, with no resident manager. This would provide eight men in recovery, just as would having eight men in recovery and two resident managers, as requested.

There is also the cost aspect – these men cannot participate in a sober home if they cannot afford it. The rent at East Lane is \$1,700 per month. Insurance is \$308.33 per month. Utilities, phone, and cable average \$785 per month. Supplies for the house average \$160 per month. Debt service for money borrowed to furnish the house is \$450 per month. I have negotiated a favorable plan for payment of attorney's fees incurred over the last nine months in dealing with neighborhood issues and issues posed by the Ordinance, but I still have to pay \$400 per month (half of which, if allocated to the East Lane house, is \$200). The monthly allocation of the City's permit and inspection is \$83.33 per month. Total expenses for this house, therefore, average, \$3,686.66 per month.

The paying residents, other than the two resident managers, currently are assessed \$500 per month. This was increased from \$400 per month when I began to incur legal fees in dealing with the neighborhood residents and related to the hearings on the Ordinance. My residents struggle to pay this amount, and some have fallen behind. Generally, there is one resident per house that is, in whole or in part, on scholarship initially because their families are through with them. There is no opportunity to raise the monthly rent. To do so would deprive all or some of the residents of the opportunity to live in the sober home of their choice.

Break-even for this house, even with its very favorable rent given its size and location, is between seven and eight paying residents. At this level, the house breaks even, but returns no or little investment to me or payment for my time, which is significant. In order to be sustainable, and available for my residents, there must be eight residents. Even at this level, I can no longer offer scholarships at all, unless I reduce resident management to one or zero, tending toward the Oxford House model of self-management, or raise money elsewhere to support those who cannot pay or can only pay a reduced amount.

If my request is denied, I will have to consider whether to first cut scholarships or management. Ultimately, I will have to consider whether I can continue to provide these residents with a sober living environment. It is hard to imagine getting a more favorable lease on a suitable home. And from a practical

perspective, the home has to be relocated in or near corporate limits to address transportation issues for those who have no cars, since there are no cities in our area with public transportation systems and these residents must work or attend school, attend regular AA/NA meetings, and do community service.

In short, I believe that denial of my request will result in the denial of housing to these residents in the house or the housing type of their choice, which choice includes the choice to live in a neighborhood zoned R1, without regard to zoning.

I am further concerned that no sober home will be able to meet the economic challenges presented by the Ordinance if applied strictly. My Lease is favorable for a house of this size, quality, and location. I am concerned that others will be put in the position of either determining to close sober homes or sacrifice health and safety in order to break-even. The City's health and safety measures require money, and the City is making it difficult to comply by severely restricting rental revenue through the static limit of eight residents.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of this home are as follows:

The house has six bedrooms, three bathrooms, a kitchen, and two separate living areas (one on each of the first two floors). The third floor is attic space that is anticipated to be used for storage and not a sleeping room. No structural alterations to the home have been made since it was used as a single-family home and placed for rent – initially as a single-family home – to avoid foreclosure. The home is typical of those in the area except that it is two-story, and has a large lot to accommodate its footprint. The driveway has already been added on to, prior to its rental and use as a sober home, through a gravel driveway addition, to accommodate the requested eight cars (in conjunction with the two-car garage). If this becomes acceptable to the City, despite no one ever complaining of it in the past, additional parking could be built in the back that would be accessible from Hillside Drive, which would not be visible from the front of the house or whose children regularly have friends over.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of the surrounding neighborhood, are as follows:

The appearance of the house would remain unchanged, inside and out, and the house would continue to blend architecturally with the neighborhood to the same extent it always has. As to its use, the house has six bedrooms plus attic space. The density requested is not beyond what a single-family or nuclear-family plus extended family occupying a home of this size with this number of bedrooms might pose. Clearly, the City would not deny occupancy of this house of a family

of ten; the situation presented by this home is no different. Parking issues could be adequately dealt with the existing garage and driveway (including the driveway extension already present), or by adding additional parking in the rear of the house. The residents are not permitted to have guests, so at any given time no more than ten people will be present, which is less than that of a single-family home entertaining guests.

The reasons that the reasonable accommodations requested, if granted, would not fundamentally alter the City's regulatory scheme with regard to sober homes and boarding houses, are as follows:

The request for ten residents exceeds by less than one resident the number that the City's formulae in section 30-26 would provide for absent the absolute maximum of eight contained in subpart (a). This is not a substantial or fundamental departure from the City's regulatory scheme, which should be applied to flexibly to assure that there is equal housing opportunity to these men with a disability to live in the housing of their choice. The same is true with regard to the request for three people to be allowed to sleep in the 254 square foot master bedroom. Under the square footage requirements of 70 per resident in a sleeping room, this room is adequate to sleep three people – it is only through application of the static rule of only two residents in a sleeping room that this is forbidden. Again, this is not a significant or fundamental change that is being requested, and it should be granted to provide for equal housing opportunity for these disabled men. The same is true with the relatively minor change to allow for portable closets or, alternatively, a furniture armoire, in the place of a constructed closet. Many houses have been built historically without a closet in one or more bedrooms, requiring the use of a furniture piece. There is no real health and safety issue with use of such pieces rather than a built-in closet. The requirement of built in closets is not a fundamental part of the regulatory scheme. The request for reasonable accommodation in this regard should also be granted.

Thank you for considering my request for reasonable accommodations. If you have any questions, please do not hesitate to call me.



Development Services Department

200 Sidney Baker St. N.

Kerrville TX 78028

(830) 258-1170

Request for Reasonable Accommodations

Date application submitted: _____

Applicant's Name: Cheryl Meacham Arterburn

Mailing Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Street Address: 544 Sand Bend Drive, Kerrville, Texas 78028

Telephone #: (281) 777-8346 Alternate #: _____

Email: cherylmeachamarterburn@yahoo.com

Applicant's relationship to the individual(s) with a disability, if applicable: Operator of "Sober Home" for recovering drug/alcohol addicts not using drugs or alcohol.

Property Address (where accommodations are necessary): 1612 First Street, Kerrville, Texas 78028

Type of disability (check all that apply): _____

☒ Physical or mental impairment that substantially limits one or more major life activities

☒ Individual who is regarded as having such an impairment

☒ Individual with a record of such impairment

Please give a brief explanation of why the requested accommodation is necessary for the individual(s) with disabilities to have equal access to housing: Please see attached Exhibit A.

1. Will the housing that is the subject of the request be used by one or more individuals with a disability? ☒ Yes ☐ No

2. Is the requested accommodation necessary to make specific housing available to one or more individuals with a disability? ☒ Yes ☐ No



Staff Use Only:

☐ Approved ☐ Approved with conditions ☐ Denied

Conditions: _____

Director's Initials: _____ Date: _____

Legal Review: _____ Date: _____

Date written decision due: _____ Date sent to applicant: _____

Decision must be sent within 20 days of receipt of application per Ordinance 2013-064 Sec. 30-24.

EXHIBIT A TO REQUEST FOR REASONABLE ACCOMMODATIONS

Cheryl Arterburn

Women's Home

1612 First Street, Kerrville, Texas 78028

This "Exhibit A" is to respond to inquiries from the City of Kerrville in the City's form Request for Reasonable Accommodations and raised at my meeting with the City on Friday, June 7, 2013. It is to be considered part of my application for a permit to operate the sober home, categorized as a "boarding home" in Chapter 30 of the City's Code of Ordinances.

This Exhibit A accompanies my form Request for Reasonable Accommodations for my women's home located at 1612 First Street, Kerrville, Texas 78028.

Current residents/managers. There are currently 11 residents in the home, and two resident managers. 13 people total currently live in the home. Since we moved the home to this location in January, 2013, the highest number of residents that we have had in this home is 13. The residents currently range in age from 19 to 50. Each resident is recovering from drug and/or alcohol addiction, and cannot use drugs or alcohol and remain in the home. Each resident must attend AA/NA meetings, initially ninety meetings in ninety days. Each resident must maintain full-time employment or be a full-time student. Each resident must also perform community service work. No visitors are allowed in the home.

The home. The home has 2925 square feet of air-conditioned space. It has six bedrooms and four baths located on one floor. I entered in to the current lease with Donald and La Visa Young for \$1,750 in monthly rent. My security deposit was \$1,750. The lease expires on January 1, 2016. The owner consented and affirmed to the City their consent that the home be used as a sober home.

Parking. The home has no garage, the garage having been converted to living space. The home has parking space for four cars in the driveway. There is no access to the back of the lot, behind the house, to provide additional parking.

Currently, six of the 13 residents have automobiles.

Reasonable accommodations requested:

1. Accommodation to Allow up to 10 total residents (residents and managers)(Section 30-26 of the Ordinance);

2. Accommodation to Allow Off-Premises Parking in Lieu of Additional On-Site, but Off-Street Parking (Section 30-27 of the Ordinance);
3. Accommodation to Allow Only 4 Resident Vehicles in Lieu of Additional On-Site, Off-Street Parking;
4. Accommodation to Allow 3 People to Sleep in each of the two largest sleeping rooms;
5. Accommodation to Allow for Portable Closet/Clothes Hangers in 1 Sleeping Room (186 sq. ft.), which will also have access to the closet in the internal bedroom that cannot be used as a sleeping rooms, Rather than Requiring Newly Constructed Closets; and
6. If any Requests Nos. 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

The reasons that the reasonable accommodations requested are necessary to make this housing or housing type of the residents' choice available to these residents with a disability are as follows:

From the perspective of the disabled residents of the sober home on First Street, they require a supportive, group living arrangement at an affordable cost. These objectives collide with the City's across the board maximum limitation of eight (8) residents in areas zoned R1.

Under the City's ordinance, if there is not reasonable accommodation, this house will be limited to six (6) women who are actually in therapeutic treatment and two (2) managers.

The number of residents in therapeutic treatment is important, because it is largely the residents themselves in a sober home to need to learn to hold one another accountable to the twelve steps of AA/NA and their commitments to themselves and to one another to remain drug and alcohol free. Trust is certainly a factor in their recovery and in the accountability process, and trust takes time to develop between each resident. As residents graduate or are, unfortunately, expelled, and new residents come in, relationships begin anew and must be developed. Given a minimum desired stay in the home of six months, people leave and new people come in, and the relationship dynamic is in constant flux. But there develop core

groups around each resident of people who they have developed the strongest relationships.

Given all of this, six women sharing in therapeutic treatment is, in my opinion, too few to ensure the desired relationships between residents, and the desired support and accountability. To cap this house at a total of eight would require that I consider a different model, such as that of the Oxford Houses, in which all of the residents of the house are in therapeutic treatment and these residents self-manage to a greater extent than is true currently, with no resident manager. This would provide eight women in recovery, just as would having women in recovery and two resident managers, as requested.

There is also the cost aspect – these women cannot participate in a sober home if they cannot afford it. The rent at First Street is \$1,750 per month. Insurance is \$308.33 per month. Utilities, phone, and cable average \$755 per month. Supplies for the house average \$160 per month. Gas allowance for Managers and drivers averages \$100 per month. Debt service for money borrowed to furnish the house is \$450 per month. I have negotiated a favorable plan for payment of attorney's fees incurred over the last nine months in dealing with neighborhood issues and issues posed by the Ordinance, but I still have to pay \$400 per month (half of which, if allocated to the First Street house, is \$200). The monthly allocation of the City's permit and inspection is \$83.33 per month. Total expenses for this house, therefore, average, \$3,806.66 per month.

The paying residents, other than the two resident managers, currently are assessed \$500 per month. This was increased from \$400 per month when I began to incur legal fees in dealing with the neighborhood residents and related to the hearings on the Ordinance. My residents struggle to pay this amount, and some have fallen behind. Generally, there is one resident per house that is, in whole or in part, on scholarship initially because their families are through with them. There is no opportunity to raise the monthly rent. To do so would deprive all or some of the residents of the opportunity to live in the sober home of their choice.

Break-even for this house, even with its very favorable rent given its size and location, is between seven and eight paying residents. At this level, the house breaks even, but returns no investment to me or payment for my time, which is significant. In order to be sustainable, and available for my residents, there must be eight paying residents. Even at this level, I can no longer offer scholarships at all, unless I reduce resident management to one or zero, tending toward an Oxford House model of self-management, or raise money elsewhere to support those who cannot pay or can only pay a reduced amount.

If my request is denied, I will have to consider whether to first cut scholarships or management. Ultimately, I will have to consider whether I can continue to provide these residents with a sober living environment. It is hard to imagine getting a more favorable lease on a suitable home. And from a practical perspective, the home has to be relocated in or near corporate limits to address transportation issues for those who have no cars, since there are no cities in our area with public transportation systems and these residents must work or attend school, attend regular AA/NA meetings, and do community service.

In short, I believe that denial of my request will result in the denial of housing to these residents in the house or the housing type of their choice, which choice includes the choice to live in a neighborhood zoned R1, without regard to zoning.

I am further concerned that no sober home will be able to meet the economic challenges presented by the Ordinance if applied strictly. My Lease is favorable for a house of this size, quality, and location. I am concerned that others will be put in the position of either determining to close sober homes or sacrifice health and safety in order to break-even. The City's health and safety measures require money, and the City is making it difficult to comply by severely restricting rental revenue through the static limit of eight residents.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of this home are as follows:

The house has six bedrooms, four bathrooms, a kitchen, two living areas, for a total of 2925 square feet of air-conditioned space on one floor. No structural alterations to the home have been made since it was used as a single-family home and placed for rent other than one removable wall. The home is large for the area, perhaps the largest home in the subdivision. Being the nicest house in a transitional neighborhood, it would be difficult to rent or sell the home to a traditional nuclear-family. The owners, who previously occupied the home, were a blended-family with eleven children. They added on to the house to accommodate their special needs, which are similar to the needs of a group house. No additional work will be required on the home to meet these requests for reasonable accommodation, except that an additional removable privacy wall may be built in the rear bedroom to provide for privacy. In short, the character of the home will not be changed. As part of their work on the home, they enclosed the garage, leaving no garage and only four driveway parking spots off the street. Presumably, the owners of the house and their children parked additional cars on the street, as do many residents in the neighborhood currently. Despite this, to avoid street parking a neighbor has granted a license to park up to four cars in her driveway. If this is not satisfactory to the City, a parking space lease for four cars

will be entered into with a nearby apartment complex. In short, the nature and the character of the home will not change, nor will parking density.

The reasons that the reasonable accommodations requested, if granted, would not impact the single-family nature of the surrounding neighborhood, are as follows:

The appearance of the house would remain unchanged, inside and out, and the house would continue to blend architecturally with the neighborhood to the same extent as it ever has, being the nicest home in a transitional neighborhood. As to its use, the house has six bedrooms and four bathrooms. The density requested is not beyond what a single-family or nuclear-family plus extended family occupying a home of this size with this number of bedrooms might pose. Indeed, given the owners, it is likely that ten people have lived in this house previously, and will again should the sober home have to vacate the house. Parking issues posed primarily by the garage conversion will be dealt with through securing a license to use a neighbor's driveway or, alternatively, by leasing spaces from a nearby apartment complex. As a result of the situation with the home and the driveway, the continued use of the house as a sober home with ten residents would not impact the single-family nature, to the extent it still exists as such, in this transitional neighborhood.

The reasons that the reasonable accommodations requested, if granted, would not fundamentally alter the City's regulatory scheme with regard to sober homes and boarding houses, are as follows:

The request for ten residents exceeds by less than one resident the number that the City's formulae in section 30-26 would provide for absent the absolute maximum of eight contained in subpart (a). This is not a substantial or fundamental departure from the City's regulatory scheme, which should be applied flexibly to assure that there is equal housing opportunity to these women with a disability to live in the housing of their choice. The same is true with regard to the request for three people to be allowed to sleep in two largest sleeping rooms, of 309 and 262 square feet. This will still provide well more than 70 square feet per resident in each sleeping room, and is made essential by the interior bedroom that cannot be used as a bedroom due to its lack of interior access. Such is only limited through application of the static rule of only two residents in a sleeping room. Again, this is not a significant or fundamental change that is being requested, and it should be granted to provide for equal housing opportunity for these disabled women. The same is true with the relatively minor change to allow for portable closets or, alternatively, a furniture armoire, in the place of a constructed closet. Many houses have been built historically without a closet in one or more bedrooms, requiring the use of a furniture piece. There is no real health and safety issue with

use of such pieces rather than a built-in closet. The requirement of built in closets is not a fundamental part of the regulatory scheme. The request for reasonable accommodation in this regard should also be granted.

Thank you for considering my request for reasonable accommodations. If you have any questions, please do not hesitate to call me.



City of Kerrville

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July 9, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

Re: Reasonable Accommodation Request for Chip's Chateau located at 615 East Lane

Dear Ms. Arterburn:

You requested accommodations for the above-referenced boarding home facility.

1. Accommodation to allow up to 10 total residents (residents and managers)

The Kerrville Central Appraisal District reports that this house is 2,640 square feet, limiting the number of occupants you may have in a boarding home facility to eight, including managers. You will be given 60 days to transition.

2. Accommodation to allow three people to sleep in one 254 square foot sleeping room (the master bedroom)

You will be permitted to have up to three beds in the bedroom that has 254 square feet.

3. Accommodation to allow for portable closet/clothes hangers in one sleeping room (the first floor bedroom off the stairs) rather than requiring a newly constructed closet.

It was noted during inspection that this room is attached to the garage, with an opening from the garage directly into the room. The 2006 International Residential Code, Section R309.1 prohibits such use: "Openings from a private garage directly in a room used for sleeping purposes shall not be permitted." This use must be discontinued immediately.

4. If any request numbers 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

EXHIBIT

3

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If any of your residents are displaced by your inability to use the study attached to the garage, you may put their beds in another room, until such time that compliance is required.

You will have 60 days from the date of this letter to comply with the terms stated herein and with any inspection items that have been noted,

If you have any questions please contact Danny Batts, Director of Building Services/Chief Building Official at 830-258-1514.

Thank you,

A handwritten signature in cursive script, appearing to read "Danny Batts", is written over a horizontal line.

Danny Batts
Director of Building Services/ Chief Building Official
City of Kerrville



City of Kerrville

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July 9, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

Re: Reasonable Accommodation Request for House of Hope located at 1612 First Street

Dear Ms. Arterburn:

You requested accommodations for the above-referenced boarding home facility.

1. Accommodation to allow up to 10 total residents (residents and managers).

The Kerr Central Appraisal District ("KCAD") reports that this house is 2,538 square feet limiting the number of occupants you may have in a boarding home facility to eight, including managers. You will be given 60 days to transition.

2. Accommodation to allow off-premises parking in lieu of additional on-site, but off-street parking.

You may provide a copy of a lease or agreement to use other parking, as requested.

3. Accommodation to allow only 4 resident vehicles in lieu of additional on-site, off-street parking.

You may adopt a house rule, permitting 4 cars at this location, and provide a copy of the house rules to the City

4. Accommodation to allow three people to sleep in each of the two largest sleeping rooms.

You will be permitted to have up to three beds in the bedrooms that provide at least 70 square feet per occupant.

5. Accommodation to allow for portable closet/clothes hangers in one sleeping room (186 square feet), which will also have access to the closet in the internal bedroom that cannot be used as a sleeping room, rather than requiring newly constructed closets.

EXHIBIT

4

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You will be permitted to provide portable closets or hangers in the 186 square foot sleeping room that has access to the internal closet. This closet/room may not be used as a sleeping room.

6. If any request numbers 1 through 3 are denied, temporary reasonable accommodations as to each of these issues such that compliance may be obtained over time, through attrition as current residents move out of the sober living home; rather than through a forced immediate or short-form removal of residents.

You will have 60 days from the date of this letter to comply with the terms stated herein and with any inspection items that have been noted.

If you have any questions please contact Danny Batts, Director of Building Services/Chief Building Official at 830-258-1514.

Thank you,

A handwritten signature in black ink, appearing to read "Danny Batts", is written over a horizontal line.

Danny Batts
Director of Building Services/ Chief Building Official
City of Kerrville



City of Kerrville

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July 19, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

~~Re: Reasonable Accommodation Appeal for Chip's Chateau located at 615 East Lane~~

Dear Ms. Arterburn:

Be advised that you may appeal the decision in the letter dated July 9, 2013 to City Council. You may file your appeal with the Development Services Department located at 200 Sidney Baker St. N. You have sixty (60) days from the date of this letter to comply with our previous recommendation and inspection requirements or to appeal this determination to City Council.

Thank you,

Danny Batts
Director of Building Services/Chief Building Official
City of Kerrville



City of Kerrville

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July 19, 2013

Ms. Cheryl Arterburn
544 Sand Bend Drive
Kerrville, Texas 78028

Re: Reasonable Accommodation Appeal for House of Hope located at 1612 First Street

Dear Ms. Arterburn:

Be advised that you may appeal the decision in the letter dated July 9, 2013 to City Council. You may file your appeal with the Development Services Department located at 200 Sidney Baker St. N. You have sixty (60) days from the date of this letter to comply with our previous recommendation and inspection requirements or to appeal this determination to City Council.

Thank you,

Danny Batts
Director of Building Services/Chief Building Official
City of Kerrville

EXHIBIT

6

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Agenda Item:

5C. Resolution No. 47-2013 adopting an automatic bill pay program for the city's water/wastewater utility service. (staff)

SUBJECT: Auto-pay Incentive Program

SUBMITTED BY: Sandra Yarbrough
Director of Finance

CLEARANCES: Todd Parton
City Manager

AGENDA MAILED TO:[illegible]

REVIEWED BY THE DIRECTOR OR FINANCE:

The Auto Pay Incentive Program is a two part promotion.

The first part is a one-time \$10.00 incentive credit for existing customers to sign up for either automated bank draft or automated credit card payment of their utility bill. This offer is valid for new sign ups only from November 1, 2013 through January 31, 2014. Sign up requires written authorization from the customer on forms provided by City of Kerrville. Customers must remain on the automated payment program for 12 consecutive months or the \$10.00 credit will be added back to their monthly bill in the month following cancellation. Customers will continue to receive their monthly utility bill noting it paid by their chosen method.

The second part is for new customers who sign up for Auto Pay will be charged a \$15.00 new account fee. Without Auto Pay the new account fee is \$25.00. Customers must remain on the automated payment program for 12 consecutive months or the \$10.00 fee difference will be added to their account. Customers will continue to receive their monthly utility bill noting it paid by their chosen method. This incentive will be ongoing with no expiration date.

RECOMMENDED ACTION

Approve Auto-pay Incentive Program by resolution.

CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 47-2013

**A RESOLUTION ADOPTING AN AUTOMATIC BILL PAY
PROGRAM FOR THE CITY'S WATER/WASTEWATER
UTILITY SERVICE**

WHEREAS, the City of Kerrville, Texas ("City's), owns and operates a water/wastewater utility system ("Utility System"); and

WHEREAS, the City, through its Finance Department, bills customers of the Utility System each month and has different payment options; and

WHEREAS, one of the ways that the City accepts monthly payments is through automatic bill pay, whereby a customer authorizes automatic bank drafts or credit card payments to the City; and

WHEREAS, City staff, as a way of improving efficiency, now seeks to incentivize existing and new customers into authorizing automatic bank drafts or credit card payments through the imposition of a \$10.00 credit pursuant to an Automatic Bill Pay Program ("Program"); and

WHEREAS, the City Council for the City of Kerrville, Texas, finds that the adoption of the Program will serve and promote the public interest;

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

The *Automatic Bill Pay Program for the City's Water/Wastewater Utility Service*, as attached at **Exhibit A**, is adopted and is effective immediately.

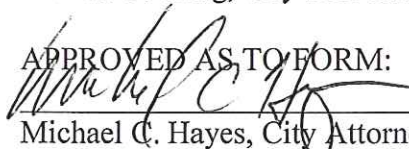
PASSED AND APPROVED ON this the ____ day of _____ A.D., 2013.

ATTEST

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Automatic Bill Pay Program for the City's **Water/Wastewater Service**

1. The City of Kerrville ("City") is offering a one-time \$10.00 incentive credit for existing water/wastewater customers to sign up for either automated bank drafts or automated credit card payments for their monthly water/wastewater bill from the City. This offer is valid only for existing customers from November 1, 2013 through January 31, 2014.
2. Sign up for the Automatic Bill Pay Program ("Program") requires written authorization from the customer. Authorization forms are available online (<http://www.kerrvilletx.gov>) or at City Hall (701 Main Street).
3. Customers must remain on the Program for 12 consecutive months (365 days). The City will charge customers terminating the Program prior to the end of this period \$10.00 immediately following termination. Termination does not include ending service with the City.
4. The City will notify customers about the Program on October bills and on the City website.
5. Customers currently using an automated payment method are not eligible to receive the \$10.00 credit.
6. For new customers who sign up for either automated bank drafts or automated credit card payments for their monthly water/wastewater bill from the City, the City will reduce the applicable new account fee by \$10.00. Sign up for the Program requires written authorization from the customer. Authorization forms are available online (<http://www.kerrvilletx.gov>) or at City Hall (701 Main Street). Customers must remain on the Program for 12 consecutive months (365 days) or the City will charge the customer \$10.00 immediately following termination. Termination does not include ending service with the City. Water Records Clerks will explain this incentive and ask the customer to sign up as a part of every new account opening.
7. The City Manager may amend or terminate the Program at any time.