



NOTICE OF CANVASS AND REGULAR MEETING AGENDA

LANCASTER CITY COUNCIL
MUNICIPAL CENTER CITY COUNCIL CHAMBERS



211 N. HENRY STREET, LANCASTER, TEXAS

Monday, May 23, 2011 – 7:00 P.M.

CALL TO ORDER

INVOCATION: MINISTERIAL ALLIANCE

PLEDGE OF ALLEGIANCE: DEPUTY MAYOR PRO TEM NINA MORRIS

PROCLAMATION: LANCASTER HIGH SCHOOL BOYS AND GIRLS TRACK TEAMS

CITIZENS' COMMENTS: (At this time citizens who have pre-registered before the call to order will be allowed to speak on any matter other than personnel matters or matters under litigation, for a length of time not to exceed three minutes. No Council action or discussion may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.)

ACTION:

1. Consider Resolution 2011-05-41 of the City Council of the City of Lancaster, Texas, canvassing the returns and declaring the results of the General Election for City Officers held on May 14, 2011.

2011-05-41 Resolucion del municipio de la ciudad de Lancaster, Texas, escrutinio de los resultados y declarar los resultados de las elecciones generales para la oficina de Distrito del consejo 2, y concejal del Distrito 4 celebrada el 14 de mayo 2011.

2. Administer Oaths of Office; present Certificates of Election; seat newly elected councilmembers.

CONSENT AGENDA: (Items listed under the consent agenda are considered routine and are generally enacted in one motion. The exception to this rule is that a Council Member may request one or more items to be removed from the consent agenda for separate discussion and action.)

- 3C. Consider Resolution 2011-05-42 of the City Council of the City of Lancaster, Texas, ordering a run-off municipal election to be held on Saturday, June 18, 2011, for the election of one councilmember for District 2; providing for publication and posting of notice; providing for early voting dates, times and locations; and providing an effective date.

2011-05-42 Resolucion del municipio de la ciudad de Lancaster, Texas, ordena una vuelta de las elecciones que se celebrara en sabado 18 de junio 2011, para la eleccion de un miembro del consejo de Distrito 2; que dispone la publicación y desplazamiento de aviso; provision para fechas de votación anticipada, horarios y ubicaciones, y proporcionando una fecha de vigencia.

- 4C. Consider approval of minutes from the City Council Regular Meeting held April 25, 2011 and Special Meeting held May 16, 2011.
- 5C. Consider Resolution 2011-05-43 of the City Council of the City of Lancaster, Texas, authorizing the purchase of one ambulance and equipment from Professional Ambulance through a cooperative purchasing agreement with BuyBoard for a total amount not to exceed \$181,031; authorizing the Purchasing Agent to issue a purchase order pursuant to approval; providing a repealing clause; providing a severability clause; and providing an effective date.
- 6C. Consider an ordinance of the City of Lancaster, Texas, amending the Code of Ordinances by amending Chapter 8, Offenses and Nuisances, by adding Article 8.1400, Littering, to prohibit littering within the City; providing definitions; providing for unlawful littering; providing a duty to keep property free of litter; providing for container closure and maintenance; providing for pedestrian litter container use restrictions; providing a severability clause; providing that this ordinance shall be cumulative of all ordinances; providing for a penalty for violations hereof; providing a savings clause; and providing an effective date.
- 7C. Consider Resolution 2011-05-44 of the City Council of the City of Lancaster, Texas, approving the terms and conditions of a Facilities Joint Use Interlocal Agreement by and between the City of Lancaster and the Lancaster Independent School District; authorizing the City Manager to execute said interlocal agreement; providing a repealing clause; providing a severability clause; and providing an effective date.
- 8C. Consider an ordinance of the City of Lancaster, Texas, amending the Lancaster Code of Ordinances by amending Chapter 9, Article 9.1800 "Youth Advisory Committee" by repealing Section 9.1802, "Composition; Appointment; Terms" in its entirety and replacing with a new Section 9.1802, "Composition; Appointment; Terms" to provide for changes in the appointment of youth members and adult sponsor; providing a repealing clause; providing a severability clause; and providing an effective date.
- 9C. Consider Resolution 2011-05-45 of the City Council of the City of Lancaster, Texas, authorizing an agreement with Civic Plus for website design and hosting services through a cooperative purchasing agreement with the Department of Information Resources (DIR) for a total amount not to exceed \$20,399 annually; authorizing the Purchasing Agent to issue a purchase order pursuant to approval; providing a repealing clause; providing a severability clause; and providing an effective date.

PUBLIC HEARING:

10. Conduct a public hearing and consider Resolution 2011-05-46 of the City Council of the City of Lancaster, Texas, approving the 2011-2012 Standards of Care for Youth Programs operated by the Lancaster Parks and Recreation Department; providing a repealing clause; providing a severability clause; and providing an effective date.

11. Conduct a public hearing and consider an ordinance of the City of Lancaster, Texas, adopting, ratifying, republishing and extending Ordinance No. 2007-02-06, codified as Chapter 8 of the Code of Ordinances, Article 8.800, Curfew Hours for Minors, for a period of three (3)years; providing a repealing clause; providing a severability clause; and providing an effective date.

ADJOURNMENT

EXECUTIVE SESSION: The Council reserves the right to convene into executive session on any posted agenda item pursuant to Section 551.071(2) of the TEXAS GOVERNMENT CODE to seek legal advice concerning such subject.

ACCESSIBILITY STATEMENT: The Municipal Center is wheelchair-accessible. For sign interpretive services, call the City Secretary's office, 972-218-1311, or TDD 1-800-735-2989, at least 72 hours prior to the meeting. Reasonable accommodation will be made to assist your needs.

Certificate

I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on May 19, 2011 @ 5:00 pm and copies thereof were hand delivered to the Mayor, Mayor Pro-Tempore, Deputy Mayor Pro-Tempore and Council members.



Dolle K. Downe, TRMC
City Secretary

LANCASTER CITY COUNCIL
Agenda Communication for
May 23, 2011

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AG11-001

Consider Resolution 2011-05-41 of the City Council of the City of Lancaster, Texas, canvassing the returns and declaring the results of the General Election for City Officers held on May 14, 2011.

Background

At a time posted in accordance with the Open Meetings Act and as required by the Texas Election Code § 67.004(a), the canvass of the returns is read and results declared. The Mayor asks for a motion and vote from the City Council approving the canvass and results of the general election held May 14, 2011. Only two members of the authority constitute a quorum for the purpose of canvassing an election. Election results must be canvassed not later than the 11th day (May 25) following the election.

Considerations

Under the Election Code, the last day to receive ballots from voters outside of the United States is Thursday, May 19. Monday, May 23 is the last day for the Ballot Board to convene to qualify and count any provisional ballots. Due to these deadlines, a copy of the canvass from Dallas County Elections will not be available until late Friday or, more likely, on Monday, May 23. I will provide a copy as soon as it becomes available.

The City has no military/overseas or provisional ballots pending.

Attachments

- Draft Resolution of Canvass in English and Spanish

Prepared and submitted by:
Dolle K. Downe, City Secretary

Date: May 17, 2011

RESOLUTION NO. 2011-05-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE GENERAL ELECTION FOR THE OFFICE OF COUNCILMEMBER DISTRICT 2 AND COUNCILMEMBER DISTRICT 4 HELD ON MAY 14, 2011.

GENERAL ELECTION

Lancaster, Texas

May 14, 2011

CANVASS OF RETURNS AND DECLARATION OF RESULTS OF ELECTION

BE IT REMEMBERED THAT on this the 23rd day of May 2011, at a meeting of the City Council of the City of Lancaster, Texas, a quorum being present, the meeting was called to order and the following business was transacted.

Upon motion it was unanimously ordered that the City Council consider the official returns of a General Election held in the City on May 14, 2011, for the election of Councilmembers for District 2 and District 4 for a three-year term.

WHEREUPON said official returns were opened, examined, canvassed and the results declared as follows:

CANVASS OF RETURNS AND DECLARATION OF RESULTS

WHEREAS, heretofore, the City Council of the City of Lancaster, Texas, called a General Election to be held in the City on May 14, 2011, to elect Councilmembers for District 2 and District 4 for a three-year term; and

WHEREAS, immediately after said election the Presiding Judge and other officials holding said election made their returns of the results thereof to the City Council as follows, and said returns being made according to law, and duly authenticated, and it being shown that written notice of said election was posted for the time and in the manner provided by law, and all other proceedings pertaining to said election having been shown to have been done and performed at and within the manner provided by law, and all papers pertaining thereto having been returned and filed with the City Council and no protest or objection being made to or regarding any matter pertaining to said election.

WHEREAS, on March 21, 2011, City Council approved Resolution No. 2011-03-22 which declared the unopposed candidate in District 6 (Nina Morris) to be elected to said office.

NOW, THEREFORE, be it resolved by the City Council of the City of Lancaster, Texas, after examining said returns and opening and canvassing the votes of said election, that the results of said election are as follows:

That the following number of votes were cast for the following named candidates for the office of Councilmember, District 2, to-wit:

	EARLY VOTING	ELECTION DAY	BY MAIL	PROVISIONAL VOTING	TOTAL VOTES	%
Stanley Jaglowski	55	27	0	0	82	43.16%
Marian Elkins	21	32	0	0	53	27.89%
Gary Citizen	19	36	0	0	55	28.95%

It appearing that there was not a majority of all votes cast for the office of Councilmember District 2, a run-off election for District 2 shall be ordered in accordance with the Lancaster Home Rule Charter and state law.

That the following number of votes was cast for the following named candidates for the office of Councilmember, District 4, to-wit:

	<u>EARLY VOTING</u>	<u>ELECTION DAY</u>	<u>BY MAIL</u>	<u>PROVISIONAL VOTING</u>	<u>TOTAL VOTES</u>	<u>%</u>
Tim Speaks	64	63	7	0	134	42.41%
James Daniels	109	73	0	0	182	57.59%

It appearing that James Daniels received a majority of all votes cast for the office of Councilmember, District 4, James Daniels is hereby declared to be elected to the office of Councilmember, District 4, to serve a three-year term after qualifying.

IT IS FURTHER ORDERED that this canvass and declaration of results of said election be entered in the Minutes of the City Council.

This Resolution, declaring the results of the general election, shall become effective immediately after its passage.

DULY PASSED by the City Council of the City of Lancaster, Texas, on this the 23rd day of May 2011.

APPROVED:

 Marcus E. Knight, Mayor

ATTEST:

Dolle K. Downe, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

RESOLUCIÓN NO. 2011-05-41

UNA RESOLUCIÓN DEL MUNICIPIO DE LA CIUDAD DE LANCASTER, TEXAS, ESCRUTINIO DE LOS RESULTADOS Y DECLARAR LOS RESULTADOS DE LAS ELECCIONES GENERALES PARA LA OFICINA DE DISTRITO DEL CONSEJO 2 Y CONCEJAL DEL DISTRITO 4 CELEBRADA EL 14 DE MAYO 2011.

ELECCIÓN GENERAL

Lancaster, Texas

14 de mayo 2011

ESCRUTINIO DE LOS RESULTADOS Y LA DECLARACIÓN DE RESULTADOS DE LAS ELECCIONES

SE RECUERDA QUE en este día 23 de mayo de 2011, en una reunión del Consejo Municipal de la Ciudad de Lancaster, Texas, el quórum está presente, la reunión fue llamada al orden y el negocio de las siguientes transacciones fue.

Al movimiento se ordenó por unanimidad que el Municipio considere los datos oficiales de una elección general celebrada en la Ciudad el 14 de mayo de 2011, para la elección de concejales por el Distrito 2 y Distrito 4 por un período de tres años.

CON QUE dijo resultados oficiales se abrieron, examinados, los resultados escrutados, y declaró lo siguiente:

ESCRUTINIO DE RESULTADOS Y DECLARACIÓN DE LOS RESULTADOS

CONSIDERANDO que, hasta ahora, el Consejo Municipal de la Ciudad de Lancaster, Texas, llamado una elección general que se celebrará en la ciudad el 14 de mayo de 2011, para elegir a los concejales por el Distrito 2 y Distrito 4 por un período de tres años, y

CONSIDERANDO que, inmediatamente después de dicha elección, el Juez Presidente y otros funcionarios de la celebración de dicha elección hizo sus declaraciones de los resultados a eso el Concejo Municipal de la siguiente manera, y dijo que devuelve están realizando de acuerdo a la ley, y debidamente legalizada, y se muestra es que la notificación escrita de dicha elección fue publicada por el tiempo y en la forma prevista por la ley, y todos los otros procedimientos relativos a dicha elección que se ha demostrado que se han realizado y se realiza en y dentro de la forma prevista por la ley, y además todos los papeles relativos de haber sido devueltos y presentado ante el Ayuntamiento y la protesta u objeción no se realizan para o acerca de cualquier cuestión relacionada con dicha elección.

CONSIDERANDO que, el 21 de marzo de 2011, Concejo Municipal aprobó la Resolución N ° 03/22/2011 que declaró el candidato sin oposición en el Distrito 6 (Nina Morris) y por lo tanto ser declarados para ser elegido para dicho cargo.

AHORA, POR LO TANTO, se resuelve por el Consejo Municipal de la Ciudad de Lancaster, Texas, después de examinar dichas declaraciones y la apertura y el escrutinio de los votos de dicha elección, que los resultados de dicha elección son los siguientes:

Que el número siguiente de los votos fueron emitidos a favor de los siguientes candidatos nombrado para el cargo de concejal del Distrito 2, a saber:

	<u>Votacion Temprana</u>	<u>Dia de Eleccion</u>	<u>Por Correo</u>	<u>Votacion Provisional</u>	<u>Total de Votos</u>	<u>%</u>
Stanley M. Jaglowski	55	27	0	0	82	43.16%
Marian Elkins	21	32	0	0	53	27.89%
Gary John Citizen, Sr.	19	36	0	0	55	28.95%

Lo que aparece que no había una mayoría de los votos emitidos para el cargo de concejal del Distrito 2, una segunda vuelta electoral para el Distrito 2 se ordenará de conformidad con la Carta de Autonomía de Lancaster y la ley estatal.

Que el número siguiente de las votaciones fue lanzado por los siguientes candidatos nombrado para el cargo de Concejal, Distrito 4, a saber:

	<u>Votacion Temprana</u>	<u>Dia de Eleccion</u>	<u>Por Correo</u>	<u>Votacion Provisional</u>	<u>Total de Votos</u>	<u>%</u>
Tim Speaks	64	63	7	0	134	42.41%
James Daniels	109	73	0	0	182	57.59%

Lo que aparece que James Daniels recibió la mayoría de los votos emitidos para el cargo de Concejal, Distrito 4, James Daniels se declara a ser elegido para el cargo de Concejal, Distrito 4, para un mandato de tres años después de la calificación.

ADEMÁS SE ORDENA que el escrutinio y declaración de los resultados de dicha elección se consignará en el acta del Consejo de la Ciudad.

Esta Resolución, declarando los resultados de las elecciones generales, entrará en vigencia inmediatamente después de su pasaje.

Debidamente aprobada por el Consejo Municipal de la Ciudad de Lancaster, Texas, el día 23 de mayo de 2011.

APROBADO:

Marcus E. Knight, el Alcalde

DOY FE:

Dolle K. Downe, Secretaria de la Ciudad

APROBADA EN FORMA:

Robert E. Hager, Abogado de la Ciudad

LANCASTER CITY COUNCIL
Agenda Communication for
May 23, 2011

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AG11-002

**Administer oaths of office, present Certificates of Election, and
seat newly elected councilmembers.**

Background

In accordance with Texas Election Code, after the completion of a canvass, the local canvassing authority prepares a Certificate of Election for each candidate who is elected to office. The oath of office is administered, followed by the presentation of the Certificate of Election.

After the City Council has approved the Canvass of the May 14, 2011 General Election, the newly elected councilmembers will be given the Oath of Office and presented with a Certificate of Election.

Prepared and submitted by:
Dolle K. Downe, City Secretary

Date: May 16, 2011

LANCASTER CITY COUNCIL
Agenda Communication for
May 23, 2011

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AG11-003

Consider a resolution of the City Council of the City of Lancaster, Texas, ordering a run-off election to be held on Saturday, June 18, 2011, for the election of one councilmember for District 2; providing for the publication and posting of notice; providing for early voting dates, times and locations; and providing an effective date.

This request supports the City Council 2010-2011 Policy Agenda.

Goal 6: Civic Engagement

Background

Section 3.01 (D) of the City's Home Rule Charter provides for City Council to call a run-off election to be held in accordance with the requirements of the Texas Election Code, not less than twenty nor more than thirty days after the final canvass of the regular election if a candidate did not receive a majority of the votes. In addition, the Texas Constitution [Article XI, Section 11] provides that for a city having officers with terms in excess of two years, a majority vote is required for members of the governing body to be declared elected.

No candidate received a majority of the votes for councilmember, District 2 during the May 14, 2011 general election. Therefore, following the canvass, it is necessary for City Council to order a run-off election. The election order adopted by City Council for the May 14, 2011 election [Resolution No. 2011-02-11] provides for a run-off election date of June 18, 2011.

Considerations

- **Operational** – To conduct the run-off election, Lancaster will participate jointly with other governing entities in Dallas County conducting run-off elections. Pursuant to the Joint Election Agreement with Dallas County Elections previously approved by Council, the agreement is automatically extended to cover the run-off election.

Both early and Election Day voting will be held at the Lancaster Veterans Memorial Library. This location best serves the election process by offering sufficient space for the voters, easy entry/exit from the room (without entering the Library itself) and offers the necessary technology access for use by Dallas County Elections

personnel. This location is familiar to our voters and has been used consistently for voting. The Library will be one of several early voting locations designated by Dallas County Elections. During early voting, registered voters may vote at any Dallas County early voting polling location. On Election Day, District 2 voters must cast a ballot at the Lancaster Veterans Memorial Library.

- **Legal** – The City Attorney has reviewed and approved the resolution ordering the run-off election.

Pursuant to state and federal laws, election related information that is prepared for voters in English must also be provided in Spanish and any other required minority languages. To comply with this requirement, the run-off election order is included in English and Spanish. In addition, the caption on the City's agenda for this meeting is in both English and Spanish for the run-off election order.

- **Financial** – Dallas County Elections will provide an estimate for the joint run-off election. The estimated amount must be deposited with Dallas County Elections no later than five days after receipt of the run-off estimate. The City's actual cost will depend on the number of entities contracting with Dallas County for run-off election services.
- **Public Information** – All requirements for the posting and publishing of the election order will be completed as outlined in the run-off election order.

Recommendation

Staff recommends approval of the resolution as presented, ordering the run-off election for Councilmember District 2 on Saturday, June 18, 2011.

Attachments

- Resolution [Election Order] in English and Spanish

Prepared and submitted by:
Dolle K. Downe, City Secretary

Date: May 17, 2011

RESOLUTION NO. 2011-05-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, ORDERING A RUN-OFF ELECTION TO BE HELD ON SATURDAY, JUNE 18, 2011, FOR THE ELECTION OF ONE COUNCILMEMBER FOR DISTRICT 2; PROVIDING FOR THE PUBLICATION AND POSTING OF NOTICE; PROVIDING FOR EARLY VOTING DATES, TIMES AND LOCATIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City's Home Rule Charter requires that City Council call a run-off election not less than twenty nor more than thirty days after the final canvass of the regular election if a candidate did not receive a majority of the votes; and

WHEREAS, no candidate received a majority of the votes for councilmember, District 2 during the May 14, 2011 general election; and

WHEREAS, the Presiding Officer [Mayor] of the final canvassing authority has certified to the City Secretary the names of the candidates to be placed on the run-off ballot; and

WHEREAS, by law it becomes the ministerial duty of the City Council to call for such run-off election;

NOW, THEREFORE, BE IT REMEMBERED THAT on this the 23rd day of May, 2011, at a duly convened meeting of the City Council of the City of Lancaster, Texas, a quorum being present, the Council issued the following order:

IT IS HEREBY ORDERED that, in accordance with the Home Rule Charter and state law, a Run-off Election shall be held in the City of Lancaster, Texas, on the 18th day of June, 2011, 7:00 a.m. to 7:00 p.m., for the purpose of electing one Councilmember for District 2 for a three (3) year term from the following candidates:

Stanley M. Jaglowski

Gary John Citizen, Sr.

IT IS FURTHER ORDERED: That such run-off election shall be held as a Joint Election administered by the Dallas County Elections Administrator in accordance with the provisions of the TEXAS ELECTION CODE and a Joint Election Agreement; and,

None but legally qualified voters of District 2 shall be entitled to vote for the Councilmember for District 2.

The candidate for such office receiving a majority of all votes cast for all candidates for such office shall be elected to serve such term or until his or her successor is duly elected and qualified.

A Presiding Election Judge and an Alternate Presiding Election Judge shall be appointed in accordance with the Joint Election Agreement; and,

Notice of said election shall be published once in the official newspaper of the City not later than June 3, 2011, the 15th day before Election Day. Such notice shall also be posted on the Bulletin Board used to publish notice of City Council Meetings not later than June 3, 2011, the 15th day before Election Day; and,

A copy of the published notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and the person posting the notice shall make a record at the time of posting stating the date and place of posting and deliver a copy of said notice posted to the Mayor of the City of Lancaster after the posting is made; and,

EARLY VOTING

Antoinette "Toni" Pippins-Poole, Dallas County Elections Administrator, is the appointed early voting clerk in compliance with Section 271.006 of the Texas Election Code. Other deputy early voting clerks will be appointed as needed to process early voting mail and to conduct early voting at the branch locations.

Early voting by personal appearance will be conducted beginning Monday, June 6, 2011 through Friday, June 10, 2011, between 8:00 a.m. - 5:00 p.m.; Saturday, June 11, 2011, between 8:00 a.m. - 5:00 p.m.; Sunday, June 12, 2011, between 1:00 p.m. - 6:00 p.m.; and Monday, June 13, 2011 through Tuesday, June 14, 2011, between 7:00 a.m. - 7:00 p.m.; and,

Any District 2 qualified voter of Lancaster may vote early for the Joint Election by personal appearance at either the main early voting location or at any Dallas County Branch Early Voting location;

MAIN EARLY VOTING POLLING PLACE:

Dallas County Records Building

509 Main Street
Dallas, Texas 75202

BRANCH EARLY VOTING POLLING PLACES:

Early voting locations are subject to change dependent upon political subdivisions participating in the run-off election.

Branch early voting for the run-off election to be held on June 18, 2011, will be conducted at the branch early voting polling locations as outlined in "Exhibit "A", attached hereto and incorporated herein for all purposes.

EARLY VOTING BY MAIL

Application for a ballot by mail shall be mailed to:
Toni Pippins-Poole
Early Voting Clerk
Office of the Elections Department
2377 N. Stemmons Freeway, Suite 820
Dallas, Texas 75207

Application for ballot by mail must be received no later than the close of business on June 10, 2011; and,

The polling place for voters on Election Day for Precincts 3806, 3808, and 3809 shall be at the Lancaster Veterans Memorial Library, 1600 Veterans Memorial Parkway, Lancaster, Texas 75134. The polls shall be open from 7:00 a.m. to 7:00 p.m.

The City Secretary shall present such returns to the City Council for the canvassing of said election; and,

The canvass of said election returns for the election of officers shall be conducted by the City Council not earlier than the 3rd day nor later than the 11th day after the run-off election.

DULY ORDERED by the City Council of the City of Lancaster, Texas on this the 23rd day of May 2011.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Dolle K. Downe, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Exhibit "A"

**Dallas County Branch Early Voting Locations
June 18, 2011 Run-off Election**

Locations unavailable from Dallas County Elections at this time.

Printed May 19, 2011 at 2:00 p.m.

RESOLUCIÓN NO. 2011-05-42

UNA RESOLUCIÓN DEL MUNICIPIO DE LA CIUDAD DE LANCASTER, TEXAS, ORDENA UNA VUELTA DE LAS ELECCIONES QUE SE CELEBRARÁ EN SÁBADO, 18 DE JUNIO 2011, PARA LA ELECCIÓN DE UN MIEMBRO DEL CONSEJO DE DISTRITO 2; QUE DISPONE LA PUBLICACIÓN Y DESPLAZAMIENTO DE AVISO; PROVISIÓN PARA FECHAS DE VOTACIÓN ANTICIPADA, HORARIOS Y UBICACIONES, Y PROPORCIONANDO UNA FECHA DE VIGENCIA.

POR CUANTO, la Ciudad s Autonomía de la Carta requiere que el Ayuntamiento de llamar a una segunda vuelta electoral no menos de veinte ni mayor de treinta días después del escrutinio final de las elecciones regulares, si un candidato no obtuvo la mayoría de los votos, y

CONSIDERANDO, que ningún candidato recibió la mayoría de los votos para concejal del Distrito 2, durante el 14 de mayo 2011 las elecciones generales, y

CONSIDERANDO, que Alcalde ha certificado a la Secretaría del Ayuntamiento los nombres de los candidatos para ser colocado en la segunda vuelta electoral, y

CONSIDERANDO que, por ley se convierte en el deber ministerial del Consejo de la Ciudad para solicitar tales vuelta de las elecciones;

AHORA, POR LO TANTO, SE RECUERDA QUE en este el día 23 de mayo 2011, en una reunión debidamente convocada del Consejo Municipal de la Ciudad de Lancaster, Texas, que haya quórum, el Consejo emitió la siguiente orden:

POR LA PRESENTE SE ORDENA que, de conformidad con la Carta de Autonomía y la ley estatal, una segunda vuelta electoral se llevará a cabo en la ciudad de Lancaster, Texas, el día 18 de junio 2011, 7 a.m. - 7:00 pm, con el fin de elegir un Concejal para el Distrito 2 por un período de tres (3) de los siguientes candidatos:

Stanley M. Jaglowski

Gary John Citizen, Sr.

SE ORDENA ADEMÁS: Que tal vuelta de las elecciones se celebrarán como una elección conjunta administrado por el Administrador de Elecciones del Condado de Dallas, de conformidad con las disposiciones del Código de Elecciones de Texas y un acuerdo de creación de las elecciones, y,

Nadie más que los votantes calificados jurídicamente de Distrito 2 tendrán derecho a votar por el Concejal por el Distrito 2.

El candidato a dicho cargo que obtenga la mayoría de los votos emitidos por todos los candidatos a cargos serán elegidos para servir a plazo, o hasta que su sucesor sea debidamente elegido y habilitado.

Un Juez Presidente Electoral y un Presidente Alterno Juez Electoral serán designados de conformidad con el acuerdo de creación de las elecciones, y,

El aviso de dicha elección se publicará una vez en el periódico oficial de la ciudad a más tardar el 3 de junio 2011, el día 15 antes de las elecciones. Dicho aviso también se publicará en el tablón de anuncios para publicar un aviso de la Ciudad de las reuniones del Consejo a más tardar el 3 de junio 2011, el día 15 antes de las elecciones, y,

Una copia del anuncio publicado que contiene el nombre del periódico y la fecha de publicación se mantiene como un registro de dicha notificación, y la persona que publica el anuncio se haga un registro en el momento de publicar se indique la fecha y lugar de publicación y entregar una copia de dicho aviso enviado a el alcalde de la ciudad de Lancaster después de la publicación se realiza, y,

VOTACIÓN TEMPRANA

Antonietta "Toni" Pippins-Poole, Administradora Electoral del Condado de Dallas, es la designada secretario de votación anticipada de conformidad con la Sección 271.006 del Código Electoral de Texas. Otros secretarios adjuntos de votación anticipada será designado según sea necesario para procesar el correo de votación anticipada y para llevar a cabo la votación anticipada en las sucursales.

La votación anticipada en persona se llevará a cabo a partir Lunes, 06 de junio 2011 a través de Viernes, 10 de junio 2011, entre las 8:00 am - 5:00 pm, Sábado, 11 de junio 2011, entre 8:00 am - 5:00 pm Domingo, 12 de junio 2011, entre las 1:00 pm - 6:00 pm y Lunes, 13 de junio 2011 a través de Martes, 14 de junio 2011, entre las 7:00 am - 7:00 pm, y,

Cualquier votante calificado del Distrito 2 de Lancaster puede votar por adelantado para la elección conjunta de la apariencia personal ya sea en el lugar principal de votación anticipada o en cualquier sucursal del Condado de Dallas Votación Temprana;

PRINCIPAL DE VOTACIÓN ANTICIPADA CENTRO ELECTORAL:

Registros del Condado de Dallas construcción

509 Main Street

Dallas, Texas 75202

RAMA CASILLAS ELECTORALES DE VOTACIÓN:

Los primeros lugares de votación están sujetos a cambio depende de las subdivisiones políticas que participan en la elección de ejecución a menudo.

Poder de votación temprana para la segunda vuelta electoral que se celebrará el 18 de junio de 2011, se llevará a cabo en la sucursal de lugares de votación anticipada como se describe en? exponer? A?, que se adjunta y se incorporan en este documento a todos los efectos.

VOTACIÓN TEMPRANA POR CORREO

Solicitud de voto por correo deberán enviarse a:

Pippins Toni Poole-

Votación Anticipada

Oficina del Departamento de Elecciones

2377 N. Stemmons Freeway, Suite 820

Dallas, Texas 75207

Solicitud de voto por correo deberán recibirse a más tardar al cierre de actividades el 10 de junio de 2011 y,

Los lugares de votación para los votantes el día de elección de Distritos Electorales 3806, 3808, y 3809 queda fijada en el Lancaster Veterans Memorial Library, 1600 Veterans Memorial Parkway, Lancaster, Texas 75134. Las urnas electorales estarán abiertas de 7:00 am - 7:00 pm

La Secretaria de la Ciudad presentará dicho retorno al Concejo Municipal para el escrutinio de dicha elección, y,

El escrutinio de dichos resultados de las elecciones para la elección de la Mesa se llevará a cabo por el Ayuntamiento no antes de los 3 días ni más tarde del día 11 después de la segunda vuelta electoral.

Debidamente aprobada por el Consejo Municipal de la Ciudad de Lancaster, Texas, el este el día 23 de mayo de 2011.

APROBADO:

Marcus E. Knight, el Alcalde

DOY FE:

Dolle K. Downe, Secretaria de la Ciudad

APROBADA EN FORMA:

Robert E. Hager, Abogado de la Ciudad

LANCASTER CITY COUNCIL
Agenda Communication for
May 23, 2011

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AG11-004

Consider approval of minutes from the City Council Regular Meeting held April 25, 2011 and Special Meeting held May 16, 2011.

Background

Attached for your review and consideration are minutes from the:

- City Council Regular Meeting held April 25, 2011
- City Council Special Meeting held May 16, 2011

Prepared and submitted by:

Dolle K. Downe, City Secretary
May 18, 2011

MINUTES

LANCASTER CITY COUNCIL MEETING OF APRIL 25, 2011

The City Council of the City of Lancaster, Texas, met in Regular session in the Council Chambers of City Hall on April 25, 2011 at 7:00 p.m. with a quorum present to-wit:

Councilmembers Present:

Mayor Marcus E. Knight
Walter Weaver
Marco Mejia
Mayor Pro Tem James Daniels
Clyde Hairston
Deputy Mayor Pro Tem Nina Morris
Council District 2 vacant

City Staff Present:

Opal Mauldin Robertson, City Manager
Alicia Oyedele, Assistant to the City Manager
Mark Divita, Airport Manager
Rona Stringfellow Govan, Development Services Director
Robert E. Hager, City Attorney
Dolle Downe, City Secretary

Call to Order:

Mayor Knight called the meeting to order at 7:00 p.m. on April 25, 2011.

Invocation:

Pastor Urban Brown with Life in Christ Family Church gave the invocation.

Pledge of Allegiance:

Councilmember Clyde Hairston led the Pledge of Allegiance.

Citizens Comments:

Carolyn M. Smith, 1554 Nottingham, stated that she is a fairly new resident in Lancaster and that she is concerned about burglaries in her area; commented that someone had stolen an air conditioning unit in her neighborhood and someone tried to burglarize her home as well; asked for extra police patrol in the area because so many residents are having problems. Mayor Knight indicated that City staff would contact her.

Sally Purvis, 1767 W. Main Street, thanked the City for the traffic signal at Beltline and Bluegrove; commented that she had timed the signal and it takes way too long to cycle; asked that the signal be adjusted to facilitate the flow of traffic. Mayor Knight stated that the final sequencing for the traffic signal is not completed at this time, but it will be adjusted as the Houston School Road project is near completion.

Consent Agenda:

City Secretary Downe read the consent agenda.

- 1C. Consider approval of minutes from the City Council Regular Meeting held April 11, 2011.**

- 2C. Consider Resolution 2011-04-34 of the City Council of the City of Lancaster, Texas, authorizing continued participation with the Atmos Cities Steering Committee (ACSC); authorizing the payment of five cents (\$0.05) per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation; and providing an effective date.
- 3C. Consider Resolution 2011-04-35 of the City Council of the City of Lancaster, Texas, approving the terms and conditions of a terminal lease, Suite 201, by and between Aviatour, Inc. and the City of Lancaster at the Lancaster Regional Airport; authorizing the City Manager to execute said lease; providing a repealing clause; providing a severability clause; and providing an effective date.
- 4C. Consider Resolution 2011-04-36 of the City Council of the City of Lancaster, Texas, approving the terms and conditions of an Interlocal Agreement by and between the City of Lancaster and Dallas County Schools to provide transportation services to Lancaster Parks and Recreation Department at a unit price; authorizing the City Manager to execute said agreement; providing a repealing clause; providing a severability clause; and providing an effective date.
- 5C. Consider Resolution 2011-04-37 of the City Council of the City of Lancaster, Texas, adopting the City of Lancaster 2011 Electronic Records Management Policy to provide for uniform management of City electronic records in accordance with state law; providing a repealing clause; and providing an effective date.
- 6C. Consider Resolution 2011-04-38 of the City Council of the City of Lancaster, Texas, declaring certain board, commission and committee position(s) vacant due to excessive absences; and providing an effective date.
- 7C. Consider Resolution 2011-04-39 of the City Council of the City of Lancaster, Texas, opposing legislation that would increase the fee imposed by the State of Texas Comptroller of Public Accounts for the collection of sales tax; and providing an effective date.

Councilmember Weaver requested that item 7C be pulled from the consent agenda.

MOTION: Deputy Mayor Pro Tem Morris made a motion, seconded by Councilmember Hairston, to approve consent items 1C - 6C. The vote was cast 6 for, 0 against.

Councilmember Weaver stated he strongly supports the resolution [item 7C] that opposes legislation that would increase the fee imposed by the Comptroller for the collection of sales tax and thinks the resolution should be revised to say "strongly" opposing such legislation.

MOTION: Councilmember Weaver made a motion, seconded by Councilmember Hairston, to approve Resolution 2011-04-39 with revisions to the resolution to say "strongly" opposing legislation that would increase the fee imposed by the State of Texas Comptroller of Public Accounts for the collection of sales tax. The vote was cast 6 for, 0 against.

8. Discuss and consider an appointment to the Lancaster Planning and Zoning Commission.

Mayor Knight commented that, consistent with the Council's process for board and commission appointments, a person nominated should have a board or commission application on file and that a person already appointed should serve their term and then may be considered for reappointment at the appropriate time.

Councilmember Mejia commented that Council needs to seek more applications for the Planning and Zoning Commission and that the item should be postponed.

Councilmember Hairston stated that there was opportunity for additional applications since Council had made an appointment to the Planning and Zoning Commission in late February.

Deputy Mayor Pro Tem Morris asked if it is really necessary to table this matter at this point.

Mayor Knight reiterated the importance of the board and commission appointment process, noting that the annual appointment process is near [July].

Mayor Pro Tem Daniels expressed concerns about tabling the item.

Councilmember Weaver asked the City Secretary if any board applications had been received today. City Secretary Downe indicated none had been brought to her attention.

MOTION: Councilmember Mejia made a motion, seconded by Councilmember Weaver, to table consideration of the Planning and Zoning Commission appointment and direct staff to solicit additional applications. The vote was cast 2 for [Mejia, Weaver] and 4 opposed [Knight, Daniels, Hairston, Morris].

Councilmember Hairston nominated Quinnie Wright; Mayor Pro Tem Daniels nominated Carol Burk. A roll call vote was 4 for Ms. Wright [Morris, Hairston, Knight, Mejia], 1 for Ms. Burk [Daniels] and 1 abstention [Weaver]. Ms. Quinnie Wright is appointed to the Planning and Zoning Commission for a term to expire July 2012.

MOTION: Councilmember Weaver made a motion, seconded by Councilmember Hairston, to adjourn. The vote was cast 6 for, 0 against.

The meeting was adjourned at 7:23 p.m.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

MINUTES

LANCASTER CITY COUNCIL MEETING OF MAY 16, 2011

At 6:30 p.m. the City Council of the City of Lancaster, Texas, met in a Special Meeting at the James R. Williams Pump Station at 1999 Jefferson on May 16, 2011 with a quorum present to-wit:

Councilmembers:

Mayor Marcus E. Knight
Walter Weaver
Marco Mejia
Mayor Pro Tem James Daniels
Clyde C. Hairston
Council District 2 Vacant

Councilmembers Absent:

Deputy Mayor Pro Tem Nina Morris

City Staff Present:

Opal Mauldin Robertson, City Manager
Dolle Downe, City Secretary

Call to Order

Mayor Knight called the special meeting to order at 6:30 p.m. on May 16, 2011.

- A. Discuss and consider Resolution 2011-05-40 of the City Council of the City of Lancaster, Texas, ratifying the letter agreement authorizing the Texas Coalition for Affordable Power (TCAP) to negotiate an extension to the current electric supply and necessary related services agreement with Next Era for a fixed price per kWh that is lower than contract rates for 2011-2013, said extension to continue until December 31, 2018; approving TCAP contracting with Next Era and authorizing the City Manager to sign a contract with TCAP for the City's electricity needs for the period beginning as soon after finalization of a contract as possible and extending up to December 31, 2018; committing to budget for energy purposes and to honor the City's commitments to purchase power through TCAP for its electrical needs through December 31, 2018.**

City Manager Mauldin Robertson stated that Lancaster is a member of the Texas Coalition for Affordable Power (TCAP) and an excellent opportunity has been presented to reduce electricity prices and achieve significant savings by amending and extending the existing supply agreement for electricity. City Manager Mauldin Robertson further noted that a conservative estimate of cost savings for the City is \$100,000 annually.

Councilmember Mejia asked if the costs are based on actual usage by the City. City Manager Mauldin Robertson indicated that it is and would include all City facilities, as well as electric usage for street lights and traffic lights.

MOTION: Councilmember Weaver made a motion, seconded by Councilmember Hairston, to approve Resolution 2011-05-40 ratifying the letter agreement authorizing the Texas Coalition for Affordable Power (TCAP) to negotiate an extension to the current electric supply and necessary related services agreement with Next Era for a fixed price per kWh that is lower than contract rates for 2011-2013, said extension to continue until December 31, 2018; approving TCAP contracting with Next Era and authorizing the City Manager to sign a contract with TCAP for the City's electricity needs for the period beginning as soon after finalization of a contract as possible and extending up to December 31, 2018; committing to budget for energy purposes and to honor the City's commitments to purchase power through TCAP for its electrical needs through December 31, 2018.

The vote was cast 5 for, 0 against [Morris absent].

MOTION: Mayor Pro Tem Daniels made a motion, seconded by Councilmember Hairston, to adjourn. The vote was cast 5 for, 0 against [Morris absent].

The meeting was adjourned at 6:34 p.m.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

LANCASTER CITY COUNCIL
Agenda Communication for
May 23, 2011

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AG11-005

Consider a resolution of the City Council of the City of Lancaster, Texas, authorizing the purchase of one ambulance and equipment from Professional Ambulance through a cooperative purchasing agreement with BuyBoard for a total amount not to exceed \$181,031; authorizing the Purchasing Agent to issue a purchase order pursuant to approval; repealing all resolutions in conflict; providing a severability clause; and providing an effective date.

This request supports the City Council 2010-2011 Policy Agenda.

Goal 1: Financially Sound City Government

Background

For over 40 years the Lancaster Fire Department has provided Emergency Medical Services to the citizens of Lancaster. In 2010 Lancaster Fire Department ambulances responded to over 4,600 incidents. The department responds to these incidents with three ambulances; each ambulance is located at a fire station strategically positioned in the City. The department also has a reserve ambulance that is placed in service when preventive maintenance or mechanical breakdowns occur with the other units. Due to their ages, these three ambulances are experiencing frequent mechanical issues. The Department requests the purchase of an ambulance as outlined in the Lancaster Fire Department Equipment Replacement Plan. As the plan indicates, the unit to be replaced is 12 years old.

Considerations

- **Operational** – Approval of this purchase will provide staff with working equipment that will in turn increase productivity by decreasing downtime.
- **Legal** – The City maintains an executed agreement with BuyBoard, the cooperative agency. Texas law authorizes cooperative agreements to help save time developing specifications and duplication during the bid process.

- **Financial** – Funding is available from remaining 2010 Certificate of Obligation funds in the following account.

Account	Account Name	Amount
43-0610-15-552	Capital Motor Vehicles	\$181,031.00

- **Public Information** – There are no public information requirements.

Options/Alternatives

1. City Council may approve the purchase as outlined.
2. City Council may reject and direct staff.

Recommendation

Staff recommends authorizing the purchase of one equipped ambulance from Professional Ambulance for a total amount not to exceed \$181,031.00.

Attachments

- Resolution
- Ambulance Quote

Prepared and submitted by:
Dawn Berry, Purchasing Agent
Thomas Griffith, Fire Chief

Date: May 4, 2011

RESOLUTION NO. 2011-05-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING THE PURCHASE OF ONE AMBULANCE AND EQUIPMENT FROM PROFESSIONAL AMBULANCE THROUGH A COOPERATIVE PURCHASING AGREEMENT WITH BUYBOARD FOR A TOTAL AMOUNT NOT TO EXCEED \$181,031.00; AUTHORIZING THE PURCHASING AGENT TO ISSUE A PURCHASE ORDER PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lancaster desires to purchase the ambulance and equipment;

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

- Section 1.** The City Council hereby approves the purchase of one ambulance and equipment from Professional Ambulance through a cooperative purchasing agreement with BuyBoard for a total amount not to exceed one hundred eighty-one thousand thirty-one dollars (\$181,031.00).
- Section 2.** That the Purchasing Agent is hereby authorized to issue purchase orders for the purchase of vehicles and equipment as outlined.
- Section 3.** Any prior resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed and revoked.
- Section 4.** Should any part of this resolution be held invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared severable.
- Section 5.** This resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 23rd day of May 2011.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



Brant Stovall
North Texas Account Manager
bbstovall_pass@sbcglobal.net

Sales Office
309 FM 3381
Comanche, TX 76442
WATTS 866-356-2236
FAX 325-356-3360
www.proambulance.net

Lancaster Fire Dept.
Attn: Pat Adamcik
1650 North Dallas Ave.
Lancaster, Tx 75134

March 9, 2011

Dear Mr. Adamcik,

We would like to take this opportunity to thank you for your interest in our company and the products/ services we have to offer. We also appreciate the ability to provide you and your service with the following quote proposal for a Type I ambulance. We hope this information is both helpful and informative for your upcoming ambulance purchasing decision.

2011 Ford F-450 Type I Horton Ambulance \$ 181,031.00

This price includes the Ford GPC discount of \$5,500.00

Quotes are valid for a period of ninety days unless otherwise noted.

Delivery: Approximately 120-150 days after receipt of signed production order.

Terms: Payment is expected at time of delivery and acceptance of unit.

If you have any questions or need any additional information, please do not hesitate to give me a call toll free at 866-386-3134, or contact our sales office at 866-356-2236.

Thank you,

Brant Stovall

LANCASTER CITY COUNCIL
Agenda Communication for
May 23, 2011

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AG11-006

Consider an ordinance of the City of Lancaster, Texas, amending the Code of Ordinances by amending Chapter 8, Offenses and Nuisances, by adding Article 8.1400, Littering, to prohibit littering within the City; providing definitions; providing for unlawful littering; providing a duty to keep property free of litter; providing for container closure and maintenance; providing for pedestrian litter container use restrictions; providing a severability clause; providing that this ordinance shall be cumulative of all ordinances; providing for a penalty for violations hereof; providing a savings clause; and providing an effective date.

This request supports the City Council 2010-2011 Policy Agenda.

Goal 3: Healthy, Safe, and Vibrant Neighborhoods

Background

At the request of City Council, staff has sought effective ways to deter the accumulation of litter on public and private property above and beyond Property Maintenance Code compliance. This initiative led to the research of various means of litter control that could partner with the regulations currently in place locally and statewide to meet the goals set forth by the City Council.

From said research and collaboration, staff has drafted a litter ordinance which will allow for the enforcement of litter and debris offenses on both private and public property. This effort seeks to promote accountability for the health, safety and the appearance of our community and neighborhoods while working in conjunction with current code compliance initiatives already in place.

This ordinance asserts that an individual who intentionally or knowingly violates any section of this ordinance may be prosecuted and is subject to the penalty set forth by the ordinance. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than two thousand dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Considerations

- **Operational** – Currently litter violations can only be cited under the Property Maintenance Code when found on private property. The City currently utilizes Park Operations staff and contractors to remove debris and accumulated litter from the City's rights-of-way and public easements.

The adoption of this ordinance would formalize the enforcement of the Texas Health and Safety Code under Chapter 365 by the Lancaster Police Department allowing for citations to be written for offenses on both public and private property as outlined within the ordinance.

- **Legal** – The City Attorney has prepared the draft ordinance for placement in Chapter 8 of the City's Code of Ordinance. Minimal costs may be incurred for the purchase and installation of signage.
- **Financial** – The enforcement of this ordinance may result in additional revenue generation as the result of fines assessed for violations.
- **Public Information** – There are no public information requirements. Signage will be strategically placed throughout the community encouraging residents not to litter and providing ordinance enforcement information.

Options/Alternatives

1. Approve the ordinance as presented.
2. Deny the ordinance and direct staff.

Recommendation

Staff recommends approval of the ordinance as presented.

Attachments

- Ordinance

Prepared and submitted by:
Opal Mauldin Robertson, City Manager

Date: May 16, 2011

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 8, OFFENSES AND NUISANCES, BY ADDING ARTICLE 8.1400, LITTERING, TO PROHIBIT LITTERING WITHIN THE CITY; PROVIDING DEFINITIONS; PROVIDING FOR UNLAWFUL LITTERING; PROVIDING A DUTY TO KEEP PROPERTY FREE OF LITTER; PROVIDING FOR CONTAINER CLOSURE AND MAINTENANCE; PROVIDING FOR PEDESTRIAN LITTER CONTAINER USE RESTRICTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council wishes to promote a clean, healthy, safe, and attractive environment for the citizens of the City of Lancaster; and

WHEREAS, the City Council has determined that the accumulation of litter on public or private property tends to degrade the environment of the community, and can lead to health and safety hazards;

WHEREAS, the City Council finds that this ordinance is necessary to promote the health and safety of the citizens, and to enhance the city's appearance;

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

SECTION 1. That the Lancaster Code of Ordinances be, and the same is, hereby amended by amending Chapter 8, Offenses and Nuisances, by adding Article 8.1400, Littering, which shall read as follows:

**“CHAPTER 8
OFFENSES AND NUISANCES**

.....

ARTICLE 8.1400 LITTERING

Sec. 8.1401 Definitions

For the purposes of this article, the following definitions shall apply:

Container means a City-approved receptacle used for the disposal of waste.

Litter means any wastepaper, used beverage or food container, rubbish, trash, or garbage not placed in a container.

Littering or to litter means the act of placing, throwing, depositing, disposing or dropping of litter.

Pedestrian litter container means a container provided on public or private property for the disposal of litter by pedestrians.

Person means a natural person, joint venture, joint stock company, partnership, association, club, company, lessee, agent, servant, officer or employee of any of them.

Private property means and includes, but is not limited to, yards, grounds, driveways, entrances, passageways, parking areas, working areas, storage areas, vacant lots, and recreation facilities owned by private individuals, firms, corporations, institutions and organizations.

Public property means and includes, but is not limited to, streets, medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, alleys, lanes, public rights-of-way, public parking lots, school grounds, parks, publicly-owned recreation facilities, and municipal bodies of water and waterways.

Sec. 8.1402 Littering Unlawful

A person commits an offense if said person causes, permits, suffers, or allows litter to be thrown or deposited on any public or private property, except in a container or a pedestrian litter container.

Sec. 8.1403 Duty to Keep Property Free of Litter

(a) It shall be the duty of the person who owns, occupies, or leases, or is engaged in construction on any private or public property to keep the exterior property free of litter.

(b) Persons who are owners, occupants or lessees of private property which abuts city sidewalks, streets, parkways, drainage ditches, or curb and gutter, shall keep those sidewalks, streets, parkways, curb and gutter, and drainage ditches free of litter by removing litter and placing it in a container.

Sec. 8.1404 Container Closure, Maintenance

(a) All residential and commercial containers may be open for ease of use, but shall be designed in such a way as to reasonably prevent their contents from becoming litter.

(b) All persons placing containers for collection and removing them after collection shall take the necessary precautions to prevent the contents thereof from becoming litter.

Sec. 8.1405 Pedestrian Litter Container Use Restrictions

A person commits an offense if the person causes, permits, suffers, or allows any household or commercial garbage, refuse, trash, debris, rubbish, solid waste or junk to be deposited in a pedestrian litter container.”

SECTION 2. This ordinance shall be cumulative of all provisions of ordinances of the City of Lancaster, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4. A person, firm, or corporation who intentionally or knowingly violates any section of this ordinance may be prosecuted under this section and is subject to the penalty set forth by this ordinance. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5. All rights and remedies of the City of Lancaster are expressly saved as to any other ordinances affecting nuisances which have accrued at the time of the effective date of

this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6. This ordinance shall be in full force and effect after its passage and publication as provided by law and it is so ordained.

DULY PASSED AND APPROVED by the City Council of the City of Lancaster, Texas, on the 23rd day of May 2011.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Dolle K. Downe, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney
(REH/JVP – revised only)

LANCASTER CITY COUNCIL
Agenda Communication for
May 23, 2011

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AG11-007

Consider a resolution of the City Council of the City of Lancaster, Texas, approving the terms and conditions of a Facilities Joint Use Interlocal Agreement by and between the City of Lancaster and the Lancaster Independent School District; authorizing the City Manager to execute said interlocal agreement; providing a repealing clause; providing a severability clause; and providing an effective date.

This request supports the City Council 2010-2011 Policy Agenda

Goal 3: Healthy, Safe & Vibrant Neighborhoods

Background

In 2004 the City entered into a Facilities Joint Use Interlocal Agreement with Lancaster ISD. This agreement was developed in an effort to provide joint usage of public facilities of the City and LISD for the common public interest of both parties and the citizens of the City of Lancaster. The agreement has been amended to include additional facilities and to clarify routine maintenance and operational requirements.

Considerations

- **Operational** - This agreement is for a term of three years whereas reasonable joint usage will be allowed by both parties during normal hours of operation. Both parties have agreed to equal cost share for usage that takes place outside of normal operating hours. Both parties have agreed that the maintenance and inspection of playgrounds and multiuse outdoor courts shall be at equal cost share.
- **Legal** - The resolution and agreement have been reviewed and approved as to form by the City Attorney.
- **Financial** - There are no costs associated with the adoption of this agreement.
- **Public Information** - There are no public information requirements.

Options/Alternatives

1. City Council may approve the resolution as presented.
2. City Council may reject the resolution and provide direction to staff.

Recommendation

Staff recommends approval of the resolution as presented.

Attachments

- Resolution
- Facilities Joint Use Interlocal Agreement

Prepared and submitted by:

Sean Johnson, Director of Parks and Recreation

Date: May 4, 2011

RESOLUTION NO. 2011-05-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A FACILITIES JOINT USE INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF LANCASTER AND THE LANCASTER INDEPENDENT SCHOOL DISTRICT; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID INTERLOCAL AGREEMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster ("City") and the Lancaster Independent School District ("LISD") desire to enter into a joint use agreement for use of public facilities; and

WHEREAS, the City and LISD have negotiated a joint use agreement and have reached an agreement; and

WHEREAS, after discussion and consideration, the City Council has determined that it would be in the best interest of the City and its citizens to enter into such agreement;

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

- Section 1.** That the terms and conditions of the Facilities Joint Use Interlocal Agreement attached hereto and incorporated herein by reference as Exhibit "A", having been reviewed by the City Council of the City of Lancaster and found to be acceptable and in the best interests of the City of Lancaster and its citizens are hereby in all things approved.
- Section 2.** That the City Council hereby authorizes the City Manager to execute said interlocal agreement.
- Section 3.** That any prior Resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed and revoked.
- Section 4.** That should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.
- Section 5.** That this Resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 23rd day of May 2011.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Dolle K. Downe, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

THE STATE OF TEXAS §

§

COUNTY OF DALLAS §

FACILITIES JOINT USE INTERLOCAL AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT is made and entered into on this _____ day of _____, 2011, by and between the CITY OF LANCASTER (hereinafter referred to as "CITY"), acting by and through its Mayor or designee, and the LANCASTER INDEPENDENT SCHOOL DISTRICT (hereinafter referred to as "LISD"), acting by and through its Board of Trustees, President or designee.

WITNESSETH:

WHEREAS, the Texas State Legislature has authorized the use of interlocal cooperation agreements between and among governmental entities; and

WHEREAS, this Interlocal Cooperation Agreement is made under the authority granted by and pursuant to the Inter-local Cooperation Act, Texas Government Code, chapter 791, and as otherwise provided herein, relative to the joint authorization by CITY and LISD to use various city and school facilities jointly for the purpose of providing recreational opportunities and emergency shelter for all residents of the City of Lancaster. The intent of this agreement is for "Non Profit Use Only".

WHEREAS, both parties agree that in the event of a major disaster requiring the evacuation of Lancaster residents to emergency shelter, LISD agrees to make available any and all public schools identified in Exhibit "A" within its jurisdiction for temporary emergency shelter; and

WHEREAS, the parties, in paying for the performance of governmental functions or in performing such governmental functions, shall make payment therefore only from current revenues legally available to such party; and

WHEREAS, CITY and LISD agree that LISD property identified on Exhibit "A" and "B" shall be used by the CITY for the purpose of providing recreational opportunities for the citizens of Lancaster on LISD property by CITY, for joint use by CITY and LISD, with CITY and LISD having equal use as set out herein; and

WHEREAS, CITY and LISD agree that CITY property identified on Exhibit "C" shall be used by LISD for the purpose of providing educational opportunities for the students, faculty and employees of LISD on CITY property by LISD, for joint use by LISD and CITY, with CITY and LISD having equal use as set out herein;

WHEREAS, CITY and LISD desires to supersede and replace all prior agreements for joint use of facilities with this agreement.

NOW THEREFORE, FOR AND IN CONSIDERATION of the mutual agreements contained herein, the parties hereby agree as follows:

**I.
RESPONSIBILITIES**

- A. CITY shall maintain recreational practice sites, turf and equipment related to the scheduled use of the sites (hereinafter referred to as "facilities") for the joint use of CITY and LISD, such facilities to be located at the various LISD Schools as indicated in Exhibit "A" and Exhibit "B," a copy of which is attached hereto and incorporated herein for all purposes.
- B. CITY use shall be limited to such times as shall not be in conflict with the use of the facilities by the LISD; subject to the limitation provided herein, the CITY shall have use of the facilities from 4:00 p.m. until 10:00 p.m. each day school is in session and from 7:00 a.m. until 10:00 p.m. on those days when school is not in session excluding the (10) Maintenance Holidays (identified in exhibit D). Notwithstanding any right of use to the contrary, LISD shall have the right of exclusive use of all facilities identified in Exhibits "A" and "B" for competitive athletic activities, including athletic practices, games and facility rentals.
- C. LISD has the right to reserve the facilities in Exhibit "B" for its exclusive use notwithstanding the provisions contained herein. In the event that a conflict does occur, LISD shall give reasonable notice in advance of not less than seventy-two (72) hours to the CITY of the scheduled event. CITY and LISD agree to jointly cooperate in the scheduling of the use of the facilities, but in the event of an irreconcilable scheduling conflict, LISD's management of the times for use of the facilities controls over the permissive use granted herein to the CITY. Use by either party to this Agreement shall not be unreasonably denied by the other.
- D. CITY and LISD shall equally share associated staff cost for operations that take place outside of normal operating hours. Cost to be determined by hourly rate of employee(s) working reservations.
- E. The CITY shall maintain the facilities as described in Exhibit "A" and Exhibit "B" free of litter, trash, overgrown vegetation and other natural or manmade conditions which would diminish the quality of the property.
- F. LISD shall have the reasonable use of CITY facilities in Exhibit "C" a copy of which is attached hereto and incorporated herein for all purposes. Subject to the limitation provided herein, during times not previously reserved for rentals by the Parks and Recreation Department of the CITY excluding the (11) City Holidays (identified in exhibit E) Notwithstanding any right of use to the contrary, CITY shall have the right of exclusive use of all CITY facilities identified in Exhibit "C" for rentals and other city functions.
- G. LISD use of CITY facilities shall be limited to such times as shall not be in conflict with the rentals of the facilities by the CITY. Notwithstanding any right of use to the contrary, CITY shall have the right of exclusive use of all facilities identified in Exhibit "C" for rentals, normal recreational programs and regular city functions.

- H. LISD has the right to reserve the facilities in Exhibit "C" for its exclusive use notwithstanding the provisions contained herein. In the event that a conflict does occur, CITY shall give reasonable notice in advance of not less than seventy-two (72) hours to the LISD of the scheduled event. CITY and LISD agree to jointly cooperate in the scheduling of the use of the facilities, but in the event of an irreconcilable scheduling conflict, CITY's management of the times for use of the facilities controls over the permissive use granted herein to the LISD. Use by either party to this Agreement shall not be unreasonably denied by the other.
- I. **Athletic Equipment:** CITY shall maintain related athletic equipment installed and used by the CITY recreational programs (baseball backstops, chain link fencing, ball field lighting, soccer goals, bleachers, clay infields, restrooms, etc.) in accordance with generally accepted maintenance standards at its cost. This shall include labor, contractual repair, as needed, parts and replacement as required.
- J. **Multi - use Outdoor Courts:** CITY and LISD shall maintain, inspect and repair multi use outdoor courts (i.e. tennis courts, basketball courts, etc) monthly to include basketball rims, tennis nets. CITY and LISD is responsible for the maintenance, inspection and repair of multi use courts. This shall include labor, contractual repair, as needed, parts and replacement as required with equal cost sharing.
- K. **Playgrounds:** Routine maintenance and repairs, replacement or service to playground equipment and landing surface (FIBAR "Engineered Wood Fiber"), and equipment and replacement parts as recommended thru National Playground Safety Institute (NPSI) guidelines will be at a equal share of cost between City and LISD. In the event LISD does not have NPSI certified staff, CITY shall perform inspections with LISD paying equal share of salary cost associated with performing inspections. This shall include labor, contractual repair, as needed, parts and replacement as required in Exhibit A.
- L. The CITY shall obtain approval from LISD prior to installing any athletic equipment improvements at the facilities. All permanent athletic equipment improvements installed by the CITY pursuant to this Agreement shall be the property of LISD.
- M. **Insurance Requirements:** During the term of this Agreement, and any extensions thereof, LISD agrees to obtain at its sole expense general liability insurance for students and patrons of the LISD at school sponsored events and/or activities.
- N. During the term of this Agreement, and any extensions thereof, CITY agrees to obtain at its sole expense general liability insurance for authorized organized recreational activities for participants and patrons of the CITY sponsored events and/or activities utilizing the facilities indicated on Exhibit "A" and Exhibit "B," subject to the parties' termination rights as set forth below in Article VII.
- O. **Management Authority:** During the term of this Agreement, and any extensions thereof, CITY agrees to provide adequate police and fire protection and other necessary emergency services for the facilities at all times, and shall especially guard the property from abuse through vandalism or wanton destruction. The CITY shall perform and exercise all rights, duties and functions and services in compliance with all applicable Federal, State and local laws and regulations. The CITY, in joint cooperation with LISD, may establish necessary rules and

regulations as may be required to ensure the safe and orderly operation of recreational programs and the facilities, provided that any such rules and regulations do not conflict with CITY or LISD policy or state and federal law.

II. CLAIMS AGAINST PARTIES

Each party shall be responsible for defending and/or disposing of all causes arising against the respective party as a result of its use or occupation of the property. It is expressly understood and agreed that in the execution of this contract, neither CITY nor LISD waives, nor shall be deemed to waive, any immunity or defense that would otherwise be available to each against claims arising in the exercise of governmental powers and functions; and, nothing contained herein shall be construed or imply the waiver of any governmental immunity in favor of any third party.

III. TERM

The term of this Agreement shall be for a period of three (3) years commencing upon execution each anniversary date of the successive one year term the date first written above, and shall thereafter be automatically renewed from year to year unless either party provides to the other party written notice to terminate this AGREEMENT by providing the other party (90) days written notice.

IV. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties hereto, and no other oral or written commitments shall have any force or effect if not contained herein.

V. SEVERABILITY

In case any one (1) or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or un-enforceability shall not affect any other provision thereof, and this contract shall construed as if such invalidity, illegality or unenforceable provision had never been contain herein.

VI. AUTHORITY

The undersigned officers and/or agents authorized to execute this contract on behalf of the parties hereto, and each party hereto certifies to the other that any necessary resolutions extending such authority have been duly passed and are now in full force and effect.

**VII.
TERMINATION**

1. Any party may terminate this Agreement with, by giving ninety (90) days prior written notice of termination to the other party. All personal property of the CITY remaining on the property of LISD thirty (30) days after the expiration or termination of this Agreement shall become the property of LISD. All improvements installed by the CITY pursuant to this Agreement shall be the property of LISD.

2. Any outstanding maintenance cost existing at the time of termination of this AGREEMENT, if any shall be estimated and apportioned between the parties. Said costs shall be due and payable within thirty (30) days from the date of termination of this agreement.

3. Any outstanding costs related to any construction, including construction of capital improvements, existing at the time of termination of this AGREEMENT, if any, shall be due and payable from the entity that requested the construction.

**VIII.
REMEDIES**

No right or remedy granted or reserved to the parties, is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Agreement may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Agreement.

**IX.
APPLICABLE LAW**

This Agreement is governed by the laws of the State of Texas; any venue for any action shall be in State District Court of Dallas County.

**X.
SUCCESSORS AND ASSIGNS**

This Agreement is binding on the successors, executors, administrators and assigns of the parties to this Agreement. Neither CITY nor LISD will assign, sublet, subcontract or transfer agreement without the written consent of the other party. No assignment delegation of duties or subcontract under this contract will be effective without the prior written consent of the other party.

**XI.
RECITALS AND EXHIBITS**

The recitals and Exhibits to this Agreement are incorporated herein for all purposes as if set out herein verbatim.

This Interlocal Agreement is executed between the parties on the date first written above.

WITNESS:

By: _____
Printed Name: _____
Its: _____

ATTEST:

By: _____
Dolle K. Downe
City Secretary

APPROVED AS TO FORM:

By: _____
Robert E. Hager
City Attorney

**LANCASTER INDEPENDENT
SCHOOL DISTRICT**

By: _____
Michael D. McFarland, Ed. D.
Superintendent of Schools

CITY OF LANCASTER, TEXAS

By: _____
Opal Mauldin Robertson
City Manager

By: _____

LISD Attorney

THE STATE OF TEXAS §

§ LISD'S ACKNOWLEDGEMENT

COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Michael McFarland known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledge to me that he executed same for and as the act and deed of the **LANCASTER INDEPENDENT SCHOOL DISTRICT**, a duly authorized Texas entity, with its executive office located in Dallas County, Texas, and as the representative thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 2011 .

My Commission Expires:

Notary Public In and For:
The State of Texas

THE STATE OF TEXAS §

§ CITY'S ACKNOWLEDGEMENT

COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Opal Mauldin Robertson known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of the City of Lancaster, a municipal corporation of Dallas County, Texas, and as the City Manager thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 2011 .

My Commission Expires:

Notary Public In and For:
The State of Texas

EXHIBIT "A"

The City of Lancaster Parks and Recreation Department will be responsible for the shared maintenance of the following playground sites in accordance with Article I – Responsibilities, paragraph “K” Playgrounds:

- Site 1. West Main Elementary School Playground
531 W. Main St. Lancaster, TX 75146
- Site 2. Rosa Parks/Millbrook Elementary School Playground
630 Millbrook Lancaster, TX 75146
- Site 3. Rolling Hills Elementary School Playground
450 Rolling Hills Place Lancaster, TX 75146
- Site 4. Pleasant Run Elementary School Playground
427 W. Pleasant Run Rd. Lancaster, TX 75146
- Site 5. Houston Elementary School Playground
2929 Marquis St. Lancaster, TX 75134
- Site 6. Beltline Elementary School Playground
1355 West Beltline Rd. Lancaster, TX 75146
- Site 7. Lancaster Elementary School Playground
1109 West Main St. Lancaster, TX 75146

EXHIBIT "B"

The City of Lancaster Parks and Recreation Department will be allowed to use the following school gymnasiums for youth basketball and volleyball programs and athletic fields for football, soccer, and baseball programs

Site 1.

Beldline Elementary
1355 West Beltline Rd.
Lancaster, TX 75146

Site 2.

Houston Elementary
2929 Marquis St.
Lancaster, TX 75134

Site 3.

Lancaster Elementary School
1109 West Main St.
Lancaster, TX 75146

Site 4.

Lancaster "Elsie Robertson" Middle School
822 Pleasant Run
Lancaster, TX 75146

Site 5.

Lancaster "Elsie Robertson" Football field and Track
822 Pleasant Run
Lancaster, TX 75146

Site 6.

Pleasant Run Elementary
427 W. Pleasant Run Rd.
Lancaster, TX 75146

Site 7.

Rolling Hills Elementary
450 Rolling Hills Place
Lancaster, TX 75146

Site 8.

Rosa Parks/ Millbrook Elementary
630 Millbrook
Lancaster, TX 75146

Site 9.
West Main Elementary
531 W. Main St.
Lancaster, TX 75146

Site 10.
Lancaster Football Stadium
530 W. Main St.
Lancaster, TX 75146

Site 11.
Lancaster High School
200 East Wintergreen
Lancaster, TX 75134

Actual usage shall be in accordance with this agreement and subject to agreed cost and addendum agreement which will delineate the rights and privileges of City and LISD.

Site 12.
Beverly Humphrey Stadium and Indoor Football Field
200 E Wintergreen
Lancaster, TX 75146

Actual usage shall be in accordance with this agreement and subject to agreed cost and addendum agreement which will delineate the rights and privileges of City and LISD.

The Lancaster Parks and Recreation Department will provide adult supervision on site at all times during scheduled City programs and will be responsible for repair and maintenance caused by, vandalism and misuse of these facilities as a result of scheduled City programs.

EXHIBIT "C"

LISD will be allowed to use the following City Facilities for educational programs for students, faculty and school employees when reserved for scheduled use:

Site 1: Lancaster Recreation Center Grand Hall

Site 2: Lancaster Recreation Center In-door Pool

Site 3: Lancaster City Park Picnic Pavilions

Site 4: Lancaster Community Park Football/Soccer and Baseball Fields

Site 5: Lancaster Community Park Picnic Pavilions

Site 6: Lancaster City Park Baseball Fields

Site 7: Lancaster Cedardale Park Baseball Fields

Site 8: Lancaster Community House

LISD will provide adult supervision on site at all times during scheduled LISD programs and will be responsible for repair and maintenance caused by, vandalism and misuse of these facilities as a result of scheduled LISD programs.

EXHIBIT "D"

LISD 10 Paid Holidays – The following represents the paid holidays for Maintenance, Custodial & Transportation Employees that will result in the closure of LISD facilities:

Labor Day – Monday

Thanksgiving Holidays – Thursday & Friday

Winter Holidays – Days off vary based on where December 25th falls on the calendar

New Year's Holiday – Day off based on where January 1st falls on the calendar

Martin Luther King Day – Monday

Spring Holiday – Friday

Memorial Day – Monday

Fourth of July Holiday – Day off based on where July 4th falls on the calendar

EXHIBIT "E"

CITY Holiday Schedule – The following represents the paid holidays for City employees that will result in the closure of CITY facilities:

Martin Luther King Birthday – Monday

Good Friday – Friday

Memorial Day – Monday

July 4th – Monday

Labor Day – Monday

Thanksgiving Holiday – Thursday & Friday

Christmas Day – Friday

Floating Holiday & Observed Holiday for Fire – Monday After Christmas

New Year's Day – Friday

LANCASTER CITY COUNCIL
Agenda Communication for
May 23, 2011

8

AG11-008

Consider an ordinance of the City of Lancaster, Texas, amending the Lancaster Code of Ordinances by amending Chapter 9, Article 9.1800 "Youth Advisory Committee" by repealing Section 9.1802, "Composition; Appointment; Terms" in its entirety and replacing with a new Section 9.1802, "Composition; Appointment; Terms" to provide for changes in the appointment of youth members and adult sponsor; providing a repealing clause; providing a severability clause; and providing an effective date.

This request supports the City Council 2010-2011 Policy Agenda.

Goal 6: Civic Engagement

Background

As a result of low participation, Council instructed staff to review the Youth Advisory Committees in neighboring cities. As a result of the review and communication with the Council liaison, staff is proposing to revise the formation and implementation of the City's Youth Advisory Committee (YAC). In June 2010 during the annual strategic planning session, City Council advised staff to oversee the recruitment, retaining and implementation of the Youth Advisory Committee. In July and August 2010, recreation staff recruited 18 youth to participate in this program. In September 2010, staff interviewed interested youth and adult sponsors.

On October 5, 2010, a social meeting was conducted to introduce participants to the Youth Advisory Committee concept, rules and policies. Also at this meeting, an overview was given by staff to include City Manager, Parks and Recreation Director, and Recreation Program Supervisor. Park Advisory Board members were also present to share the importance of this program and to show support of the new direction of this initiative. On November 15, 2010 officers were elected along with review and discussion of the Texas Open Meetings Act requirements, parliamentary procedures, by-laws and duties of officers.

Benefits of Staff Appointing members:

Allowing staff to identify and appoint members, created an opportunity to get more youth involved:

- Recruitment efforts are able to utilize "grass roots" approaches which allow youth, as well as at-risk youth that frequent the recreation center, the opportunity to get involved.
- Allows flexibility to re-direct YAC meeting dates and times to accommodate school activity schedules.
- Creates a process conducive to program growth and success by meeting the participants where they are and then introducing and educating them to the program desired outcomes and objectives.

Considerations

- **Operational** - New staff has been assigned liaison responsibilities for the YAC. This staff member will be responsible for appointment of members, coordination of meeting times and dates, locations, membership contacts and related activities.
- **Legal** – It is necessary to amend the ordinance to reflect the new appointment process for YAC. The City Attorney has reviewed and approved as to form the ordinance amendment.
- **Financial** – There are no financial requirements.
- **Public Information** – There are no public information requirements.

Options/Alternatives

1. City Council may approve the ordinance as presented.
2. City Council may provide staff with additional direction regarding the ordinance.

Recommendation

Staff recommends approval of the ordinance as presented.

Attachments

- Ordinance (amending Section 9.1802 of Youth Advisory Committee ordinance)
- Ordinances 2009-09-30 and 2008-07-29 (as adopted and amended, creating the Youth Advisory Committee)

Prepared and submitted by:
Sean Johnson, Director of Parks and Recreation

Date: May 4, 2011

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE LANCASTER CODE OF ORDINANCES BY AMENDING CHAPTER 9, ARTICLE 9.1800 "YOUTH ADVISORY COMMITTEE", BY REPEALING SECTION 9.1802, "COMPOSITION; APPOINTMENT; TERMS" IN ITS ENTIRETY AND REPLACING WITH A NEW SECTION 9.1802, "COMPOSITION; APPOINTMENT; TERMS"; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has created a Youth Advisory Committee for the purpose of seeking the input of its youth on municipal government issues, serving in an advisory nature to evaluate relevant issues, and routinely reporting to the City Council regarding the same; and

WHEREAS, the City is also interested in the education of its youth; and

WHEREAS, after discussion and consideration, the City Council has determined that any youth serving on the Youth Advisory Committee should be enrolled in a public or private secondary school in order to serve on such Committee; and

WHEREAS, the City Council has determined that Chapter 9, Article 9.1800 should be amended by repealing Section 9.1802 in its entirety and replacing with a new Section 9.1802.

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

SECTION 1. That Chapter 9 of the Lancaster Code of Ordinances be, and the same is, hereby amended by amending Article 9.1800 "Youth Advisory Committee", by repealing Section 9.1802, "Composition; Appointment; Terms" and replacing with a new Section 9.1802, "Composition; Appointment; Terms", which shall read as follows:

"ARTICLE 9.1800 YOUTH ADVISORY COMMITTEE

.....

Sec. 9.1802 Composition; Appointment; Terms

The Youth Advisory Committee shall consist of ten (10) student youth members, fifteen (15) years of age or older who are enrolled in a public or private accredited secondary school, and one (1) adult sponsor. The adult sponsor shall be a Lancaster resident. The City Manager or his/her designee shall appoint the student youth members and the adult sponsor. Terms of office shall be two (2) years for the adult sponsor and two (2) years for five (5) student youth members and one (1) year for the remaining five (5) student youth members.

.....”

SECTION 2. That all provisions of the Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed and all other provisions of the Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3. If any article, paragraph or subdivision, clause or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

SECTION 4. This Ordinance shall take effect immediately from and after the publication of its caption, as the law in such cases provides.

DULY PASSED by the City Council of the City of Lancaster, Texas, this the 23rd day of May 2011.

APPROVED:

MARCUS E. KNIGHT, MAYOR

ATTEST:

DOLLE K. DOWNE, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY

ORDINANCE NO. 2009-09-30

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE LANCASTER CODE OF ORDINANCES BY AMENDING CHAPTER 9, ARTICLE 9.1800 "YOUTH ADVISORY COMMITTEE", BY REPEALING SECTION 9.1802, "COMPOSITION; APPOINTMENT; TERMS" AND REPLACING WITH A NEW SECTION 9.1802, "COMPOSITION; APPOINTMENT; TERMS"; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has created a Youth Advisory Committee for the purpose of seeking the input of its youth on municipal government issues, serving in an advisory nature to evaluate relevant issues, and routinely reporting to the city council regarding the same; and

WHEREAS, the City is also interested in the education of its youth; and

WHEREAS, after discussion and consideration, the City Council has determined that any youth serving on the Youth Advisory Committee should be enrolled in a public or private secondary school in order to serve on such Committee; and

WHEREAS, the City Council has determined that Chapter 9, Article 9.1800 should be amended by repealing Section 9.1802 in its entirety and replacing with a new Section 9.1802.

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

SECTION 1. That Chapter 9 of the Lancaster Code of Ordinances be, and the same is, hereby amended by amending Article 9.1800 "Youth Advisory Committee", by repealing Section 9.1802, "Composition, Appointment; Terms" and replacing with a new Section 9.1802, "Composition, Appointment; Terms", which shall read as follows:

"ARTICLE 9.1800 YOUTH ADVISORY COMMITTEE

.....

Sec. 9.1802 Composition; Appointment; Terms

The youth advisory committee shall consist of ten (10) student youth members, fifteen (15) years of age or older who are enrolled in a public or private accredited secondary school, and one (1) adult sponsor. The adult sponsor shall be a Lancaster resident. Each city council member shall appoint one (1) student youth member, and the Mayor shall appoint the remaining student youth members and the adult sponsor. Terms of office shall be two (2) years for the adult sponsor and two (2) years for five (5) student youth members and one (1) year for the remaining five (5) student youth members.

.....”

SECTION 2. That all provisions of the Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. If any article, paragraph or subdivision, clause or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

SECTION 4. This Ordinance shall take effect immediately from and after the publication of its caption, as the law in such cases provides.

DULY PASSED by the City Council of the City of Lancaster, Texas, this the 21st day of September 2009.

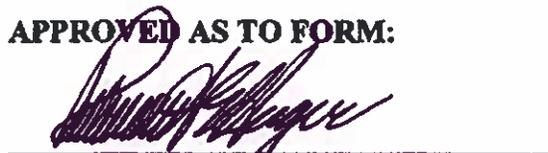
APPROVED:


MARCUS E. KNIGHT, MAYOR

ATTEST:


DOLLE K. SHANE, CITY SECRETARY

APPROVED AS TO FORM:


ROBERT E. HAGER, CITY ATTORNEY
(REH/cdb)

ORDINANCE NO. 2008-07-28

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING CHAPTER 9 OF THE LANCASTER CODE OF ORDINANCES TO ADD ARTICLE 9.1800 "YOUTH ADVISORY COMMITTEE" TO PROVIDE FOR YOUTH PARTICIPATION IN MUNICIPAL GOVERNMENT; PROVIDING FOR THE CREATION, DUTIES, AND ADVISORY NATURE; PROVIDING FOR THE COMPOSITION, APPOINTMENT AND TERMS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City desires to seek the input of its youth on municipal government issues and to routinely report to the city council regarding the same; and

WHEREAS, the City further desires the youth to serve the city council in an advisory nature to evaluate relevant issues and submit recommendations; and

WHEREAS, after discussion and consideration, the City Council has determined that a Youth Advisory Committee should be created to serve the city council in an advisory nature only to provide such information as described herein.

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

SECTION 1. That Chapter 9 of the Lancaster Code of Ordinances be, and the same is, hereby amended by adding Article 9.1800, Youth Advisory Committee, which shall read as follows:

"ARTICLE 9.1800 YOUTH ADVISORY COMMITTEE

Sec. 9.1801 Creation; Duties; Advisory Nature

The youth advisory committee is hereby created to provide participation by local youth in municipal government and to routinely report thereon to the city council. The youth advisory committee is advisory in nature only, charged with evaluating relevant issues, and submitting recommendations to the city council and others. The committee shall adopt such bylaws which govern its meetings and duties. The committee shall elect annually from among its members a chairperson and a vice-chairperson. The mayor shall serve as an advisor and one (1) city council member shall serve as council liaison to the youth advisory committee.

Sec. 9.1802 Composition; Appointment; Terms

The youth advisory committee shall consist of ten (10) youth members, with five (5) junior and five (5) senior high school students, and one (1) adult sponsor. Each city council member shall appoint one (1) youth member, and the Mayor

shall appoint the remaining four (4) youth members and the adult sponsor. The adult sponsor shall be a Lancaster resident. Terms of office shall be two (2) years for the adult sponsor and one (1) year for the youth members.

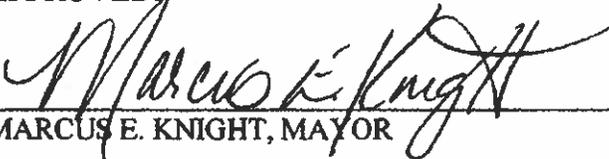
Sec. 9.1803 Applications for appointment.

The appointments to the youth advisory committee shall be made from applications submitted to the Mayor and City Council.”

SECTION 2. That this ordinance shall take effect immediately from and after its passage as the law and charter in such cases provide.

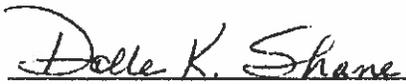
DULY PASSED by the City Council of the City of Lancaster, Texas, this the 14th day of July 2008.

APPROVED:



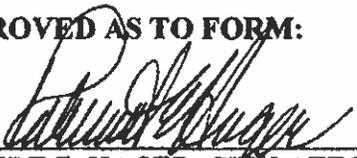
MARCUS E. KNIGHT, MAYOR

ATTEST:



DOLLE K. SHANE, CITY SECRETARY

APPROVED AS TO FORM:



ROBERT E. HAGER, CITY ATTORNEY
(REH/cdb) (06/25/08)

LANCASTER CITY COUNCIL
Agenda Communication for
May 23, 2011

9

AG11-009

Consider a resolution of the City Council of the City of Lancaster, Texas, authorizing an agreement with Civic Plus for website design and hosting services through a cooperative purchasing agreement with the Department of Information Resources (DIR) for a total amount not to exceed \$20,399 annually; authorizing the Purchasing Agent to issue a purchase order pursuant to approval, repealing all resolutions in conflict, providing a severability clause; and providing an effective date.

This request supports the City Council 2010-2011 Policy Agenda.

Goal 1: Financially Sound City Government

Background

The current website for the City of Lancaster is approximately 6 years old. The normal lifespan of a website is approximately 3-4 years. The website is currently being reviewed for re-design by the City to improve its functionality and service provision to our citizens and the general public. Among the functionality desired is a user-friendly content management system that would allow the City to delegate content management changes to departments while maintaining a workflow for approval through a central point of contact.

The City currently spends an average of \$26,000 per year on website hosting and maintenance. The contract with Civic Plus will include a redesign of our current website and include all the current features plus the ability to add an opinion poll, e-notices, and GIS information. Additionally, Civic Plus offers a staffed 7:00 AM – 7:00 PM help desk and 24/7 emergency assistance.

Civic Plus proposed two options through the State of Texas Department of Information Resources (DIR) Cooperative Agreements. The proposals are for three one-year terms with options to continue service. Both proposals include a re-design at the end of year 3 at no additional charge. Pricing to continue service after year three will drop to approximately \$8,000 per year.

Proposal 1 includes the one time fee of the redesign, training, maintenance over one year.

Proposal 2 includes the same, but spreads the redesign and training over the three-year period.

	Proposal 1	Proposal 2
Year 1	\$46,204.00	\$20,399.00
Year 2	7,496.00	20,399.00
Year 3	7,496.00	20,399.00
Total	61,196.00	61,197.00

Considerations

- **Operational** – Approval of this purchase will provide staff with a more efficient and user friendly method of maintaining the City’s website while bringing an updated, modern look and adding functionality not currently available to our City’s website.
- **Legal** – The City maintains an executed agreement with the cooperative agency. Texas law authorizes cooperative agreements to help save time developing specifications and duplication during the bid process.
- **Financial** – Funding is available in the Information Technology budget as follows.

Account	Account Name	Amount
01-0442-37	Other Professional Services	\$20,399.00

Expenditures will not exceed funds appropriated and funds will be encumbered at the issuance of the purchase order. This change represents a cost savings to the City of approximately \$5,601 annually.

- **Public Information** – There are no public information requirements.

Options/Alternatives

1. City Council may approve the purchase as outlined and authorize the City Manager to execute the agreement.
2. City Council may reject and direct staff.

Recommendation

Staff recommends Proposal 2 authorizing the agreement with Civic Plus for the purchase of website design and hosting services for a total amount not to exceed \$20,399 per year.

Attachments

- Resolution
- Civic Plus Quote

Prepared and submitted by:
 Dawn Berry, Purchasing Agent
 Ron Gleaves, IT Manager

Date: May 9, 2011

RESOLUTION NO. 2011-05-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AUTHORIZING AN AGREEMENT WITH CIVIC PLUS FOR WEBSITE DESIGN AND HOSTING SERVICES THROUGH A COOPERATIVE PURCHASING AGREEMENT WITH THE STATE OF TEXAS DEPARTMENT OF INFORMATION RESOURCES (DIR) FOR A TOTAL AMOUNT NOT TO EXCEED \$20,399 ANNUALLY; AUTHORIZING THE PURCHASING AGENT TO ISSUE A PURCHASE ORDER PURSUANT TO APPROVAL; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lancaster desires to update the current website and procure the services necessary to maintain the website;

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

- Section 1. The City Council hereby authorizes an agreement with Civic Plus for website design and Hosting Services through a cooperative purchasing agreement with the State of Texas Department of Information Resources (DIR) for a total amount not to exceed twenty thousand three hundred ninety-ninety dollars (\$20,399.00) per year.
- Section 2. That the Purchasing Agent is hereby authorized to issue purchase orders for the design and hosting.
- Section 3. Any prior resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed and revoked.
- Section 4. Should any part of this resolution be held invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared severable.
- Section 5. This resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 23rd day of May 2011.

ATTEST:

APPROVED:

Dolle K. Downe, City Secretary

Marcus E. Knight, Mayor

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

CivicPlus

Website Design Proposal For

The City Lancaster, TX

April 11, 2011

Developed by

Carrie Broeckelmann, Business Development Manager
Direct Line (785) 323-4755 • Broeckelmann@CivicPlus.com

Icon Enterprises, Inc., d/b/a CivicPlus

317 Houston St., Suite E • Manhattan, KS 66502

Toll Free (888) 228-2233, Ext. 315 • Fax (785) 587-8951 • www.CivicPlus.com

At **CivicPlus**, our philosophy is not "What can we do for you?"
but rather,
"What can we do **together**?"

Serving nearly 700 clients



We build amazing government websites.
If you don't agree, we'll refund your money. **Guaranteed.**

CivicPlus

Dear Mr. Gleaves:

I am excited about the opportunity to submit my proposal for The City of Lancaster's website redevelopment. The information that I gathered during our conference call on Friday, April 8th, was helpful in putting together a tailored solution for you and the residents of Lancaster. Important issues like transparency, increased online interaction, an intuitive navigation surrounded by an inviting design at a lower overall cost, are both the goals of Lancaster and the core competencies of CivicPlus.

For over a decade, the CivicPlus Government Content Management System (GCMS) – developed specifically for government – has helped numerous Texas municipalities, including Cedar Hill, Rowlett, Burleson, and newer clients not yet launched, Red Oak and Balch Springs connect more-easily with residents, visitors and businesses, and our nationwide community continues to grow.

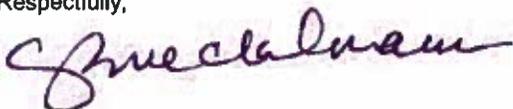
Now serving over 700 municipalities – including four state capitals – CivicPlus will build your website with the future in mind, through unrivaled service and support to automatic upgrades and enhancements that ensure your website will keep pace with ever-changing technology trends. Here's how:

- **Experienced Government Service Professionals** – CivicPlus created the standards behind today's government websites, and we continue to set new trends. The City of Lancaster's website will be produced by a team of the industry's best designers, programmers, content developers and project managers who use those standards to **build amazing websites**.
- **Financial Freedom** – Meeting your fiscal obligations and being a good steward of available resources is vital to your success. Our consultants help **identify cost options that maximize your resource dollars**, and our all-inclusive product ensures a total cost of ownership that is **significantly more affordable** than other options.
- **Beyond First-Class Service** – Our mission is to produce the most usable, useful and effective government websites. **Period**. From design and development through training and launch, producing your new site is a collaborative effort. Our clients benefit from **direct consultation with website specialists**, and our commitment to your success continues long after your site goes live.
- **Future-Proofing Your Website** – Each year, CivicPlus releases dozens of new features designed to enhance your website, **all at no additional cost**. Couple that with our renowned community – continuing training, user groups, system certification and a peer network of government professionals – and you'll have everything you need for website success, **now and in the future**.
- **Satisfaction Guarantee** – With CivicPlus, you are in control – you **own our GCMS**, maintain your site's content and benefit from a **continuously improving product** through our Ultimate Service Plan. And our offerings are backed by a **Lifetime Warranty**. No one else matches our commitment to you ... and that's a guarantee.

The following proposal outlines your personalized solution that will reduce your staff's workload, respect budget constraints and, most importantly, provide your community with a sophisticated online resource that promotes open and transparent access to your municipal offices.

When it comes to expertise in municipal government websites, there simply is no comparison – CivicPlus will take your website to the next level of online service. I sincerely welcome the opportunity to elaborate further on our proposal and CivicPlus' services. We're looking forward to working with The City of Lancaster to demonstrate our commitment to your success.

Respectfully,



Carrie Broeckelmann • Business Development Manager • Direct Line 785-477-4982 • Broeckelmann@CivicPlus.com

CivicPlus

The Nation's Choice for Website Expertise

Hundreds of cities and counties across the country have joined the CivicPlus community, recognizing the importance of well-designed and feature-rich websites that thoroughly engage residents and visitors alike. These governments, including four state capitals, have joined CivicPlus in redefining web-management software and discovered the essential factors in CivicPlus' development philosophy that separates us from the rest of the crowd.

CivicPlus Seven Differentiators



Financial Freedom Our customers are never locked into one pricing model. A one-size-fits-all model doesn't work with local government, and we recognize your uniqueness.



Design Process We guarantee that you'll love your website design. Period. Our process combines our in-house designers' creativity with proven usability concepts, allowing for unlimited revisions in order to reach the perfect end result.



Organization We've helped hundreds of governments effectively organize their websites, so we guarantee that your site will present your residents with an intuitive, easy-to-use site architecture.



Support We'll never limit you to blocks of support hours or charge extra for calling us. CivicPlus' support staff is available 24-hours-a-day, seven-days-a-week, 365-days-a-year. Except during leap years; then they're available 366 days.



Community Connect with nearly 700 cities, counties and other government entities through the CivicPlus Connection. Share ideas and contribute to bettering the CivicPlus community!



Training Over-the-phone or on-site training is available, and continuing training is a part of CivicPlus University, where your staff can watch training webinars and become CivicPlus certified!



Future Our development staff will stay by your side long after your website launches, rolling out new features, new applications and new suggestions on how to continue offering more and better service to your residents – all at no additional charge.

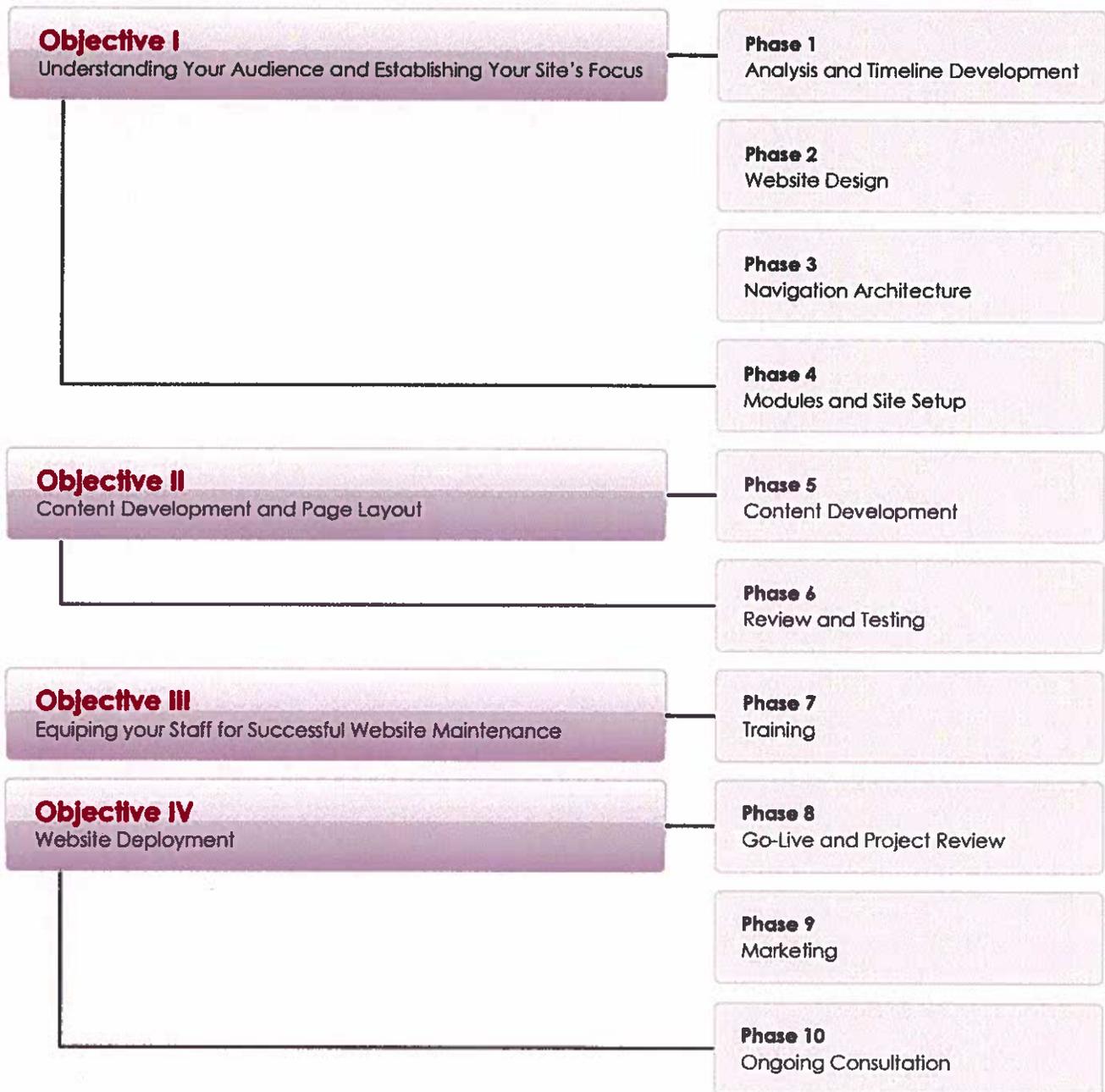
These factors are instrumental in taking your website beyond what's possible through traditional products and services and creating a powerful and cost-saving communication resource. In fact, these criteria are the core of the CivicPlus philosophy – "What can we do together?"

CivicPlus

Our Project Development Approach

Consulting, design, usability guidance, expert programming, secure hosting and dedicated training: CivicPlus delivers all of this expertise and more during the development of your new website. Our proven development approach and team of specialists will ensure a project that yields the most value for your dollar.

Our project-development approach focuses on collaboration. Each step in the process is consultative, with our staff working in partnership with each client to provide a website that adheres to the *Three Factors of Effective Government Websites*. Our efficient and thorough project timelines transform your website goals into reality, resulting in a valuable, next-generation communication resource for your residents, business and staff.



CivicPlus

Reliable Maintenance, Support and Hosting

Other website management providers have a distorted vision of how to help governments serve their citizens, offering little or no ongoing support for their products. CivicPlus takes the opposite approach. We realize that you want to be a good steward of taxpayer dollars, and that means minimizing the total cost of ownership of your new website. In addition to secure hosting services, CivicPlus provides ongoing maintenance and upgrades to the content management system as well as continuous technical support. Our clients are reassured by our proven commitment to customer service, exhibited by the following services:

- **Automatic CivicPlus Software and Module Updates** All CivicPlus customers receive the benefits of new features and upgrades that we add to our ever-growing content management system. The core of the CivicPlus product offering grows with you and your community, ensuring that your site never grows stale and that your website is truly an investment.
- **Around-the-Clock Technical Support** The goal of a content management system is to spread the responsibility of updating the site among multiple staff members or departments. Our support personnel are ready to answer your staff members' questions and ensure their confidence in using our site. Our knowledgeable staff is available from 7:00 am to 7:00 pm CST to field your calls and e-mails, and emergency services are available after regular hours, with our staff on-call 24-hours a day.

In addition to fielding support requests, CivicPlus is proactive in identifying any potential system issues. Through regularly scheduled reviews of site logs, error messages, servers, router activity and the Internet in general, our personnel often identify and correct issues before they even affect our clients' websites. Our expertise in website management provides assurance to our clients that their site is in good hands.

- **Hosting** CivicPlus' Network Operations Center is maintained specifically for website hosting and administration; ninety-seven percent of CivicPlus customers utilize this hosting facility for their hosting and backup needs. Redundant power sources and internet access ensure consistent and stable connections, and regular hardware upgrades ensure that CivicPlus-hosted sites are maintained on the most up-to-date, reliable equipment. Full backups are provided as a regular service for CivicPlus-hosted customers, with all servers backed up nightly and additional optimization processes run on a weekly basis.

“ In working with sales reps, product developers, managers and trainers, I have come to believe that CivicPlus really wants to earn and keep a great reputation for being efficient, affordable and customer-oriented. ”

Gary Mangus Winfield, KS

“ Everyone promises great customer service, but then they make the sale and it goes away, but with CivicPlus their people are always there, they are always nice, and they always have the answer. ”

Corky Brown Cedar Hill, TX

CivicPlus

Hosting and Security Features

Physical Security	<ul style="list-style-type: none">• Proximity card key system prevents unauthorized access to servers• High resolution, closed circuit video with time lapse recording covers all secured areas• All visitors require a full-time escort within hosting area• Redundant cooling systems
Power	<ul style="list-style-type: none">• All systems are fed by Uninterruptible Power Supplies (UPSs) with natural gas-powered generator backup
Bandwidth	<ul style="list-style-type: none">• 97Mbps of bandwidth for optimal speed• Multiple carriers (AT&T, Qwest and Cox) to provide redundancy for continuous connectivity• AT&T: 45Mbps fiber optic network• Cox: 100Mbps fiber optic network• Qwest: 6Mbps over an MLPPP connection• AT&T: 6Mbps over an ATM connection• Routers and switches automatically balance Internet load between carriers for optimal speed• Redundant Cisco routers running Hot Standby Router Protocol (HSRP)
Monitoring	<ul style="list-style-type: none">• Round-the-clock (24/7/365) monitoring of all critical components, including: Internet connectivity, servers, routers, switches and power systems
Backup	<ul style="list-style-type: none">• Tape backup performed daily• Off-site tape archive
Antivirus	<ul style="list-style-type: none">• Continuously scan system• Signature files auto-updated every 4 hours from national registry
Data Security	<ul style="list-style-type: none">• Server operating systems applied as necessary• Router level port blocking and reporting• Router level packet filtering and reporting• Server level port blocking and logging• Ongoing security analysis by Cisco Security Specialist
Data Redundancy	<ul style="list-style-type: none">• RAID Level 5 data storage array• RAID 1 + 0
Intrusion Detection	<ul style="list-style-type: none">• Redundant Cisco ASA multi-service firewalls that combine intrusion detection with intrusion prevention
Staff Certifications	<ul style="list-style-type: none">• Full-time Electrical Engineers (EE)• Full-time Microsoft Certified Systems Engineers (MCSE)• Full-time Certified Novell Engineers (CNE)• Full-time Cisco Router Technicians

Self-Hosting Requirements

Clients have the option to self-host. These requirements must be met:

- Microsoft Windows 2008 Server, R2 Standard or higher (with Hyper-V)
- Microsoft SQL 2008 Standard or higher
- Server with at least 4GB RAM and 80GB of usable storage space. For better performance, IIS and SQL should run on different servers.
- Additional software dependent upon modules purchased.

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CivicPlus Project Development Estimate

Project Development	\$46,204
Includes one year of Free Support, Maintenance & Hosting	
See a detailed breakdown of included modules and functionality on page 11.	
On-going Support, Maintenance & Hosting	\$7,496
Billed starting year 2 of the contract	
See a detailed breakdown of included services on page 11.	

All Quotes are in US Dollars and Valid through June 30, 2011.

CivicPlus

Fee Breakdown with Deliverables

Objective 1: Establishing Your Site's Focus		
Phase 1: Analysis and Timeline Development		\$4,007
<u>Deliverable:</u> Project Timeline and worksheets		
Phase 2: Website Design		\$6,914
<u>Deliverable:</u> Website Design Composition		
Phase 3: Navigation Architecture Development		\$1,974
<u>Deliverable:</u> Navigation structure optimized for your website		
Objective 2: Content Development and Page Layout		
Phase 4: Modules and Site Setup		\$4,213
<u>Deliverable:</u> Set up fully functional site, software that runs the site, and site's statistical analysis.		
Phase 5: Content Development of 150 standard pages and up to 750 supporting elements		\$7,713
<u>Deliverable:</u> Website content development and module content.		
Phase 6: Test and Review, Establish Future Expectations		\$3,479
<u>Deliverable:</u> List of items that need to be addressed		
Objective 3: Equipping Your Staff for Successful Website Maintenance		
Phase 7: Four (4) Days of On-Site Training for up to 10 people		\$8,000
Quote includes Travel Expenses		
<u>Deliverable:</u> Train System Administrator(s) on CMS Administration, permissions, setting up groups and users, module administration. Basic User training on pages, module entries, applying modules to pages. Applied use and usability consulting to result in effective communication through your website.		
Objective 4: Website Deployment		
Phase 8: Go-Live and Project Review		\$2,497
<u>Deliverable:</u> Final project review report		
Phase 9: Marketing		\$607
<u>Deliverable:</u> Registration of site will all major search engines		
Phase 10: Ongoing Consultation		Included
<u>Deliverable:</u> Site review with recommendations for enhancements to improve visitor interaction; layout, design and content recommendations.		
Module Upgrades		
Unlimited Citizen Request Tracker, Facilities Locator and Real Estate Locator		Included
Functionality Upgrades		
Google Translation		Included
Gov 2.0 Upgrades		
Blog	Share	Included
Facebook Integration	Twitter Integration	Included

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Fee Breakdown with Deliverables cont.

Options Included in One-Time Fee	
On-Site Consulting Three (3) total days of meetings to include one 2-hour kickoff meeting with departments to discuss design goals, review audience goals and provide a project overview. Also includes strategic planning with up to 15 individual departments to interpret current processes and services, resulting in recommendation for website solutions. <u>Deliverable:</u> A document summarizing the meetings, with analysis and recommendations. Design information gathered.	\$6,800
Total Project Development Fee	\$46,204
First Year Annual Support, Maintenance and Hosting Fee Server storage not to exceed 20GB. Media Center storage not to exceed 10 GB.	FREE
First Year Total Fee	\$46,204

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Project Development Includes the Following:

Modules	Functionality
<ul style="list-style-type: none"> • Archive Center • Bid Postings • Business/Resource Directory • Calendar • Carbon Calculator • Document Center • Emergency Alert Notification • ePay • Facilities & Reservations w/50 Facilities • FAQs • Featured Info Module • Forms Development Tool • Healthy City Initiative • Intranet • Job Postings • Media Center • NewsFlash • NotifyMe Email Subscription • Online Job Application w/1 Generic Application • Opinion Poll • Photo Gallery • Postcard Module • Quick Links • Real Estate Locator w/25 Properties • Request Tracker (5 users) • Staff Directory 	<ul style="list-style-type: none"> • Action Items Queue • Audit Trail / History Log • Automated PDF Converter • Automatic Content Archiving • Content Library • Dynamic Breadcrumbs • Dynamic Sitemap • Expiring Items Library • Graphic Link Administration • Links Redirect and Broken Links Finder • Menu Management • Mouse-over Menu Structure • Online Editor for Editing and Page Creation (WYSIWYG) • Online Web Statistics (Only with CivicPlus Hosting) • Page Wizard w/Multiple Layouts • Printer Friendly/Email Page • Rotating Content • RSS • Search Engine Registration • Site Layout Options • Site Search & Entry Log • Slideshow • User & Group Administration Rights • Web Page Upload Utility • Website Administrative Log

Annual Support, Maintenance & Hosting Service Include the Following:

Support	Maintenance of CivicPlus Application & Modules	Hosting
7-7 (CST) Mon-Fri (excluding holidays) 24/7 Emergency Support Dedicated Support Personnel 2-hour Response during Normal Hours Usability Improvements Integration New & Upgraded Services Proactive Support for Updates & Fixes Online Training Manuals Monthly Newsletters Phone Consulting CivicPlus Connection CivicPlus University	Install Service Patches for OS Upgrades Fixes Improvements Integration Testing Development Usage License	Shared Web/SQL Server DNS Consulting & Maintenance Monitor Bandwidth-Router Traffic Redundant ISP Redundant Cooling Natural Gas Powered Generator Daily Tape Backup Intrusion Detection & Prevention Antivirus Protection Upgrade Hardware

CivicPlus

Optional Payment Plan – CivicPlus Advantage

CivicPlus Advantage offers local governments an alternative payment plan that eases the impact of a new website on your budget and spreads the one-time project development costs over a longer period of time.

Through a minimum three-year contract, CivicPlus Advantage dramatically lowers the one-time project development and start-up costs of launching a new website, **combining one-time and recurring fees and spreading them over the life of the contract.** And because we value our continuing relationships with our customers, those who extend their contract beyond the three-year minimum will receive a redesign at the end of their fourth year with CivicPlus – at no additional charge.*

The CivicPlus Advantage Plan provides a fixed fee for an Agreement term of 36 months from the first date of billing. At 36 months, Client has the following options:

1. Terminate the CivicPlus Advantage Plan by providing written notice and contract for Annual Support, Maintenance & Hosting services.
2. Terminate services with CivicPlus.

CivicPlus Advantage	1st Year	2nd Year	3rd Year
Annual Recurring Fees	\$20,399	\$20,399	\$20,399

**Redesigns that include additional features not available on the original website may be subject to additional charges. Additional features include, but are not limited to, additional modules, integration of third-party software or capabilities, additional design services beyond the standard website redesign and custom programming for new site modules or features.*

CivicPlus

Conclusion

Thank you for considering CivicPlus for the development of your website. Our experienced and knowledgeable professionals are committed to creating the communication infrastructure that Lancaster desires.

- Your city employees will have access to the most experienced staff in the municipal website management market, and your project team will work with you to create a unique and engaging site that reflects your community.
- CivicPlus will remain a trusted advisor and support resource after the site launches – Lancaster will have access to government communication experts.
- Your site will grow and change with you as industry trends and technology change. CivicPlus will ensure that your website is on the cutting edge – ALWAYS.

LANCASTER CITY COUNCIL
Work Session Agenda Communication for
May 23, 2011

10
AG11-010

Conduct a Public Hearing and consider a resolution of the City Council of the City of Lancaster, Texas, approving the 2011-2012 Standards of Care for Youth Programs operated by the Lancaster Parks and Recreation Department; providing a repealing clause; providing a severability clause; and providing an effective date.

This request supports the City Council 2010-2011 Policy Agenda.

Goal 3: Healthy, Safe & Vibrant Neighborhoods

Background

Chapter 42 of the Human Resources Code, which regulates certain facilities, homes, and agencies that provide child-care services, states that municipal youth recreation programs may be exempted from the state's licensing requirement if cities comply with the provisions of the legislation. The legislation requires that cities establish and annually review their Parks and Recreation Department Standards of Care for Youth Programs and conduct a public hearing to allow citizen input.

The current Standards of Care was updated with changes that include the addition of a participant electronics usage policy (i.e. cell phone, ipod, mp3's, etc.). Additional language was included to cover approved contract instructors and the addition of after school program and ongoing youth program offerings. A draft of the proposed 2011-2012 Standards of Care for Youth Programs is attached for your review.

The proposed 2011-2012 Standards of Care were reviewed and recommended for approval by the Parks and Recreation Advisory Board during their regular meeting on April 25, 2011.

Considerations

- **Operational** - The Standards of Care policies clearly identify the staff responsibilities, department policies and procedures, parent's responsibilities, authorization forms required for participation in various activities and necessary contact information.

Proposed changes include:

- Under Definitions page 4 letter H to include and define “or approved designee”
 - Under Definitions page 4 letter I to include and define “programs implemented by the Park and Recreation Department”
 - Under Staffing – Responsibilities page 5 letter A to include “and contracted employees”
 - Under Operations Section 2 Discipline page 7 addition of letter H in its entirety to include: “The department reserves the right to terminate a participant from the program if they exhibit severe or extreme behavioral problems which prevent staff from effectively administering the Program.”
 - Under General Information the inclusion of After School Program
 - Under General Information page 17 the addition of “Personal Property” to include in its entirety: Personal electronics (i.e. cell phones, ipods, mp3 players, video games systems, etc.) are strictly prohibited. If caught using personal electronics, item will be confiscated and may only be retrieved by a parent or guardian. Condition of personal property or electronics is not the responsibility of Lancaster Recreation Staff while in custody. Property not retrieved by parents/guardians within 30 days of confiscation will be turned over to Lancaster Police Department as unclaimed property. Repeat offenses could result in participant being permanently removed from program.
- **Legal** – Formal annual adoption of the Standards of Care for Youth Programs is required by the State of Texas. Failure to adopt a Standards of Care would result in termination of after school programs and day camps. The City Attorney has reviewed and approved the attached resolution and Standards of Care policies and procedures as to form.
 - **Financial** – There are no costs associated with adoption of the Standards of Care.
 - **Public Information** - A public hearing is required to receive citizen input regarding the Standards of Care. The public hearing will be conducted at the May 23, 2011 Council meeting.

Options/Alternatives

1. City Council may conduct the Public Hearing and approve the resolution as presented and as recommended by the Parks and Recreation Advisory Board.
2. City Council may conduct the Public Hearing and approve the resolution with modifications to the Standards of Care.
3. City Council may conduct the Public Hearing and reject the resolution or take no action which will terminate all City Youth After School and/or Day Camp programs.

Recommendation

Staff recommends approval of the resolution adopting the Standards of Care for Youth Programs operated by the Lancaster Parks and Recreation Department as presented.

Attachments

- Resolution
- Proposed 2011-2012 Standards of Care for Youth Programs operated by the Parks and Recreation Department
- State of Texas Child Care Standards

Prepared and submitted by:
Sean Johnson, Director of Parks and Recreation

Date: May 4, 2011

RESOLUTION NO. 2011-05-46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING THE 2011-2012 STANDARDS OF CARE POLICIES FOR YOUTH PROGRAMS OPERATED BY THE LANCASTER PARKS AND RECREATION DEPARTMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council of the City of Lancaster desire the Parks and Recreation Department to operate Youth Programs for citizens of Lancaster; and

WHEREAS, state law exempts from regulation city sponsored youth programs from licensing requirements where the City has adopted a youth standard of care policy providing (a) standards relating to staff ratios, staff training, health, and safety; (b) a mechanism for monitoring and enforcing the standards and receiving complaints from parents of enrolled children; (c) does not advertise as or otherwise represent the program as a child-care facility, day care center, or licensed before-school or after-school program or that the program offers child care services; (d) informs parents that the program is not licensed by the state; (e) does not solicit donations as compensation or payment for any goods or services provided as part of the program and, (f) conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety; and

WHEREAS, the legislation requires that cities establish and annually review their Park and Recreation Department Standards of Care for Youth Programs and conduct public hearings to allow citizen input; and

WHEREAS, the City has adopted an ordinance which provides that after a public hearing, the city council will annually approve such standards of care; and

WHEREAS, the city council has held a public hearing to receive citizen input regarding the 2011-2012 Standards of Care for Youth Programs operated by the City of Lancaster Parks and Recreation Department;

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

SECTION 1. The City Council hereby adopts the 2011 – 2012 Standards of Care for Youth Programs, which is attached hereto and incorporated herein as Exhibit A.

SECTION 2. That all resolutions of the City of Lancaster heretofore adopted which are in conflict with the provisions of this resolution be, and the same are hereby repealed, and all resolutions of the City of Lancaster not in conflict with the provisions hereof shall remain in full force and effect.

SECTION 3. If any article, paragraph, subdivision, clause or provision of this resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgment or holding shall not affect the validity of this resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional.

SECTION 4. That this Resolution shall take effect immediately from and after its passage, as the law and charter in such cases provide.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 23rd day of May 2011.

APPROVED:

Marcus E. Knight, Mayor

ATTEST:

Dolle K. Downe, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

City of Lancaster
Parks & Recreation
Department



2011 – 2012
Standards of Care
For
Youth Programs

Parks and Recreation Department
1700 Veterans Memorial Parkway
Lancaster, TX 75134
(972) 218-3702
(972) 218-5607 (Fax)
www.lancaster-tx.com

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LANCASTER YOUTH PROGRAMS

STANDARDS OF CARE

The following Standards of Care have been adopted by the City Council of the City of Lancaster, Texas to comply with Senate Bill 212 as approved by the Texas Legislature during the 74 legislative session. The Standards of Care are intended to be minimum standards by which the City of Lancaster Parks and Recreation Department will operate the City's Youth Programs. The programs operated by the City are recreational in nature and are not day care programs.

General Administration

1. Organization

- A. The governing body of the City of Lancaster Youth Programs is the City of Lancaster City Council.
- B. Implementation of the Youth Program Standards of Care is the responsibility of the Parks and Recreation Department Director and Departmental employees.
- C. Youth Programs ("Program") to which these Standards will apply include the Summer Day Camp Program and the Holiday Day Camp Program.
- D. Each Youth Program site will have available for public and staff review a current copy of the Standards of Care.
- E. Parents of participants will be provided a current copy of the Standards of Care during the registration process.
- F. Criminal background checks will be conducted on prospective Youth Program employees. If results of that criminal check indicate that an applicant has been convicted of any of the following offenses, he or she will not be considered for employment:
 - 1. A felony or a misdemeanor classified as an offense against a person or family.
 - 2. A felony or misdemeanor classified as public indecency.
 - 3. A felony or misdemeanor violation of any law intended to control the possession or distribution of any controlled substance.
 - 4. Any offense involving moral turpitude.
 - 5. Any offense that would potentially put the City of Lancaster at risk.

2. Definitions

- A. City: City of Lancaster
- B. City Council: City Council of the City of Lancaster
- C. Department: Parks and Recreation Department of the City of Lancaster
- D. Youth Programs or Program: City of Lancaster Youth Programs consisting of the After School Programs, the Summer Day Camp Programs, Holiday Break Day Camp Programs, and ongoing recreational program offerings.
- E. Program Manual: Notebook of policies, procedures, required forms, and organizational and programming information relevant to City of Lancaster Youth Programs.
- F. Director: City of Lancaster Parks and Recreation Department Director or his or her designee.

- G. Program Coordinator or Coordinator: City of Lancaster Parks and Recreation Department full-time programmer who has been assigned administrative responsibility for a City of Lancaster Youth Program.
- H. Program Leader or Leader: City of Lancaster Parks and Recreation Department full-time and part-time employee or approved designee who has been assigned responsibility to implement the City's Youth Programs.
- I. Program Site: Area and facilities where City of Lancaster Youth Programs are implemented by the Park and Recreation Department, consisting of, but not limited to: Lancaster Parks and Recreation sites and Lancaster Independent School District sites as required.
- J. Participant: A youth whose parent(s) or legal guardian(s) have completed all required registration procedures and determined to be eligible for a City of Lancaster Youth Program.
- K. Parent(s): This term will be used to represent one or both parent(s) or legal guardian(s) who have legal custody and authority to enroll their child(ren) in City of Lancaster Youth Programs.
- L. Employee(s): Term used to describe people who have been hired to work for the City of Lancaster and have been assigned responsibility for managing, administering, or implementing some portion of the City of Lancaster Youth Programs.
- M. Recreation Center or Center: The Lancaster Recreation Center located at 1700 Veterans Memorial Parkway, Lancaster, TX 75134, (972) 218-3702.

3. Inspections/Monitoring/Enforcement

- A. A monthly inspection report will be initiated by the Coordinator of each Program to confirm the Standards of Care are being adhered to.
 - 1. Inspection reports will be sent to the Director for review and kept on record for at least two years.
 - 2. The Director will review the report and establish deadlines and criteria for compliance with the Standards of Care.
- B. The Director will make visual inspections of the Program based on the following schedule.
 - 1. The Summer Day Camp Program will be inspected twice during its summer schedule.
 - 2. The Holiday Day Camp Program will be inspected once during the winter break and once during the spring break.
- C. Complaints regarding enforcement of the Standards of Care will be directed to the Coordinator. The Coordinator will be responsible to take the necessary steps to resolve the problem(s). Complaints regarding enforcement of the Standards of Care and their resolution will be recorded by the Coordinator. Serious complaints regarding enforcement of the Standards of Care will be addressed by the Director and the complaint and the resolution will be noted.
- D. The Director will make an annual report to the City Council on the overall status of the Youth Programs and their operation relative to compliance with the adopted Standards of Care.

4. Enrollment

- A. Before a child can be enrolled, the parents must sign registration forms that contain the child's:
1. name, home address, home telephone number;
 2. name and address of parent(s) or legal guardian(s) and telephone during program hours;
 3. the names and telephone numbers of people to whom the child can be released;
 4. a statement of the child's special problems or needs;
 5. emergency medical authorization;
 6. proof of residency when appropriate; and
 7. a liability waiver.

5. Suspected Abuse

Program employees will report suspected child abuse or neglect in accordance with the Texas Family Code. In a case where a City employee is involved in an incident with a child that could be construed as child abuse, the incident must be reported immediately to the Recreation Supervisor. The Recreation Supervisor will immediately notify the Police Department and any other agency as may be appropriate.

Texas state law requires the staff of these youth Programs to report any suspected abuse or neglect of a child to the Texas Department of Protective and Regulatory Services or a law enforcement agency. Failure to report suspected abuse is punishable by fines up to \$1000 and/or confinement up to 180 days. Confidential reports may be reported by calling 1-800-252-5400 (The Texas Abuse Hotline of the Department of Family and Protective Services).

Staffing - Responsibilities and Training

1. Youth Program Leader ("Leader") Qualifications

- A. Leaders will be full-time, part-time or temporary and contracted employees of the Parks and Recreation Department.
- B. Staff working with children must be age 18 or older.
- C. Must be able to consistently exhibit competency, good judgment, and self-control when working with children.
- D. Must relate to children with courtesy, respect, tolerance, and patience.
- E. Must have successfully completed a course in first aid and CPR based on either American Heart Association or American Red Cross standards. An exception can be made for no more than one staff person at each site, and that person shall successfully complete a first aid and CPR course within four weeks of starting work.
- F. Must be able to furnish proof of a clear tuberculosis test within the 12 months prior to their employment date.
- G. Must pass a background investigation including testing for illegal substances.
- H. Must be mature, responsible and able to complete duties with minimal supervision.
- I. Must have a high school diploma or GED.

- J. Must be able to communicate well with the public and skilled at interacting with children.
- K. Must be skilled in supervising children of varying age levels in a group setting.
- L. Must have a valid Texas driver's license and eligible for a CDL.
- M. Must pass a departmental criminal background check and drug screening.
- N. Must have previous experience in supervising children and possess knowledge of recreational games, crafts and activities.
- O. Must complete departmental day camp staff training.

2. Leader Responsibilities

- A. Provide participants with an environment in which they can feel safe, enjoy wholesome recreation activities, and participate in appropriate social opportunities with their peers.
- B. Know and follow all City, Departmental, and Program standards, policies, and procedures that apply to City Of Lancaster Youth Programs.
- C. Ensure that participants are released only to a parent or an adult designated by the parent. All Program Sites will have a copy of the Department approved plan to verify the identity of a person authorized to pick up a participant if that person is not known to the Leader.

3. Training/Orientation

- A. The Department is responsible to provide training and orientation to Program employees in working with children and for specific job responsibilities. Coordinators will provide each Leader with a Program manual specific to each Youth Program.
- B. Program employees must be familiar with the Standards of Care for Youth Program operation as adopted by the City Council.
- C. Program employees must be familiar with the Program's policies including discipline, guidance, and release of participants as outlined in the General Program Information section of this document.
- D. Program employees will be trained in appropriate procedures to handle emergencies.
- E. Program employees will be trained in areas including City, Departmental, and Program policies and procedures, provision of recreation activities, safety issues, child psychology, and organization.
- F. Program employees will be required to sign an acknowledgment that they received the required training.

Service Standards

A. Appearance and Behavior

1. Staff shirts and name badges will be worn and clearly visible.
2. Participants and parents will be treated with respect at all times.

B. Communication with Parents

1. Staff will keep parents continuously informed of activities and schedules. A weekly schedule will be distributed and copies will be kept with the daily sign in sheets.

2. Staff will note details of behavior of participants (accomplishments, discipline problems, general activities, etc.) and update parents regularly.

C. Additional Staff Responsibilities

1. Staff will monitor the sign in/out log at all times.
2. Staff will spend 100% of their time actively involved with participants and/or parents.
3. Staff will make an attempt to answer any complaints at the site and resolve all problems. Situations that cannot be resolved on site by staff will be passed to a supervisor immediately. All complaints will be addressed within 24 hours if they are not resolved on site.
4. Prior to beginning work each day, all staff will check in at the appointed location for any messages, instructions or information.

Operations

1. Staff/Participant Ratio

- A. In a Lancaster Youth Program, the standard ratio of participants to Leaders will be 20 to 1. In the event a Leader is unable to report to the Program site, a replacement will be assigned.
- B. Each participant shall have a Program employee who is responsible for him or her and who is aware of the participant's habits, interests and any special problems as identified by the participant's parent(s) during the registration process.
- C. At no time will a Program employee be alone with a child.

2. Discipline

- A. Program employees will implement discipline and guidance in a consistent manner based on the best interests of Program participants.
- B. There must be no cruel or harsh punishment or treatment.
- C. Program employees may use brief, supervised separation from the group if necessary.
- D. As necessary, Program employees will initiate discipline reports to the parent(s) of participants. Parents will be asked to sign discipline reports to indicate they have been advised about specific problems or incidents.
- E. A sufficient number and/or severe nature of discipline reports as detailed in the Program Manual may result in a participant being suspended from the Program.
- F. In instances where there is a danger to participants or staff, offending participants will be removed from the Program site as soon as possible.
- G. Any person(s) creating a nuisance, causing a disturbance, or creating an unsafe environment at any program site will be subject to ejection from the site, possible arrest and legal action.
- H. The department reserves the right to terminate a participant from the program if they exhibit severe or extreme behavioral problems which prevent staff from effectively administering the Program.

3. Programming

- A. Program employees will attempt to provide activities for each group according to participants' age, interests and abilities. The activities must be appropriate to participants' health, safety and well-being. The activities also must be flexible and promote the participants' emotional, social and mental growth.
- B. Program employees will attempt to provide indoor and outdoor time periods that include:
 - 1. Alternating active and passive activities;
 - 2. Opportunity for individual and group activities;
 - 3. Outdoor time each day weather permitting.
- C. Program employees will be attentive and considerate of the participants' safety on field trips and during any transportation provided by the Program.
 - 1. During trips, Program employees supervising participants must have immediate access to emergency medical forms and emergency contact information for each participant;
 - 2. Program employees must have a written list of the participants in the group and must check the attendance frequently;
 - 3. Program employees must have first aid supplies and a guide to first aid and emergency care available on field trips.

4. Communication

- A. Program site will have a telephone to allow the site to be contacted by Recreation Center personnel. Each site will have access to a telephone for use in contacting the Recreation Center or making emergency calls
- B. The Coordinator will post the following telephone numbers adjacent to a telephone accessible to all Program employees at each site:
 - 1. Lancaster ambulance or emergency medical services;
 - 2. Lancaster Police Department;
 - 3. Lancaster Fire;
 - 4. Lancaster Recreation Center;
 - 5. Numbers at which parents may be reached;
 - 6. The telephone number for the site itself.

5. Transportation

- A. Before a participant can be transported to and from City sponsored activities, a transportation form must be completed by the parent of the participant and filed with the Coordinator
- B. First aid supplies and a first aid and emergency care guide will be available in all Program vehicles that transport children.

- C. All Program vehicles used for transporting participants must have available a 6-BC portable fire extinguisher which will be installed in the passenger compartment of the vehicle and must be accessible to the adult occupants.

Facility Standards

1. Safety

- A. Program employees will inspect Youth Program sites daily to detect sanitation and safety concerns that might affect the health and safety of the participants. A daily inspection report will be completed by the Program staff and kept on file by the Program Coordinator.
- B. Buildings, grounds, and equipment on the Program site will be inspected, cleaned, repaired, and maintained to protect the health of the participants.
- C. Program equipment and supplies must be safe for the participant's use.
- D. Program employees must have first aid supplies available at each site, during transportation, and for the duration of any off-site activity.
- E. Program air conditioners, electric fans, and heaters must be mounted out of participants' reach or have safeguards that keep participants from being injured.
- F. Program porches and platforms more than 30 inches above the ground must be equipped with railings participants can reach.
- G. All swing seats at Program sites must be constructed of durable, lightweight, relatively pliable material.

2. Fire

- A. In case of fire, danger of fire, explosion, or other emergency, Program employees' first priority is to evacuate the participants to a designated safe area.
- B. The Program site will have an annual fire inspection by the local Fire Marshall, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Director who will review and establish deadlines and criteria for compliance. Information from this report will be included in the Director's annual report to the Council.
- C. Each Program site must have at least one fire extinguisher approved by the Fire Marshall readily available to all Program employees. The fire extinguisher is to be inspected monthly by the Program Coordinator, and a monthly report will be forwarded to the coordinator's supervisor who will keep the report on file for a minimum of two years. All Youth Program staff members will be trained in the proper use of fire extinguisher.
- D. Fire drills will be initiated at Program sites based on the following schedule:
 - 1. Summer Day Camp Program: A fire drill twice during the entire summer session.
 - 2. Holiday Day Camp: A fire drill once during the fall and spring sessions.

3. Health

- A. Illness or Injury

1. A participant who is considered to be a health or safety concern to other participants or staff will not be admitted to the Program.
2. Illnesses and injuries will be handled in a manner to protect the health of all participants and employees.
3. Program employees will follow plans to provide emergency care for injured participants or for participants with symptoms of an acute illness as specified in the Program manual.
4. Program employees will follow the recommendation of the Texas Department of Health concerning the admission or readmission of any participant after a communicable disease.

B. Program employees will administer medication only if:

1. Parent(s) complete and sign a medication form that provides authorization for staff to dispense medication with details as to times and dosages. The form will include a hold harmless clause to protect the City.
2. Prescription medications are in the original containers labeled with the child's name, a date, directions, and the physician's name. Program staff members will administer the medication only as stated on the label. Program staff will not administer medication after the expiration date.
3. Nonprescription medications are labeled with the child's name and the date the medication was brought to the Program. Nonprescription medication must be in the original container. The Program staff will administer it only according to label direction.
4. Medications dispensed will be limited to routine oral ingestion not requiring special knowledge or skills on the part of Program employees. No injections will be administered by the Program employees.
5. Program employees must ensure medications are inaccessible to participants. No refrigeration will be provided.

C. Toilet Facilities

1. The Program site will have inside toilets located and equipped so children can use them independently and program staff can supervise as needed.
2. There must be one flush toilet for every 30 children. Urinals may be counted in the ratio of toilets to children, but must not exceed 50% of the total number of toilets.
3. An appropriate and adequate number of lavatories will be provided.

D. Sanitation

1. The Program facilities must have adequate light, ventilation, and heat.
2. The Program must have an adequate supply of water meeting the standards of the Texas Department of Health for drinking water and ensure that it will be supplied to the participants in a safe and sanitary manner.
3. Program employees must see that garbage is removed from buildings daily.

City of Lancaster
Parks & Recreation
Department



2011 – 2012
General Information
For Summer, Day Camps and
After School Programs

General Program Information

Registration Procedures

Registration for Lancaster Youth Programs is on a first come, first serve basis with limited enrollment. Registration must be done by the child(ren)'s parent or legal guardian.

All participants must be toilet trained to participate in a Youth Program.

Parents/legal guardians will be required to purchase Participant Membership Card, pay the first installment and any activity fees at registration. Please see the section for Summer Day Camp Program fees in the current Lancaster Connection or visit the Parks and Recreation page at www.lancaster-tx.com.

Participant's Information Files

Parents/legal guardians must complete a set of registration forms for each child. The registration forms include the child's personal information, emergency information, authorized persons to release the child(ren) to, a medical release and a liability waiver. The registration forms must indicate whether or not the child's shot record is on file at their school; if not, a copy of the shot record must be provided to be kept on file at the Recreation Center. A copy of these forms will be kept on file at the Recreation Center and a copy will be kept in the child's group binder. A parent/legal guardian may be removed by the other parent/legal guardian from the pick up list only with approved court documentation. The City Attorney may review court documents. Parents are responsible for providing Leaders or the Recreation Center office staff with updated information in writing.

Registration forms are not carried over from program to program. A new set of forms is required at registration for each program. Parents may stop by the Recreation Center to pick up registration forms or ask any additional information on programs.

Attendance

Parent(s) or legal guardian(s) of children who are enrolled in a Youth Program will check in with program employees upon arrival to the Program. The City is not responsible for participants until they have been checked in to the Program.

When a child is absent, the parent should call the Recreation Center at (972) 218-3702 to inform staff of the absenteeism. Staff will not call parents to verify an absence if the child is not in attendance.

Late Pick Up

Youth programs end at 6:00 pm. The first incident will result in a written reminder to the parents. Further incidents will result in a \$5.00 late charge for every 10-minute period after 6:00 pm.

Being late three times in a 30-day period could be cause for termination from the Program. Not paying the late fees within one (1) week of the incident may result in termination from the program.

Appeals can be made to the Recreation Superintendent.

Discipline Policy

Disciplinary action will be taken when a child acts inappropriately, is disruptive, verbally or physically abusive, or creates a safety concern. Children will be warned and/or placed in time-out. If the behavior continues or is severe, the child will receive a Behavioral Report. Behavioral Reports are to be signed by the parent/legal guardian. Suspensions and terminations are determined by the severity of the incident and/or the number of Behavioral Reports issued.

Suspensions and terminations will have Recreation Superintendent approval before being implemented, unless the parent requests immediate enforcement. Suspensions and terminations include all Lancaster Parks & Recreation Youth Programs.

1st Behavioral Report – Parent/legal guardian signs and receives a copy of the report.

2nd Behavioral Report – Parent/legal guardian signs and receives a copy of the report. The Program Coordinator will contact the parent to set up a conference. The mandatory conference is held with the parent/legal guardian, child and Recreation Supervisor to discuss the reports. The parent/legal guardian and child are reminded the next report may result in a one-week suspension. If the parent/legal guardian does not respond to the request for a conference within five days, a written notice will be sent home to inform the parent/legal guardian that the two Behavioral Reports remain and the next Behavioral Report may result in a one week suspension from the program.

3rd Behavioral Report – Parent/legal guardian signs and receives copy of report. Upon Recreation Superintendent approval, the parent may have one business day grace period before the suspension begins. During the suspension period, the child will not be eligible to be registered for other youth programs. When the suspension period is completed, the child may register for other youth programs if space is available or may be placed on the waiting list. Refunds will not be issued for days the child serves on suspension. Parents will be responsible for staying current on program fees.

4th Behavioral Report – The parent signs and receives a copy of report. Upon Recreation Superintendent approval, the parent may have one business day grace period before the termination begins.

The Parks & Recreation Department reserves the right to accelerate disciplinary steps as determined necessary.

Three months after being terminated from City of Lancaster Youth Programs, the parent may submit a written request to the Recreation Superintendent requesting the child be considered eligible for re-enrollment into the Lancaster Youth Programs. A meeting may be held between the parent/legal guardian, child, Recreation Superintendent and the Program Coordinators to determine if the child will regain eligibility for enrollment. Eligibility may or may not be regained. A written response will be sent from the Recreation Superintendent to the parent/legal guardian regarding the decision.

A child who has been terminated from the Lancaster Youth Programs will not be eligible for enrollment or participation in any Lancaster Youth Programs unless eligibility has been regained. Children terminated from the Lancaster Youth Programs and who have already been registered for an upcoming Lancaster Youth Program will be removed from the upcoming program and fees refunded. If the child regains eligibility to enroll in Lancaster Youth Programs, then the child may register if space is available or may be placed on the waiting list.

When the probation period ends the child will return to the normal disciplinary steps.

Two terminations in a calendar year may result in permanent termination from Lancaster Youth Programs.

Parent Release/Sign Out

The registration form includes a section for the parent/legal guardian to provide the names of those persons allowed to pick up their child(ren) from the youth program. Driver's license numbers are to be supplied for each authorized person, including the parent/legal guardian. Registration forms are not carried over from program to program. A new set of forms is required at registration for each program. For security reasons, staff may not give out information over the phone.

The following procedures will be followed at all times:

- a. When a parent/legal guardian picks up the child(ren), they are to sign the child(ren) out. Beckoning or waiving for the child(ren) to come out to the car is not acceptable.
- b. Identification may be requested.

When an unauthorized person picks up a child, the following procedures will be followed:

- a. Leaders will ask for identification from anyone with whom they are not familiar.
- b. The sign out policy will be explained.
- c. The parent/legal guardian will be called at work or at home to inform them of the person on site asking to pick up their child(ren). The parent or guardian will be asked for their driver's license number to verify that staff is speaking to parent/legal guardian.
- d. The parent/legal guardian will be asked to grant permission for their child(ren) to be released to the person on site. The parent or guardian will be asked to fax a signed permission letter to the Recreation Center at (972) 218-5607.
- e. Once permission is granted, the child will be released to the person on site.

- f. If the parent/legal guardian cannot be reached or does not grant permission, the child will not be released to the unauthorized person.
- g. If the unauthorized person takes the child(ren) without permission, the police will be notified and the situation will be handled as a criminal incident.

Visitors/Drop Ins

Parents/legal guardians are welcome to drop in and observe the program. Parents/legal guardians signing out their child(ren) should leave the program once child(ren) has been signed out.

Withdrawal Procedures

Any parent/legal guardian requesting to withdraw their child(ren) from a Youth Program must fill out a drop form at the time of departure. Drop forms will be available at the main office of the Recreation Center or may be requested by fax. Any child(ren) withdrawn from the program may be readmitted only as space allows.

Illness of Participants

Parents are responsible for informing the City of any special needs, concerns or information regarding their child(ren)'s health.

All participants must be able to participate in the full range of activities offered. Any child meeting any of the following criteria will not be admitted to any program:

- a. If the illness prevents the child from participating comfortably in the program activities.
- b. If the illness results in greater need for care than the staff can provide without compromising the health, safety and supervision of the other children or staff.
- c. If the child has an oral temperature of 100.4 degrees or greater.
- d. If the child's symptoms and signs of possible severe illness include, but not limit to, the following: lethargy, uncontrolled breathing, uncontrolled diarrhea, vomiting illness, rash with fever, mouth sores with drooling, or wheezing. The participant will not be admitted back into the program until staff is comfortable that the child can be included in the Program activities.
- e. If the child has been diagnosed with a communicable disease, until medical evaluation determines the child is no longer communicable.
- f. If the child vomited in the morning prior to coming to program.
- g. If the child has discolored nasal discharge.

Participants with extensive sunburns (open sores, blisters) will be allowed into the Program, but will not be allowed to participate in any swimming activities until the area is completely healed.

Participants with a communicable disease, such as pink eye or lice, may not attend the program. Participants showing symptoms of illness will be removed from common areas and the parent will be notified and asked to pick up the child. Participants with lice will be required to return a form, signed by the parent, stating an initial treatment and a follow up treatment for lice have been applied. The receipt or the product's label must be attached to the signed treatment form.

Participants may not return to the program until this signed form is on file. A copy of the form may be found in the Supplement section or at the main office. Participants with reoccurring head lice may be removed from the program at the Coordinator's discretion.

Parents/legal guardian will be notified by phone if the participant becomes ill while at the program. If the parent cannot be reached, the emergency contact will be called. Any child experiencing a fever over 100.4 degrees, vomiting, diarrhea three times within two hours or contagious skin or eye infections will be removed from common areas and should be picked up within one hour of contact with the parent/legal guardian.

Parents/legal guardian must provide a written statement from a physician stating the child is free from contagious disease before returning to the program after a contagious illness. Medical information may be faxed to the Recreation Center at (972) 218-5607.

In the event of critical illness or injury, proper medical personnel and parents/legal guardian will be notified. At the discretion of the medical personnel, the child may be transported to an emergency room or clinic by ambulance or by the parent/legal guardian. Parents/legal guardian will be responsible for any expenses incurred with treatment or transportation.

Medication

The City of Lancaster Youth Programs will administer medicine only with written parental permission and will administer medication only as stated on the label directions or as amended by the physician. A medicine form must be completed for each prescription the child receives at the Program. Medicine forms are available at the main office of the Recreation Center and at each site.

Medications must be in their original container, labeled with child name, the date (if prescription), directions on how to administer and include the physician name (if prescription). Refrigeration of medication is not available. Inhalers and peak flows must have instruction on label. The City of Lancaster Youth Program staff will not administer any type of injection. Over-the-counter drugs will be administered only when accompanied by a medicine form, in the original container and by label direction only.

Parents/legal guardians are responsible for removing medication at the end of the Program or when child is withdrawn. Leaders are responsible for administering medication at the time indicated on medicine form. Medications and the completed form will be kept in lock bag with each group.

Youth Program Payments

Parents/legal guardians are responsible for paying fees as scheduled. Youth Program payments may be made at the Recreation Center by cash or credit card.

Non-payment of fees within two months will be turned over to a collection agency. Payments for special activities and field trips not included in a program's activity fee are to be paid in cash. This applies to all programs.

Transportation

The participant to staff ratio, as stated in the Standards of Care, will be adhered to at all times when transporting participants. Participants may be transported only by City vehicle or any vehicle designated by the City. Participants may not be transported to and from activities or home by staff's personal vehicles.

All children will wear seat belts while being transported with the exception of commercial vehicles that do not offer seat belts.

Field Trips

Parents/legal guardian will be asked to sign permission form for their child(ren) to attend special field trips. Please do not send large amounts of spending money with your child(ren) on field trips. The City is not responsible for items lost during field trips. Parents are discouraged from picking their child up during field trip activities.

Parent/Child Communication

When a parent needs to contact their child(ren) at the Program, for emergency reasons only, the parent must call the Recreation Center at (972) 218-3702. Recreation Center staff will contact the child's Leader to deliver the message.

Personal Property

Personal electronics (i.e. cell phones, ipods, mp3 players, video games systems, etc.) are strictly prohibited. If caught using personal electronics, item will be confiscated and may only be retrieved by a parent or guardian. Condition of personal property or electronics is not the responsibility of Lancaster Recreation Staff while in custody. Property not retrieved by parents/guardians within 30 days of confiscation will be turned over to Lancaster Police Department as unclaimed property. Repeat offenses could result in participant being permanently removed from program.

Staff Code of Ethics

Program Leaders are expected to adhere to the City's Staff Code of Ethics, which includes not accepting gifts from participants or babysitting/socializing with participants outside of the Program. If staff members do not comply with this policy, they are subject to disciplinary procedures.

City of Lancaster
Parks & Recreation
Department



2011
Summer Day Camp
Registration Packet



Lancaster Parks and Recreation Department
YOUTH PROGRAMS REGISTRATION FORM

Check program you are registering for: After School Day Camp Summer Day Camp

PLEASE COMPLETE ALL BLANK AREAS IN ORDER TO QUALIFY FOR PROGRAM(S)
(Please print or type)

Registration Date _____

Child's Name _____ Home # _____

Address _____ City, State _____ Zip _____

School Attending _____ Grade Entering _____

Age _____ Date of Birth ____/____/____ Gender: Female Male

Mother/Legal Guardian Name _____ DL # _____

Address _____ City, State _____ Zip _____

Mother/Legal Guardian Workplace _____

Best Daytime # _____ Alternate Daytime # _____

Father/Legal Guardian Name _____ DL # _____

Address _____ City, State _____ Zip _____

Father/Legal Guardian Workplace _____

Best Daytime # _____ Alternate Daytime # _____

EMERGENCY CONTACTS/PERMISSION TO PICK UP CHILD:

Name _____ Relationship _____ DL # _____

Home # _____ Work # _____

Name _____ Relationship _____ DL # _____

Home # _____ Work # _____

Name _____ Relationship _____ DL # _____

Home # _____ Work # _____

ATTENDANCE AND TRANSPORTATION INFORMATION:

How will your child get home? (Check all that apply)

Parent/Guardian Carpool Other If Other, please explain _____



Lancaster Parks and Recreation Department
PROGRAMS MEDICAL AND AUTHORIZATION FORM

EMERGENCY MEDICAL AUTHORIZATION

I, _____ as parent and/or legal guardian, do hereby release The City of Lancaster, its staff and volunteers, from liability in the case of an accident or injury to my child or ward:

Name _____ Age _____ Grade Entering _____

Further, in case of accident, injury or sudden illness, I authorize any first aid or emergency medical care that may become necessary for my child or ward while he or she is enrolled in any Lancaster Youth Program. I also authorize that my child or ward may be transported to a local medical facility. If I cannot be contacted in an EMERGENCY, I hereby give permission to the physician selected by the Program Coordinator to hospitalize, secure proper treatment for, and to order injection, anesthesia or surgery for my child or ward, named above. I understand I am financially responsible for any expenses incurred for medical care or transportation on my child's behalf. By executing this document, I hereby assume, on behalf of my child or ward, all risk of injury or loss to which he or she may be exposed.

Parent/Legal Guardian Signature _____

Date _____

EMERGENCY MEDICAL AUTHORIZATION

In the event of an EMERGENCY, individuals will be taken directly to the nearest hospital.

If applicable, Family Physician Name _____

Address _____ Phone # _____

Shot Record/Medical Record on file at School: Yes No Date _____

Please list any medical allergies, physical or behavioral conditions of your child: _____

Please explain special need/problems your child may have: _____

AUTHORIZATIONS
(Initial all boxes that apply and sign below)

_____ I understand that responsibility for my child will be assumed by Lancaster Youth Program only when he/she has checked in with an authorized staff member of the program.

_____ I authorize any Lancaster Youth Program to transport my child to and from Program activities and field trips.

_____ I acknowledge that the child described herein has permission to engage in all Program activities, except noted by me or family physician.

_____ I authorize the Youth Program to involve my child in appropriate water activities.

_____ I acknowledge receipt of the Lancaster Parks and Recreation Department "Standards of Care" for Youth Programs.

My signature below constitutes authorization for items initialed above.

Parent/Legal Guardian Signature _____

Date _____



Lancaster Parks and Recreation Department
YOUTH PROGRAMS LIABILITY WAIVER

Date: _____

Program: _____

Child's Name: _____

Age: _____

School Attending: _____

Grade Entering: _____

I understand that the activities in the Lancaster Parks and Recreation Department Youth Programs will include physical activity and exercise with the possibility of physical contact and bodily injury to my child or ward (named above), and that the Department, its staff and the City of Lancaster are not undertaking responsibility to see that the activities are free from risk of injury, loss or damage to person or property. I hereby assume all said risks for my child.

In consideration of the use and availability of services and facilities of the program site by my above named child or ward, I hereby agree to release, relieve, hold harmless, and indemnify the City, the Recreation Center, the Department, the Program, and their respective supervisors, Program Directors, Coordinators, leaders, agents, instructors and other employees from all liability and claims arising out of any accident or injury suffered or incurred by my above named child or ward at the Program site or while participating in any activity sponsored, organized or supervised by the Program except for acts of negligence of said responsible supervisors, directors, coordinators, leaders, agents, instructors or other employees.

Parent/Legal Guardian Signature

Date



Lancaster Parks and Recreation Department
YOUTH PROGRAM LATE PICK UP RECORD

Date _____

Parent's Name _____

Daytime # _____ Cell # _____

Child(ren)'s Name(s) _____

Circle One:

1st Incident

2nd Incident

3rd Incident

DATE _____

SIGNATURE _____

ARRIVAL TIME _____

REASON _____

AMOUNT PAID _____

STAFF INITIALS _____

Method of Payment: Cash, credit card or debit

First Incident: Warning, no charge

Subsequent Incidents: \$5.00 for each 10 minute period after 6:00 p.m.

Three incidents in a 30 day period may result in termination from the Program.

Non-payment of late pick up fees within one week may result in termination from the Program.

An appeals process is available and should be directed to the Recreation Superintendent at
(972) 218-3715



**Lancaster Parks and Recreation Department
DAILY SITE INSPECTION – YOUTH PROGRAMS**

Date _____ Site Inspected _____

General Weather Conditions: _____

Inspection Item	Good	Needed Action	Initials of Employee Checking
First Aid Kit Present & Stocked			
Fire Extinguisher Present & Charged			
Program & Participant Files Present			
Program Areas Clean & Safe			
Participant Check-in/Check-out Sheet Completed			
Bathrooms Clean/Stocked			
Program Supplies Present/Put Away			

Please specifically detail what actions were taken to address any of the inspection items that needed action:



**Lancaster Parks and Recreation Department
DAILY SITE INSPECTION – YOUTH PROGRAMS**

Date _____ Site Inspected _____

General Weather Conditions: _____

Inspection Item	Good	Needed Action	Initials of Employee Checking
First Aid Kit Present & Stocked			
Fire Extinguisher Present & Charged			
Program & Participant Files Present			
Program Areas Clean & Safe			
Participant Check-in/Check-out Sheet Completed			
Bathrooms Clean/Stocked			
Program Supplies Present/Put Away			

Please specifically detail what actions were taken to address any of the inspection items that needed action:



Lancaster Parks and Recreation Department
BEHAVIORAL REPORT

Date: _____

Program: _____

Participant's Name _____ Age _____

Address _____ Home # _____

Description of Incident _____

Staff Comments _____

1st Offense _____

2nd Offense _____

Mandatory meeting with Recreation Supervisor
Notification of next Report result in one (1) week suspension

3rd Offense _____

Notification of effective suspension dates

4th Offense _____

Termination from Program

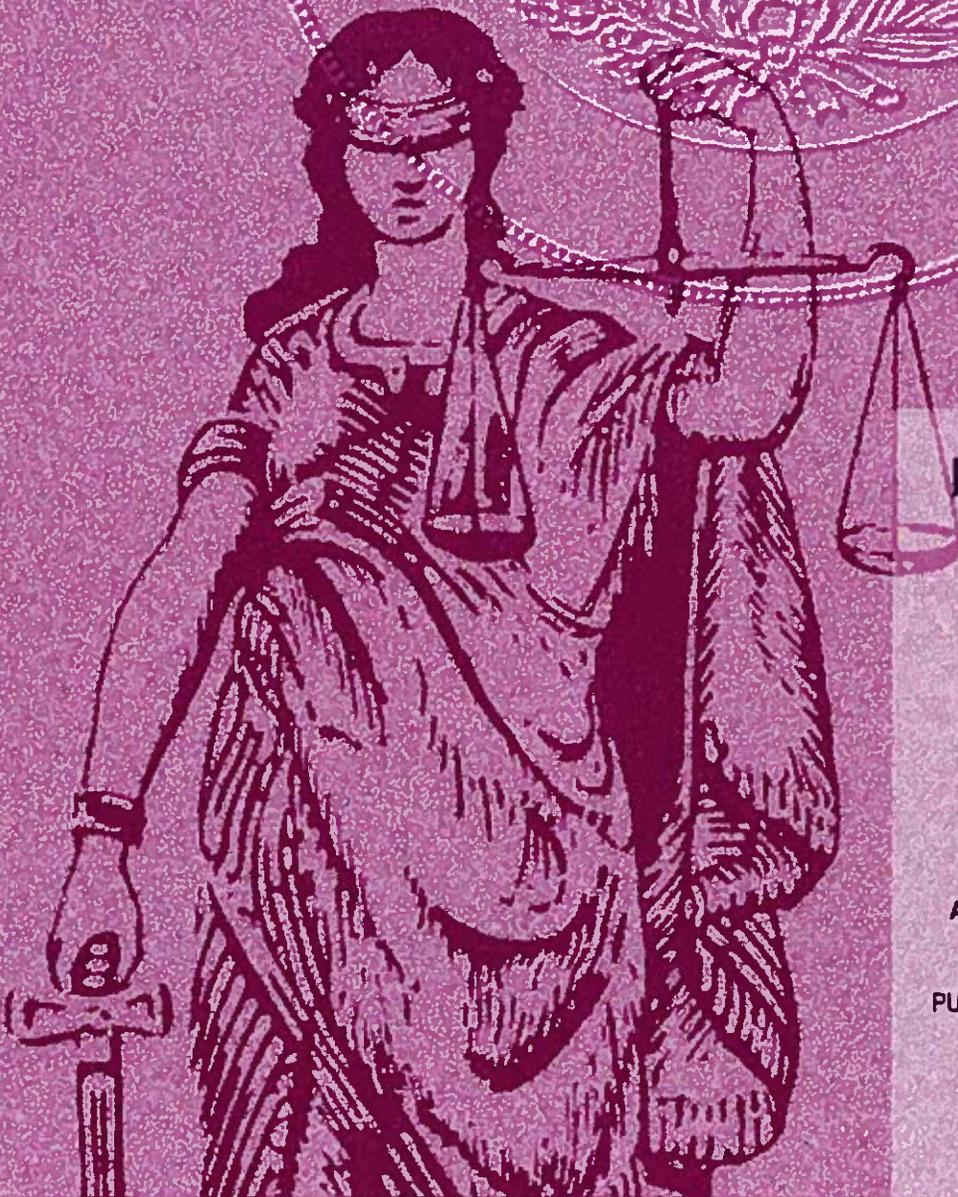
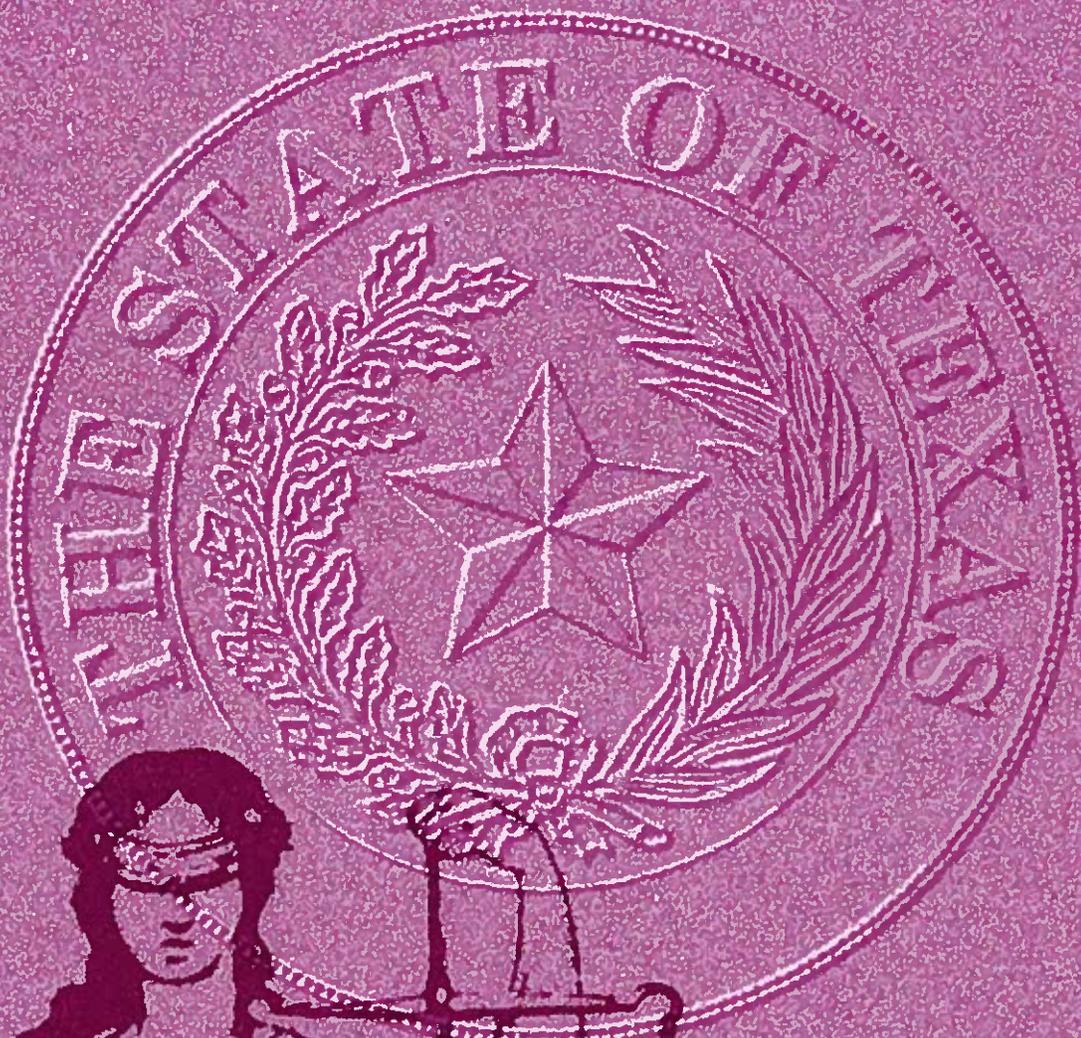
Patron's Signature

Site Supervisor's Signature

Parent/Legal Guardian Signature

Program Coordinator's Signature

Parent's Cell or Work Phone#: _____



**Regulation of Certain
Facilities, Homes,
and Agencies that
Provide Child-care
Services**

Chapter 42

**HUMAN RESOURCES CODE
AS AMENDED, 81st TEXAS LEGISLATURE
EFFECTIVE SEPTEMBER 1, 2009**

**PUBLISHED BY THE TEXAS DEPARTMENT OF
FAMILY AND PROTECTIVE SERVICES
FOR REFERENCE PURPOSES ONLY**

**Stock Code 20815-0000
December 2009**

This is a publication of the Texas Human Resources Code, Chapter 42 and an excerpt from the Texas Family Code, Chapter 261. These are the laws that require the Texas Department of Family and Protective Services (DFPS) to regulate child-care and child-placing activities in Texas, to investigate alleged abuse and neglect in child-care facilities, and to create and enforce minimum standards.

The Texas Legislature made changes to these laws during the 2009 81st Regular Texas Legislative session. The following are highlights of these changes:

Affecting all types of operations regulated by Child Care Licensing, the 81st Legislature:

- Amended Section 42.002 (Definitions) in multiple subsections for Day Care and Residential Care operations;
- Revised Section 42.041 (Required License or Accreditation) by deleting (b-1) language on Accreditation and deleting reference to alternative accreditation in title of section and amending and adding exemption categories;
- Amended Section 42.0421 (Minimum Training Standards) by adding Subsection (e) requiring at least two hours of annual training on transportation safety for certain types of operations;
- Revised Section 42.0431 (Enforcement Of Screening Requirements Relating To Vision, Hearing, And Other Special Senses And Communication Disorders) by deleting (c) pertaining to enforcement of screening requirements relating to vision, hearing, and other special senses and communication disorders for non-existent subchapter on alternative accreditation;
- Added Section 42.04412 (Interference with Inspection; Court Order) concerning consequences for interfering with investigations or inspections of a facility or family home and process for obtaining court orders;
- Amended Section 42.056 (Required Background And Criminal History Checks; Criminal Penalties) with thorough revisions of background check requirements;
- Amended Section 42.074 (Injunctive Relief) by expanding DFPS's authority and prompting operations to comply with permits and exemption requirements;
- Amended Section 42.075 (Civil Penalty) by extending the application of civil penalties to persons who knowingly fail to meet criterion for exemption and engages in activities requiring licensure or registration; and
- Amended Section 42.077 (Notice Of Action Against Facility Or Family Home) by adding an option for DFPS to publish notice of revocation and suspensions in the Public and Provider site.

Affecting only residential (24 hour) child-care operations and child-placing agencies, the 81st Legislature:

- Amended Section 42.002 (Definitions) subsections (4) and (19) by revising the definitions of General Residential Operation and Residential Child-Care Facility;
- Added Section 42.003 (Reference To Child-Care Institution) to highlight that any reference in statute to an institution is equal to the new term general residential operations, although the legislature also substituted the new term throughout Chapter 42; and
- Added Section 42.0452 (Foster Parent Rights And Responsibilities Statement) to require DFPS to develop a written statement that lists the rights and responsibilities of a foster parent in a foster home or an agency foster home.

Affecting only child day-care operations (including child care homes), the 81st Legislature:

- Amended Section 42.002 (Definitions) subsections (7), (8), and (17) by revising the definitions of "Day-Care Center," "Group Day-Care Home," and "regular care"; also added subsections (20) and (21) that provides definitions for Before-School and After-School programs and School Age programs; and introduced a definition for "Children's Product";
- Amended Section 42.042 (Rules and Standards) by adding subsections (g)(6) and (g)(7) on recognizing other type of services and creating minimum standards for before-school or after-school programs and for school-age programs, (g-1) with a specific requirement for the development of standards for school-age programs, and (g-2) regarding specific requirements for the creation of standards for child-care centers located in temporary shelters;
- Added Section 42.0423 (Children's Product Safety For Certain Nonresidential Child-Care Facilities);
- Amended Section 42.055 (Sign Posting) by adding Subsection (a-1) requiring information on how to access a listing of unsafe children's products;
- Added Section Sec. 42.064 (Information Regarding Gang-Free Zones);
- Amended Section 42.072 (License, Listing, Or Registration Denial, Suspension, Or Revocation) making anyone who loses a license via adverse action ineligible for apply for another permit for five years;
- Amended Section 42.073 (Emergency Suspension And Closure Of A Facility Or Family Home) by making all emergency suspensions for 30-days after the effective date of the order; and
- Amended Section 42.151 (Regulation Of Employer-Based Day Care Facilities- Definitions) so that a small employer can now have 100 full-time employees.

INTRODUCTION

Certain changes were made to Chapter 42 of the Human Resources Code during the 81st Legislative session.

CHAPTER 42. REGULATION OF CERTAIN FACILITIES, HOMES, AND AGENCIES THAT PROVIDE CHILD-CARE SERVICES

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- Sec. 42.001. Purpose
- Sec. 42.002. Definitions
- Sec. 42.003. Reference to Child-Care Institution

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- Sec. 42.0211. Safety Specialists, Risk Analysts, And Performance Management
- Sec. 42.0221. Committee On Licensing Standards
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- Sec. 42.024. Administrative Procedure

SUBCHAPTER C. REGULATION OF CHILD-CARE FACILITIES

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- Sec. 42.042. Rules And Standards
- Sec. 42.0421. Minimum Training Standards
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- Sec. 42.0425. Assessment Services
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- Sec. 42.04411. Inspection Results and Exit Conference for Residential Child-Care Facilities
- Sec. 42.04412. Interference with Inspection; Court Order
- Sec. 42.0442. Coordination Of Inspections; Elimination Of Duplicative Inspections
- Sec. 42.0443. Coordination Of Fire Safety And Sanitation Inspections
- Sec. 42.0443. Inspection Information Database
- Sec. 42.0445. Required Background Search Of Central Registry Of Reported Cases Of Child Abuse Or Neglect
- Sec. 42.0446. Removal Of Certain Investigation Information From Internet Website
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- Sec. 42.0448. Notification Of Family Violence Calls
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- Sec. 42.0451. Database Of Foster Homes; Information Provided To Department Of Public Safety
- Sec. 42.0452. Foster Parent Rights And Responsibilities Statement
- Sec. 42.046. Application For License, Listing, Or Registration
- Sec. 42.0461. Public Notice And Hearing In Certain Counties: Residential Child Care
- Sec. 42.047. Consultations
- Sec. 42.048. Licensing
- Sec. 42.049. Liability Insurance Required
- Sec. 42.050. License Renewal
- Sec. 42.051. Initial License

- Sec. 42.052. Certification, Listing, And Registration
- Sec. 42.0521. Deposit Of Fees
- Sec. 42.0522. Public Advertisement Of Family Homes
- Sec. 42.053. Agency Foster Homes And Agency Foster Group Homes
- Sec. 42.0535. Required Information For Verification
- Sec. 42.0536. Transfer Of Agency Foster Home
- Sec. 42.054. Fees
- Sec. 42.055. Sign Posting
- Sec. 42.0551. Posting of Employee List
- Sec. 42.056. Required Background And Criminal History Checks; Criminal Penalties
- Sec. 42.0561. Information Relating To Family Violence Reports
- Sec. 42.057. Drug Testing
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SUBCHAPTER D. REMEDIES

- Sec. 42.0705. Range Of Penalties
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SUBCHAPTER F. REGULATION OF EMPLOYER-BASED DAY-CARE FACILITIES

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- Sec. 42.160. Applicability Of Other Law
- Sec. 42.161. Reporting Of Incidents And Violations
- Sec. 42.162. Authority To Conduct Limited Inspections
- Sec. 42.163. Suspension, Denial, Or Revocation

TEXAS FAMILY CODE, Excerpts

- Sec. 261.401. DEFINITIONS. (Definitions Of "Abuse" And "Neglect")

SUBCHAPTER A. GENERAL PROVISIONS

§ 42.001. PURPOSE

The purpose of this chapter is to protect the health, safety, and well-being of the children of the state who reside in child-care facilities by establishing statewide minimum standards for their safety and protection and by regulating the facilities through a licensing program. It is the policy of the state to ensure the protection of all children under care in child-care facilities and to encourage and assist in the improvement of child-care programs. It is also the intent of the legislature that freedom of religion of all citizens is inviolate. With respect to a school or child-care facility sponsored by a religious organization, nothing in this chapter gives a governmental agency authority to regulate, control, supervise, or in any way be involved in the:

- (1) form, manner, or content of religious instruction, ministry, teaching, or the curriculum offered by the school or facility;
- (2) ability of the school or facility to select and supervise qualified personnel, and otherwise control the terms of employment, including the right to employ individuals who share the religious views of the school or facility;
- (3) internal self-governance and autonomy of the school or facility; or
- (4) religious environment of the school or facility, such as symbols, art, icons, and scripture.

§ 42.002. DEFINITIONS

In this chapter:

- (1) "Child" means a person under 18 years of age.
- (2) "Division" means the division designated by the department to carry out the provisions of this chapter.
- (3) "Child-care facility" means a facility licensed, certified, or registered by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.
- (4) "General residential operation" means a child-care facility that provides care for more than 12 children for 24 hours a day, including facilities known as children's homes, halfway houses, residential treatment centers, emergency shelters, and therapeutic camps.
- (5) "Foster group home" means a child-care facility that provides care for 7 to 12 children for 24 hours a day.
- (6) "Foster home" means a child-care facility that provides care for not more than six children for 24 hours a day.
- (7) "Day-care center" means a child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week.
- (8) "Group day-care home" means a child-care facility that provides care at the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week.
- (9) "Family home" means a home that provides regular care in the caretaker's own residence for not more than six children under 14 years of age, excluding children who are related to the caretaker, and that provides care after school hours for not more than six additional elementary school children, but the total number of children, including children who are related to the caretaker, does not exceed 12 at any given time. The term does not include a home that provides care exclusively for any number of children who are related to

the caretaker.

(10) "Agency foster group home" means a facility that provides care for seven to 12 children for 24 hours a day, is used only by a licensed child-placing agency, and meets department standards.

(11) "Agency foster home" means a facility that provides care for not more than six children for 24 hours a day, is used only by a licensed child-placing agency, and meets department standards.

(12) "Child-placing agency" means a person, including an organization, other than the natural parents or guardian of a child who plans for the placement of or places a child in a child-care facility, agency foster home, agency foster group home, or adoptive home.

(13) "Facilities" includes child-care facilities and child-placing agencies.

(14) "State of Texas" or "state" does not include political subdivisions of the state.

(15) "Religious organization" means a church, synagogue, or other religious institution whose purpose is to support and serve the propagation of truly held religious beliefs.

(16) "Children who are related to the caretaker" means children who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caretaker, whether by affinity or consanguinity or as the result of a relationship created by court decree.

(17) "Regular care" means care that is provided at least:

- (A) four hours a day, three or more days a week, for three or more consecutive weeks; or
- (B) four hours a day for 40 or more days in a period of 12 months.

(18) "Controlling person" means a person who, either alone or in connection with others, has the ability to directly or indirectly influence or direct the management, expenditures, or policies of a residential child-care facility.

(19) "Residential child-care facility" means a facility licensed or certified by the department that operates, for all of the 24-hour day. The term includes general residential operations, child-placing agencies, foster group homes, foster homes, agency foster group homes, and agency foster homes.

(20) "Before-school or after-school program" means a child-care facility that provides care before or after, or before and after, the customary school day and during school holidays, for at least two hours a day, three days a week, to children who attend pre-kindergarten through grade six.

(20) "Children's product" means a product that is designed or intended to be used by a child under 13 years of age or used by a caregiver during the care of a child under 13 years of age. The term does not include:

- (A) an item that is not designed or intended to be used solely or primarily by a child under 13 years of age or in the care of a child under 13 years of age;
- (B) a medication, a drug, food, or another item that is intended to be ingested; or
- (C) clothing.

(21) "School-age program" means a child-care facility that provides supervision, along with recreation or skills instruction or training, and may provide transportation, before or after the customary school day, for at least two hours a day, three days a week, to children attending prekindergarten through grade six. A school-age program may also operate during school holidays, the summer period, or any other time when school is not in session.

§ 42.003. REFERENCE TO CHILD-CARE INSTITUTION

A reference in law to a "child-care institution" means a general residential operation.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 42.021. DIVISION DESIGNATED

(a) The department may designate a division within the department to carry out responsibilities the department may delegate or assign under this chapter. The department shall ensure the independence of the division from the child protective services division.

(b) The commissioner shall appoint as director of a division designated under Subsection (a) a person who meets the qualifications set by the executive commissioner. The commissioner shall ensure the director's independence from the child protective services division and may not terminate the director without the approval of the executive commissioner.

(c) The department shall employ sufficient personnel and provide training for the personnel to carry out the provisions of this chapter.

(d) The commissioner may divide the state into regions for the purpose of administering this chapter.

§ 42.0211. SAFETY SPECIALISTS, RISK ANALYSTS, AND PERFORMANCE MANAGEMENT

(a) The division shall employ at least one specially trained investigation safety specialist, whose duties include the duty to:

- (1) review and evaluate the intake of reports that include allegations associated with a higher risk of harm to the child; and
- (2) consult with the assigned investigator to provide specialized guidance and resources to assist the investigation.

(b) The division shall employ at least one risk analyst, whose duties include the duty to:

- (1) identify facilities, including child-placing agencies, whose compliance histories indicate the potential for a higher risk of harm to children in the care of the facility;
- (2) review the monitoring and inspection reports for any facilities described by Subdivision (1) to assess the quality of the investigation or monitoring; and
- (3) identify any additional monitoring or enforcement action that may be appropriate to ensure the safety of a child in the care of the facility.

(c) The division must include a performance management unit with duties that include:

- (1) conducting quality assurance reviews of randomly selected monitoring and investigative reports to ensure compliance with all relevant laws, rules, and agency policies; and
- (2) making recommendations to improve the quality and consistency of monitoring and investigations.

§ 42.0221. COMMITTEE ON LICENSING STANDARDS

(a) The committee on licensing standards is composed of seven members appointed by the governor as follows:

- (1) one member who operates a residential child-care facility licensed by the department;
- (2) one member who operates a child-placing agency licensed by the department;
- (3) one member who operates a licensed child-care facility that provides care for children for less than 24 hours a day;
- (4) one member who is a parent, guardian, or custodian of a child who uses a facility licensed by the department;

(5) one member who is an expert in the field of child care and child development; and

(6) two members employed by the department who work with facilities licensed by the department.

(b) Members of the committee serve two-year terms, with the terms of three or four members, as appropriate, expiring February 1 of each year.

(c) The governor shall designate a member of the committee to serve as the presiding officer.

(d) The committee shall meet twice a year at the call of the presiding officer.

(e) The committee shall review and analyze the information provided by the department and committee members and shall make recommendations for policy and statutory changes relating to licensing standards and facility inspections. The review and analysis by the committee shall include the analysis of:

- (1) the deaths of children who are in substitute care, including reports and findings of child fatality review teams under Subchapter F, Chapter 264, Family Code;
- (2) the types of licensing violations for each weighted risk and region;
- (3) the details of administrative reviews and appeals; and
- (4) the type of technical assistance provided and the qualifications of those providing technical assistance.

(f) The committee shall report its findings and recommendations to the department and the legislature not later than December 1 of each year.

§ 42.023. ANNUAL REPORT

(a) The department shall prepare an annual written report regarding the department's activities under this chapter.

(b) The annual report shall include:

- (1) a report by regions of applications for licensure or certification, of initial licenses issued, denied, or revoked, of licenses issued, denied, suspended or revoked, of emergency closures and injunctions, and of the compliance of state-operated agencies, if such agencies exist, with certification requirements;
- (2) a summary of the training programs required by the department and their effectiveness
- (3) a summary of training and other professional development opportunities offered to facilities' staffs;
- (4) a report of new administrative procedures, of the number of staff and staff changes, and of plans for the coming year; and
- (5) a report of trends in licensing violations on a statewide and regional basis and the department's plans to address those trends through the provision of technical assistance.

(c) Copies of the annual report shall be available to any state citizen on request.

§ 42.024. ADMINISTRATIVE PROCEDURE

Chapter 2001, Government Code applies to all procedures under this chapter except where it is contrary to or inconsistent with the provisions of this chapter.

SUBCHAPTER C. REGULATION OF CHILD-CARE FACILITIES

§ 42.041. REQUIRED LICENSE

(a) No person may operate a child-care facility or child-placing agency without a license issued by the department or a certificate to operate under accreditation issued by the department under Subchapter E.

(b) This section does not apply to:

- (1) a state-operated facility;
- (2) an agency foster home or agency foster group home;
- (3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities, including retreats or classes for religious instruction, on or near the premises, that does not advertise as a child-care facility or day-care center, and that informs parents that it is not licensed by the state;
- (4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;
- (5) a youth camp licensed by the Department of State and Health Services;
- (6) a facility licensed, operated, certified, or registered by another state agency;
- (7) an educational facility that is accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission and that operates primarily for educational purposes for prekindergarten and above, a before-school or after-school program operated directly by an accredited educational facility, or a before-school or after-school program operated by another entity under contract with the educational facility, if the Texas Education Agency, the Southern Association of Colleges and Schools, or the other accreditation body, as applicable, has approved the curriculum content of the before-school or after-school program operated under the contract;
- (8) an educational facility that operates solely for educational purposes for prekindergarten at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;
- (9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;
- (10) a family home, whether registered or listed;
- (11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers an educational program for one or more of the following: prekindergarten through at least grade three, elementary grades, or secondary grades;
- (12) an emergency shelter facility providing shelter to minor mothers who are the sole support of their natural children under Section 32.201, Family Code, unless the facility would otherwise require a license as a child-care facility under this section;
- (13) a juvenile detention facility certified under Section 51.12, Family Code, a juvenile facility providing services solely for the Texas Youth Commission, or any other correctional facility for children operated or regulated by another state agency or by a political subdivision of the state;
- (14) an elementary-age (ages 5-13) recreation program operated by a municipality provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing for such programs, that such standards are provided to the parents of each program participant, and that the ordinances shall include, at a minimum, staffing ratios, minimum staff

qualifications, minimum facility, health, and safety standards, and mechanisms for monitoring and enforcing the adopted local standards; and further provided that parents be informed that the program is not licensed by the state and the program may not be advertised as a child-care facility;

(15) an annual youth camp held in a municipality with a population of more than 1.5 million that operates for not more than three months and that has been operated for at least 10 years by a nonprofit organization that provides care for the homeless;

(16) a food distribution program that:

(A) serves an evening meal to children two years of age or older; and

(B) is operated by a nonprofit food bank in a nonprofit, religious, or educational facility for not more than two hours a day on regular business days;

(17) a child-care facility that operates for less than three consecutive weeks and less than 40 days in a period of 12 months;

(18) a program:

(A) in which a child receives direct instruction in a single skill, talent, ability, expertise, or proficiency;

(B) that does not provide services or offerings that are not directly related to the single talent, ability, expertise, or proficiency;

(C) that does not advertise or otherwise represent that the program is a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services;

(D) that informs the parent or guardian:

(i) that the program is not licensed by the state; and

(ii) about the physical risks a child may face while

participating in the program; and

(E) that conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety;

(19) an elementary-age (ages 5-13) recreation program that:

(A) adopts standards of care, including standards relating to staff ratios, staff training, health, and safety;

(B) provides a mechanism for monitoring and enforcing the standards and receiving complaints from parents of enrolled children;

(C) does not advertise as or otherwise represent the program as a child-care facility, day-care center, or licensed before-school or after-school program or that the program offers child-care services;

(D) informs parents that the program is not licensed by the state;

(E) is organized as a nonprofit organization or is located on the premises of a participant's residence;

(F) does not accept any remuneration other than a nominal annual membership fee;

(G) does not solicit donations as compensation or payment for any good or service provided as part of the program; and

(H) conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety;

(20) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which the caretaker:

(A) had a prior relationship with the child or sibling group or other family members of the child or sibling group;

(B) does not care for more than one unrelated child or sibling group;

(C) does not receive compensation or solicit donations for

the care of the child or sibling group; and

(D) has a written agreement with the parent to care for the child or sibling group;

(21) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which:

(A) the department is the managing conservator of the child or sibling group;

(B) the department placed the child or sibling group in the caretaker's home; and

(C) the caretaker had a long-standing and significant relationship with the child or sibling group before the child or sibling group was placed with the caretaker; or

(22) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which the child is in the United States on a time-limited visa under the sponsorship of the caretaker or of a sponsoring organization.

(c) A single license that lists addresses and the appropriate facilities may be issued to a general residential operation that operates noncontiguous facilities that are across the street from, in the same city block as, or on the same property as one another and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(d) Unless accredited under Subchapter E, a facility exempt from the provisions of Subsection (a) of this section that desires to receive or participate in federal or state funding shall be required to comply with all other provisions of this chapter and with all regulations promulgated under this chapter.

(e) The exemptions provided by Subsection (b) of this section do not affect the authority of local, regional, or state health department officials, the state fire marshal, or local fire prevention officials to inspect child-care facilities.

§ 42.042. RULES AND STANDARDS

(a) The department shall make rules to carry out the provisions of this chapter.

(b) The department shall conduct a comprehensive review of all rules and standards at least every six years. For purposes of this subsection, the six-year period begins on the latest of the date of:

(1) the conclusion of the review of the rules and standards;

(2) a decision by the department not to revise the rules and standards;

(3) a decision by the board not to revise the rules and standards; or

(4) board action adopting new standards.

(c) The department shall provide a standard procedure for receiving and recording complaints. The executive commissioner shall adopt rules regarding the receipt of anonymous complaints made regarding child-care facilities and family homes to limit the number of anonymous complaints investigated by the department.

(d) The department shall provide standard forms for applications and inspection reports.

(e) The department shall promulgate minimum standards that apply to licensed child-care facilities and to registered family homes covered by this chapter and that will:

(1) promote the health, safety, and welfare of children attending a facility or registered family home;

(2) promote safe, comfortable, and healthy physical facilities and registered family homes for children;

(3) ensure adequate supervision of children by capable, qualified, and healthy personnel;

(4) ensure adequate and healthy food service where food

service is offered;

(5) prohibit racial discrimination by child-care facilities and registered family homes;

(6) require procedures for parental and guardian consultation in the formulation of children's educational and therapeutic programs; and

(7) prevent the breakdown of foster care and adoptive placement.

(e-1) The department may not prohibit possession of lawfully permitted firearms and ammunition in a foster home of any type, including a foster group home, a foster home, an agency foster group home, and an agency foster home. Minimum standards may be adopted under this section relating to safety and proper storage of firearms and ammunition, including standards requiring firearms and ammunition to be stored separately in locked locations.

(f) In promulgating minimum standards for the provision of child-care services, the department shall recognize the various categories of services, including services for specialized care, the various categories of children and their particular needs, and the differences in the organization and operation of child-care facilities and general residential operations. Standards for general residential operations must require an intake study before a child is placed in an operation. The intake study may be conducted at a community mental health and mental retardation center.

(g) In promulgating minimum standards the department may recognize and treat differently the types of services provided by the following:

(1) registered family homes;

(2) child-care facilities, including general residential operations, foster group homes, foster homes, group day-care homes, and day-care centers;

(3) child-placing agencies;

(4) agency foster homes;

(5) agency foster group homes;

(6) before-school or after-school programs; and

(7) school-age programs.

(g-1) In determining and enforcing minimum standards for a school-age program, the department shall consider commonly accepted training methods for the development of a skill, talent, ability, expertise, or proficiency that are implemented with the consent of the parent or guardian of the participant and that are fundamental to the core purpose of the program.

(g-2) The executive commissioner shall adopt specific rules and minimum standards, including standards relating to background check information, for a child-care facility that is located in a temporary shelter, including a family violence shelter or homeless shelter, in which an adult, accompanied by a child related to the adult or a child for whom the adult is the managing conservator, may temporarily reside and that provides care for less than 24 hours a day for a child accompanying an adult temporarily residing in the shelter while the adult is not present at the shelter. In adopting the rules and minimum standards under this subsection, the executive commissioner shall:

(1) consider the special circumstances and needs of families that seek temporary shelter;

(2) consider the role of the shelter in assisting and supporting families in crisis; and

(3) distinguish between a child-care facility that provides care only for children temporarily residing in the shelter and a child-care facility that also provides care for children who are not temporarily residing in the shelter.

(h) The department shall promulgate minimum standards for child-placing agencies.

(h-1) The executive commissioner shall adopt rules governing:

(1) the placement and care of children by a child-placing agency, as necessary to ensure the health and safety of those children;

(2) the verification and monitoring of agency foster homes, agency foster group homes, and adoptive homes by a child-placing agency; and

(3) if appropriate, child-placing agency staffing levels, office locations, and administration.

(i) Before adopting minimum standards, the department shall:

(1) convene a temporary work group to advise the department regarding the proposed standards, composed of at least six members who represent the diverse geographic regions of this state, including:

(A) a department official designated by the commissioner to facilitate the work group's activities;

(B) a person with demonstrated expertise or knowledge regarding the different types and classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards;

(C) a parent with experience related to one of the different types or classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards; and

(D) a representative of a nonprofit entity licensed under this chapter; and

(2) send a copy of the proposed standards to each licensee covered by the proposed standards at least 60 days before the standards take effect to provide the licensee an opportunity to review and to send written suggestions to the department.

(j) The department may waive compliance with a minimum standard in a specific instance if it determines that the economic impact of compliance is sufficiently great to make compliance impractical.

(k) The department may not regulate or attempt to regulate or control the content or method of any instruction or curriculum of a school sponsored by a religious organization.

(l) In promulgating minimum standards for the regulation of family homes that register with the department, the department must address the minimum qualifications, education, and training required of a person who operates a family home registered with the department.

(m) In determining minimum standards relating to staff-to-child ratios, group sizes, or square footage requirements applicable to nonresidential child-care facilities that provide care for less than 24 hours a day, the department shall within available appropriations, conduct a comprehensive cost-benefit analysis and economic impact study that includes families and licensed child-care providers.

(n) Not later than the 60th day before the date the board adopts a revision to the minimum standards for child-care facilities, the department shall present the revision to the appropriate legislative oversight committees that have jurisdiction over child-care facilities for review and comment.

(p) The department by rule shall prescribe minimum training standards for an employee of a regulated child-care facility, including the time required for completing the training. The department may not require an employee to repeat required training if the employee has completed the training within the time prescribed by department rule. The department's local offices shall make available at the local office locations a copy of the rules regarding minimum training standards, information enabling the owner or operator of a regulated facility to apply for training funds from other agencies to lower facility costs, and any other materials the department may develop to assist the owner or operator or other entity in providing the training.

(q) Each residential child-care facility shall notify the department and the appropriate local law enforcement agency immediately on determining that a child is missing from the facility.

(r) A residential child-care facility that provides emergency services may temporarily exceed the facility's capacity for not more than 48 hours to provide temporary care for a child in an emergency. The facility shall notify the department within 24 hours of the placement that the facility temporarily exceeded the facility's capacity.

§ 42.0421. MINIMUM TRAINING STANDARDS

(a) The minimum training standards prescribed by the department under Section 42.042 (p) for an employee of a day-care center or group day-care home must include:

(1) eight hours of initial training for an employee of a day-care center who has no previous training or employment experience in a regulated child-care facility, to be completed before the employee is given responsibility for a group of children;

(2) 15 hours of annual training for each employee of a day-care center or group day-care home, excluding the director, which must include at least six hours of training in one or more of the following areas:

(A) child growth and development;

(B) guidance and discipline;

(C) age-appropriate curriculum; and

(D) teacher-child interaction; and

(3) 20 hours of annual training for each director of a day-care center or group day-care home, which must include at least six hours of training in one or more of the following areas:

(A) child growth and development;

(B) guidance and discipline;

(C) age-appropriate curriculum; and

(D) teacher-child interaction.

(b) The minimum training standards prescribed by the department under Section 42.042 (p) must require an employee of a licensed day-care center or group day-care home who provides care for children younger than 24 months of age to receive special training regarding the care of those children. The special training must be included as a component of the initial training required by Subsection (a) (1) and as a one-hour component of the annual training required by Subsections (a) (2) and (a) (3). The special training must include information on:

(1) recognizing and preventing shaken baby syndrome;

(2) preventing sudden infant death syndrome; and

(3) understanding early childhood brain development.

(c) The department by rule shall require an operator of a registered family home who provides care for a child younger than 24 months of age to complete one hour of annual training on:

(1) recognizing and preventing shaken baby syndrome;

(2) preventing sudden infant death syndrome; and

(3) understanding early childhood brain development.

(d) Section 42.042(m) does not apply to the minimum training standards required by this section.

(e) In addition to other training required by this section, the department by rule shall require an owner, operator, or employee of a day-care center, group day-care home, registered family home, child-care institution, foster group home, or agency foster group home who transports a child under the care of the facility whose chronological or developmental age is younger than nine years of age to complete at least two hours of annual training on transportation safety.

§ 42.0422. RESTRAINT AND SECLUSION

A person providing services to a resident of a general residential operation, including a state-operated facility that is a residential treatment center or a general residential operation serving children with mental retardation, shall comply with Chapter 322, Health and Safety Code, and the rules adopted under that chapter.

§ 42.0423. CHILDREN'S PRODUCT SAFETY FOR CERTAIN NONRESIDENTIAL CHILD-CARE FACILITIES

(a) This section applies only to a licensed day-care center, licensed group day-care home, or registered family home.

(b) A children's product is presumed to be unsafe for purposes of this section if it has been recalled for any reason by the United States Consumer Product Safety Commission and the recall has not been rescinded.

(c) A children's product that has been recalled for any reason by the United States Consumer Product Safety Commission is not presumed to be unsafe if the product has been remanufactured or retrofitted so that the product is safe.

(d) The department shall include on its public Internet website a link to the United States Consumer Product Safety Commission's Internet website.

(e) A child-care facility subject to this section may not use an unsafe children's product or have an unsafe children's product on the premises of the child-care facility unless:

(1) the product is an antique or collectible children's product and is not used by, or accessible to, any child in the child-care facility; or

(2) the unsafe children's product is being retrofitted to make it safe and the product is not used by, or accessible to, any child in the child-care facility.

(f) The department shall notify a child-care facility subject to this section of the provisions of this section in plain, nontechnical language that will enable the child-care facility to effectively inspect the children's products at the facility and identify unsafe children's products. The department shall provide the notice required by this subsection:

(1) during the department's pre-application interview for a license, registration, or certification; and

(2) during an inspection.

(g) At least annually, each child-care facility subject to this section shall certify in writing that the facility has reviewed each of the bulletins and notices issued by the United States Consumer Product Safety Commission regarding unsafe children's products and that there are no unsafe products in the facility except products described by Subsection (e). The facility shall retain the certification form completed by each facility in the facility's licensing file.

(h) The executive commissioner of the Health and Human Services Commission shall adopt rules and forms necessary to implement this section.

§ 42.0425. ASSESSMENT SERVICES

(a) The department by rule shall regulate assessment services provided by child-care facilities or child-placing agencies. A child-care facility or child-placing agency may not provide assessment services unless specifically authorized by the department.

(b) The department by rule shall establish minimum standards for assessment services. The standards must provide that consideration is given to the individual needs of a child, the appropriate place for provision of services, and the factors listed in Section 42.042(e).

(c) In this section, "assessment services" means the determination of the placement needs of a child who requires substitute care.

§ 42.0426. TRAINING OF PERSONNEL

(a) A licensed facility shall provide training for staff members in:

(1) the recognition of symptoms of child abuse, neglect, and sexual molestation and the responsibility and procedure of reporting suspected occurrences of child abuse, neglect, and sexual molestation to the department or other appropriate entity;

(2) the application of first aid; and

(3) the prevention and spread of communicable diseases.

(b) A residential child-care facility shall implement a behavior intervention program approved by the department for the benefit of a child served by the facility who needs assistance in managing the child's conduct. The program must include:

(1) behavior intervention instruction for staff members who work directly with children served by the facility; and

(2) training for all employees regarding the risks associated with the use of prone restraints.

§ 42.0427. PARENTAL VISITATION

All areas of a licensed facility must be accessible to a parent of a child who is receiving care at the facility if the parent visits the child during the facility's hours of operation.

§ 42.043. RULES FOR IMMUNIZATIONS

(a) The department shall make rules for the immunization of children in facilities regulated under this chapter.

(b) The department shall require that each child at an appropriate age have a test for tuberculosis and be immunized against diphtheria, tetanus, poliomyelitis, mumps, rubella, and rubeola, invasive pneumococcal disease, and hepatitis A and against any other communicable disease as recommended by the Department of State Health Services. The immunization must be effective on the date of first entry into the facility. However, a child may be provisionally admitted if the required immunizations have begun and are completed as rapidly as medically feasible.

(c) The Texas Department of Health shall make rules for the provisional admission of children to facilities regulated under this chapter and may modify or delete any of the immunizations listed in Subsection (b) of this section or require additional immunizations as a requirement for admission to a facility.

(d) No immunization may be required for admission to a facility regulated under this chapter if a person applying for a child's admission submits one of the following affidavits:

(1) an affidavit signed by a licensed physician stating that the immunization poses a significant risk to the health and well-being of the child or a member of the child's family or household; or

(2) an affidavit signed by the child's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief.

(d-1) An affidavit submitted under Section (d)(2) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted not later than the 90th day after the date the affidavit is notarized.

(e) Each regulated facility shall keep an individual immunization record for each child admitted, and the records shall be open for inspection by the department at all reasonable times.

(f) The Texas Department of Health shall provide the immunizations required by this section to children in areas where there is no local provision of these services.

§ 42.0431. ENFORCEMENT OF SCREENING REQUIREMENTS RELATING TO VISION, HEARING, AND OTHER SPECIAL SENSES AND COMMUNICATION DISORDERS

(a) The department, after consultation with the Texas Department of Health, shall adopt rules necessary to ensure that children receiving care at a day-care center or group day-care home licensed under this chapter are screened for vision, hearing, and any other special senses or communication disorders in compliance with rules adopted by the Texas Board of Health under Section 36.004, Health and Safety Code.

(b) Each day-care center or group day-care home licensed under this chapter shall maintain individual screening records for children attending the facility who are required to be screened, and the department may inspect those records at any reasonable time. The department shall coordinate the monitoring inspections in compliance with protocol agreements adopted between the department and the Texas Department of Health pursuant to Section 42.0442.

§ 42.044. INSPECTIONS

(a) An authorized representative of the department may visit a facility regulated under this chapter or a registered family home during operating hours to investigate, inspect, and evaluate.

(b) The department shall inspect all licensed or certified facilities at least once a year and may inspect other facilities or registered family homes as necessary. The department shall investigate a listed family home when the department receives a complaint of abuse or neglect of a child, as defined by Section 261.401, Family Code. At least one of the annual visits must be unannounced and all may be unannounced.

(b-1) At least one of the unannounced, annual inspections of a residential child-care facility must be conducted by a team of at least two residential child-care monitoring staff, and, if feasible, members of the inspection team must be from different residential child-care monitoring units.

(b-2) Except as otherwise provided by this subsection, during an unannounced annual inspection of a day-care center, the department shall meet with the director designated by the day-care center as having daily, on-site responsibility for the operation of the day-care center to assess whether the director meets the qualifications of a director specified by this chapter and department rules. If the director is not present during the unannounced annual inspection, the department shall schedule a subsequent meeting with the director for that purpose and shall conduct that meeting at the day-care center.

(c) The department must investigate a facility regulated under this chapter or a registered family home when a complaint is received. The representative of the department must notify the operator of a registered family home or the director or authorized representative of a regulated facility when a complaint is being investigated and report in writing the results of the investigation to the family home's operator or to the regulated facility's director or the director's authorized representative.

(d) The department may call on political subdivisions and governmental agencies for assistance within their authorized fields.

(e) In addition to the department's responsibility to investigate an agency foster home or agency foster group home under Subsection (c), the department shall:

- (1) periodically conduct inspections of a random sample of agency foster homes and agency foster group homes;
- (2) investigate any report of a serious incident in an agency foster home or agency foster group home that pertains to a child under the age of six;
- (3) investigate any alleged violation of a minimum standard by

an agency foster home or agency foster group home that poses a high degree of risk to a child in the care of the home who is under the age of six; and

(4) conduct at least one annual enforcement team conference for each child-placing agency to thoroughly review the investigations or inspections of the child-placing agency and all of its agency homes to monitor and enforce compliance by a child-placing agency with rules and standards established under Section 42.042.

(f) The department shall use an inspection checklist that includes a list of all required items for inspection in conducting a monitoring inspection under this section.

§ 42.0441. INSPECTION RESULTS FOR CERTAIN NONRESIDENTIAL CHILD CARE FACILITIES

Immediately after completing a monitoring inspection of a licensed day-care center, licensed group day-care home, or registered family home under Section 42.044, the authorized representative of the department shall review the results of the monitoring inspection with a representative of the facility and give the facility an opportunity to respond to the inspection results.

§ 42.04411. INSPECTION RESULTS AND EXIT CONFERENCE FOR RESIDENTIAL CHILD-CARE FACILITIES

(a) On completion of an inspection of a residential child-care facility under Section 42.044, the inspector shall hold an exit conference with a representative of the inspected facility. The inspector shall provide to the representative a copy of the inspection checklist used by the inspector.

(b) The inspector shall provide the representative an opportunity to communicate regarding potential violations.

§ 42.04412. INTERFERENCE WITH INSPECTION; COURT ORDER

(a) A person may not interfere with an investigation or inspection of a facility or family home conducted by the department under this chapter.

(b) During an investigation or inspection of a facility or family home under this chapter, the facility or family home shall cooperate with the department and allow the department to:

- (1) access the records of the facility or family home;
 - (2) access any part of the premises of the facility or family home; and
 - (3) interview any child, employee, or other person who is present at the facility or family home and who may have information relevant to the investigation or inspection.
- (c) If access to the records or premises of the facility or family home cannot be obtained, a district court in Travis County or in the county in which the facility or family home is located, for good cause shown and without prior notice or a hearing, shall issue an order granting the department access to the records or premises in order to conduct the inspection, investigation, or interview.

(d) To assist the department in investigating whether a person is operating a facility or family home without a required license, certification, registration, or listing, a district court in Travis County or in the county in which the suspected facility or family home is located may, for good cause shown and without prior notice or a hearing, issue an order allowing the department to enter the suspected facility or family home at a time when the department's evidence shows that the suspected facility or family home may be providing child care subject to regulation under this chapter.

§ 42.0442. COORDINATION OF INSPECTIONS; ELIMINATION OF DUPLICATIVE INSPECTIONS

(a) The department shall coordinate monitoring inspections of licensed day-care centers, licensed group day-care homes, and registered family homes performed by another state agency to eliminate redundant inspections.

(b) The department shall form an interagency task force with the Texas Department of Health, the Texas Department of Human Services, and the Texas Workforce Commission to develop an inspection protocol that will coordinate inspections by those agencies. The protocol must assign the required items for inspection by each agency and facilitate the sharing of inspection data and compliance history.

(c) The interagency task force shall establish an inspection checklist based on the inspection protocol developed under Subsection (b). Each state agency that inspects a facility listed in Subsection (a) shall use the inspection checklist in performing an inspection. A state agency shall make a copy of the completed inspection checklist available to the facility at the facility's request to assist the facility in maintaining records.

(d) The department shall provide to facilities listed in Subsection (a) information regarding inspections, including who may inspect a facility and the purpose of each type of inspection.

§ 42.0443. COORDINATION OF FIRE SAFETY AND SANITATION INSPECTIONS

(a) The department may not inspect a licensed day-care center, licensed group day-care home, or registered family home for compliance with the department's fire safety or sanitation standards if the facility, at the time of the department's inspection, provides the department with documentation relating to a current fire safety or sanitation inspection, as applicable, performed by a political subdivision of this state that indicates that the facility is in compliance with the applicable standards of the political subdivision.

(b) If the documentation provided under Subsection (a) indicates that the facility was required to take corrective action or that the political subdivision imposed a restriction or condition on the facility, the department shall determine whether the facility took the required corrective action or complied with the restriction or condition.

(c) The department may inspect a facility subject to this section for compliance with the department's fire safety or sanitation standards if:

(1) the facility does not provide the documentation described by Subsection (a); or

(2) the department determines that the facility did not take a corrective action or comply with a restriction or condition described by Subsection (b).

(d) Notwithstanding any other provision of this section, the department shall report to the appropriate political subdivision any violation of fire safety or sanitation standards observed by the department at a facility subject to this section.

(e) The department shall adopt rules necessary to implement this section.

§ 42.0443. INSPECTION INFORMATION DATABASE

(a) If feasible using available information systems, the department shall establish a computerized database containing relevant inspection information on licensed day-care centers, licensed group day-care homes, and registered family homes from other state agencies and political subdivisions of the state.

(b) The department shall make the data collected by the department available to another state agency or political subdivision

of the state for the purpose of administering programs or enforcing laws within the jurisdiction of that agency or subdivision. If feasible using available information systems, the department shall make the data directly available to the Texas Department of Health, the Texas Department of Human Services, and the Texas Workforce Commission through electronic information systems. The department, the Texas Department of Health, the Texas Department of Human Services, and the Texas Workforce Commission shall jointly plan the development of child-care inspection databases that, to the extent feasible, are similar in their design and architecture to promote the sharing of data.

(c) The department may provide inspection data on licensed day-care centers, licensed group day-care homes, or registered family homes to the public if the department determines that providing inspection data enhances consumer choice with respect to those facilities.

§ 42.0445. REQUIRED BACKGROUND SEARCH OF CENTRAL REGISTRY OF REPORTED CASES OF CHILD ABUSE OR NEGLECT

(a) Before the department issues a license, listing, registration, or certification under this subchapter, the department shall search the central registry of reported cases of child abuse or neglect established under Section 261.002, Family Code, to determine whether the applicant or the owner or an employee of the facility or family home is listed in the registry as a person who abused or neglected a child.

(b) The department may adopt rules to implement this section.

§ 42.0446. REMOVAL OF CERTAIN INVESTIGATION INFORMATION FROM INTERNET WEBSITE

The executive commissioner shall adopt rules providing a procedure by which the department removes from the department's Internet website information with respect to a child-care facility or registered family home that relates to an anonymous complaint alleging that the facility or family home failed to comply with the department's minimum standards if, at the conclusion of an investigation, the department determines that the complaint is false or lacks factual foundation.

§ 42.0447. FALSE REPORT; CRIMINAL PENALTY

(a) A person commits an offense if the person knowingly or intentionally files a complaint alleging that a child-care facility or registered family home failed to comply with the department's minimum standards and the person knows the allegation is false or lacks factual foundation.

(b) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a state jail felony.

§ 42.0448. NOTIFICATION OF FAMILY VIOLENCE CALLS

The department shall notify a child-placing agency of each family violence report the department receives under Article 5.05, Code of Criminal Procedure, that:

(1) occurred at an agency foster home verified by the child-placing agency; or

(2) involves a person who resides at an agency foster home verified by the child-placing agency.

§ 42.0449. REQUIRED ACTIONS AFTER NOTICE OF FAMILY VIOLENCE CALL

The executive commissioner shall adopt rules specifying the actions that the department, an independent foster home, and a child-placing agency shall take after receiving notice of a family violence report under Article 5.05, Code of Criminal Procedure, or Section 42.0448 to ensure the health, safety, and welfare of each child residing in the licensed foster home or verified agency foster home.

§ 42.045. RECORDS

(a) A person who operates a licensed or certified facility shall maintain individual child development records, individual health records, statistical records, and complete financial records.

(b) A person who provides adoption services under a license to operate a child-placing agency shall furnish information required by the department to determine whether adoption related income and disbursements are reasonable, appropriate, and in compliance with the department's minimum standards.

(c) If a child-placing agency terminates operation as a child-placing agency, it shall, after giving notice to the department, transfer its files and records concerning adopted children, their biological families, and their adoptive families to the Bureau of Vital Statistics or, after giving notice to the Bureau of Vital Statistics, to a facility licensed by the department to place children for adoption.

(d) An independent foster home and a child-placing agency shall notify the department of any change of address for a licensed foster home or a verified agency foster home. The independent foster home and child-placing agency shall notify the department of the address change within the earlier of two business days or 72 hours of the date the foster home changes its address.

§ 42.0451. DATABASE OF FOSTER HOMES; INFORMATION PROVIDED TO DEPARTMENT OF PUBLIC SAFETY

(a) The department shall maintain a database of licensed foster homes and verified agency foster homes including the current address for each licensed or verified home as reported to the department. The database must be updated on a regular basis.

(b) The department shall make the database available to the Department of Public Safety for the purposes of Subsection (c).

(c) The Department of Public Safety shall include the information provided under Subsection (b) in the Texas Crime Information Center database and establish a procedure by which a peace officer or employee of a law enforcement agency who provides the department with a street address is automatically provided information as to whether the address is licensed as a foster home or verified as an agency foster home under this chapter.

(d) Information provided to the Department of Public Safety under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

§ 42.0452. FOSTER PARENT RIGHTS AND RESPONSIBILITIES STATEMENT

(a) The department shall develop a statement that lists the rights and responsibilities of a foster parent in a foster home or an agency foster home and of the department or a child-placing agency, as applicable.

(b) The department shall provide a written copy of the statement developed under Subsection (a) to each foster parent in a foster home and to each child-placing agency licensed by the department. A child-placing agency shall provide a written copy of the statement developed under Subsection (a) to each foster parent in an agency foster home verified by the child-placing agency.

§ 42.046. APPLICATION FOR LICENSE, LISTING, OR REGISTRATION

(a) An applicant for a license to operate a child-care facility or child-placing agency or for a listing or registration to operate a family home shall submit to the department the appropriate fee prescribed by Section 42.054 and a completed application on a form provided by the department.

(b) The department shall supply the applicant the application form and a copy of the appropriate minimum standards, if applicable.

(c) After receiving an application, the department shall investigate the applicant and the plan of care for children, if applicable.

(d) The department shall complete the investigation and decide on an application within two months after the date the department receives a completed application.

(e) The department may deny an application under this section if the applicant:

(1) has a residential child-care facility license revoked in another state; or

(2) is barred from operating a residential child-care facility in another state.

§ 42.0461. PUBLIC NOTICE AND HEARING IN CERTAIN COUNTIES: RESIDENTIAL CHILD CARE

(a) Before the department may issue a license or certificate for the operation or the expansion of the capacity of a foster group home or foster family home that is located in a county with a population of less than 300,000 and that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker or of a general residential operation, the applicant for the license, certificate, or expansion shall, at the applicant's expense:

(1) conduct a public hearing on the application in accordance with department rules after notifying the department of the date, time, and location of the hearing; and

(2) publish notice of the application in a newspaper of general circulation in the community in which the child-care services are proposed to be provided.

(b) The notice required by Subsection (a)(2) must be published at least 10 days before the date of the public hearing required by Subsection (a)(1) and must include:

(1) the name and address of the applicant;

(2) the address at which the child-care services are proposed to be provided;

(3) the date, time, and location of the public hearing;

(4) the name, address, and telephone number of the department as the licensing authority; and

(5) a statement informing the public that a person may submit written comments to the department concerning the application instead of or in addition to appearing at the public hearing.

(c) The department shall require a representative of the department to attend the public hearing in an official capacity for the purpose of receiving public comments on the application.

(d) Before issuing a license or certificate described by Subsection (a), the department shall consider:

(1) the amount of local resources available to support children proposed to be served by the applicant;

(2) the impact of the proposed child-care services on the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the effect, if any, on the children proposed to be served by the applicant; and

(3) the impact of the proposed child-care services on the community and the effect on opportunities for social interaction for the

children proposed to be served by the applicant.

(e) The department may deny the application if the department determines that:

(1) the community has insufficient resources to support children proposed to be served by the applicant;

(2) granting the application would significantly increase the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the increase would adversely affect the children proposed to be served by the applicant; or

(3) granting the application would have a significant adverse impact on the community and would limit opportunities for social interaction for the children proposed to be served by the applicant.

(f) A child-placing agency that proposes to verify an agency foster home or agency foster group home that is located in a county with a population of less than 300,000 that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker shall:

(1) comply with the notice and hearing requirements imposed by Subsections (a) and (b); and

(2) after conducting the required public hearing, provide the department with information relating to the considerations specified in Subsection (d).

(g) The department may prohibit the child-placing agency from verifying the proposed agency foster home or agency foster group home on the same grounds that the department may deny an application under Subsection (e). The department may invalidate the verification of an agency foster home or agency foster group home that was not verified using the procedures required by Subsection (f) on or after September 1, 1997.

§ 42.047. CONSULTATIONS

(a) The department shall offer consultation to potential applicants, applicants, and license, listing, registration, and certification holders about meeting and maintaining standards for licensing, listing, registration, and certification and achieving programs of excellence in child care.

(b) The department shall offer consultation to prospective and actual users of facilities or homes.

§ 42.048. LICENSING

(a) The department shall issue a license after determining that an applicant has satisfied all requirements.

(b) When issuing a license, the department may impose restrictions on a facility, including but not limited to the number of children to be served and the type of children to be served.

(c) The department may grant a variance of an individual standard set forth in the applicable standards for good and just cause.

(d) A license holder must display a license issued under this chapter in a prominent place at the facility.

(e) A license issued under this chapter is not transferable and applies only to the operator and facility location stated in the license application. Except as provided by this subsection, a change in location or ownership automatically revokes a license. A change in location of a child-placing agency does not automatically revoke the license to operate the child-placing agency.

(f) A license must be issued if the department determines that a facility meets all requirements. The evaluation shall be based on one or more visits to the facility and a review of required forms and records. A license is valid until revoked or surrendered.

§ 42.049. LIABILITY INSURANCE REQUIRED

(a) A license holder shall maintain liability insurance coverage in the amount of \$300,000 for each occurrence of negligence. An insurance policy or contract required under this section must cover injury to a child that occurs while the child is on the premises of the license holder or in the care of the license holder.

(b) A license holder shall file with the department a certificate or other evidence from an insurance company showing that the license holder has an unexpired and uncanceled insurance policy or contract that meets the requirements of this section.

(c) Should the license holder for financial reasons or for lack of availability of an underwriter willing to issue a policy be unable to secure the insurance required under Subsection (a) or should the policy limits be exhausted, the license holder shall notify the parent or a person standing in parental relationship to each child for whom the license holder provides care a written notice that the liability coverage is not provided and there will not be a ground for suspension or revocation of the license holder's license under this chapter. The license holder shall also notify the department that the coverage is not provided and provide the reason for same. In no case shall the inability to secure coverage serve to indemnify the license holder for damages due to negligence.

(d) The insurance policy or contract shall be maintained at all times in an amount as required by this section. Failure by a license holder to renew the policy or contract or to maintain the policy or contract in the required amount is a ground for suspension or revocation of the license holder's license under this chapter.

(e) This section does not apply to a group day-care home or a listed or registered family home.

§ 42.050. LICENSE RENEWAL.

(a) A license holder may apply for a new license in compliance with the requirements of this chapter and the rules promulgated by the department.

(b) The application for a new license must be completed and decided on by the department before the expiration of the license under which a facility is operating.

(c) The department shall evaluate the application for a new license to determine if all licensing requirements are met. The evaluation may include a specified number of visits to the facility and must include a review of all required forms and records.

§ 42.051. INITIAL LICENSE

(a) The department shall issue an initial license when a facility's plans meet the department's licensing requirements and one of the following situations exists:

(1) the facility is not currently operating;

(2) the facility has relocated and has made changes in the type of child-care service it provides; or

(3) there is a change in ownership of the facility resulting in changes in policy and procedure or in the staff who have direct contact with the children.

(b) An initial license is valid for six months from the date it is issued and may be renewed for an additional six months.

§ 42.052. CERTIFICATION, LISTING, AND REGISTRATION

(a) A state-operated child-care facility or child-placing agency must receive certification of approval from the department. The certification of approval remains valid until revoked or surrendered.

(b) To be certified, a facility must comply with the department's rules and standards and any provisions of this chapter that apply to a licensed facility of the same category. The operator of a certified facility must display the certification in a prominent place

at the facility.

(c) A family home that provides care for compensation for three or fewer children, excluding children who are related to the caretaker, shall list with the department if the home provides regular care in the caretaker's own residence. The home may register with the department.

(d) A family home that provides care for four or more children, excluding children who are related to the caretaker, shall register with the department. A family home that provides care exclusively for any number of children who are related to the caretaker is not required to be listed or registered with the department.

(e) A registration or listing remains valid until revoked or surrendered. The operator of a registered home must display the registration in a prominent place at the home.

(f) To remain listed or registered with the department, a family home must comply with the department's rules and standards, if applicable, and any provision of this chapter that applies to a listed or registered family home.

(g) The certification requirements of this section do not apply to a Texas Youth Commission facility, a Texas Juvenile Probation Commission facility, or a facility providing services solely for the Texas Youth Commission.

(h) The certification requirements of this section do not apply to a juvenile detention facility certified under Section 51.12, Family Code, or Section 141.042(d).

(i) The department shall provide to a listed family home a copy of the listing. A listing must contain a provision that states: "THIS HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. IT HAS NOT BEEN INSPECTED AND WILL NOT BE INSPECTED." The operator of a listed home is not required to display the listing in a prominent place at the home but shall make the listing available for examination. The department by rule shall provide for a sufficient period to allow operators of family homes to comply with the listing requirement of this section.

(j) The operator of a listed family home shall undergo initial and subsequent background and criminal history checks required under Section 42.056.

(k) The department shall issue a listing or registration to a family home, as appropriate, in both English and Spanish when the most recent federal census shows that more than one-half of the population in a municipality or in a commissioners precinct in a county in which the family home is located is of Hispanic origin or Spanish-speaking.

§ 42.0521. DEPOSIT OF FEES

The fees authorized by this chapter and received by the department shall be deposited in the general revenue fund.

§ 42.0522. PUBLIC ADVERTISING OF FAMILY HOMES

(a) A family home may not place a public advertisement that uses the title "registered family home" or any variation of that phrase unless the home is registered under this chapter. Any public advertisement for a registered family home that uses the title "registered family home" must contain a provision in bold type stating: "THIS HOME IS REGISTERED WITH THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES BUT IS NOT LICENSED OR REGULARLY INSPECTED."

(b) A family home may not place a public advertisement that uses the title "listed family home" or any variation of that phrase unless the home is listed as provided by this chapter. Any public advertisement for a listed family home that uses the title "listed family home" must contain a provision in bold type stating: "THIS HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGIS-

TERED WITH THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. IT HAS NOT BEEN INSPECTED AND WILL NOT BE INSPECTED."

§ 42.053. AGENCY FOSTER HOMES AND AGENCY FOSTER GROUP HOMES

(a) An agency foster home or agency foster group home is considered part of the child-placing agency that operates the agency foster home or agency foster group home for purposes of licensing.

(b) The operator of a licensed agency shall display a copy of the license in a prominent place in the agency foster home or agency foster group home used by the agency.

(c) An agency foster home or agency foster group home shall comply with all provisions of this chapter and all department rules and standards that apply to a child-care facility caring for a similar number of children for a similar number of hours each day.

(d) The department shall revoke or suspend the license of a child-placing agency if an agency foster home or agency foster group home operated by the licensed agency fails to comply with Subsection (c) of this section.

§ 42.0535. REQUIRED INFORMATION FOR VERIFICATION

(a) A child-placing agency that seeks to verify an agency home or an agency group home shall request background information about the agency home or group home from a child-placing agency that has previously verified that agency home or agency group home.

(b) Notwithstanding Section 261.201, Family Code, a child-placing agency that has verified an agency home or an agency group home is required to release to another child-placing agency background information requested under Subsection (a).

(c) A child-placing agency that releases background information under this section is immune from civil and criminal liability for the release of the information.

(d) For purposes of this section, background information means the home study under which the agency home or agency group home was verified by the previous child-placing agency and any record of noncompliance with state minimum standards received and the resolution of any such noncompliance by the previous child-placing agency.

(e) The department, by rule, shall develop a process by which a child-placing agency shall report to the department:

(1) the name of any verified foster home or foster group home that has been closed for any reason, including a voluntary closure;

(2) information regarding the reasons for the closure of the foster home or foster group home; and

(3) the name and other contact information of a person who may be contacted by another child-placing agency to obtain the records relating to the closed foster home or foster group home that are required to be maintained and made available under this section.

(f) Information gathered under Subsection (e) must be made available to child-placing agencies through a searchable database maintained by the department.

§ 42.0536. TRANSFER OF AGENCY FOSTER HOME

(a) An agency foster home that is verified by a child-placing agency may transfer to another child-placing agency only if, before the date of the transfer, the agency foster home notifies the child-placing agency to which the agency foster home is transferring of each licensing violation for which the agency foster home has been cited by the department during the preceding three years.

(b) The child-placing agency to which the agency foster home is transferring shall submit a written request for transfer to the child-placing agency that verified the agency foster home.

(c) Not later than the 10th day after the date the child-placing agency receives a request for transfer under Subsection (b), the child-placing agency shall provide the child-placing agency that submitted the request a copy of any of the following documents regarding the agency foster home:

- (1) a corrective action plan;
- (2) an annual development plan; or
- (3) a description of any imposed or potential service limitation.

(d) The department caseworker for each child placed in the agency foster home may conduct a review meeting to determine whether the transfer of the agency foster home is in the best interest of each child in the home on the request of:

(1) the child-placing agency to which the agency foster home is transferring;

(2) the child-placing agency that verified the agency foster home;

(3) the agency foster home; or

(4) the caseworker.

(e) After a review meeting, the caseworker shall determine whether each child placed in the agency foster home shall:

(1) stay in the agency foster home after the agency foster home is transferred to the new child-placing agency; or

(2) be removed from the agency foster home before the agency foster home is transferred to the new child-placing agency.

§ 42.054. FEES

(a) The department shall charge an applicant a nonrefundable application fee of \$35 for an initial license to operate a child-care facility or a child-placing agency.

(b) The department shall charge each child-care facility a fee of \$35 for an initial license. The department shall charge each child-placing agency a fee of \$50 for an initial license.

(c) The department shall charge each licensed child-care facility an annual license fee in the amount of \$35 plus \$1 for each child the child-care facility is permitted to serve. The fee is due on the date on which the department issues the child-care facility's initial license and on the anniversary of that date.

(d) The department shall charge each licensed child-placing agency an annual license fee of \$100. The fee is due on the date on which the department issues the child-placing agency's initial license and on the anniversary of that date.

(e) The department shall charge each family home that is listed or registered with the department an annual fee to cover a part of the department's cost in regulating family homes. The amount of the fee is \$20 for a listed home or \$35 for a registered home. The fee is due on the date on which the department initially lists or registers the home and on the anniversary of that date.

(f) If a facility, agency, or home fails to pay the annual fee when due, the license, listing, or registration, as appropriate, is suspended until the fee is paid.

(g) The provisions of Subsections (b) through (f) of this section do not apply to:

(1) licensed foster homes and licensed foster group homes;

(2) nonprofit facilities regulated under this chapter that provided 24-hour care for children in the managing conservatorship of the department during the 12-month period immediately preceding the anniversary date of the facility's license; or

(3) facilities operated by a nonprofit corporation or foundation that provides 24-hour residential care and does not charge for the care provided.

§ 42.055. SIGN POSTING

(a) Each child-care facility shall post in a location that is conspicuous to all employees and customers a sign that includes:

(1) a description of the provisions of the Family Code relating to the duty to report child abuse or neglect;

(2) a description of the penalties for violating the reporting provisions of the Family Code; and

(3) a brief description of sudden infant death syndrome, shaken-baby syndrome, and childhood diabetes and methods for preventing those phenomena.

(a-1) A licensed day-care center, licensed group day-care home, or registered family home subject to Section 42.0423 shall include in the sign required under Subsection (a) a description of how to access a listing of unsafe children's products on the United States Consumer Product Safety Commission's Internet website or through the department's public Internet website.

(b) The department by rule shall determine the design, size, and wording of the sign.

(c) The department shall provide the sign to each child-care facility without charge.

(d) A person who operates a child-care facility commits an offense if the department provides a sign to the facility as provided by this section and the person intentionally fails to display the sign in the facility as prescribed by this section. An offense under this subsection is a Class C misdemeanor.

§ 42.0551. POSTING OF EMPLOYEE LIST

(a) Each day-care center, group day-care home, and family home shall post a list of all current employees at the center or home in accordance with rules adopted by the executive commissioner.

(b) The executive commissioner shall adopt rules regarding the size, wording, and placement of the list required under this section.

§ 42.056. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS; CRIMINAL PENALTIES

(a) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-care facility, child-placing agency, or family home shall, when applying to operate a child-care facility or child placing agency or when listing or registering a family home and at least once during each 24 months after receiving a license, listing, registration, or certification of approval, submit to the department for use in conducting background and criminal history checks the name of:

(1) the director, owner, and operator of the facility, agency, or home;

(2) each person employed at the facility, agency, or home;

(3) each prospective employee of the facility, agency, or home;

(4) each current or prospective foster parent providing foster care through a child-placing agency;

(5) each prospective adoptive parent seeking to adopt through a child-placing agency;

(6) each person at least 14 years of age, other than a client in care, who:

(A) is counted in child-to-caregiver ratios in accordance with the minimum standards of the department;

(B) will reside in a prospective adoptive home if the adoption is through a child-placing agency;

(C) has unsupervised access to children in care at the facility or family home; or

(D) resides in the facility or family home; or

(7) each person 14 years of age or older, other than a client in care, who will regularly or frequently be staying or working at a facility, family home, or prospective adoptive home, while children

are being provided care.

(a-2) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a day-care center shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a), unless the person is only required to have the person's name submitted based on criteria specified by Subsection (a)(7).

(a-3) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-placing agency, foster home, or foster group home must, before a child for whom the department is the managing conservator is placed with the agency or in the home, submit a complete set of fingerprints of the following persons:

(1) a person who applies to be a foster or adoptive parent, including a person who has previously adopted a child unless the person is also verified as a foster or adoptive home; and

(2) a person who is 18 years of age or older and who lives in the home of a person who applies to be a foster or adoptive parent.

(a-4) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-care facility or family home shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a) if:

(1) the person resided in another state during the five years preceding the date the person's name was required to be submitted under Subsection (a); or

(2) the director, owner, or operator has reason to suspect that the person has a criminal history in another state.

(a-5) The rules adopted by the executive commissioner under Subsections (a-2), (a-3), and (a-4):

(1) must require that the fingerprints be submitted in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation for conducting a criminal history check;

(2) may require that the fingerprints be submitted electronically through an applicant fingerprinting service center; and

(3) may allow the department to waive the submission of fingerprints required by this section if:

(A) the person for whom the submission is required has:

(i) a fingerprint-based criminal history record check on file with the department; or

(ii) a fingerprint-based criminal history clearinghouse record, as provided by Section 411.0845, Government Code, that is accessible to the department through the Department of Public Safety; and

(B) the date on which the current submission of fingerprints is required occurs before the second anniversary of a previous name-based criminal history check of the person.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a);

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(b-1) In addition to any other background or criminal history check conducted under Subsection (b), for each person whose fingerprints are submitted under Subsection (a-2), (a-3), or (a-4), the department shall conduct a state and Federal Bureau of Investigation criminal history check by:

(1) submitting the person's fingerprints, or causing the fingerprints to be submitted electronically, to the Department of Public

Safety for the purpose of conducting a state and federal criminal history check; and

(2) using the resulting information made available by that department under Section 411.114, Government Code, and by the Federal Bureau of Investigation and any other criminal justice agency under Section 411.087, Government Code.

(c) The department by rule shall require a child-care facility, child-placing agency, or registered family home to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

(f) As part of a background check under this section, the department shall provide any relevant information available in the department's records regarding a person's previous employment in a facility or family home to the person submitting the request.

(g) Except as otherwise provided by this subsection, a person whose name is submitted under Subsection (a) may not provide direct care or have direct access to a child in a facility or family home before the person's background and criminal history checks under Subsections (b) and (b-1) are completed. A person may be employed at a facility or family home and may provide direct care or have direct access to a child in the facility or family home before the person's criminal history check under Subsection (b-1) is completed if:

(1) the facility or family home is experiencing a staff shortage;

(2) the state criminal history check and the background check using the department's records of reported abuse and neglect have been completed under Subsection (b), and the resulting information does not preclude the person from being present at the facility or family home; and

(3) the person's fingerprints are submitted as soon as possible, but not later than the 30th day after the earliest of the date on which the person first:

(A) provides direct care to a child;

(B) has direct access to a child; or

(C) is hired

(h) If the results of a criminal history check under Subsection (b-1) for a person employed by a facility or family home during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the facility or family home, the director, owner, or operator of the facility or family home shall immediately terminate the person's employment.

(i) A director, owner, or operator of a facility or family home commits an offense if the director, owner, or operator knowingly:

(1) fails to submit to the department information about a person as required by this section and department rules for use in conducting background and criminal history checks with respect to the person; and

(2) employs the person at the facility or family home or otherwise allows the person to regularly or frequently stay or work at the facility or family home while children are being provided care.

(j) A director, owner, or operator of a facility or family home commits an offense if, after the date the director, owner, or operator receives notice from the department that, based on the results of a person's background or criminal history check, the person is precluded from being present at the facility or family home, the director, owner, or operator knowingly:

(1) employs the person at the facility or family home; or

(2) otherwise allows the person to regularly or frequently stay or work at the facility or family home while children are being provided care.

(k) An offense under Subsection (i) or (j) is a Class B misdemeanor.

§ 42.0561 INFORMATION RELATING TO FAMILY VIOLENCE REPORTS

Before the department may issue a license or registration for a foster home or a child-placing agency may issue a verification certificate for an agency foster home, the department or child-placing agency must obtain information relating to each family violence report at the applicant's residence to which a law enforcement agency responded during the 12 months preceding the date of the application. The applicant shall provide the information on a form prescribed by the department.

§ 42.057. DRUG TESTING

(a) Each residential child-care facility shall establish a drug testing policy for employees. A residential child-care facility may adopt the model employee drug testing policy adopted by the executive commissioner under Subsection (b) or may use another employee drug testing policy approved by the executive commissioner.

(b) The executive commissioner by rule shall adopt a model employee drug testing policy for use by a residential child-care facility. The policy must be designed to ensure the safety of resident children through appropriate drug testing of employees while protecting the rights of employees. The model policy must require:

- (1) preemployment drug testing;
- (2) random, unannounced drug testing of each employee who has direct contact with a child in the care of the facility;
- (3) drug testing of an employee against whom there is an allegation of drug abuse; and
- (4) drug testing of an employee whom the department is investigating for the abuse or neglect of a child in the care of the facility, if the allegation of abuse or neglect includes information that provides good cause to suspect drug abuse.

(c) The department shall require a drug test of a person who directly cares for or has access to a child in a residential child-care facility within 24 hours after the department receives notice of an allegation that the person has abused drugs.

(d) An employee may not provide direct care or have direct access to a child in a residential child-care facility before completion of the employee's initial drug test.

(e) A residential child-care facility shall pay any fee or cost associated with performing the drug test for an employee.

§ 42.058. COMPETITIVE BIDDING OR ADVERTISING RULES

(a) The board may not adopt rules restricting competitive bidding or advertising by a license holder or registration holder except to prohibit false, misleading, or deceptive practices or to prevent a violation of this chapter.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a license holder's or registration holder's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the license holder or registration holder; or
- (4) restricts the license holder's or registration holder's advertisement under a trade name.

§ 42.059. REQUIRED AFFIDAVIT FOR APPLICANTS FOR EMPLOYMENT WITH FACILITY OR REGISTERED FAMILY HOME

(a) An applicant for temporary or permanent employment with a licensed facility or registered family home whose employment or potential employment with the facility or home involves direct

interactions with or the opportunity to interact and associate with children must execute and submit the following affidavit with the application for employment:

STATE OF _____

COUNTY OF _____

I swear or affirm under penalty of perjury that I do not now and I have not at any time, either as an adult or as a juvenile:

- 1. Been convicted of;
- 2. Pleaded guilty to (whether or not resulting in a conviction);
- 3. Pleaded nolo contendere or no contest to;
- 4. Admitted;
- 5. Had any judgment or order rendered against me (whether by default or otherwise);
- 6. Entered into any settlement of an action or claim of;
- 7. Had any license, certification, employment, or volunteer position suspended, revoked, terminated, or adversely affected because of;
- 8. Resigned under threat of termination of employment or volunteerism for;
- 9. Had a report of child abuse or neglect made and substantiated against me for; or
- 10. Have any pending criminal charges against me in this or any other jurisdiction for; Any conduct, matter, or thing (irrespective of formal name thereof) constituting or involving (whether under criminal or civil law of any jurisdiction):
 - 1. Any felony;
 - 2. Rape or other sexual assault;
 - 3. Physical, sexual, emotional abuse and/or neglect of a minor;
 - 4. Incest;
 - 5. Exploitation, including sexual, of a minor;
 - 6. Sexual misconduct with a minor;
 - 7. Molestation of a child;
 - 8. Lewdness or indecent exposure;
 - 9. Lewd and lascivious behavior;
 - 10. Obscene or pornographic literature, photographs, or videos;
 - 11. Assault, battery, or any violent offense involving a minor;
 - 12. Endangerment of a child;
 - 13. Any misdemeanor or other offense classification involving a minor or to which a minor was a witness;
 - 14. Unfitness as a parent or custodian;
 - 15. Removing children from a state or concealing children in violation of a court order;
 - 16. Restrictions or limitations on contact or visitation with children or minors resulting from a court order protecting a child or minor from abuse, neglect, or exploitation; or
 - 17. Any type of child abduction. Except the following (list all incidents, location, description, and date) (if none, write NONE)

Signed _____

Date _____

Subscribed and sworn to (or affirmed) before me this _____ day of _____, _____.

Signature of notarial officer _____

(seal, if any, of notarial officer)

My commission expires: _____

(b) The failure or refusal of the applicant to sign or provide the affidavit constitutes good cause for refusal to hire the applicant.

§ 42.060. CARBON MONOXIDE DETECTORS

(a) In this section, "carbon monoxide detector" means a device that detects and sounds an alarm to indicate the presence of a harmful level of carbon monoxide gas.

(b) Except as provided by Subsection (d), each day-care center, group day-care home, and family home must be equipped with carbon monoxide detectors in accordance with department rules.

(c) The department by rule shall prescribe requirements regarding the placement, installation, and number of carbon monoxide detectors and maintenance procedures for those detectors.

(d) A day-care center is exempt from the carbon monoxide detector requirements prescribed by this section if the day-care center is located in a school facility that is subject to the school facility standards adopted by the commissioner of education under Section 46.008, Education Code, or similar safety standards adopted by the board of a local school district. [SB100 Section 2, subsection (b) states that Notwithstanding Subsection (a) of this section, a day-care center, group day-care home, or family home is not required to be equipped with carbon monoxide detectors as required by Section 42.060, Human Resources Code, as added by this Act, before January 1, 2004.]

§ 42.062. CERTAIN EMPLOYMENT PROHIBITED

A residential child-care facility may not employ in any capacity a person who is not eligible to receive a license or certification for the operation of a residential child-care facility under Section 42.072 (g) or who has been denied a license under Section 42.046.

§ 42.063. REPORTING OF INCIDENTS AND VIOLATIONS

(a) In this section, "serious incident" means a suspected or actual incident that threatens or impairs the basic health, safety, or well-being of a child. The term includes:

- (1) the arrest, abuse, neglect, exploitation, running away, attempted suicide, or death of a child;
- (2) a critical injury of a child; and
- (3) an illness of a child that requires hospitalization.

(b) A person licensed under this chapter shall report to the department each serious incident involving a child who receives services from the person, regardless of whether the department is the managing conservator of the child.

(c) An employee of a person described by Subsection (b) shall report suspected abuse or neglect directly to the statewide intake system.

(d) An employee or volunteer of a general residential operation, child-placing agency, foster home, or foster group home shall report any serious incident directly to the department if the incident involves a child under the care of the operation, agency, or home.

(e) A foster parent shall report any serious incident directly to the department if the incident involves a child under the care of the parent.

(f) The executive commissioner by rule shall prescribe:

- (1) procedures governing reporting required under this section; and
- (2) the manner in which a report under this section must be provided.

(g) The department shall implement this section using existing appropriations.

§ 42.064. INFORMATION REGARDING GANG-FREE ZONES

Each day-care center shall, in accordance with rules adopted by the executive commissioner, distribute to parents and guardians of children who attend the center information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

SUBCHAPTER D. REMEDIES

§ 42.0705. RANGE OF PENALTIES

The department shall revoke or suspend a license or registration, place on probation a person whose license or registration has been suspended, or reprimand a license holder or registration holder for a violation of this chapter or a rule of the board. If a license or registration suspension is probated, the department may require the license holder or registration holder to:

- (1) report regularly to the department on matters that are the basis of the probation;
- (2) limit services to the areas prescribed by the department;
- (3) continue or review professional education until the license holder or registration holder attains a degree of skill satisfactory to the department in those areas that are the basis of the probation; or
- (4) take corrective action relating to the violation on which the probation is based.

§ 42.071. SUSPENSION, EVALUATION, OR PROBATION OF LICENSE OR REGISTRATION

(a) The department may suspend the license of a facility or the registration of a family home that has temporarily ceased operation but has definite plans for starting operations again within the time limits of the issued license or registration.

(b) The department may suspend a facility's license or a family home's registration for a definite period rather than deny or revoke the license or registration if the department finds repeated non-compliance with standards that do not endanger the health and safety of children. To qualify for license or registration suspension under this subsection, a facility or family home must suspend its operations and show that standards can be met within the suspension period.

(c) If the department finds a facility or family home is in repeated noncompliance with standards that do not endanger the health and safety of children, the department may schedule the facility or family home for evaluation or probation rather than suspend or revoke the facility's license or the family home's registration. The department shall provide notice to the facility or family home of the evaluation or probation and of the items of noncompliance not later than the 10th day before the evaluation or probation period begins. The department shall designate a period of not less than 30 days during which the facility or family home will remain under evaluation. During the evaluation or probation period, the facility or family home must correct the items that were in noncompliance and report the corrections to the department for approval.

(d) The department shall revoke the license of a facility or the registration of a family home that does not comply with standards at the end of a license or registration suspension.

(e) The department may suspend or revoke the license of a facility or the registration of a family home that does not correct items that were in noncompliance or that does not comply with required standards within the applicable evaluation or probation period.

§ 42.0715. COSTS CHARGED TO FACILITY OR FAMILY HOME

The department may charge a facility or family home for reimbursement of the reasonable cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan for the facility or family home.

§ 42.072. LICENSE, LISTING, OR REGISTRATION DENIAL, SUSPENSION, OR REVOCATION

(a) The department may suspend, deny, revoke, or refuse to

renew the license, listing, registration, or certification of approval of a facility or family home that does not comply with the requirements of this chapter, the standards and rules of the department, or the specific terms of the license, listing, registration, or certification. The department may revoke the probation of a person whose license, listing, or registration is suspended if the person violates a term of the conditions of probation.

(b) If the department proposes to take an action under Subsection (a), the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. An action under this section, including a revocation of a person's license, is a contested case as defined by Chapter 2001, Government Code, and is subject to judicial review under the substantial evidence rule in accordance with that chapter. Rules of practice adopted by the board under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

(c) The department may not issue a license, listing, registration, or certification to a person whose license, listing, registration, or certification is revoked or whose application for a license, listing, registration, or certification is denied for a substantive reason under this chapter before the fifth anniversary of the date on which the revocation takes effect by department or court order or the decision to deny the application is final.

(d) The department by rule may provide for denial of an application or renewal for a licensed facility or for listing or registering a family home or may revoke a facility's license or a family home's listing or registration based on findings of background or criminal history as a result of a background or criminal history check.

(e) A person may continue to operate a facility or family home during an appeal of a license, listing, or registration denial or revocation unless the operation of the facility or the family home poses a risk to the health or safety of children. The executive commissioner shall by rule establish the criteria for determining whether the operation of a facility or family home poses a risk to the health or safety of children. The department shall notify the facility or family home of the criteria the department used to determine that the operation of the facility or family home poses a risk to health or safety and that the facility or family home may not operate. A person who has been notified by the department that the facility or home may not operate under this section may seek injunctive relief from a district court in Travis County or in the county in which the facility or home is located to allow operation during the pendency of an appeal. The court may grant injunctive relief against the agency's action only if the court finds that the child-care operation does not pose a health or safety risk to children. A court granting injunctive relief under this subsection shall have no other jurisdiction over an appeal of final agency action unless conferred by Chapter 2001, Government Code.

(f) The department shall deny an application or renewal for listing or registering a family home or shall revoke a family home's listing or registration if the results of a background or criminal history check conducted by the department under Section 42.056 show that a person has been convicted of an offense under Title 5 or 6, Penal Code, or Chapter 43, Penal Code.

(g) Notwithstanding Subsection (c), the department may refuse to issue a license, listing, registration, or certification to:

(1) a person whose license or certification for a residential child-care facility was revoked by the department or by court order;

(2) a person who was a controlling person of a residential child-care facility at the time conduct occurred that resulted in the

revocation of the license or certification of the facility;

(3) a person who voluntarily closed a residential child-care facility or relinquished the person's license or certification after:

(A) the department took an action under Subsection (a) in relation to the facility or person; or

(B) the person received notice that the department intended to take an action under Subsection (a) in relation to the facility or person; or

(4) a person who was a controlling person of a residential child-care facility at the time conduct occurred that resulted in the closure of the facility or relinquishment of the license or certification in the manner described by Subdivision (3).

§ 42.073. EMERGENCY SUSPENSION AND CLOSURE OF A FACILITY OR FAMILY HOME

(a) The department shall suspend a facility's license or a family home's listing or registration and order the immediate closing of the facility or family home if:

(1) the department finds the facility or family home is operating in violation of the applicable standards prescribed by this chapter; and

(2) the violation creates an immediate threat to the health and safety of the children attending or residing in the facility or family home.

(b) An order suspending a license, listing, or registration and an order closing a facility or family home under this section is immediately effective on the date on which the holder of the license, listing, or registration receives written notice or on a later date specified in the order.

(c) An order is valid for 30 days after the effective date of the order.

§ 42.074. INJUNCTIVE RELIEF

(a) The department may file suit in a district court in Travis County or in the county in which a facility or family home is located for assessment and recovery of a civil penalty under Section 42.075, for injunctive relief, including a temporary restraining order, or for both a civil penalty and injunctive relief when it appears that a person:

(1) has violated, is violating, or is threatening to violate the licensing, certification, listing, or registration requirements of this chapter or the department's licensing, certification, listing, or registration rules and standards; or

(2) knowingly fails to meet or maintain an exemption authorized under Section 42.041 and engages in activities that require a license or registration.

(b) The district court shall grant the injunctive relief the facts may warrant.

(c) At the department's request, the attorney general or the county or district attorney of the county in which the facility or family home is located shall conduct a suit in the name of the State of Texas for injunctive relief, to recover the civil penalty, or for both injunctive relief and civil penalties as authorized by Subsection (a).

(d) Injunctive relief provided by this section is in addition to any other action, proceeding, or remedy authorized by law. It is not necessary to allege or prove in an action filed under this section that an adequate remedy at law does not exist or that substantial or irreparable harm would result from the continued violation.

(e) The department is not required to give an appeal bond in an action arising under this section.

§ 42.075. CIVIL PENALTY

(a) A person is subject to a civil penalty of not less than \$50 nor more than \$100 for each day of violation and for each act of violation if the person:

(1) threatens serious harm to a child in a facility or family home by violating a provision of this chapter or a department rule or standard;

(2) violates a provision of this chapter or a department rule or standard three or more times within a 12-month period;

(3) places a public advertisement for an unlicensed facility or an unlisted or unregistered family home;

(4) knowingly fails to meet or maintain any criterion of an exemption authorized under Section 42.041 and engages in activities that require a license or registration; or

(5) fails to inform the department of a change in status and the person knows the change in status requires the person to be licensed or registered under this chapter.

(b) The civil penalty authorized by this section is cumulative and in addition to the criminal penalties and injunctive relief provided by this chapter.

§ 42.076. CRIMINAL PENALTIES

(a) A person who operates a child-care facility or child-placing agency without a license or certificate to operate under accreditation under Subchapter E commits a Class B misdemeanor.

(b) A person who operates a family home without a required listing or registration commits a Class B misdemeanor.

(c) A person who places a public advertisement for an unlicensed facility or an unlisted or unregistered family home commits a Class C misdemeanor.

(d) It is not an offense under this section if a professional provides legal or medical services to:

(1) a parent who identifies the prospective adoptive parent and places the child for adoption without the assistance of the professional; or

(2) a prospective adoptive parent who identifies a parent and receives placement of a child for adoption without assistance of the professional.

§ 42.0761. CRIMINAL PENALTY FOR OPERATING DAY-CARE CENTER WITHOUT QUALIFIED DIRECTOR

(a) An owner or operator of a day-care center commits an offense if the owner or operator knowingly operates the day-care center:

(1) without a director who meets the qualifications of a director prescribed by department rules; or

(2) without the routine presence during the day-care center's hours of operation of a director described by Subdivision (1).

(b) An offense under this section is a Class B misdemeanor.

§ 42.077. NOTICE OF ACTION AGAINST FACILITY OR FAMILY HOME

(a) If the department revokes or suspends a facility's license or a family home's listing or registration, the department shall publish notice of this action:

(1) in a newspaper of general circulation in the county in which the facility or family home is located; or

(2) on the department's Internet website along with other information regarding child-care services.

(a-1) If notice is published in a newspaper under Subsection (a), the newspaper shall place the notice in the section in which advertisements for day-care services are normally published.

(b) If a person who operates a facility or family home that has

had its license, listing, or registration revoked or suspended later applies for a new license, listing, or registration to operate the same facility or family home, the department shall charge the person an application fee in an amount necessary to reimburse the department for the cost of the notice relating to that facility or family home.

(c) The department shall pay for publication of the notice from funds appropriated to the department for licensing and regulating child-care facilities and for listing, registering, and regulating family homes and from appeal and application fees collected under Subsection (b) and appropriated to the department.

(d) A facility or family home that has its license, listing, or registration revoked or suspended shall mail notification of this action by certified mail to the parents or guardian of the child served by the facility or family home. The facility or family home shall mail the notification within five days of the effective date of the revocation or suspension of the license, listing, or registration.

(d-1) If the department determines that the license of a residential child-care facility should be revoked or suspended, the facility shall mail notification of the action or proposed action by certified mail to a parent of each child served by the facility, if the person's parental rights have not been terminated, and to the child's managing conservator, as appropriate. The residential child-care facility shall mail the notification not later than the fifth day after the date the facility is notified of the department's determination that revocation or suspension of the license is appropriate.

(e) When the most recent federal census shows that more than one-half of the population in a municipality or in a commissioner's precinct in a county in which a family home whose listing or registration has been revoked or suspended is located is of Hispanic origin or Spanish-speaking, the department shall publish the notice under Subsection (a) in both English and Spanish.

§ 42.078. ADMINISTRATIVE PENALTY

(a) The department may impose an administrative penalty against a facility or family home licensed or registered under this chapter that violates this chapter or a rule or order adopted under this chapter. In addition, the department may impose an administrative penalty against a residential child-care facility or a controlling person of a residential child-care facility if the facility or controlling person:

(1) violates a term of a license or registration issued under this chapter;

(2) makes a statement about a material fact that the facility or person knows or should know is false:

(A) on an application for the issuance of a license or registration or an attachment to the application; or

(B) in response to a matter under investigation;

(3) refuses to allow a representative of the department to inspect:

(A) a book, record, or file required to be maintained by the facility; or

(B) any part of the premises of the facility;

(4) purposefully interferes with the work of a representative of the department or the enforcement of this chapter; or

(5) fails to pay a penalty assessed under this chapter on or before the date the penalty is due, as determined under this section.

(a-1) Nonmonetary, administrative penalties or remedies including but not limited to corrective action plans, probation, and evaluation periods shall be imposed when appropriate before monetary penalties.

(b) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The penalty for a violation may be in an amount not to exceed the following limits,

based on the maximum number of children for whom the facility or family home was authorized to provide care or the number of children under the care of the child-placing agency when the violation occurred:

(1) for violations that occur in a facility other than a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	\$50
21-40	\$60
41-60	\$70
61-80	\$80
81-100	\$100
More than 100	\$150

(2) for violations that occur in a residential child-care facility:

Number of children	Maximum amount of penalty
20 or less	\$100
21-40	\$150
41-60	\$200
61-80	\$250
81-100	\$375
More than 100	\$500

(c) In addition to the number of children, the amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) Monetary penalties shall not be assessed for violations that are the result of clerical errors

(e) If the department determines that a violation has occurred, the department may issue a recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(f) Within 14 days after the date the recommendation is issued, the department shall give written notice of the recommendation to the person owning or operating the facility or family home or to the controlling person, if applicable. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the department or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) If the person accepts the determination and recommended penalty of the department or fails to respond to the notice in a timely manner, the executive director shall issue an order and impose the recommended penalty.

(i) If the person requests a hearing, the department shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and issue a final decision

finding that a violation has occurred and imposing a penalty or finding that no violation occurred.

(j) The notice of the administrative law judge's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

(k) Within 30 days after the date the administrative law judge's order becomes final as provided by Section 2001.144, Government Code, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(l) Within the 30-day period, a person who acts under Subsection (k)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the department by certified mail.

(m) On receipt of a copy of an affidavit under Subsection (l)(2), the department may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(n) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the department may refer the matter to the attorney general for collection of the amount of the penalty.

(o) Judicial review of the order:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(p) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(q) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and

if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(r) A penalty collected under this section shall be sent to the comptroller for deposit in the general revenue fund.

(s) All proceedings under this section are subject to Chapter 2001, Government Code.

SUBCHAPTER F. REGULATION OF EMPLOYER-BASED DAY-CARE FACILITIES

§ 42.151. DEFINITIONS

In this subchapter:

(1) "Employer-based day-care facility" means a day-care facility that is:

(A) operated by a small employer to provide care to not more than 12 children of the employer's employees; and

(B) located on the employer's premises.

(2) "Small employer" means a corporation, partnership, sole proprietorship, or other legal entity that employs fewer than 100 full-time employees.

§ 42.152. PERMIT REQUIRED

(a) Except as provided by Subsection (b), a small employer may not operate an employer-based day-care facility unless the employer holds a permit issued by the department under this subchapter.

(b) A small employer is not required to obtain a permit to operate an employer-based day-care facility under this subchapter if the employer holds a license to operate a child-care facility that is issued by the department under Subchapter C. An employer that holds that license must comply with the applicable provisions of Subchapter C, the applicable rules of the department, and any specific terms of the license.

(c) Notwithstanding any other law, including Section 42.041, a small employer that holds a permit issued under this subchapter is not required to hold a license under Subchapter C to operate an employer-based day-care facility.

§ 42.153. APPLICATION; INITIAL INSPECTION AND BACKGROUND AND CRIMINAL HISTORY CHECKS

(a) The department shall develop and implement a streamlined procedure by which a small employer may apply for and be issued a permit to operate an employer-based day-care facility. The employer must submit an application for the permit to the department on a form prescribed by the department.

(b) Except as provided by Section 42.154, on receipt of a small employer's application for a permit, the department shall:

(1) conduct an initial inspection of the employer-based day-care facility to ensure that the employer is able to comply with the provisions of this subchapter and that the facility complies with the fire safety and sanitation standards of the political subdivision in which the facility is located; and

(2) conduct a background and criminal history check on each prospective caregiver whose name is submitted as required by Section 42.159(a).

(c) The department may charge an applicant an administrative fee in a reasonable amount that is sufficient to cover the costs of the department in processing the application.

(d) The department shall process an application not later than the 30th day after the date the department receives all of the required information.

§ 42.154. CONVERSION OF LICENSE

(a) The department shall develop and implement a procedure by which a small employer that holds a license to operate a child-care facility that is issued under Subchapter C before September 1, 2007, may convert the license to a permit under this subchapter. The procedure must include an abbreviated application form for use by the employer in applying for the permit.

(b) The department may waive the requirements under Section 42.153(b) for an initial inspection or background and criminal history checks with respect to a facility operated by a small employer seeking to convert a license to a permit under this section if the department determines that previously conducted inspections or background and criminal history checks, as applicable, are sufficient to ensure the safety of children receiving care at the facility.

§ 42.155. PARENT OR GUARDIAN WITHIN IMMEDIATE VICINITY

An employer-based day-care facility operating under this subchapter may provide care only for a child whose parent or guardian:

(1) is an employee of the small employer to which the permit to operate the facility was issued;

(2) works within the same building in which the facility is located; and

(3) is away from that building only for limited periods, as defined by department rules, during the hours the child is receiving care.

§ 42.156. CAREGIVER-TO-CHILD RATIO

An employer-based day-care facility operating under this subchapter shall maintain a caregiver-to-child ratio of at least one caregiver to every four children receiving care.

§ 42.157. MINIMUM STANDARDS

The department shall encourage an employer-based day-care facility operating under this subchapter to comply with the minimum standards applicable to a child-care facility licensed under Subchapter C.

§ 42.158. CAREGIVER QUALIFICATIONS

A caregiver employed by an employer-based day-care facility operating under this subchapter must:

(1) be at least 18 years of age;

(2) have received a high school diploma or its equivalent, as determined by the department;

(3) receive at least the minimum training required for an employee of a licensed day-care center as prescribed by department rules in accordance with Sections 42.042(p) and 42.0421;

(4) have a Child Development Associate or Certified Child-Care Professional credential or an equivalent credential, as determined by the department; and

(5) not have been precluded from providing direct care or having direct access to a child by the department based on the results of a background and criminal history check conducted under Section 42.159.

§ 42.159. BACKGROUND AND CRIMINAL HISTORY CHECKS REQUIRED

(a) In accordance with rules adopted by the executive commissioner, a small employer shall, when applying for a permit under this subchapter and at least once during each 24 months after receiving that permit, submit to the department for use in conducting background and criminal history checks:

(1) the name of any director of the employer-based day-care facility and the name of each caregiver employed at the facility to provide care to children; and

(2) the name of each person 14 years of age or older who will regularly or frequently be staying or working at the facility while children are being provided care.

(b) The small employer shall also submit to the department for use in conducting background and criminal history checks the name of each prospective caregiver who will provide care to children at the facility or other prospective employee who will have direct access to those children.

(c) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a) or (b), as applicable;

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(d) For purposes of Sections 411.114 and 411.087, Government Code:

(1) a small employer that applies for a permit is considered an applicant for a license under this chapter; and

(2) an employer-based day-care facility operating under a permit issued under this subchapter is considered a child-care facility licensed under this chapter.

(e) The department shall require the small employer to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

§ 42.160. APPLICABILITY OF OTHER LAW

Except as otherwise provided by this subchapter, an employer-based day-care facility operating under this subchapter is not a child-care facility, as defined by Section 42.002, and the provisions of this chapter and the department's rules that apply to a child-care facility licensed under Subchapter C do not apply to an employer-based day-care facility.

§ 42.161. REPORTING OF INCIDENTS AND VIOLATIONS

An employer-based day-care facility operating under this subchapter and each employee of that facility are subject to the reporting requirements of Section 42.063 to the same extent a licensed child-care facility and employees of licensed child-care facilities are subject to that section.

§ 42.162. AUTHORITY TO CONDUCT LIMITED INSPECTIONS

(a) The department may inspect an employer-based day-care facility operating under this subchapter if the department receives a complaint or report of child abuse or neglect alleged to have occurred at the facility.

(b) If the department inspects an employer-based day-care facility as authorized by this section, the department may require the small employer operating the facility to take appropriate corrective action the department determines necessary to comply with the requirements of this subchapter and to ensure the health and safety of children receiving care at the facility. The department may continue to inspect the facility until corrective action is taken and for a reasonable time after that action is taken to ensure continued compliance.

(c) The department may charge a small employer issued a permit under this subchapter a reasonable fee for the cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan under this section.

§ 42.163. SUSPENSION, DENIAL, OR REVOCATION

(a) The department may suspend, deny, or revoke a permit issued to a small employer under this subchapter if the employer does not comply with the provisions of this subchapter or any applicable department rules.

(b) The department may refuse to issue a permit under this subchapter to a small employer that had its authorization to operate a child-care facility issued under another subchapter revoked, suspended, or not renewed for a reason relating to child health or safety as determined by the department.

(c) An employer-based day-care facility is subject to the emergency suspension of its permit to operate and to closure under Section 42.073 to the same extent and in the same manner as a licensed child-care facility is subject to that section.

DEFINITIONS OF "ABUSE" AND "NEGLECT"

Excerpt from the Texas Family Code

Subtitle E. Protection of the Child

Chapter 261. Investigation of Report of Child Abuse or Neglect
Subchapter E. Investigation of Abuse, Neglect or Exploitation in Certain Facilities

§ 261.401. AGENCY INVESTIGATION

(a) Notwithstanding Section 261.001, in this section:

(1) "Abuse" means an intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program that causes or may cause emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

(2) "Exploitation" means the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy.

(3) "Neglect" means a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

LANCASTER CITY COUNCIL
Agenda Communication for
May 23, 2011

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AG11-011

Conduct a public hearing and consider an ordinance of the City of Lancaster, Texas, readopting, ratifying, republishing and extending Ordinance No. 2007-02-06, codified as Chapter 8 of the Code of Ordinances, Article 8.800, Curfew Hours for Minors, for a period of three (3) years; providing a repealing clause; providing a severability clause; and providing for an effective date.

This request supports the City Council 2010-2011 Policy Agenda.

Goal: 3 Healthy, Safe & Vibrant Neighborhoods

Background

Chapter 370.002 of the Texas Local Government Code provides that curfew ordinances be reviewed by the governing body of the city every three years. The last review date of this ordinance was in February of 2007. The police department requested that the City Attorney review the ordinance. It is the recommendation of the police department and the City Attorney that the city continues the provisions of the code without any modifications and schedules the next review in May of 2014.

Considerations

- **Operational** – The police department will take the necessary enforcement action on any individual found in violation of this article and will not issue a citation or make an arrest under this article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense under Section 8.803 is present. Defenses include:
 - (a) It is a defense to prosecution under Section 8.802 that the minor was:
 - (1) accompanied by the minor's parent or guardian;
 - (2) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (3) in a motor vehicle involved in interstate travel;

- (4) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) involved in an emergency;
- (6) on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
- (7) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Lancaster, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Lancaster, a civic organization, or another similar entity that takes responsibility for the minor;
- (8) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
- (9) married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code, as amended.

(b) It is a defense to prosecution under Section 8.802(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Note: Item (b) above is a defense for the owner, operator, or employee of an establishment, but not for the minor. Section 8.802(c) states that an owner, operator, or employee commits an offense if he knowingly allows a minor to remain on the premises of the establishment during curfew hours. It is a defense if the owner, operator, or employee promptly notified the police department that a minor was present on the premises during curfew hours and refused to leave.

- **Legal** – A public hearing must be conducted prior to consideration of the ordinance. The City Attorney reviewed and approved the curfew ordinance.
- **Financial** – There is no financial requirement associated with this ordinance.
- **Public Information** – There are no public information requirements.

Options/Alternative

1. Approve the continuance of the ordinance
2. Modify the ordinance.
3. Abolish the ordinance.

Recommendation

Following the public hearing, staff recommends approval of the ordinance as presented.

Attachments

- Ordinance, Article 8.800 Curfew Hours for Minors
- Ordinance No. 2007-02-06, as ratified
- Ordinance No. 2004-06-19, as originally adopted

Prepared and submitted by:
Larry W. Flatt, Assistant Chief of Police

Date: May 4, 2011

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, READOPTING, RATIFYING, REPUBLISHING AND EXTENDING ORDINANCE NO. 2007-02-06, CODIFIED AS CHAPTER 8 OF THE CODE OF ORDINANCES, ARTICLE 8.800, CURFEW HOURS FOR MINORS, FOR A PERIOD OF THREE (3) YEARS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has previously passed and adopted Ordinance No. 2007-02-06, which provides for "Curfew Hours for Minors" establishing such curfew hours and penalties for violations thereof; and

WHEREAS, such Ordinance has been codified as Chapter 8, Article 8.800, Sections 8.801 through 8.806, of the Code of Ordinances; and

WHEREAS, Chapter 370.002 of the TEXAS LOCAL GOVERNMENT CODE, as amended, provides that the City Council shall review the Article and conditions the ordinance was intended to remedy three (3) years from its date of passage and every third year thereafter and conduct public hearings to determine the need to continue, modify or abolish the ordinance; and

WHEREAS, prior to the expiration of such three (3) year period, the Police Department has furnished records and reports indicating the need for such ordinance to remain in effect; and

WHEREAS, the City desires to continue the provisions of the Code without any modifications and schedule the same for review in May 2014.

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

SECTION 1. That Ordinance No. 2007-02-06, codified as Chapter 8, Article 8.800, Sections 8.801 through 8.806 of the Code of Ordinances is hereby readopted, ratified, republished and extended from the date of its execution and shall remain in effect through May 2014, unless otherwise terminated under the provisions of State law.

SECTION 2. That all provisions of the Code of Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any word, phrase, paragraph, or section of this ordinance or of the Code of Ordinances, as amended hereby, be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal or invalid, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. That this ordinance shall take effect immediately from and after its passage and publication, as the law and charter in such cases provide.

DULY PASSED by the City Council of the City of Lancaster, Texas, this the 23rd day of May 2011.

APPROVED:

By: _____
MARCUS E. KNIGHT, MAYOR

ATTEST:

By: _____
DOLLE K. DOWNE, CITY SECRETARY

APPROVED AS TO FORM:

By: _____
ROBERT E. HAGER, CITY ATTORNEY
(REH/cdb 5/13/11)

ORDINANCE NO. 2007-02-06

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, READOPTING, RATIFYING, REPUBLISHING AND EXTENDING ORDINANCE NO. 2004-06-19, CODIFIED AS CHAPTER 8 OF THE CODE OF ORDINANCES, ARTICLE 8.800, CURFEW HOURS FOR MINORS, FOR A PERIOD OF THREE (3) YEARS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has previously passed and adopted Ordinance No. 2004-06-19, which provides for "Curfew Hours for Minors" establishing such curfew hours and penalties for violations thereof; and

WHEREAS, such Ordinance has been codified as Chapter 8, Article 8.800, Sections 8.801 through 8.806, of the Code of Ordinances attached hereto as Exhibit "A"; and

WHEREAS, Chapter 370.002 of the TEXAS LOCAL GOVERNMENT CODE, as amended, provides that the City Council shall review the Article and conditions the ordinance was intended to remedy three (3) years from its date of passage and every third year thereafter and conduct public hearings to determine the need to continue, modify or abolish the ordinance; and

WHEREAS, prior to the expiration of such three (3) year period, the Police Department has furnished records and reports indicating the need for such ordinance to remain in effect; and

WHEREAS, the City desires to continue the provisions of the Code without any modifications and schedule the same for review in June 2010.

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

SECTION 1. That Ordinance No. 2004-06-19, codified as Chapter 8, Article 8.800, Sections 8.801 through 8.806 of the Code of Ordinances is hereby readopted, ratified, republished and extended from the date of its execution and shall remain in effect through June 2010, unless otherwise terminated under the provisions of State law.

SECTION 2. That all provisions of the Code of Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and

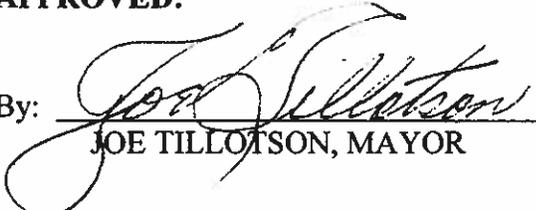
all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any word, phrase, paragraph, or section of this ordinance or of the Code of Ordinances, as amended hereby, be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal or invalid, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. That this ordinance shall take effect immediately from and after its passage and publication, as the law and charter in such cases provide.

DULY PASSED by the City Council of the City of Lancaster, Texas, this 26th day of February 2007.

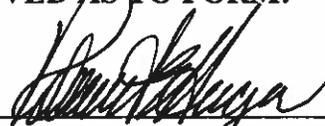
APPROVED:

By: 
JOE TILLOTSON, MAYOR

ATTEST:

By: 
DOLLE K. SHANE, CITY SECRETARY

APPROVED AS TO FORM:

By: 
ROBERT E. HAGER, CITY ATTORNEY
(REH/cdb 1/26/07)

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS

ORDINANCE NO. 2004-06-19

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, READOPTING, RATIFYING, REPUBLISHING AND EXTENDING CHAPTER 7, ARTICLE 7.800, "CURFEW HOURS FOR MINORS", SECTIONS 7.801 THROUGH 7.805 OF THE CODE OF ORDINANCES PROVIDING CURFEW HOURS FOR MINORS IN THE CITY OF LANCASTER, TEXAS, FOR A PERIOD OF THREE (3) YEARS; PROVIDING FOR OFFENSES; PROVIDING FOR DEFENSES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING A SUNSET CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the safety of children is a public concern; and

WHEREAS, the City Council has previously passed and adopted an Ordinance, which provides for "Curfew Hours for Minors" establishing such curfew hours and penalties for violations thereof; and,

WHEREAS, such Ordinance has been codified in Chapter 7, Article 7.800, "Curfew Hours For Minors", Sections 7.801 through 7.805; and

WHEREAS, Chapter 370.002 of the TEXAS LOCAL GOVERNMENT CODE, as amended, provides that the City Council shall review the Article and conditions the ordinance was intended to remedy three (3) years from its date of passage and every third year thereafter and conduct public hearings to determine the need to continue, modify or abolish the ordinance; and

WHEREAS, the Police Department has furnished records and reports indicating the need for such to remain in effect in order to provide a safe environment for persons under the age of seventeen (17); and

WHEREAS, the City desires to continue the provisions of the Code without any modifications, and schedule the same for review in June 2007

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS;

Section 1. That the City Council hereby readopts, ratifies, republishes and extends Chapter 7, Article 7.800, "Curfew Hours For Minors", Sections 7.801 through 7.805 of the Code of Ordinances, which reads as follows:

“ARTICLE 7.800 CURFEW HOURS FOR MINORS

Sec. 7.801 Definitions

(a) Curfew Hours mean:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.
- (3) 9:00 a.m. until 2:30 p.m. any Monday, Tuesday, Wednesday, Thursday, or Friday; provided however, the hours defined in this article shall not be considered as curfew hours for minors not subject to compulsory school attendance pursuant to Section 21.032, Texas Education Code, nor shall the hours defined in this paragraph be considered as curfew hours on days or during periods in which the school where the minor is enrolled is closed or classes for which the minor is enrolled have been canceled under the order and direction of officials authorized to issue such orders and directives.

(b) Emergency: An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(c) Establishment: Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(d) Guardian. Means:

- (1) a person who, under court order, is the guardian of the person of a minor; or
- (2) a public or private agency with whom a minor has been placed by a court.

(e) Minor. Any person ten (10) years of age to sixteen (16) years of age.

(f) Operator. Any individual firm, association, partnership or corporation operating, managing, or conducting any establishment. The term includes the members or parents of an association or partnership and the officers of a corporation.

(g) Parent. A person who is:

- (1) a natural parent, adoptive parent, or step-parent of another person; or
- (2) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(h) **Public place.** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospital, apartment houses, office buildings, transport facilities, and shops.

(i) **Remain.** Mean to:

- (1) linger or stay; or
- (2) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(j) **Serious bodily injury.** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Sec. 7.802 Offenses

(a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.

(b) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

(c) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

Sec. 7.803 Defenses

(a) It is a defense to prosecution under Section 7.802 that the minor was:

- (1) accompanied by the minor's parent or guardian;
- (2) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) in a motor vehicle involved in interstate travel;

- (4) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (5) involved in an emergency;
 - (6) on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
 - (7) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Lancaster, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Lancaster, a civic organization, or another similar entity that takes responsibility for the minor;
 - (8) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (9) married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code, as amended.
- (b) It is a defense to prosecution under Section 7.802(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Sec. 7.804 Enforcement

Before taking any enforcement action under this Article, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense under Section 7.803 is present.

Sec. 7.805 Administration

In accordance with Chapter 370.002 of the Texas Local Government Code, as amended, the City Council shall review the Article and conditions the ordinance was intended to remedy three (3) years for its date of passage and every third year thereafter. Upon review, public hearings shall be conducted on the need to continue, modify or abolish the ordinance.

Sec. 7.806 Penalties

(a) A person who violates a provision of this Section is guilty of a separate offense for each day or part of day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed Five Hundred Dollars (\$500.00).

(b) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Section 7.802(a) of this Section and shall refer the minor to juvenile court.”

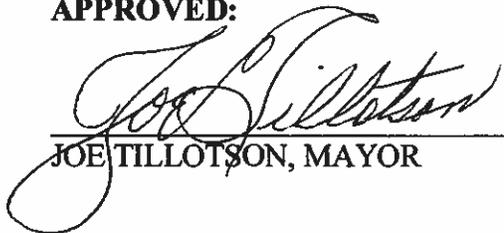
Section 2. That the provisions of this ordinance shall remain in effect through June 2007, unless otherwise terminated under the provisions of the State law

Section 3. That all provisions of the Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4. That this ordinance shall take effect immediately from and after its passage as the law and charter in such cases provide.

DULY PASSED by the City Council of the City of Lancaster, Texas, this the 28th day of June 2004.

APPROVED:



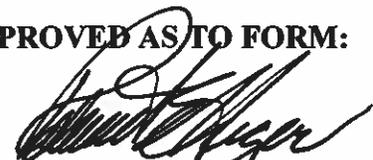
JOE TILLOTSON, MAYOR

ATTEST:



DOLLE K. SHANE, CITY SECRETARY

APPROVED AS TO FORM:



ROBERT E. HAGER, CITY ATTORNEY
(REH/cdb/6/29/04)