

MURPHY CITY COUNCIL AGENDA
REGULAR CITY COUNCIL MEETING
JUNE 21, 2011 AT 6:00 PM
206 NORTH MURPHY ROAD
MURPHY, TEXAS 75094



NOTICE is hereby given of a meeting of the City Council of the City of Murphy, Collin County, State of Texas, to be held on June 21, 2011 at Murphy City Hall for the purpose of considering the following items. The City Council of the City of Murphy, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

INVOCATION & PLEDGE OF ALLEGIANCE

Bret Baldwin
Mayor

ROLL CALL & CERTIFICATION OF A QUORUM

John Daugherty
Mayor Pro Tem

PUBLIC COMMENTS

Colleen Halbert
Deputy Mayor Pro Tem

CONSENT AGENDA

All consent agenda items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the Consent Agenda and voted on separately.

Dennis Richmond
Councilmember

A. Approval of Minutes from the Special Meetings of May 24, 2011 and May 31, 2011; and the Regular Meetings of June 7, 2011 and June 14, 2011.

Scott Bradley
Councilmember

B. Consider and/or act upon approval of a resolution authorizing signature authority to sign and endorse checks and drafts of the City of Murphy bank accounts.

Bernard Grant
Councilmember

C. Consider and/or act upon an ordinance extending the limit of the school zone on North Murphy Road to include McMillen High School.

Dave Brandon
Councilmember

D. Consider and/or act upon the purchase of Solar Trash Compactors and Recycle Bins from the recycle rebate funds.

INDIVIDUAL CONSIDERATION

1. Consider all matters incident and related to the issuance of the "City of Murphy, Texas, General Obligation Refunding and Improvement Bonds, Series 2011", including the adoption of an Ordinance authorizing the issuance of such general obligation bonds and providing for the redemption of the obligations being refunded.

2. Consider all matters incident and related to a Resolution declaring expectation to reimburse expenditures with proceeds of future debt, including the adoption of a Resolution pertaining thereto.

James Fisher
City Manager

3. Consider and/or act upon approval of the Water Conservation Plan and Ordinance.

DISCUSSION ITEMS

4. Discuss proposed changes to components of Chapter 28 "Development Standards".

CITY MANAGER/STAFF REPORTS

- July 4 City Offices Closed for Independence Day
- July 5 Regular City Council Meeting
- July 8 Budget Work Session 9 am - 5 pm
- Capital Improvements Progress Report
- Keep Murphy Beautiful Report

EXECUTIVE SESSION

The City Council will hold a closed Executive Session pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

§551.074 Personnel Matters – Evaluation of the Municipal Judge.

§551.074 Personnel Matters – Evaluation of the City Manager.

RECONVENE INTO REGULAR SESSION

The City Council will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

§551.074 Personnel Matters – Evaluation of the Municipal Judge.

§551.074 Personnel Matters – Evaluation of the City Manager.

ADJOURNMENT

I certify that this is a true and correct copy of the Murphy City Council Meeting Agenda and that this notice was posted on the designated bulletin board at Murphy City Hall, 206 North Murphy Road, Murphy, TX 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on June 17, 2011 by 5:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.

Aimee Nemer, TRMC, MMC
City Secretary

In compliance with the American with Disabilities Act, the City of Murphy will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 972.468.4011 or anemer@murphytx.org

Issue

Consider and/or act upon approval of a resolution authorizing signature authority to sign and endorse checks and drafts of the City of Murphy bank accounts.

Background

As City staff and elected officers change, this resolution must be updated with current signatures. Aimee Nemer, City Secretary will be added as authorized signature and Jeff Bickerstaff will be removed as authorized signature.

Staff Recommendation

Staff recommends the approval of the resolution as presented.

Attachments

- 1) Resolution

Linda Truitt, Finance Director
Submitted By

James Fisher, City Manager
City Manager Approval

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, AUTHORIZING CERTAIN OFFICERS OF THE CITY TO SIGN AND ENDORSE CHECKS AND DRAFTS OF THE CITY OF MURPHY BANK ACCOUNTS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY:

Section 1. That any two (2) or more of the following officers of the City shall be authorized to endorse and cash checks, drafts and similar documents on behalf of the City of Murphy in connection with any bank account of the City of Murphy:

<u>NAME OF SIGNING OFFICER</u>	<u>TITLE OF SIGNING OFFICER</u>
<u>Bret M. Baldwin</u>	<u>Mayor</u>
<u>James Fisher</u>	<u>City Manager</u>
<u>Linda Truitt</u>	<u>Finance Director</u>
<u>Aimee Nemer</u>	<u>City Secretary</u>
<u>John Daugherty</u>	<u>Mayor Pro Tem</u>
<u>Colleen Halbert</u>	<u>Deputy Mayor Pro Tem</u>

Section 2. That any two (2) or more of the signing officers referenced in Section 1 hereof are authorized to receive statements and canceled vouchers of the City of Murphy and to appoint an agent or agents to do the same; furthermore, such officers are authorized to stop payment of checks of the City of Murphy, to revoke stop payment orders, and to open or close banking accounts.

Section 3. That the bank which is now depository for city funds is hereby authorized to honor or accept all drafts, checks and similar documents executed or endorsed on behalf of the City of Murphy in the manner provided in Section 1 hereof for the credit of or in payment of any obligations of or by the payee or any other holder.

Section 4. That a certified copy of this Resolution shall be complete and full evidence of the enactment of this Resolution and of the authority of the respective officers herein named, and said authority shall remain in full force until written notice of revocation thereof shall be received by the bank or a certified copy of a Resolution designating different officers is received by the bank.

Section 5. That any and all resolution, ordinances or other orders of the City Council of the City of Murphy which may be in conflict herewith or any provisions thereof are hereby repealed to the extent of such inconsistency.

Section 6. This resolution shall become effective immediately upon approval.

DULY RESOLVED by the City Council of the City of Murphy, Collin County, Texas,
on this the 21st day of June, 2011.

Bret M. Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy

Issue

Consider and/or act upon an ordinance extending the limit of the school zone on North Murphy Road to include McMillen High School.

Background

The Texas Department of Transportation, upon the City's request, has approved the extension of the school zone on North Murphy Road. The new school zone will be from approximately McMillen Road south to approximately Shirehurst Street.

Staff Recommendation

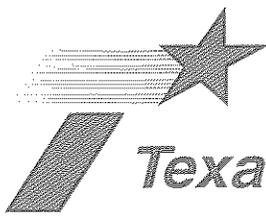
Staff recommends approval of this ordinance.

Attachments

- 1) Correspondence from TXDOT
- 2) Proposed Ordinance
- 3) Map

James Fisher, City Manager
Submitted By

James Fisher, City Manager
City Manager Approval



Texas Department of Transportation

P.O. BOX 133067 • DALLAS, TEXAS 75313-3067 • (214) 320-6100

June 8, 2011

Control: 2056-01
Highway: FM 2551
County: Collin

Mr. James Fisher
City Administrator
City of Murphy
206 North Murphy Rd
Murphy, Texas 75094

Subject: Speed Zones

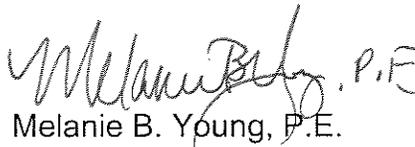
Dear Mr. Fisher:

Attached for your information and further handling is the speed zone study modifying the length of an existing school zone on FM 2551 in the City of Murphy. The northern limit of the zone has been moved to 50 ft south of McMillen Dr to encompass the addition of the new high school.

To proceed with the changing of the school zone limits, TxDOT requires a signed city ordinance matching the zones on the speed study. To assist the City in the preparation of the ordinance, a sample speed zone ordinance has been attached to serve as a guide. Please forward the signed ordinance to our office by July 20, 2011 for further processing. Upon receipt of the ordinance from the City of Murphy, TxDOT will modify the construction project to show the signs at the proper locations.

If we may be of further assistance, please feel free to contact Ms. Roxanne Cortez, P.E. at the above address or by telephone at 214-320-6621.

Sincerely,



Melanie B. Young, P.E.
District Transportation Operations Engineer

Attachments

RECEIVED
JUN 10 2011
City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, COLLIN COUNTY, TEXAS, ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF TRANSPORTATION CODE SECTION 545.356 UPON NORTH MURPHY ROAD OR PARTS THEREOF, WITHIN THE INCORPORATE LIMITS OF THE CITY OF MURPHY, AS SET OUT IN THIS ORDINANCE; AND PROVIDING A PENALTY OF A FINE NOT TO EXCEED \$200.00 FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, Section 545.356 of the Texas Transportation Code, provides that whenever the governing body of the City shall determine upon the basis of an engineering and traffic investigation that any prima facie speed therein set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a street or highway within the City, taking into consideration the width and condition of the pavement and other circumstances on such portion of said street or highway, as well as the usual traffic thereon, said governing body may determine and declare a reasonable and safe prima facie speed limit thereat or thereon by the passage of an ordinance, which shall be effective when appropriate signs giving notice thereof are erected at such intersection or other place or part of the street or highway;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, AS FOLLOWS:

Section 1. Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of Transportation Code, Section 545.356, the following prima facie speed limits hereafter indicated for vehicles on the attached Exhibit “A” (strip map) are hereby determined and declared to be reasonable and safe; and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

A. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY,

TEXAS:

1. That from and after the date of the passage of this speed zone ordinance, no motor vehicle shall be operated along and upon North Murphy Road within the corporate limits of the City of Murphy in excess of speeds now set forth in Exhibit “A”.

Section 2. The Mayor of Murphy, Texas is hereby authorized to cause to be erected, appropriate signs indicating such speed zones.

Section 3. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed Two Hundred Dollars (\$200.00).

PASSED, APPROVED AND ADOPTED this the 21st day of June 2011.

Bret M. Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy

Issue

Consider and/or act upon the purchase of Solar Trash Compactors and Recycle Bins from the recycle rebate funds.

Background

In March 2008, the City awarded the Waste Management Contract which included rebates received from the community recycling program intended to be spent on community projects. The City purchased two solar trash compactors units last year and the units were placed at Mustang Park Pavilion and Aviary Park Pavilion. The units have been very successful in holding extra trash and allowing the Park crew to reduce the number of cans previously located at the Mustang Park pavilion. With the total of seven (7) pavilions now available in the city and three (3) more projected in the next few years, it would be beneficial to continue adding these solar trash can units to the pavilions each year. The units have proven themselves in the reduction in man-hours for trash collection at the parks. Staff proposes to add these two units to the pavilions at North Hill Park and Timbers Nature Preserve Park (City Park).

Financial Considerations

The quoted price is \$9954.00 which includes shipping.

Staff Recommendation

Staff recommends approval of acquire two more solar trash cans and recycle units for the heavily used park pavilions.

Attachments

- 1) Quote

Kim Lenoir, Development Manager
Submitted By

James Fisher, City Manager
City Manager Approval

Adrite - Distributor of BigBelly
 5920 Meredith Lane, Fort Worth, TX 76134
 817-946-3107 kathy@solartc.com

QUOTE

Customer

Name City of Murphy Parks & Recreation Department
 Address _____
 City Murphy State TX ZIP 75094
 Phone Kim Lenoir

Misc

Date 5/17/2011
 Quote No. 111021
 Rep kathy
 FOB destination

Qty	Description	Unit Price	TOTAL
2	BB3 with attached recycle unit	\$ 4,735.00	\$ 9,470.00
	Unit price reflects the BuyBoard discount of 5% vendor #99-2805		
MWBE/DBE & HUB CERTIFIED			

SubTotal	\$	9,470.00
Shipping	\$	484.00
Tax Rate(s)	0.00%	\$ -
TOTAL	\$	9,954.00

Payment

Select One...

Comments _____
 Name _____

Tax Rate(s)

Office Use Only

Thank you for your Business

Issue

Consider all matters incident and related to the issuance of the "City of Murphy, Texas, General Obligation Refunding and Improvement Bonds, Series 2011", including the adoption of an Ordinance authorizing the issuance of such general obligation bonds and providing for the redemption of the obligations being refunded.

Background

The voters of Murphy approved \$16,000,000 of bonds for a community center, parks and recreational facilities and street improvements. The City issued \$6,400,000 during 2009, \$4,800,000 during 2010 with the anticipation that the balance of the \$16,000,000 or \$4,800,000 would be issued in 2011. With the issuance of the final installment of the bonds, the City will be able to complete the projects approved by the voters.

With the anticipation of issuing the additional bonds, our Financial Advisor reviewed the current outstanding bonds for the possibility of refunding of outstanding bonds. During this review, it was determined that the balance of the Series 2001 Certificates of Obligation and a portion of the Series 2002 and 200A Certificates of Obligation were eligible for refunding. Based on the current interest rate of approximately 4.12%, the City will save approximately \$497,000 with the refunding.

Based on a property value of \$1,440,000,000 the tax rate impact of the new issuance and the refinancing of the eligible bonds is approximately \$0.0383. If the City uses \$150,000 of the Debt Service Fund Balance, the tax rate impact is approximately \$0.0276. Based on the information we have received from Collin Central Appraisal District, the property values may decrease approximately 2% which is reflected in the number used to calculate the tax rate impact.

Financial Considerations

Approximately \$200,000 will be needed from the bond proceeds for the following issuance fees:

- (1) Financial Advisors, (2) Bond Counsel, (3) Rating Agencies, (4) Paying Agent, and (5) Underwriters.

The city will save approximately \$497,000 over the next 10 years due to the refunding of the eligible Series 2001 Certificates and a portion of the Series 2002 and 2002A Certificates.

Based on a property value of \$1,440,000,000 the tax rate impact of the new issuance and the refinancing of the eligible bonds is approximately \$0.0383. If the City uses \$150,000 of the Debt Service Fund Balance, the tax rate impact is approximately \$0.0276. Based on the information we have received from Collin Central Appraisal District, the property values may decrease approximately 2% which is reflected in the number used to calculate the tax rate impact.

Staff/Board Recommendation

Approval of all matters incident and related to the issuance of the "City of Murphy, Texas, General Obligation Refunding and Improvement Bonds, Series 2011", including the adoption of an Ordinance authorizing the issuance of such general obligation bonds and providing for the redemption of the obligations being refunded.

Attachments

- 1) Ordinance

Linda Truitt, Finance Director
Submitted By

James Fisher, City Manager
City Manager Approval

**ORDINANCE
AUTHORIZING THE ISSUANCE OF**

**\$ _____
CITY OF MURPHY, TEXAS
GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS
SERIES 2011**

ADOPTED: JUNE 21, 2011

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ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF MURPHY, TEXAS, GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2011” SPECIFYING THE TERMS AND FEATURES OF SAID BONDS; LEVYING A CONTINUING DIRECT ANNUAL AD VALOREM TAX FOR THE PAYMENT OF SAID BONDS; PROVIDING FOR THE REDEMPTION OF CERTAIN OUTSTANDING OBLIGATIONS OF THE CITY; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE, PAYMENT AND DELIVERY OF SAID BONDS.

WHEREAS, the City Council of the City of Murphy, Texas (the “City”) has heretofore issued, sold and delivered, and there is currently outstanding obligations totaling in original principal amount of \$4,475,000 (collectively, the “Refunded Obligations”), more particularly described as follows:

(1) City of Murphy, Texas, Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2001, dated January 1, 2001, maturing on February 15 in each of the years 2012 through 2019 and 2021, and aggregating in the principal amount of \$2,285,000 (the “Series 2001 Refunded Certificates”);

(2) City of Murphy, Texas, Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2002, dated April 1, 2002, maturing on February 15 in each of the years 2017, 2018, 2020 and 2022, and aggregating in the principal amount of \$1,450,000 (the “Series 2002 Refunded Certificates”); and

(3) City of Murphy, Texas, Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2002A, dated August 15, 2002, maturing on February 15 in each of the years 2021 and 2022, and aggregating in the principal amount of \$740,000 (the “Series 2002A Refunded Certificates”); and

WHEREAS, pursuant to the provisions of Texas Government Code, Chapter 1207, as amended, the City Council is authorized to issue refunding bonds and deposit the proceeds of sale directly with the place of payment for the Refunded Obligations, or other authorized depository, and such deposit, when made in accordance with said statute, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, the City Council hereby finds and determines that the Refunded Obligations should be refunded at this time, and such refunding will result in the City saving approximately \$_____ in debt service payments on such indebtedness and further provide present value savings of approximately \$_____; and

WHEREAS, in combination with the issuance of such refunding bonds, the City Council further finds and determines that general obligation bonds in the principal amount of \$4,800,000 approved and authorized to be issued at an election held November 4, 2008, should be issued and sold at this time; a summary of the City’s general obligation bond authorization, including the

principal amount authorized, amounts heretofore issued and being issued pursuant to this ordinance and amounts remaining to be issued subsequent hereto being as follows:

<u>Authorized Purpose</u>	<u>Date Authorized</u>	<u>Principal Amount Authorized (\$)</u>	<u>Amounts Heretofore Issued (\$)</u>	<u>Amounts Being Issued (\$)</u>	<u>Unissued Balance (\$)</u>
Waterworks Improvements	4/05/1986	360,000	250,000	-0-	110,000
Sewer Improvements	4/05/1986	450,000	-0-	-0-	450,000
Streets and Drainage	4/05/1986	1,780,000	1,515,000	-0-	265,000
Parks and Recreation	11/04/2008	7,500,000	3,600,000	3,900,000	-0-
Streets	11/04/2008	<u>6,000,000</u>	<u>5,100,000</u>	<u>900,000</u>	<u>-0-</u>
		<u>16,090,000</u>	<u>10,465,000</u>	<u>4,800,000</u>	<u>825,000</u>

AND WHEREAS, the Council hereby reserves and retains the right to issue the balance of unissued bonds approved at said elections in one or more installments when, in the judgment of the Council, funds are needed to accomplish the purposes for which such bonds were voted; now, therefore,

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

SECTION 1: Authorization - Designation - Principal Amount - Purpose. General obligation bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount of \$_____, to be designated and bear the title “City Of Murphy, Texas, General Obligation Refunding And Improvement Bonds, Series 2011” (hereinafter referred to as the “Bonds”), for the purpose of providing funds for the discharge and final payment of certain outstanding obligations of the City (identified in the preamble hereof and referred to as the “Refunded Obligations”), to pay costs of issuance and to provide funds in the amount of \$4,800,000 for permanent public improvements and public purposes, to wit: (i) \$3,900,000 for acquiring, constructing, improving and equipping park and recreational facilities, including trails and open space improvements and the acquisition of land therefor and (ii) \$900,000 for acquiring, constructing, improving and maintaining streets, thoroughfares, bridges, alleyways and sidewalks within the City, including related storm drainage improvements, traffic signalization and signage, streetscaping, beautification, traffic calming devices, median improvements and entryway improvements, all in accordance with the authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Chapters 1207 and 1331 of the Texas Government Code, as amended

SECTION 2: Fully Registered Obligations - Bond Date - Authorized Denominations - Stated Maturities - Interest Rates. The Bonds shall be issued as fully registered obligations only, shall be dated June 15, 2011 (the “Bond Date”), shall be in denominations of \$5,000 or any integral multiple (within a Stated Maturity) thereof, and shall become due and payable on February 15 in each of the years and in principal amounts (the “Stated Maturities”) in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate(s)</u>
2012		__%
2013		

2014
2015
2016
2017
2018
2019
2020
2021
2022
2023
2024
2025
2026
2027
2028
2029
2030
2031

The Bonds shall bear interest on the unpaid principal amounts from the Bond Date at the rate(s) per annum shown above in this Section (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Bonds shall be payable on February 15 and August 15 in each year, commencing February 15, 2012, until maturity or prior redemption.

SECTION 3: Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the “Holders”) appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of U.S. Bank National Association, Dallas, Texas to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed. Books and records relating to the registration, payment, transfer and exchange of the Bonds (the “Security Register”) shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided herein and in accordance with the terms and provisions of a “Paying Agent/Registrar Agreement”, substantially in the form attached hereto as **Exhibit A**, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Mayor and City Secretary are authorized to execute and deliver such Agreement in connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities or upon prior redemption thereof, only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated offices in St. Paul, Minnesota (the “Designated Payment/Transfer Office”). Interest on the Bonds shall be paid to the Holders whose names appear in the Security Register at the close of business on the Record Date (the last business day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a “Special Record Date”) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 4: Redemption.

(a) Optional Redemption. The Bonds having Stated Maturities on and after February 15, 2022, shall be subject to redemption prior to maturity, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on February 15, 2021 or on any date thereafter at the redemption price of par plus accrued interest to the date of redemption.

(b) Exercise of Redemption Option. At least forty-five (45) days prior to a redemption date for the Bonds (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of the decision to redeem Bonds, the principal amount of each Stated Maturity to be redeemed, and the date of redemption therefor. The decision of the City to exercise the right to redeem Bonds shall be entered in the minutes of the governing body of the City.

(c) Mandatory Redemption. The Bonds having Stated Maturities of February 15, 20__ and February 15, 20__ (the “Term Bonds”) shall be subject to mandatory redemption in part prior to maturity at the redemption price of par and accrued interest to the date of redemption on the respective dates and in principal amounts as follows:

Term Bonds due February 15, 20__	Term Bonds due February 15, 20__
<u>Redemption Date</u>	<u>Redemption Date</u>
<u>Principal Amount</u>	<u>Principal Amount</u>

February 15, 20__	\$_____	February 15, 20__	\$_____
February 15, 20__	\$_____ (maturity)	February 15, 20__	\$_____ (maturity)

Approximately forty-five (45) days prior to each mandatory redemption date for the Term Bonds, the Paying Agent/Registrar shall select by lot the numbers of the Term Bonds within the applicable Stated Maturity to be redeemed on the next following February 15 from moneys set aside for that purpose in the Interest and Sinking Fund (as hereinafter defined). Any Term Bond not selected for prior redemption shall be paid on the date of their Stated Maturity.

The principal amount of the Term Bonds for a Stated Maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like Stated Maturity which, at least 50 days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions set forth in paragraph(a) of this Section and not theretofore credited against a mandatory redemption requirement.

(d) Selection of Bonds for Redemption. If less than all Outstanding Bonds of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall treat such Bonds as representing the number of Bonds Outstanding which is obtained by dividing the principal amount of such Bonds by \$5,000 and shall select the Bonds, or principal amount thereof, to be redeemed within such Stated Maturity by lot.

(e) Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Bonds, a notice of redemption shall be sent by United States Mail, first class postage prepaid, in the name of the City and at the City's expense, to each Holder of a Bond to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Bonds, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder. If a Bond is subject by its terms to prior redemption, and has been called for redemption, and notice of redemption thereof has been duly given as hereinabove provided, such Bond (or the principal amount thereof to be redeemed) shall become due and payable and interest thereon shall cease to accrue from and after the redemption date therefor; provided moneys sufficient for the payment of such Bond (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar.

(f) Conditional Notice of Redemption. With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

SECTION 5: Registration - Transfer - Exchange of Bonds - Predecessor Bonds. The Paying Agent/Registrar shall obtain, record and maintain in the Security Register the name and address of each and every owner of the Bonds issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Bond may be transferred or exchanged for Bonds of other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender of any Bond (other than the Initial Bond(s) referenced in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the Initial Bond(s) referenced in Section 8 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds to the Holder requesting the exchange.

All Bonds issued in any transfer or exchange of Bonds shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States Mail, first class postage prepaid, to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be “Predecessor Bonds,” evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term “Predecessor Bonds” shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered, and delivered in lieu thereof pursuant to the provisions of Section 11 hereof and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Bond called for redemption, in whole or in part, within 45 days of the date fixed for the redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

SECTION 6: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 3, 4 and 5 hereof relating to the payment, and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of “Book-Entry-Only” securities clearance, settlement and transfer system provided by The Depository Trust Company (“DTC”), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representation, by and between the City and DTC (the “Depository Agreement”).

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the “DTC Participants”). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the “Beneficial Owners”) being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

SECTION 7: Execution - Registration. The Bonds shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and countersigned by the City Secretary. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Bond Date shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in

subsequent exchanges and transfers, all as authorized and provided in Texas Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas, or his duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered and delivered.

SECTION 8: Initial Bond(s). The Bonds herein authorized shall be initially issued either (i) as a single fully registered bond in the aggregate principal amount of the Bonds with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1, or (ii) as multiple fully registered bonds, being one bond for each year of maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (hereinafter called the “Initial Bond(s)”) and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond(s) delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms.

(a) **Forms Generally.** The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends in the event the Bonds, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Bonds as evidenced by their execution. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds and the Initial Bond(s) shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

(b) Form of Definitive Bond.

REGISTERED
NO.

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF MURPHY, TEXAS
GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BOND, SERIES 2011

Bond Date: June 15, 2011 Interest Rate: _____% Stated Maturity: February 15, 20__ CUSIP NO: _____

Registered Owner:

Principal Amount: _____ DOLLARS

The City of Murphy (hereinafter referred to as the "City"), a body corporate and political subdivision in the County of Collin, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the Bond Date) at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 in each year, commencing February 15, 2012, until maturity or prior redemption. Principal of this Bond is payable at its Stated Maturity or upon its prior redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for

such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the “Bonds”) for the purpose of providing funds for the discharge and final payment of certain outstanding obligations of the City (identified in the preamble hereof and referred to as the “Refunded Obligations”), to pay costs of issuance and to provide funds in the amount of \$4,800,000 for permanent public improvements and public purposes, to wit: (i) \$3,900,000 for acquiring, constructing, improving and equipping park and recreational facilities, including trails and open space improvements and the acquisition of land therefor and (ii) \$900,000 for acquiring, constructing, improving and maintaining streets, thoroughfares, bridges, alleyways and sidewalks within the City, including related storm drainage improvements, traffic signalization and signage, streetscaping, beautification, traffic calming devices, median improvements and entryway improvements, all in accordance with the authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Chapters 1207 and 1331 of the Texas Government Code, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the “Ordinance”).

The Bonds maturing on the dates hereinafter identified (the “Term Bonds”) are subject to mandatory redemption prior to maturity with funds on deposit in the Interest and Sinking Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

<u>Term Bonds due February 15, 20__</u>		<u>Term Bonds due February 15, 20__</u>	
<u>Redemption Date</u>	<u>Principal Amount</u>	<u>Redemption Date</u>	<u>Principal Amount</u>
February 15, 20__	\$_____	February 15, 20__	\$_____
February 15, 20__	\$_____ (maturity)	February 15, 20__	\$_____ (maturity)

The particular Term Bonds of a stated maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a stated maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like stated maturity which, at least 50 days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.

The Bonds maturing on and after February 15, 2022, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying

Agent/Registrar), on February 15, 2021, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to the date fixed for any redemption of Bonds, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Bond to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Bond (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Bond (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor; provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City. Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the owner or holder of this Bond by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be

discharged at or prior to its maturity or redemption, and deemed to be no longer Outstanding thereunder; and for other terms and provisions contained therein. Capitalized terms used herein have the meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity or upon its prior redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by the levy of a tax as aforesated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City as of the Bond Date.

This Bond has been duly issued and registered under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated offices of the Paying Agent/Registrar in St. Paul, Minnesota, is the "Designated Payment/Transfer Office" for this Bond.

U.S. BANK NATIONAL ASSOCIATION,
Dallas, Texas,
as Paying Agent/Registrar

Registration date:

_____ By: _____
Authorized Signature

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto (Print or typewrite name, address and zip code of transferee):_____

(Social Security or other identifying number _____) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED:

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

(f) The Initial Bond(s) shall be in the form set forth in paragraph (b) of this Section, except that the form of the single fully registered Initial Bond shall be modified as follows:

REGISTERED
NO. T-1

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS

CITY OF MURPHY, TEXAS
GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BOND, SERIES 2011

Bond Date: June 15, 2011

Registered Owner:

Principal Amount: DOLLARS

The City of Murphy (hereinafter referred to as the “City”), a body corporate and municipal corporation in the County of Collin, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on February 15 in each of the years and in principal installments in accordance with the following schedule:

<u>YEAR</u>	<u>PRINCIPAL INSTALLMENTS</u>	<u>INTEREST RATE</u>
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(Information to be inserted from schedule in Section 2 hereof).

(or so much principal thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the “Registration Date” of this Bond appearing below at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 in each year, commencing February 15, 2012, until maturity or prior redemption. Principal installments of this Bond are payable in the year of maturity or on a prepayment date to the registered owner hereof by U.S. Bank National Association, Dallas, Texas (the “Paying Agent/Registrar”), upon its presentation and surrender, at its designated offices in St. Paul, Minnesota (the “Designated Payment/Transfer Office”). Interest is payable to the registered owner of this Bond whose name appears on the “Security Register” maintained by the Paying Agent/Registrar at the close of business on the “Record Date”, which is the last business day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

SECTION 10: Levy of Taxes. To provide for the payment of the “Debt Service Requirements” of the Bonds, being (i) the interest on the Bonds and (ii) a sinking fund for their

payment at maturity or redemption or a sinking fund of 2% (whichever amount is the greater), there is hereby levied, and there shall be annually assessed and collected in due time, form, and manner, a tax on all taxable property in the City, within the limitations prescribed by law, and such tax hereby levied on each one hundred dollars' valuation of taxable property in the City for the Debt Service Requirements of the Bonds shall be at a rate from year to year as will be ample and sufficient to provide funds each year to pay the principal of and interest on said Bonds while Outstanding; full allowance being made for delinquencies and costs of collection; separate books and records relating to the receipt and disbursement of taxes levied, assessed and collected for and on account of the Bonds shall be kept and maintained by the City at all times while the Bonds are Outstanding, and the taxes collected for the payment of the Debt Service Requirements on the Bonds shall be deposited to the credit of a "Special 2011 Bond Account" (the "Interest and Sinking Fund") maintained on the records of the City and deposited in a special fund maintained at an official depository of the City's funds; and such tax hereby levied, and to be assessed and collected annually, is hereby pledged to the payment of the Bonds.

The Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary of the City, individually or jointly, are hereby authorized and directed to cause to be transferred to the Paying Agent/Registrar for the Bonds, from funds on deposit in the Interest and Sinking Fund, amounts sufficient to fully pay and discharge promptly each installment of interest and principal of the Bonds as the same accrues or matures or comes due by reason of redemption prior to maturity; such transfers of funds to be made in such manner as will cause collected funds to be deposited with the Paying Agent/Registrar on or before each principal and interest payment date for the Bonds.

SECTION 11: Mutilated, Destroyed, Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

SECTION 12: Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and

interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied under this Ordinance and all covenants, agreements and other obligations of the City to the Holders shall thereupon cease, terminate and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

The term “Government Securities” shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent.

SECTION 13: Ordinance a Contract - Amendments - Outstanding Bonds. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City,

and shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section and in Section 29 hereof. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Holders holding a majority in aggregate principal amount of the Bonds then Outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, the redemption price therefor, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required to be held by Holders for consent to any such amendment, addition, or rescission.

The term “Outstanding” when used in this Ordinance with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Ordinance, except:

- (1) those Bonds cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;
- (2) those Bonds deemed to be duly paid by the City in accordance with the provisions of Section 12 hereof; and
- (3) those mutilated, destroyed, lost or stolen Bonds which have been replaced with Bonds registered and delivered in lieu thereof as provided in Section 11 hereof.

SECTION 14: Covenants to Maintain Tax-Exempt Status. (a) Definitions. When used in this Section 14, the following terms have the following meanings:

“Closing Date” means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

“Code” means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

“Computation Date” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“Gross Proceeds” means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

“Investment” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“Nonpurpose Investment” means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

“Rebate Amount” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“Regulations” means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“Yield” of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Obligations), and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds

(including property financed with Gross Proceeds of the Refunded Obligations), other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain

such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Bonds by the Underwriter and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Interest and Sinking Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

(k) Bonds Not Hedge Bonds. (1) At the time the original bonds refunded by the Bonds were issued, the City reasonably expected to spend at least 85% of the spendable proceeds of such bonds within three years after such bonds were issued and (2) not more than 50% of the proceeds of the original bonds refunded by the Bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

(l) Current Refunding. The Bonds are a current refunding of the Series 2001 Refunded Certificates (the “Current Refunded Obligations”) in that the Current Refunded Obligations will be paid and redeemed within ninety (90) days of the date of the delivery of the Bonds.

(m) Qualified Advance Refunding. A portion of the Bonds are being issued to refund the Series 2002 Refunded Certificates and the Series 2002A Refunded Certificates (collectively, the “Advance Refunded Obligations”) and will be issued more than 90 days before the redemption of such Advance Refunded Obligations. The City represents as follows:

(1) The Bonds are the first advance refunding of the Advance Refunded Obligations, within the meaning of section 149(d)(3) of the Code.

(2) The Advance Refunded Obligations are being called for redemption and will be redeemed not later than the earliest date on which such bonds may be redeemed.

(3) The initial temporary period under section 148(c) of the Code will end: (i) with respect to the proceeds of the Bonds not later than 30 days after the date of issue of such Bonds; and (ii) with respect to proceeds of the Advance Refunded Obligations on the Closing Date if not ended prior thereto.

(4) On and after the date of issue of the Bonds, no proceeds of the Advance Refunded Obligations will be invested in Nonpurpose Investments having a Yield in excess of the Yield on the Advance Refunded Obligations.

(5) The Bonds are being issued for the purposes stated in the preamble of this Ordinance. There is a present value savings associated with the refunding. In the issuance of the Bonds the City has neither: (i) overburdened the tax-exempt bond market by issuing more bonds, issuing bonds earlier or allowing bonds to remain outstanding longer than reasonably necessary to accomplish the governmental purposes for which the Bonds were issued; (ii) employed on “abusive arbitrage device” within the meaning of Section 1.148-10(a) of the Regulations; nor (iii) employed a “device” to obtain a material financial advantage based on arbitrage, within the meaning of section 149(d)(4) of the Code, apart from savings attributable to lower interest rates and reduced debt service payments in early years.

(n) Qualified Tax Exempt Obligations. In accordance with the provisions of paragraph (3) of subsection (b) of Section 265 of the Code, the City hereby designates the Bonds to be “qualified tax exempt obligations” in that the Bonds are not “private activity bonds” as defined in the Code and the reasonably anticipated amount of “qualified tax exempt obligations” to be issued by the City (including all subordinate entities of the City) for the calendar year 2011 will not exceed \$10,000,000.

SECTION 15: Sale of Bonds - Official Statement Approval. The Bonds authorized by this Ordinance are hereby sold by the City to _____ (herein referred to as the “Underwriters”) in accordance with the Purchase Agreement, dated June 21, 2011, attached hereto as **Exhibit B** and incorporated herein by reference as a part of this Ordinance for all

purposes, which the City has determined and does determine to be in the City's best interest. The Mayor is hereby authorized and directed to execute said Purchase Agreement for and on behalf of the City and as the act and deed of this City Council, and in regard to the approval and execution of the Purchase Agreement, the City Council hereby finds, determines and declares that the representations, warranties and covenants of the City contained in the Purchase Agreement are true and correct in all material respects and shall be honored and performed by the City.

Furthermore, the use of the Preliminary Official Statement dated _____, 2011 by the Underwriters in connection with the public offering and sale of the Bonds is hereby ratified, confirmed and approved in all respects. The final Official Statement, which reflects the terms of sale (together with such changes approved by the Mayor, Mayor Pro Tem, City Secretary, City Manager and Director of Finance, any one or more of said officials), shall be and is hereby in all respects approved and the Underwriters are hereby authorized to use and distribute said final Official Statement, dated June 21, 2011, in the reoffering, sale and delivery of the Bonds to the public. The Mayor and City Secretary are further authorized and directed to manually execute and deliver for and on behalf of the City copies of said Official Statement in final form as may be required by the Underwriters, and such final Official Statement in the form and content manually executed by said officials shall be deemed to be approved by the City Council and constitute the Official Statement authorized for distribution and use by the Underwriters.

SECTION 16: Escrow Agreement Approval and Execution. The "Escrow Agreement" (the "Agreement") by and between the City and U.S. Bank National Association, Dallas, Texas (the "Escrow Agent"), attached hereto as **Exhibit C** and incorporated herein by reference as a part of this Ordinance for all purposes, is hereby approved as to form and content, and such Agreement in substantially the form and substance attached hereto, together with such changes or revisions as may be necessary to accomplish the refunding or benefit the City, is hereby authorized to be executed by the Mayor and City Secretary for and on behalf of the City and as the act and deed of this City Council; and such Agreement as executed by said officials shall be deemed approved by the City Council and constitute the Agreement herein approved.

Furthermore, appropriate officials of the City in cooperation with the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the escrowed securities referenced in the Agreement and the delivery thereof to the Escrow Agent on the day of delivery of the Bonds to the Underwriters for deposit to the credit of the "SPECIAL 2011 CITY OF MURPHY, TEXAS, REFUNDING BOND ESCROW FUND" (the "Escrow Fund"); all as contemplated and provided in Texas Government Code, Chapter 1207, as amended, this Ordinance and the Agreement.

SECTION 17: Control and Custody of Bonds. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Bonds, and shall take and have charge and control of the Initial Bond(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Underwriters.

SECTION 18: Proceeds of Sale. Immediately following the delivery of the Bonds, proceeds of sale in the sum of (i) \$_____ shall be deposited to the credit of the Escrow

Fund, (ii) \$_____ shall be deposited to the credit of the construction fund and (iii) \$_____ shall be deposited to the credit of the Interest and Sinking Fund. The balance of the proceeds of sale of the Bonds shall be expended to pay costs of issuance and any excess amount budgeted for such purpose shall be deposited to the credit of the Interest and Sinking Fund.

Additionally, on or immediately prior to the date of the delivery of the Bonds, the Director of Finance or other appropriate City official shall cause to be transferred in immediately available funds to the Escrow Agent from moneys on deposit in the interest and sinking funds maintained for the payment of the Refunded Obligations the sum of \$_____ to accomplish the refunding.

SECTION 19: Redemption of Refunded Obligations.

(a) The Series 2001 Refunded Certificates shall be redeemed and the same are hereby called for redemption on July 28, 2011, at the price of par and accrued interest to the date of redemption. The City Secretary is hereby authorized and directed to file a copy of this Ordinance, together with a suggested form of notice of redemption to be sent to certificateholders, with U.S. Bank National Association (successor paying agent/registrars to First Union National Bank), in accordance with the redemption provisions applicable to such certificates; such suggested form of notice of redemption being attached hereto as **Exhibit D** and incorporated herein by reference as a part of this Ordinance for all purposes.

(b) The Series 2002 Refunded Certificates shall be redeemed and the same are hereby called for redemption on February 15, 2012, at the price of par and accrued interest to the date of redemption. The City Secretary is hereby authorized and directed to file a copy of this Ordinance, together with a suggested form of notice of redemption to be sent to certificateholders, with U.S. Bank National Association (successor paying agent/registrars to Wachovia Bank, National Association), in accordance with the redemption provisions applicable to such certificates; such suggested form of notice of redemption being attached hereto as **Exhibit E** and incorporated herein by reference as a part of this Ordinance for all purposes.

(c) The Series 2002A Refunded Certificates shall be redeemed and the same are hereby called for redemption on February 15, 2012, at the price of par and accrued interest to the date of redemption. The City Secretary is hereby authorized and directed to file a copy of this Ordinance, together with a suggested form of notice of redemption to be sent to certificateholders, with U.S. Bank National Association (successor paying agent/registrars to Wachovia Bank, National Association), in accordance with the redemption provisions applicable to such certificates; such suggested form of notice of redemption being attached hereto as **Exhibit F** and incorporated herein by reference as a part of this Ordinance for all purposes.

The redemption of the Refunded Obligations as described above being associated with the refunding of the Refunded Obligations, the approval, authorization and arrangements herein given and provided for the redemption of the Refunded Obligations on the redemption dates designated therefor and in the manner provided shall be irrevocable upon the issuance and delivery of the Bonds; and the City Secretary is hereby authorized and directed to make all arrangements necessary to notify the holders of the Refunded Obligations of the City's decision to redeem the Refunded Obligations on the dates and in the manner herein provided and in

accordance with the ordinances authorizing the issuance of the Refunded Obligations and this Ordinance.

SECTION 20: Notices to Holders - Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 21: Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Bonds held by the Paying Agent/Registrar shall be returned to the City.

SECTION 22: Legal Opinion. The obligation of the Underwriters to accept delivery of the Bonds is subject to being furnished a final opinion of Fulbright & Jaworski L.L.P., Attorneys, Dallas, Texas, approving such Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for such Bonds. A true and correct reproduction of said opinion or an executed counterpart thereof shall accompany the global Bonds deposited with DTC or a reproduction thereof shall be printed on the definitive Bonds in the event the book-entry-only system is discontinued.

SECTION 23: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

SECTION 24: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders.

SECTION 25: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 26: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 27: Effect of Headings. The Section headings herein are for convenience of reference only and shall not affect the construction hereof.

SECTION 28: Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 29: Continuing Disclosure Undertaking.

(a) **Definitions.** As used in this Section, the following terms have the meanings ascribed to such terms below:

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

(b) **Annual Reports.** The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning in or after 2011, financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in **Exhibit G** hereto, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City. If audited financial statements are not available by the required time, the City will provide unaudited financial information of the type described in the official statement and audited financial statement when and if an audit report becomes available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in **Exhibit G** hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB’s Internet Web site or filed with the SEC.

(c) Notice of Certain Events. The City shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than ten (10) business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding subsection (c)12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB. All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section while, but only while, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) hereof of any Bond calls and defeasance that cause the City to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything to the contrary in this Ordinance, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City’s right to do so would not

prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) hereof an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 30: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Secretary, City Manager, and Director of Finance are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance, sale and delivery of the Bonds. In addition, prior to the initial delivery of the Bonds, the Mayor, Mayor Pro Tem, City Secretary, City Manager, Director of Finance or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect, or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 31: Incorporation of Findings and Determinations. The findings and determinations of the City Council contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

SECTION 32: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 33: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 34: Effective Date. In accordance with the provisions of Texas Government Code, Section 1201.028, as amended, this Ordinance shall be in force and effect from and after its passage on the date shown below and it is so ordained.

[Remainder of page intentionally left blank.]

PASSED AND APPROVED, this the 21st day of June, 2011.

CITY OF MURPHY, TEXAS

Bret M. Baldwin, Mayor

ATTEST:

Aimee Nemer, City Secretary

(City Seal)

EXHIBIT A
PAYING AGENT/REGISTRAR AGREEMENT

(See attachment.)

EXHIBIT B
PURCHASE AGREEMENT

(See attachment.)

EXHIBIT C
ESCROW AGREEMENT

(See attachment.)

EXHIBIT D

**NOTICE OF REDEMPTION
CITY OF MURPHY, TEXAS,
TAX AND WATER AND SEWER SYSTEM SURPLUS REVENUE
CERTIFICATES OF OBLIGATION
SERIES 2001
DATED JANUARY 1, 2001**

NOTICE IS HEREBY GIVEN that the certificates of obligation the above series maturing on February 15 in each of the years 2012 through 2019 and 2021, and aggregating in principal amount \$2,285,000, have been called for redemption on July 28, 2011, at the redemption price of par and accrued interest to the date of redemption, such certificates being identified as follows:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>CUSIP Number</u>	<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>CUSIP Number</u>
2012	\$ 180,000		2017	\$ 230,000	
2013	\$ 190,000		2018	\$ 245,000	
2014	\$ 200,000		2019	\$ 255,000	
2015	\$ 210,000		2020*	\$ 270,000	
2016	\$ 220,000		2021*	\$ 285,000	

* represents mandatory sinking fund redemption for term certificate maturing in the year 2021.

ALL SUCH CERTIFICATES shall become due and payable on July 28, 2011, and interest thereon shall cease to accrue from and after said redemption date and payment of the redemption price of said certificates shall be paid to the registered owners thereof only upon presentation and surrender of such certificates to U.S. Bank National Association, Dallas, Texas (successor paying agent/registrar to First Union National Bank, Houston, Texas) at its designated offices at the following addresses:

U.S. Bank National Association
Attention: Bond Operations
60 Livingston Avenue, First Floor
St. Paul, Minnesota 55107

THIS NOTICE is issued and given pursuant to the terms and conditions prescribed for the redemption of said certificates and pursuant to an ordinance by the City Council of the City of Murphy, Texas.

U.S. BANK NATIONAL ASSOCIATION,
Dallas, Texas
Address: 14241 Dallas Parkway, Suite 490
Dallas, Texas 75254

EXHIBIT E

**NOTICE OF REDEMPTION
CITY OF MURPHY, TEXAS,
TAX AND WATER AND SEWER SYSTEM SURPLUS REVENUE
CERTIFICATES OF OBLIGATION
SERIES 2002
DATED APRIL 1, 2002**

NOTICE IS HEREBY GIVEN that the certificates of obligation the above series maturing on February 15 in each of the years 2017, 2018, 2020 and 2022, and aggregating in principal amount \$1,450,000, have been called for redemption on February 15, 2012, at the redemption price of par and accrued interest to the date of redemption, such certificates being identified as follows:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>CUSIP Number</u>	<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>CUSIP Number</u>
2017	\$ 215,000				
2018	\$ 225,000				
2019*	\$ 235,000				
2020*	\$ 245,000				
2021**	\$ 260,000				
2022**	\$ 270,000				

* represents mandatory sinking fund redemption for term certificate maturing in the year 2020.

** represents mandatory sinking fund redemption for term certificate maturing in the year 2022.

ALL SUCH CERTIFICATES shall become due and payable on February 15, 2012, and interest thereon shall cease to accrue from and after said redemption date and payment of the redemption price of said certificates shall be paid to the registered owners thereof only upon presentation and surrender of such certificates to U.S. Bank National Association, Dallas, Texas (successor paying agent/registrar to Wachovia Bank, National Association, Houston, Texas) at its designated offices at the following addresses:

U.S. Bank National Association
Attention: Bond Operations
60 Livingston Avenue, First Floor
St. Paul, Minnesota 55107

THIS NOTICE is issued and given pursuant to the terms and conditions prescribed for the redemption of said certificates and pursuant to an ordinance by the City Council of the City of Murphy, Texas.

U.S. BANK NATIONAL ASSOCIATION,
Dallas, Texas
Address: 14241 Dallas Parkway, Suite 490
Dallas, Texas 75254

EXHIBIT F

**NOTICE OF REDEMPTION
CITY OF MURPHY, TEXAS,
TAX AND WATER AND SEWER SYSTEM SURPLUS REVENUE
CERTIFICATES OF OBLIGATION
SERIES 2002A
DATED AUGUST 15, 2002**

NOTICE IS HEREBY GIVEN that the certificates of obligation the above series maturing on February 15 in each of the years 2021 and 2022, and aggregating in principal amount \$740,000, have been called for redemption on February 15, 2012, at the redemption price of par and accrued interest to the date of redemption, such certificates being identified as follows:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>CUSIP Number</u>
2021	\$ 360,000	
2022	\$ 380,000	

ALL SUCH CERTIFICATES shall become due and payable on February 15, 2012, and interest thereon shall cease to accrue from and after said redemption date and payment of the redemption price of said certificates shall be paid to the registered owners thereof only upon presentation and surrender of such certificates to U.S. Bank National Association, Dallas, Texas (successor paying agent/registrars to Wachovia Bank, National Association, Houston, Texas) at its designated offices at the following addresses:

U.S. Bank National Association
Attention: Bond Operations
60 Livingston Avenue, First Floor
St. Paul, Minnesota 55107

THIS NOTICE is issued and given pursuant to the terms and conditions prescribed for the redemption of said certificates and pursuant to an ordinance by the City Council of the City of Murphy, Texas.

U.S. BANK NATIONAL ASSOCIATION,
Dallas, Texas
Address: 14241 Dallas Parkway, Suite 490
Dallas, Texas 75254

EXHIBIT G

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 29 of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

1. The financial statements of the City, portions of which are appended to the Official Statement as Appendix B for the most recently concluded fiscal year.
2. The information included under Tables 1 through 6 and 8 through 15 in the Official Statement.

Accounting Principles

The accounting principles referred to in such Section are generally those described in Appendix B to the Official Statement, as such principles may be changed from time to time to comply with state law or regulation.

Issue

Consider all matters incident and related to a Resolution declaring expectation to reimburse expenditures with proceeds of future debt, including the adoption of a Resolution pertaining thereto.

Background

See Resolution language.

Staff/Board Recommendation

Approval all matters incident and related to a Resolution declaring expectation to reimburse expenditures with proceeds of future debt, including the adoption of a Resolution pertaining thereto.

Attachments

1) Resolution

Linda Truitt, Finance Director
Submitted By

James Fisher, City Manager
City Manager Approval

RESOLUTION NO. _____

A RESOLUTION declaring expectation to reimburse expenditures with proceeds of future debt.

WHEREAS, the City of Murphy, Texas (the "City") intends to issue tax-exempt obligations to finance the costs of (1) acquiring, constructing, improving and equipping park and recreational facilities, including trails and open space improvements and the acquisition of land therefor, and (2) acquiring, constructing, improving and maintaining streets, thoroughfares, bridges, alleyways and sidewalks within the City, including related storm drainage improvements, traffic signalization and signage, streetscaping, beautification, traffic calming devices, median improvements and entryway improvements (collectively, the "Projects"); and

WHEREAS, prior to the issuance of such obligations, the City will make expenditures for the Projects from existing funds on hand, and it is the intent of the City to reimburse such funds with the proceeds of sale of such obligations; and

WHEREAS, under Treas. Reg. §1.150-2 (the "Regulation"), an official intent to reimburse expenditure with the proceeds of tax-exempt obligations must be made within 60 days of the date of the original expenditure; and

WHEREAS, the City desires to preserve its ability to reimburse the expenditures with proceeds of tax-exempt obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS THAT the City reasonably expects to reimburse capital expenditures with respect to the Projects paid with funds on hand from the proceeds of sale of tax-exempt obligations hereafter to be issued, and that this resolution shall constitute a declaration of official intent under the Regulation. The maximum principal amount of tax-exempt obligations expected to be issued for the Projects is \$4,800,000.

PASSED AND ADOPTED this June 21, 2011.

CITY OF MURPHY, TEXAS

Mayor

ATTEST:

City Secretary

(City Seal)

Issue

Consider and/or act upon approval of the Water Conservation Plan and Ordinance.

Background

The TCEQ and the NTMWD require that the City of Murphy adopt an updated Water Conservation Plan and Ordinance with tier water rates and outlining the two days per week to water. Council reviewed the draft ordinance in December 2010 and on June 7, 2011. Council adopted the tiered water rates on May 17, 2011.

Financial Consideration

This is a state mandated requirement. It serves as a guide for the city to encourage and promote water conservation year around. No added financial burden is required.

Staff Recommendation

Staff recommends the approval of the Murphy Water Conservation Plan and Ordinance as presented.

Attachments:

- 1) Conservation Plan
- 2) Ordinance

Kim Lenoir, Community Services Mgr.
Submitted by

James Fisher, City Manager
City Manager Approval

Water Conservation Plan

City of Murphy

North Texas Municipal Water District Customer

**Water Conservation Plan
City of Murphy
NTMWD Customer**

1. INTRODUCTION AND OBJECTIVES

Water supply has always been a key issue in the development of Texas. In recent years, the growing population and economic development of North Central Texas has led to increasing demands for water supplies. At the same time, local and less expensive sources of water supply are largely developed. Additional supplies to meet higher demands will be expensive and difficult to develop. It is therefore important that NTMWD and its Member Cities and Customers make the most efficient use of existing supplies. This will delay the need for new supplies, minimize the environmental impacts associated with developing new supplies, and delay the high cost of additional water supply development.

Recognizing the need for efficient use of existing water supplies, the Texas Commission on Environmental Quality (TCEQ) has developed guidelines and requirements governing the development of water conservation plans for public water suppliers ¹. TCEQ guidelines and requirements are included in Appendix B. The best management practices established by the Water Conservation Implementation Task Force ², established pursuant to SB1094 by the 78th Legislature, were also considered in the development of the water conservation measures. The North Texas Municipal Water District (NTMWD) has developed this model water conservation plan for its Member Cities and Customers following TCEQ guidelines and requirements. This model water conservation plan was developed in concert with the NTMWD's water conservation and drought contingency/water emergency response plan ³. This model water conservation plan replaces the model plan dated August 2004 and April 2006.

This water conservation plan includes measures that are intended to result in ongoing, long-term water savings.

The objectives of this water conservation plan are as follows:

- To reduce water consumption from the levels that would prevail without conservation efforts.
- To reduce the loss and waste of water.
- To improve efficiency in the use of water.
- To document the level of recycling and reuse in the water supply.
- To extend the life of current water supplies by reducing the rate of growth in demand.

¹ Superscripted numbers match references listed in Appendix A.

This water conservation plan is a water conservation plan intended for adoption by the City of Murphy. In order to adopt this plan, the City of Murphy will need to do the following:

- Complete the water utility profile (provided in Appendix C).
- Complete the annual water conservation implementation report (in Appendix I).
- Set five-year and ten-year goals for per capita water use.
- Adopt an ordinance or approving the Plan.

The water utility profile, goals, and ordinance(s) or regulations should be provided to NTMWD in draft form for review and comments. Final adopted versions should also be provided to NTMWD, as well as TCEQ.

This Water Conservation Plan for the City of Murphy, Texas (City Plan) applies to all users of the City of Murphy water supply.

This City Plan includes all of the elements required by TCEQ.

2. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RULES

The TCEQ rules governing development of water conservation plans for public water suppliers are contained in Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2 of the Texas Administrative Code, which is included in Appendix B. For the purpose of these rules, a water conservation plan is defined as “A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water.”¹ The elements in the TCEQ water conservation rules covered in this conservation plan are listed below.

Minimum Conservation Plan Requirements

The minimum requirements in the Texas Administrative Code for Water Conservation Plans for Public Water Suppliers are covered in this report as follows:

- 288.2(a)(1)(A) – Utility Profile – Section 3 and Appendix C
- 288.2(a)(1)(B) – Specification of Goals – Section 4
- 288.2(a)(1)(C) – Specific, Quantified Goals – Section 4
- 288.2(a)(1)(D) – Accurate Metering – Sections 5.1 and 5.2
- 288.2(a)(1)(E) – Universal Metering – Section 5.2
- 288.2(a)(1)(F) – Determination and Control of Unaccounted Water – Section 5.4
- 288.2(a)(1)(G) – Public Education and Information Program – Section 6
- 288.2(a)(1)(H) – Non-Promotional Water Rate Structure – Section 7
- 288.2(a)(1)(I) – Reservoir System Operation Plan – Section 8.1
- 288.2(a)(1)(J) – Means of Implementation and Enforcement – Section 9
- 288.2(a)(1)(K) – Coordination with Regional Water Planning Group – Section 8.7 and Appendix F
- 288.2(c) – Review and Update of Plan – Section 10

Conservation Additional Requirements (Population over 5,000)

The Texas Administrative Code includes additional requirements for water conservation plans for drinking water supplies serving a population over 5,000:

- 288.2(a)(2)(A) – Leak Detection, Repair, and Water Loss Accounting – Sections 5.4, 5.5, and 5.6
- 288.2(a)(2)(B) – Record Management System – Section 5.3
- 288.2(a)(2)(C) – Requirement for Water Conservation Plans by Wholesale Customers – Section 8.6

Additional Conservation Strategies

The TCEQ requires that a water conservation implementation report be completed and submitted on an annual basis. This report is included in Appendix I.

In addition to the TCEQ required water conservation strategies, the NTMWD also requires the following strategy to be included in the Member City and Customer plans:

- 288.2(a)(3)(F) – Considerations for Landscape Water Management Regulations – Section 8.4 and Appendix E

TCEQ rules also include optional, but not required, conservation strategies, which may be adopted by suppliers. The NTMWD recommends that the following strategies be included in the Member City and Customer water conservation plans:

- 288.2(a)(3)(A) – Conservation Oriented Water Rates – Section 7
- 288.2(a)(3)(B) – Ordinances, Plumbing Codes or Rules on Water-Conserving Fixtures – Section 8.3
- 288.2(a)(3)(C) – Replacement or Retrofit of Water-Conserving Plumbing Fixtures – Section 8.5
- 288.2(a)(3)(D) – Reuse and Recycling of Wastewater – Section 8.2
- 288.2(a)(3)(F) – Considerations for Landscape Water Management Regulations – Section 8.5 and Appendix E
- 288.2(a)(3)(G) – Monitoring Method – Section 5.6
- 288.2(a)(3)(H) – Additional Conservation Ordinance Provisions – Section 8.5

3. WATER UTILITY PROFILE

Appendix C to this City Plan is the City of Murphy water utility profile based on the format recommended by the TCEQ. In adopting this City Plan, the City of Murphy will provide a draft water utility profile to NTMWD for review and comment. A final water utility profile will be provided to NTMWD.

4. SPECIFICATION OF WATER CONSERVATION GOALS

TCEQ rules require the adoption of specific water conservation goals for a water conservation plan. As part of plan adoption, the City of Murphy must develop 5-year and 10-year goals for per capita municipal use. These goals should be submitted to NTMWD in draft form for review. The goals for this water conservation plan include the following:

- Maintain the per capita municipal water use below the specified amount in gallons per capita per day in a dry year, as shown in the completed Table 4.1.
- Maintain the level of unaccounted water in the system below 12 percent annually in 2008 and subsequent years, as discussed in Section 5.4. (The 12 percent goal for unaccounted water is recommended but is not required. Systems with long distances between customers may adopt a higher unaccounted water goal.)
- Implement and maintain a program of universal metering and meter replacement and repair, as discussed in Section 5.2.
- Increase efficient water usage through a water conservation ordinance, required by the NTMWD.
- Decrease waste in lawn irrigation by implementation and enforcement of landscape water management regulations, as discussed in Section 8.5. (These landscape water management regulations are recommended but are not required.)
- Raise public awareness of water conservation and encourage responsible public behavior by a public education and information program, as discussed in Section 6.
- Develop a system specific strategy to conserve water during peak demands, thereby reducing the peak use.

**Table 4.1
Five-Year and Ten-Year Municipal Per Capita Water Use Goals (gpcd)**

Description	Current Average (gpcd)	5-Year Goal (gpcd)	10-Year Goal (gpcd)
Current 5-Year Average Per Capita Municipal Use with Credit for Reuse	254	250	244
Expected Reduction due to Low-Flow Plumbing Fixtures	0	1	3
Projected Reduction Due to Elements in this Plan	0	3	3
Water Conservation Goals (with credit for reuse)	254	250	244

5. METERING, WATER USE RECORDS, CONTROL OF UNACCOUNTED WATER, AND LEAK DETECTION AND REPAIR

One of the key elements of water conservation is tracking water use and controlling losses through illegal diversions and leaks. It is important to carefully meter water use, detect and repair leaks in the distribution system and provide regular monitoring of unaccounted water.

5.1 Accurate Metering of Treated Water Deliveries from NTMWD

Water deliveries from NTMWD are metered by NTMWD using meters with accuracy of $\pm 2\%$. These meters are calibrated on a monthly basis by NTMWD to maintain the required accuracy.

5.2 Metering of Customer and Public Uses and Meter Testing, Repair, and Replacement

The provision of water to all customers, including public and governmental users, should be metered. The City of Murphy already meters retail water users. The City of Murphy will test and replace their customer meters on a regular basis. All customer meters should be replaced on a minimum of a 15-year cycle. Additionally, large meters will be regularly tested on no less than a 5-year interval and either maintained or replaced when their test flow is more than a 3 percent difference from actual flow.

5.3 Record Management System

As required by TAC Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2(a)(2)(B), the City of Murphy will maintain a customer billing and record management system that allows for the separation of water sales and uses into residential, commercial, public/institutional, and industrial categories. This information will be included in an annual water conservation report, as described in Section 5.6 below. Should TCEQ, TWDB, or NTMWD require the inclusion of additional customer classes, the City will add the required classes to its billing and records management system.

5.4 Determination and Control of Unaccounted Water

Unaccounted water is the difference between water delivered to the City of Murphy from NTMWD (and other supplies, if applicable) and metered water sales to customers plus authorized but unmetered uses. (Authorized but unmetered uses would include use for fire fighting, releases for flushing of lines, uses associated with new construction, etc.) Unaccounted water can include several categories:

- Inaccuracies in customer meters. (Customer meters tend to run more slowly as they age and under-report actual use.)
- Accounts which are being used but have not yet been added to the billing system.
- Losses due to water main breaks and leaks in the water distribution system.
- Losses due to illegal connections and theft. (Included in Appendix G.)

- Other.

Measures to control unaccounted water should be part of the routine operations of the City of Murphy. Maintenance crews and personnel should look for and report evidence of leaks in the water distribution system. A leak detection and repair program is described in Section 5.5 below. Meter readers should watch for and report signs of illegal connections, so they can be quickly addressed.

Unaccounted water should be calculated in accordance with the provisions of Appendix C. With the measures described in this plan, the City of Murphy should maintain unaccounted water below 12 percent in 2009 and subsequent years. If unaccounted water exceeds this goal, the City of Murphy will implement a more intensive audit to determine the source(s) of and reduce the unaccounted water. The annual conservation report described below is the primary tool that should be used to monitor unaccounted water.

5.5 Leak Detection and Repair

As described above, city crews and personnel should look for and report evidence of leaks in the water distribution system. Areas of the water distribution system in which numerous leaks and line breaks occur should be targeted for replacement as funds are available.

5.6 Monitoring of Effectiveness and Efficiency - Annual Water Conservation Report

Appendix D is a form that should be used in the development of an annual water conservation report by the City of Murphy. This form should be completed by March 31 of the following year and used to monitor the effectiveness and efficiency of the water conservation program and to plan conservation-related activities for the next year. The form records the water use by category, per capita municipal use, and unaccounted water for the current year and compares them to historical values. The annual water conservation report should be sent to NTMWD, which will monitor NTMWD Member Cities' and Customers' water conservation trends.

5.7 Water Conservation Implementation Report

Appendix I includes the TCEQ-required water conservation implementation report. The report is due to the TCEQ by May 1 of every year, starting in the year 2010. This report lists the various water conservation strategies that have been implemented, including the date the strategy was implemented. The report also calls for the five-year and ten-year per capita water use goals from the previous water conservation plan. The reporting entity must answer whether or not these goals have been met and if not, why not. The amount of water saved is also requested.

6. CONTINUING PUBLIC EDUCATION AND INFORMATION CAMPAIGN

The continuing public education and information campaign on water conservation includes the following elements:

- Utilize the “Water IQ: Know Your Water” and other public education materials produced by the NTMWD.
- Insert water conservation information with water bills. Inserts will include material developed by Member Cities’ and Customers’ staff and material obtained from the TWDB, the TCEQ, and other sources.
- Encourage local media coverage of water conservation issues and the importance of water conservation.
- Notify local organizations, schools, and civic groups that Member City or Customer staff and staff of the NTMWD are available to make presentations on the importance of water conservation and ways to save water.
- Promote the *Texas Smartscape* web site (www.txsmartscape.com) and provide water conservation brochures and other water conservation materials available to the public at City Hall and other public places.
- Make information on water conservation available on its website (if applicable) and include links to the “Water IQ: Know Your Water” website, *Texas Smartscape* website and to information on water conservation on the TWDB and TCEQ web sites and other resources.

7. WATER RATE STRUCTURE

The City of Murphy developed an increasing block rate water structure that is intended to encourage water conservation and discourage excessive use and waste of water upon completion of the next rate study or within five years.

Murphy Residential Rates

1. Monthly minimum base rate charge.
2. Rate per 1,000 gallons up to the approximate average residential use (0-15,000 gallons).
3. 2nd tier (2 times the average of 15,000) at 1.0 to 2.0 times the 1,000 gallon rate.
4. 3rd tier (3 times the average of 15,000) at 1.0 to 2.0 times the second tier rate.
5. 4th tier (4 times the average of 15,000 upward) at 1.0 to 2.0 times the third tier rate.

Murphy Irrigation Meter Rates

1. Monthly minimum base rate charge.
2. Rate per 1,000 gallons up to the approximate average residential use (0-15,000 gallons).
3. 2nd tier (2 times the average of 15,000) at 1.0 to 2.0 times the 1,000 gallon rate.
4. 3rd tier (3 times the average of 15,000) at 1.0 to 2.0 times the second tier rate.
5. 4th tier (4 times the average of 15,000 upward) at 1.0 to 2.0 times the third tier rate.

8. OTHER WATER CONSERVATION MEASURES

8.1 NTMWD System Operation Plan

The City of Murphy purchases treated water from NTMWD and does not have surface water supplies for which to implement a system operation plan. NTMWD's permits do allow some coordinated operation of its water supply sources, and NTMWD is seeking additional water rights for coordinated operation to optimize its available water supplies.

8.2 Reuse and Recycling of Wastewater

The City of Murphy does not own and operate its own wastewater treatment plants. City of Murphy wastewater is treated by NTMWD. NTMWD currently has the largest wastewater reuse program in the state. NTMWD has water rights allowing reuse of up to 71,882 acre-feet per year of this treated wastewater through Lake Lavon for municipal purposes. In addition, NTMWD has also developed the East Fork Raw Water Supply Project which can divert up to 157,393 acre-feet per year based on treated wastewater discharges by the NTMWD. When fully developed, these two reuse projects will provide up to 44 percent of the NTMWD's currently permitted water supplies. NTMWD also provides treated effluent from its wastewater treatment plants available for direct reuse for landscape irrigation and industrial use.

8.3 Ordinances, Plumbing Codes, or Rules on Water-Conserving Fixtures

The state has required water-conserving fixtures in new construction and renovations since 1992. The state standards call for flows of no more than 2.5 gallons per minute (gpm) for faucets, 3.0 gpm for showerheads, and 1.6 gallons per flush for toilets. Similar standards are now required nationally under federal law. These state and federal standards assure that all new construction and renovations will use water-conserving fixtures. The City of Murphy will explore optional rebate programs to encourage replacement of older fixtures with water conservation programs are discussed in Section 8.5.

8.4 Landscape Water Management Measures

The following landscape water management measures are required by the NTMWD for this plan. These are the minimal measures that should be implemented and enforced in order to irrigate the landscape appropriately.

- Time of day restrictions prohibiting lawn irrigation watering from 10 AM to 6 PM beginning April 1 and ending October 31 of each year.
- Prohibition of watering of impervious surfaces. (Wind driven water drift will be taken into consideration.)
- Prohibition of outdoor watering during precipitation or freeze events.
- Lawn and landscape irrigation will be limited to twice per week.

- Rain and freeze sensors and/or ET or Smart controllers required on all new irrigation systems. Rain and freeze sensors and/or ET or Smart controllers must be maintained to function properly.
- “At home” car washing can be done only when using a water hose with a shut-off nozzle.
- Prohibition of watering areas that have been overseeded with cool season grasses (such as rye grass or other similar grasses), except for golf courses and public athletic fields.

8.5 Additional Water Conservation Measures (Not Required)

The following water conservation measures are also included in this Plan as options to be considered by the City of Murphy:

- Additional landscape water management regulations
- Landscape ordinance
- Water audits
- Rebates

Appendix E is a summary of considerations for landscape water management regulations adopted as part of the development of this water conservation plan. These regulations are intended to minimize waste in landscape irrigation. Appendix E includes the required landscape water measures in 8.4. In addition, NTMWD recommends the following measures, but they are not required:

- Encourage all existing irrigation systems be retrofitted with rain and freeze sensors and/or ET or Smart controllers capable of multiple programming. Rain and freeze sensors and/or ET or Smart controllers must be maintained to function properly.
- Prohibition of use of poorly maintained irrigation systems that waste water.
- Requirement that all new athletic fields be irrigated by a separate irrigation system from surrounding areas.
- Implementation of other measures to encourage off-peak water use.

Landscape ordinances are developed by cities to guide developers in landscaping requirements for the city. NTMWD recommends that the following measures be included in the entity’s landscape ordinance:

- Requirement that all new irrigation systems be in compliance with state design and installation regulations (TAC Title 30, Part 1, Chapter 344). Including rain and freeze sensors and/or ET or Smart controllers capable of multiple programming.
- Native, drought tolerant, or adaptive plants should be encouraged.
- Drip irrigation systems should be promoted.

- Evapotranspiration (ET) / Smart controllers that only allow sprinkler systems to irrigate when necessary should be promoted.

Water audits are useful in finding ways in which water can be used more efficiently at a specific location. NTMWD recommends that the City of Murphy offer water audits to its customers.

In addition to the conservation measures described above, the NTMWD considers the following water conservation incentive programs as options that might be included in the plan:

- Low-flow toilet replacement and rebate programs,
- Rebates for rain/freeze sensors and/or ET or Smart controllers,
- Low-flow showerhead and sink aerators replacement programs or rebates,
- ET/Smart irrigation controller rebates,
- Water efficient clothes washer rebates,
- Pressure reducing valve installation programs or rebates,
- Rain barrel rebates,
- On-demand hot water heater rebates, or
- Other water conservation incentive programs.

8.6 Requirement for Water Conservation Plans by Wholesale Customers

Every contract for the wholesale sale of water by Member Cities and/or Customers that is entered into, renewed, or extended after the adoption of this water conservation plan will include a requirement that the wholesale customer and any wholesale customers of that wholesale customer develop and implement a water conservation plan meeting the requirements of Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2 of the Texas Administrative Code. The requirement will also extend to each successive wholesale customer in the resale of the water.

8.7 Coordination with Regional Water Planning Group and NTMWD

Appendix F includes a letter sent to the Chair of the Region C water planning group with this model water conservation plan. The City of Murphy will send a copy of its draft ordinance implementing the plan and their water utility profile to NTMWD for review and comment. The adopted ordinance and the adopted water utility profile will be sent to the Chair of the Region C Water Planning Group and to NTMWD.

9. IMPLEMENTATION AND ENFORCEMENT OF THE WATER CONSERVATION PLAN

Appendix G contains a copy of an ordinance, order, or resolution which may be tailored to meet Member or Customer City needs and be adopted by the City Council or governing board regarding the model water conservation plan. The ordinance, order, or resolution designates responsible officials to implement and enforce the water conservation plan. Appendix E, the considerations for landscape water management regulations, also includes information about enforcement. Appendix H includes a copy of an ordinance, order, or resolution that may be adopted related to illegal connections and water theft.

The City of Murphy is responsible for developing regulations, ordinances, policies, or procedures for enforcement of water conservation guidelines. The City of Murphy will adopt an ordinance(s) implementing the City Plan, which incorporates the NTMWD Model Plan, including the determination of fines and enforcement procedures.

10. REVIEW AND UPDATE OF WATER CONSERVATION PLAN

The City Plan is required to be updated every five years thereafter. The plan will be updated as required and as appropriate based on new or updated information, and as required by the TCEQ.

Issue

Discuss proposed changes to components of Chapter 28 "Development Standards".

Background

On May 18, 2009, City Council adopted ordinance revising existing development standards that were previously located in the Comprehensive Zoning Ordinance and creating a new chapter (Chapter 28) in the Code of Ordinances. The following development standards were then moved to Chapter 28 of the Code of Ordinances:

- Sign Regulations
- Lighting Regulations
- Landscape/Tree Preservation Regulations
- Exterior Construction and Design Regulations
- Fence/Screening Regulations
- Performance Standards
- Noise Regulations
- Multi-Family Development Standards
- Hotel/Motel Standards (newly created at the time)
- Senior/Assisted Living Standards (newly created at the time)

On October 18, 2010, the City Council directed staff to review Chapter 28 with the main emphasis of potential change to sign regulations, fencing, walls and screening regulations and exterior construction standards.

Considerations

Staff is presenting the proposed draft of a revised Chapter 28 to the City Council for discussion and consideration. Direction from the City Council following the June 21 meeting will be forwarded to the Planning and Zoning Commission for their discussion in July. Direction from the Planning and Zoning Commission will be forwarded to the City Council for ultimate approval.

Attachment

N/A (please refer to the draft received in the June 7, 2011 City Council packet)

James Fisher, City Manager
Submitted By

James Fisher, City Manager
Approved by

DRAFT

ARTICLE I. SIGNS

Section 28-1. Purpose.

Signs use private land and the sight lines created by the public rights-of-way to inform and persuade the general public by publishing a message. This section provides standards for the erection and maintenance of private signs. All private signs not exempted as provided below shall be erected and maintained in accordance with these standards. The general objectives of these standards are to promote health, safety, welfare, convenience and enjoyment of the public, and, in part, to achieve the following:

- (A) Safety. To promote the safety of persons and property by providing that signs:
 - (1) Do not create a hazard due to collapse, fire, collision, decay or abandonment;
 - (2) Do not obstruct firefighting or police surveillance; and
 - (3) Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles or other vehicles, or to read traffic signs.
- (B) Communications efficiency. To promote the efficient transfer of information in sign messages by providing that:
 - (1) Businesses and services may identify themselves;
 - (2) Customers and other persons may locate a business or service;
 - (3) No person or group is arbitrarily denied the use of the sight lines from the public right-of-way for communication purposes; and
 - (4) Persons exposed to signs are not overwhelmed by the number of messages presented, and are able to exercise freedom of choice to observe or ignore said messages, according to the observer's purpose.
- (C) Landscape quality and preservation. To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:
 - (1) Do not interfere with scenic views;
 - (2) Do not create a nuisance to persons using the public rights-of-way;
 - (3) Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height or movement;
 - (4) Are not detrimental to land or property values; and
 - (5) Contribute to the special character of particular areas or districts within the city, helping the observer to understand the city and orient oneself within it.

Section 28-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section. Terms not defined herein shall have the meaning assigned to them in the Building Code. Terms not defined herein or in the Building Code shall have the meaning customarily assigned to them by the dictionary.

Activity means any person, business, organization or other entity.

Awning means a roof-like structure, temporary in nature, which is not an integral structural part of and is accessory to the building which it serves and is retractable, collapsible or capable of being folded.

Building means a structure which has a roof supported by walls for the shelter, support or enclosure of persons, animals or chattel.

Canopy means a projecting roof-like covering which is a permanent and integral part of the building's structure.

Character means any letter of the alphabet or any numeral.

City means the City of Murphy, Texas.

Commission means the Plan Commission of the City of Murphy.

Expressway means any public right-of-way designated as an expressway or freeway by the ordinances or resolutions of the City of Murphy, as amended.

Facade means any separate face of a building, including parapet walls and omitted wall lines, or any part of a building which encloses or covers usable space. Where separate faces are oriented in the same direction, or in the directions within forty-five (45) degrees of one another, they are to be considered as part of a single facade.

Height, as applied to a sign, shall be measured as the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and the average grade within 5 feet of any part of the sign.

Intersection means the junctions of the centerlines of any two (2) public rights-of-way, other than alleyways, crossing at grade, or, where the crossing is separated at grade, the intersection shall be the point at which expressway travel pavements converge or diverge, or the point at which any expressway interchange ramp intersects the expressway travel pavement.

Luminance means the brightness of a sign or a portion thereof expressed in terms of foot candles. For the purpose of this chapter, luminance shall be determined by the use of an exposure meter calibrated to standards established by the National Bureau of Standards and equipped with a foot candles scale.

Occupancy is the purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

Parapet is a low wall or railing which protects the edge of a roof, porch or terrace.

Roofline means the ridge line or the highest portion which is the highest part of a roof.

Setback means the required distance between any point on private land and the nearest point at the edge of the nearest public right-of-way, other than an alley. Where a public way crosses a railroad right-of-way, the setback distance is to be measured from the public right-of-way line extended across the railroad right-of-way.

Sign means any device, flag, light, figure, mural, painting, picture, letter, word, message, symbol, plaque or poster visible from outside the site on which it is located and designed to inform or attract the attention of persons not on that premise, excluding those lights and landscape features which display no words or symbols, and temporary holiday decorations.

Sign area, for freestanding signs, means the area enclosed by the minimum imaginary rectangle of vertical and horizontal lines which fully contains all extremities of the sign, exclusive of its supports. This rectangle is to be calculated from an orthographic projection of the sign viewed horizontally. A viewpoint for this projection is to be taken which gives the largest rectangle of that kind, as the viewpoint is rotated horizontally around the sign. If elements of the sign are movable or flexible, such as a flag or string of lights, the measurement shall be taken when the elements are fully extended and parallel to the plane of view. The sign area for attached signs shall mean the sum of the areas of the minimum imaginary rectangles enclosing each word attached to any particular facade. This definition shall also apply to signs which are composed solely of words which identify a premise and which are attached to freestanding walls not over six (6) feet in height.

Sign, attached means any sign attached to, applied on, or supported by any part of a building (including canopy fascia, walls and awnings) which encloses or covers usable space.

Sign band means an architectural element expressly designed to accommodate attached signs on a building.

Sign copy. See definition of "Sign."

Sign, directional means an off-premise sign the content of which is limited exclusively to the identification of a specific site, activity or occupancy located elsewhere, and which tells the location of or route to that site, activity or occupancy.

Sign, freestanding means any detached sign connected to the ground which is not an attached, portable or vehicular sign.

Sign, illegal means any sign that was erected in violation of any sign regulation applicable at the time of erection of such sign. Any sign which does not comply with the provisions of this Article, or which is not deemed as a nonconforming sign by the Building Official shall be considered an illegal sign.

Sign, illuminated means any sign which is directly lighted by any electrical light source, internal or external. This definition shall not include signs which are illuminated by street lights or other light sources owned by any public agency or light sources which are specifically operated for the purpose of lighting the area in which the sign is located rather than the sign itself.

Sign, kiosk is a freestanding sign located within any public right-of-way that features a City of Murphy identification panel at the top of each structure and displays directional information to subdivisions, homebuilders, new homes and municipal facilities and parks.

Sign, marquee means any sign which has interchangeable letters (plastic, metal, magnetic, etc.) and these individual letters are changed manually.

Sign, monument means any permanent low profile sign built on a monument base, solid from the ground up, which has no clear space for the full width of the sign between the bottom of the sign and the ground and is not an attached, portable or vehicular sign. Pole(s) or support(s) must be concealed.

Sign, movement control means a sign which directs vehicular or pedestrian movement within or onto the premise on which the movement control sign is located.

Sign, nonconforming means any sign erected legally and in compliance with all sign regulations applicable at the time of erection, but which does not comply with the provisions of this Article. It shall be the burden of the owner of a nonconforming sign to prove that the sign was erected legally and in compliance with all sign regulations applicable at the time of its erection.

Sign, off-premise means any sign which is not an on-premise sign.

Sign, on-premise means any sign the content of which relates to the site on which it is located, referring exclusively to the name, location, products, persons, accommodations, services or activities of or on those sites, or the sale, lease or construction of those sites.

Sign, pole means a permanent freestanding pole sign, utilizing either a monopole or dual pole design.

Sign, political means any type of non-premise sign which refers only to the issues or candidates involved in a political election.

Sign, portable means a sign which is easily moved from one location to another, including signs which are mounted on skids, trailers, wheels, legs or stakes and which are not fixed permanently to the ground, and which is not an attached sign, political sign, vehicular sign or a sign which refers solely to the sale or lease of the premises.

Sign, projecting means any attached sign, other than an awning or canopy, which projects perpendicular from a building and which has one (1) end attached to the building.

Sign, protective means any sign which is commonly associated with safeguarding the permitted uses of the occupancy, including, but not limited to, "Bad Dog," "No Trespassing," and "No Solicitors."

Sign, special purposes means a sign temporarily supplementing the permanent signs on a site.

Sign, temporary means any sign that is used only temporarily and is not permanently mounted or affixed to any structure or to the ground.

Sign, vehicular means any sign on a vehicle moving along the ground or on any vehicle parked temporarily, incidental to its principal use for transportation. This definition shall not include signs which are being transported to a site of permanent erection.

Sign, window means a sign posted, painted, placed, or affixed in or on a window exposed to public view. An interior sign that faces a window exposed to public view and located within three (3) feet of the window is considered a window sign for the purpose of calculating the total area of all window signs.

Site means a building which houses a single activity and the contiguous grounds and parking areas which exclusively service that building or any number of activities housed by a single building or multiple buildings which share common egress or ingress from a public street or right-of-way.

Street means a public right-of-way utilized by the public and shall include such terms as avenue, drive, circle, road, boulevard, highway, but shall not include alleys.

Thoroughfare means any public right-of-way which is eighty (80) feet in width or greater designated as a thoroughfare by the City by ordinance or resolution.

Wind device means any flag, banner, pennant, streamer or similar device that moves freely in the wind. All wind devices are considered to be signs, and are regulated and classified as attached or detached by the same rules as other signs. Heavier-than-air inflatable must be firmly tethered to the ground and shall not exceed a maximum of 35 feet in height. Feather signs are considered wind device signs.

Word: For the purpose of this chapter, one word shall be deemed to be any of the following:

- (A) Any word in any language found in any standard unabridged dictionary or dictionary of slang.
- (B) Any proper noun or any initial.
- (C) Any separate symbol or abbreviation, such as "&," "\$," "%," and "Inc."
- (D) Any telephone number, street number or commonly used combination of numerals and/or symbols such as "\$5.00" or "50%."
- (E) Any symbol or logo which is a registered trademark, but which itself contains no word or character.
- (F) Otherwise, each separate character is considered to be a word.

Zoning district, business means any zoning district designated other than residential zoning by the Comprehensive Zoning Ordinance of the City of Murphy, Texas, as amended.

Zoning district, residential means any zoning district designated as a residential district in the Comprehensive Zoning Ordinance as amended.

Section 28-3. General provisions.

(A) All signs erected or maintained pursuant to the provisions of this chapter shall be erected and maintained in compliance with all applicable state laws and with the Building Code, Electrical Code and other applicable ordinances of the City. In the event of conflict between this chapter and other laws, the most restrictive standard applies.

(B) No sign shall be erected, maintained, placed or otherwise situated in such a manner so as to obstruct or interfere with the minimum sight line standards.

Section 28-4. Imitation of traffic and emergency signs prohibited.

No person shall cause to be erected or maintained any sign using any combination of forms, words, colors or lights which imitate standard public traffic regulatory, emergency signs or signals.

Section 28-5. Roof signs.

No sign shall project above the roofline or be attached to a roof of a building.

Exceptions:

(A) Signs may be placed on the first 30" above the roof on a parapet or similar projection which is continuous on two or more sides of the structure.

(B) Signs may be placed a maximum of 10 feet above the roof on a parapet or similar projection which is continuous on three or more sides.

(C) Signs shall not project above any portion of a parapet or similar projection.

Section 28-6. Signs in rights-of-way prohibited.

Except as specifically authorized in this Chapter, no sign shall be erected or affixed within or project over any public right-of-way or across the public right-of-way line extended across a railroad right-of-way. This section shall not be construed so as to prohibit the carrying or displaying of signs by any person so long as such sign is not connected or affixed to the real property comprising the public right-of-way, its fixtures and appurtenances. Homeowners' Association and Crime Watch meeting and alert may have signs projecting over the public right-of-way.

Section 28-7. Signs on public property.

Except as specifically authorized in this Chapter, no person shall attach any sign, paper, or other material or paint, stencil, or write any name, number or otherwise mark any sidewalk, curb, gutter, street, tree, utility pole, traffic sign, traffic light standard, public building, public fence, or

public structure. This section shall not prohibit the posting of governmental signs or the painting or attaching of street address numbers to curbs.

Section 28-8. Floating sign prohibited.

Signs consisting of lighter-than-air or floating devices are prohibited.

Section 28-9. Portable signs prohibited.

Portable signs are prohibited.

Section 28-10. Political signs.

Political signs regarding an issue or candidate in an election may be erected on private property without limit as to number; provided, that such signs comply with other applicable requirements of this chapter, and provided further, that the owner or occupant of the property on which sign is displayed shall comply with the following regulations:

- (1) Political signs must comply with state law and are prohibited from:
 - a. Having a surface area greater than 36 square feet;
 - b. Being more than eight feet in height;
 - c. Being illuminated; or
 - d. Having moving elements.
 - e. Being located in center medians or within 15 feet of any stop sign / traffic light.
 - f. Being placed on private property without the permission of the property owner.
 - g. Being placed on City of Murphy owned property except:
 - 1) Along the south entrance of the Municipal Complex. Signs may be placed on the south side of this driveway beginning 10 days prior to early voting. The sign placement area shall be between the Customer Service Utility Payment Drive area and the right of way at Murphy Road.
 - 2) The total sign area of a candidate on City of Murphy owned property may not exceed 16 square feet.
 - 3) On election day, candidates and/or supporters may place campaign signs in the east lawn across from the City Hall south parking lot, as long as they are outside the mandated election boundary lines.

4) All candidate signs must be removed within 2 days after the conclusion of the election.

h. The City may remove any sign that is not in compliance with any of the above.

(2) Political signs must comply with all laws and regulations regulating the placement, location, and site visibility triangle which relates to all signage.

Section 28-11.Special Purpose Signs

(A) Flags, emblems and insignia of a governmental entity are allowed.

(B) Special purpose, temporary construction signs denoting the architect, engineer, contractor, subcontractor or financier and temporary signs denoting the future location of a particular business, retail center or institution are allowed one such construction sign and one such future location sign per street adjacent to the construction site or future location site. No such sign shall exceed thirty-two (32) square feet in area nor extend higher than fifteen (15) feet as measured from ground level; provided, that such signs are located on the premises where construction or location being advertised is or will be occurring. Such signs shall be removed upon issuance of a Certificate of Occupancy.

(C) Special purpose freestanding signs for the purpose of identifying the location of or direction to subdivisions or major home builder sites are allowed. Such signs shall be on-premise and shall not exceed thirty-two (32) square feet in area, nor extend more than ten (10) feet in height, or when located adjacent to a screening wall shall not extend more than fifteen (15) feet in height. A home builder with twenty-five (25) lots or more qualifies as a major home builder. One such sign may be allowed for subdivisions, major home builders, sites or developments of thirty (30) acres, or less. One additional sign shall be allowed for each additional thirty (30) acres. Permits for such signs may be granted for a maximum period of ~~six~~ 12 month intervals, with such signs being removed upon ninety (90) percent completion of the project. No such sign shall be located closer than one hundred (100) feet to a residential dwelling not within the subdivision.

(D) Off-premise, special purpose freestanding directional signs for the purpose of identifying the location of or direction to a subdivision within a residential zoning district are allowed under the following conditions:

(1) Such signs shall not advertise any site located outside the city limits of Murphy, Texas;

(2) Such signs shall be located within a one (1) mile radius of the subdivision to which it pertains and shall not be located closer than one hundred (100) feet to a residential dwelling;

(3) Such signs shall not exceed one hundred (100) square feet in area, nor extend more than fifteen (15) feet in height;

(4) The maximum number of such signs shall not exceed one (1) sign per fifty (50) lots, or fraction thereof, nor a maximum of two (2) signs per subdivision;

(5) No such off-premise, special purpose freestanding directional sign shall be erected closer than one hundred (100) feet from any other off-premise sign on the same side of the thoroughfare;

(6) Permits for such signs may be granted for maximum intervals of twelve (12) months each with such signs being removed when ninety (90) percent of the lots within the subdivision have been developed.

(E) Wind devices, heavier-than-air inflatable, and similar special purpose signs promoting a single-family subdivision or multi-family complex shall be allowed a maximum single use period not to exceed ~~sixty (60)~~ **fifteen (15)** days, with a minimum period between permits of ~~sixty (60)~~ **thirty days (30)** and a maximum number of three (3) permits per year for a given subdivision or complex.

(F) Wind devices, heavier-than-air inflatables, and similar special purpose signs promoting a retail or commercial establishment or center shall be allowed a maximum single use period not to exceed ~~sixty (60)~~ **seven (7)** days with a minimum period between permits of **fifteen (15) days** and a maximum number of three (3) permits per year for a given establishment or center.

(G) Signs that advertise sales, specials, grand openings, or other goods or services available within an establishment may be placed in windows using water soluble paint, appliques or other temporary and removable means provided that no such window sign may:

(1) Be located on the window surface in any manner that obscures more than twenty five percent (25%) of the visible window area available in the absence of any signs; and

(2) Remain in place more than ~~60 days~~ **30 days** in any six month period.

Section 28-12. Movement control signs.

Movement control signs may be erected at any activity or on any site, other than a single-family or duplex premise; may be attached or freestanding, and may be erected without limit as to number; provided, that such signs shall comply with other applicable requirements of this chapter; and:

(A) Freestanding movement control signs shall not exceed six (6) square feet in effective area and shall not exceed three (3) feet in height.

(B) If a movement control sign is an attached sign, the letters shall not exceed four (4) inches in height and the sign area shall not exceed six (6) square feet.

(C) The signs must contain no advertising or identification message.

Section 28-13. Protective signs.

A site may not contain more than two (2) protective signs and one (1) additional protective sign per site for every 450 linear feet abutting a public street, in accordance with the following provisions:

- (A) Each sign shall not exceed one hundred (100) square inches in area;
- (B) Freestanding signs shall not exceed two (2) feet in height;
- (C) Letters shall not exceed four (4) inches in height.

Section 28-14. Sale or lease signs.

A site may contain on-premise attached or freestanding signs for the purpose of advertising the sale or lease of the real property on which such sign is located, subject to the following provisions:

- (A) Signs advertising the sale or lease of residential property shall not exceed eight (8) square feet in area nor five (5) feet in height. The number of such signs shall be limited to one (1) per lot or complex where such lot or complex abuts one (1) street; one (1) additional sign shall be allowed for each additional street.
- (B) Signs advertising the sale or lease of a business property shall not exceed sixteen (16) square feet in area or eight (8) feet in height.

(C) Permits for such signs may be granted for a maximum period of twelve month intervals.

Section 28-15. Vehicular signs.

Vehicular signs are prohibited.

Section 28-16. Kiosk Signs

Kiosk Signs provide a uniform, coordinated method of providing homeowners, developers and municipalities a mean of utilizing directional signs, while minimizing the negative impacts to the City and its residents. Kiosk Signs shall be used for homebuilder, developer and subdivision directional signage. Kiosk Signs shall also provide service to the public on directions to municipal facilities and parks.

Kiosk Signs must meet the following regulations:

- (A) Procedures for Installing a Kiosk Sign
 - (1) The City Council may, pursuant to a duly executed services contract, grant to a person or company (a "Contractor") the right to design, erect, and maintain Kiosk Signs within Murphy and administer the Kiosk program as set forth by that contract.
 - (2) Kiosk Signs shall be constructed, installed and maintained by the City or a Contractor authorized by the City under a contract and may be moved or removed at any time by a decision of the City Council.

(3) Once a services contract is approved by City Council, the Contractor shall submit a map, elevations, and any other documentation deemed necessary by city staff, showing the location and design of the proposed Kiosk Signs to the City Manager or his designee. Upon review of the map, elevations, and any other applicable documentation, the City Manager shall make a recommendation to City Council as to whether the location and design of the proposed Kiosk Signs should be approved, denied, or modified.

(4) City Council may approve, deny, or approve with modifications the location and design of the proposed Kiosk Signs as shown on the map, elevations, and other applicable documentation. Modifications include, but are not limited to, modifications of the color of, or materials used in, the sign panels. No party may erect a Kiosk Sign without City Council approval of the location and design of the kiosks.

(5) The Contractor must comply with all permitting requirements set forth in the City's Code of Ordinances.

(B) Location of the Kiosk Signs. Although the City Council has the authority to determine where Kiosk Signs may be located, locations must at least meet the following criteria:

(1) The location of Kiosk Signs must not create traffic hazards. The obstruction of the visibility of motorists, pedestrians, or traffic control signs will constitute a type of traffic hazard. The City Manager or his designee shall review the location of each proposed Kiosk Sign. A Kiosk Sign shall not be installed if the City Manager or his designee determines that the location of the proposed sign would create a traffic hazard.

(2) The location of Kiosk Signs must not interfere with the general use of, and handicap accessibility of, sidewalks, walkways, bike, and hiking trails.

(3) The location of Kiosk Signs must not interfere with any public utilities or be located in a utility easement.

(4) Kiosk Signs must not be located within a sight visibility triangle.

(5) A Kiosk Sign must be located at least one-hundred (100) feet from all other Kiosk Signs, including signs located across a street from each other.

(6) Kiosk Signs must not be located within a median.

(7) Kiosk Signs must be located at least five (5) feet from the edge of a curb or pavement line, which includes improved surfaces and shoulders.

(C) Design of Kiosk Signs. Although the City Council has the authority to determine which designs are appropriate, designs must at least meet the following criteria:

(1) Kiosk Signs shall be ladder type with individual sign panels of uniform height.

(2) At least two (2) sign panels on each Kiosk Sign must provide directions to a municipal facility or provide information about an upcoming city-sponsored event.

(3) Kiosk Signs may not exceed twelve (12) feet in height and four (4) feet in width.

(4) Kiosk Signs must include breakaway design features as required by the Texas Department of Transportation's (TxDOT) Sign Mounting Details for Roadside Signs.

Break-away fittings must be installed below grade or concealed from public view in another manner approved by City Council through the Building Inspections Department.

(5) The font and color of the Kiosk Sign must be uniform throughout the entire sign.

(6) Kiosk Signs shall not be illuminated.

(7) There must be an identification panel at the top of each Kiosk Sign that displays only the name and official logo of the city.

(8) No signs, pennants, flags, streamers, balloons or other devices or appurtenances used for visual attention may be attached to Kiosk Signs.

(9) Phone numbers and addresses are not allowed to be displayed on the sign panels.

(D) Variances to Kiosk Sign Regulations. The City Council may authorize a variance to the Kiosk Sign procedures or regulations set forth in this Ordinance.

Section 28-17. Government signs.

Nothing in this chapter shall be construed to prevent or affect the display of a national or state flag, or to limit flags, insignia, legal notices or informational, directional or traffic signs which are legally required or necessary to the essential functions of government agencies. Nothing in this chapter shall be construed as affecting or limiting the City from displaying signs upon City rights-of-way and City property.

Section 28-18. Creation of site.

The Building Official shall not issue a permit for construction, erection, placement, or maintenance of a sign until a site is established for the sign.

Section 28-19. Presumption.

It shall be a rebuttable presumption that a sign was erected, placed, displayed or maintained by the person identified on the sign by name, address, telephone number, or other identifying characteristics, or to whose benefit the sign directly contributes.

Section 28-20. Provisions for business zoning districts.

(A) The provisions of this section apply to all signs in business zoning districts unless the sign is within twenty-five (25) feet of either a residential zoning district boundary or a public park of more than one acre.

(B) Signs within twenty-five (25) feet of either a residential zoning district boundary or a public park of more than one acre shall be governed by the provisions applicable to signs in residential zoning districts.

Section 28-21. General provisions applicable to signs in business zoning districts.

(A) In business zoning districts, no illuminated sign which has a sign area of fifty (50) square feet or less shall have a luminance greater than three hundred (300) foot candles, nor shall any such sign have a luminance greater than three hundred (300) foot candles for any portion of the sign within a circle two (2) feet in diameter. The restrictions of luminance in this section shall be determined from any other premise or from any public right-of-way.

(B) No sign or part of any sign shall flash, change its illumination or copy, rotate, move or create an illusion of movement, except that:

(1) Time and temperature informational signs which are oriented to be read from public ways may be allowed; provided, that no change of message occurs more than once each three (3) seconds or less than once each five (5) seconds.

(2) Electronic Reader boards which are oriented to be read from the public way may be allowed; provided that no change of message occurs more than once every thirty (30) seconds.

(C) Marquee signs which meet all the requirements of either the attached or freestanding sign provisions are allowed.

(D) Pole signs are prohibited.

Section 28-22. Freestanding Monument signs – Business Districts.

Monument signs are permitted in business zoning districts as follows:

(A) Number of **monument** signs:

(1) Only one **monument** sign of any type may be erected on any **site's thoroughfare frontage, not to exceed two signs per site.**

~~(a) A site which has more than three hundred (300) feet along a single thoroughfare may have one (1) additional freestanding sign.~~

~~(b) Freestanding signs shall be allowed on each thoroughfare frontage of a site.~~

~~(c) No more than two (2) freestanding signs shall be allowed on each thoroughfare frontage of a site.~~

~~(d) In no case shall a site possess more than four (4) freestanding signs.~~

(a) Fast food and drive-through restaurants may have additional sign(s) not exceeding eight (8) feet in height nor fifty (50) square feet in area and, if **monument**, located no further than fifteen (15) feet from the building housing that activity.

(b) Signs not exceeding sixteen (16) square feet and not exceeding six (6) feet in height are allowed for an activity providing engine fuel sales which advertise prices of fuel on premises. No activity shall have more than one such sign per street front. In no case shall such sign be monument.

(B) Setback:

(1) Freestanding signs of a sign area of fifty (50) square feet or less may be located as near as five (5) feet to the public right-of-way.

(2) No part of a freestanding sign shall be closer than twenty-five (25) feet measured radially to another freestanding sign on an adjacent sign site, nor shall any part of a freestanding sign on the same site be closer than one hundred (100) feet radially to another freestanding sign on that same sign site.

(C) Size, Height and Building Materials:

(1) No freestanding sign shall exceed fifty (50) square feet in sign area or seven (7) feet in height except as herein provided.

(2) Freestanding signs may incorporate embellishments or cut-outs; provided, that they shall not exceed twenty (20) percent of the area of the sign face and that they shall not extend beyond the sign face a distance exceeding eighteen (18) inches as measured horizontally.

(3) Every monument sign shall be required to have a minimum one half foot (1/2') foot masonry base, measured from grade level to the bottom of the sign area. Every monument sign shall be required to have a minimum six (6") inch masonry border on each side of the sign area. A minimum six (6") inch masonry cap is allowed above the sign area, however, it is not required. If the masonry cap option is not chosen, the maximum height of the sign structure shall be limited to seven (7') feet. All monument signs will require engineer sealed drawings.

Building materials and colors utilized for construction of monument bases, side borders, caps, and sign frames shall be constructed of the same materials found on the main building on the lot, unless otherwise approved by the City Council.

If the proposed sign is to be constructed on a lot with an existing building which does not contain a masonry façade, the materials used for the monument base, side borders and cap, must be stone or brick.

(D) Off-Premise Signs. Off-premise signs are prohibited.

Section 28-23. Attached signs – Business Districts.

Attached signs are permitted in business districts in accordance with the following provisions:

(A) Sign Area:

(1) The sign area of an attached sign shall have a maximum square footage of two (2) times the width of the occupant space as measured along main entrance or frontage.

(2) The sign area for attached signs on multi-story buildings shall be two times the width of the main building frontage. The sign area for attached signs on tenant spaces within a multi-story building which has a public entrance shall be allowed per the attached sign requirements in Item 1.

(B) Location and Height:

(1) Where an activity is located on the first story of a multi-story building, an attached sign may not project above the floor level of the second story.

(2) Where an activity is located above the first story of a multi-story building, an attached sign may not project above the floor immediately above.

(3) No attached sign shall project a distance greater than eighteen (18) inches from the architectural element to which it is affixed.

Section 28-24. Window signs.

Window signs in the use districts, where permitted, do not require a sign permit and do not require approval by any municipal agency prior to erection. In no event may signs be located on the window surface internally or externally in any manner to obscure more than 25-50 percent of the visible window area available in the absence of any signs. Where multiple windows exist fronting on a single street or sidewalk, the 25-50 percent visibility shall be maintained for the total window area on such street or sidewalk. Specifically, window signs shall include:

(1) Signs painted on the external or internal surface of the window of an establishment in commercial or retail districts with water-durable paint on external surfaces.

(2) Signs (except posters), banners or displays located on the internal surface of the window of an establishment in commercial or retail districts only.

(3) Posters, providing such posters are not located on the external surface of the window.

(4) Decorations intended to direct attention to and stimulate citizens' interest in public events, providing such signs are painted on the external surface of the window and a 25-50 percent visibility requirement is maintained.

(5) Signs attached to the external surface of a window of a retail or commercial establishment if of water-durable paint or noncombustible material and signs attached to the internal surface of a window which define the name, proprietor, telephone number or address of such retail or commercial establishment.

Section 28-25. Provisions for residential zoning districts.

The provisions of this section shall apply to all signs in any residential district, within twenty-five (25) feet of a residential district boundary, within twenty-five (25) feet of a public park of more than one acre, or where a multi-family residential use occurs.

Section 28-26. General provisions applicable to signs in residential zoning districts.

(A) No portion of an illuminated sign shall have a luminance greater than two hundred (200) foot candles.

(B) No sign nor part of any sign in a residential zoning district shall move, flash, rotate or change its illumination or copy. Marquee signs which meet all the requirements of either the attached or freestanding sign provision are allowed.

(C) An occupant in residential zoning districts may erect only special purpose signs and special purpose political signs, and premise signs, which include movement control signs and protective signs. Temporary holiday decorations are permitted. Nameplates less than one square foot, security signs and child recognition signs are allowed.

(D) The Planning and Zoning Commission may permit the erection of signs on any legally erected structure in any single-family and patio home residential subdivisions. The maximum sign area of such signs shall not exceed forty (40) square feet. The maximum number of signs permitted for each subdivision shall be two (2) signs per street entrance into the platted subdivision area. The sign height, maximum sign area, location on the site, words, setbacks, a graphic presentation of the sign, and number of signs per subdivision shall be prominently indicated on the plans submitted to the Planning and Zoning Commission.

Exception: Building Inspection may issue permits on subdivision signs according to the above-mentioned criteria and the following:

(1) The signs are attached to screening walls which are not in the right-of-way (R.O.W.).

(2) The signs are not illuminated.

(E) Homeowners' Association and Crime Watch meeting and alert signs not exceeding two and one-half (2 1/2) feet in height nor two (2) square feet in area may be placed on public property at the entrances of the Homeowners' Association and Crime Watch areas on the week of the meeting or alert and must be removed the following day by 12:00 p.m.

Section 28-27. ~~Freestanding Monument signs~~ – Residential Districts.

Multi-family and nonresidential sites in residential zones may have **monument** signs subject to the following restrictions:

(1) Number of Signs: Each site may have a **monument** sign for each five hundred (500) feet of frontage along a street, other than an alley. In no case shall such site have more than two (2) **monument** signs.

(2) Setback, Sign Area and Height: A minimum setback of five (5) feet is required of all monument signs. A minimum setback of ten (10) feet from the public right-of-way is required for signs exceeding ten (10) square feet in sign area or fifteen (15) feet in height. A minimum setback of twenty (20) feet is required for all signs exceeding twenty (20) square feet in sign area or twenty (20) feet in height. No monument sign shall exceed fifty (50) square feet in sign area or twenty-five (25) feet in height.

(3) Every monument sign shall be required to have a minimum one half foot (1/2') foot masonry base, measured from grade level to the bottom of the sign area. Every monument sign shall be required to have a minimum six (6") inch masonry border on each side of the sign area. A minimum six (6") inch masonry cap is allowed above the sign area, however, it is not required. If the masonry cap option is not chosen, the maximum height of the sign structure shall be limited to seven (7') feet. All monument signs will require engineer sealed drawings.

Building materials and colors utilized for construction of monument bases, side borders, caps, and sign frames shall be constructed of the same materials found on the main building on the lot, unless otherwise approved by the City Council.

If the proposed sign is to be constructed on a lot with an existing building which does not contain a masonry façade, the materials used for the monument base, side borders and cap, must be stone or brick.

Section 28-28. Attached signs – Residential Districts.

Attached signs are permitted for multi-family premises and nonresidential uses in residential zoning districts and are subject to the provisions of the section governing attached signage in business districts.

Section 28-29. Powers and duties of the Building Official.

(A) Generally. The Building Official is hereby authorized and directed to enforce all the provisions of this Code.

(B) Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Building Official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this Code; provided, that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Building Official or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any

other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official or his authorized representative for the purpose of inspection and examination pursuant to this chapter.

(C) Stop orders: Whenever any work is being done contrary to the provisions of this chapter, the Building Official may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such person shall forthwith stop such work until authorized by the Building Official to proceed with the work.

Section 28-30. Permits, applications, fees.

(A) Permits. No person, firm or corporation shall erect, construct, alter, rebuild, enlarge, extend, convert, maintain, replace, relocate, remove or demolish a sign or alter or change words or rearrange neon tubing on a sign or cause the same to be done without first obtaining a separate sign permit for each sign.

(B) The following type of signs is exempt from permitting:

- (1) The changing of words on a sign that is designed with interchangeable words.
- (2) Normal maintenance to replace worn parts and repainting deteriorated paint without word change.
- (3) Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.
- (4) Government signs such as flags, insignia, legal notices or informational, directional or traffic signs which are legally required or necessary to the essential functions of government agencies.
- (5) Special purpose political signs.
- (6) Non-illuminated temporary construction signs.
- (7) Signs painted directly on internal or external window surfaces.
- (8) Non-illuminated movement control signs not exceeding six (6) square feet in effective area; or three (3) feet in height.
- (9) Non-illuminated freestanding protective signs not exceeding one hundred (100) square inches in effective area; or two (2) feet in height.
- (10) Non-illuminated on-premise signs advertising the sale or lease of a nonbusiness property not exceeding eight (8) square feet in effective area or five (5) feet in height.
- (11) Non-illuminated, on-premise, freestanding signs advertising the sale or lease of a business property.

(12) Homeowners' Association and Crime Watch meeting and alert signs.

(C) Other required permits. Unless otherwise exempted, separate plumbing, electrical and mechanical permits will be required for the above-exempted items.

(D) Application. To obtain a permit, the applicant shall file an application in writing on a form furnished for that purpose. Every such application shall:

(1) Identify and describe the work to be covered by the permit for which application is made.

(2) Describe the land on which the proposed work is to be done by zoning, lot, block, tract, subdivision, and street address, or similar description that will readily identify and definitely locate the proposed work.

(3) Be accompanied by a notarized authorization from the owner of the property.

(4) Be accompanied by plans and specifications as required in this Code and all applicable laws and ordinances.

(5) State the valuation of the proposed work.

(6) Be signed by the applicant, or an authorized agent who may be required to submit evidence to indicate such authority.

(7) Give such other information as reasonably may be required.

(E) Plans and specifications. With each application for a permit, not less than two (2) sets of plans and specifications shall be submitted and all drawings, specifications and accompanying data shall bear the name and address of the designer. The structural design of monument signs in excess of ~~eight (8)~~ **seven (7)** feet in height shall be prepared and designed by an engineer licensed by the State of Texas. The plans and specifications for attached signs shall be prepared by an engineer licensed in the State of Texas as required by the International Building Code, as adopted by the City.

(F) Fees. The fee for such permit shall be as prescribed by the Fee Schedule located in Appendix A of the Code of Ordinances.

(G) Expiration. Every permit issued under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within sixty (60) days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of more than one hundred twenty (120) days. Before such work can be recommenced, a new permit shall be first obtained.

(H) Special Purpose / Builder Sign Renewal. If previously permitted sign has not been moved or altered in any way, a sign permit renewal request, photo or artwork of sign and appropriate fee payment are required.

(I) Suspension or revocation. The ~~Building Official~~ **the City Manager or his designee** may, in writing, suspend or revoke a permit issued under provisions of this Code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any law or ordinance.

(J) Refunds. There shall be no refunds of sign permit fees paid under the terms of this Code, except for the following:

(1) When it is determined that a sign permit was issued due to an error, a full refund may be authorized by ~~the Building Official~~ **the City Manager or his designee**.

(2) When it is determined that a sign permit cannot be legally issued, any permit fee received may be returned.

(K) Inspections. All signs for which a permit is required shall be subject to inspection by the Building Official.

(1) Pre-inspection. The Building Official, upon receipt of an application for permit for a sign, may make a pre-inspection. The application, plans and specifications, and other data, filed by an applicant for permit shall be reviewed by the Building Official. Such plans may be reviewed by other departments to verify compliance with any applicable laws under their jurisdiction. If the Building Official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this chapter and other pertinent laws and ordinances, and that the fees specified in paragraph (f) herein have been paid, he shall issue a permit therefor to the applicant.

(2) Final inspection. The Building Official, upon the call of the permit holder, shall make a final inspection after the work is completed. All requests for final inspection shall be made at least twenty-four (24) hours before the inspection is desired.

(3) Responsibility of contractor. It shall be the responsibility of the contractor to ensure that each necessary inspection is requested from the Building Official and to ensure that subsequent stages of construction are not started until said inspection has been conducted and approved. This also includes all subcontractor types of inspections such as electrical, mechanical, plumbing, etc. If it is found, upon inspection by the City, that a contractor has completed a sign without having obtained the necessary inspections and approvals, future permits shall be denied to that contractor pending completion and approval of said inspections.

Section 28-31.Design.

(A) Construction. All signs and their supports shall be built, constructed and erected in conformance with the requirements of all laws and ordinances.

(B) Structural. Signs shall comply with the design standards of the International Building Code as adopted by the City of Murphy.

(C) Electrical. Signs in which electrical wiring and connections are used shall comply with the requirements of the Electrical Code of the City of Murphy.

(D) Plumbing and mechanical. Signs in which plumbing or mechanical devices are used shall comply with the requirements of the Plumbing and Mechanical Codes of the City of Murphy.

(E) Materials. The type of materials used in the construction, wiring, plumbing or mechanical portion of the sign shall conform to the structural codes of the City of Murphy (Building, Electrical, Mechanical and Plumbing Codes).

(F) Protection. Electrical devices within reach of persons on public property shall be protected by wire glass, safety glass, locked box of metal or wood, or other approved methods. No sign shall be erected nearer than two (2) feet from any telephone cable, electrical street light standard, electrical power poles, or electrical power distribution lines when voltage between conductors is less than three hundred (300) volts. If the voltage between conductors is three hundred (300) volts or greater, clearances shall be maintained as follows:

Voltage of Conductors	Horizontal Clearance in Feet	Vertical Clearance in Feet
300 to 8,700	3	8
8,700 to 15,000	8	8
15,000 to 50,000	10	10
50,000 +	10 plus 9.5 inch per kv in excess	10 plus 0.5 inch per kv in excess

Note: For spans greater than one hundred fifty (150) feet, refer to the National Electrical Safety Code.

(G) Clearance from fire escapes, exits, or standpipes. No sign or its supports shall be erected in such a manner which will interfere in any way with the use of any fire escape, exit or standpipe. No sign or its supports shall be attached to a standpipe or fire escape.

(H) Obstruction of openings in buildings. No sign or its supports shall obstruct any required openings to such an extent that light or ventilation is reduced below that required.

(I) Weatherproofing. All signs shall be constructed so as to prevent the accumulation of water.

(J) Conflict. In the event of a conflict between any applicable ordinance of the City of Murphy, then the most restrictive code requirements shall apply.

(K) Materials. All freestanding signs shall be constructed of materials that are noncombustible or slow burning (as in the case of plastic insert of facings) and shall be supported by noncombustible material only and finished in a presentable manner. Untreated wood or unpainted or non-galvanized steel supports are specifically prohibited.

Section 28-32.Existing signs.

(A) Maintenance of signs. Except as provided in paragraphs (B) and (C) of this section, any sign or portion of a sign or sign support determined by the City to be unsafe or unsecured, a menace to the public, becomes dangerous to life, limb or property, or an obstruction to the use of any sidewalk or roadway, or interferes with the operation of the Fire Department, or in such dilapidated condition as to be unsightly and, therefore, prejudicial to the public welfare shall be repaired, maintained, or removed.

(B) Nonconforming signs. Except as provided in this paragraph, any sign which is designated by the Building Official a nonconforming sign, as defined, shall be permitted to be continued as a nonconforming sign unless such sign is made a conforming sign. Any nonconforming sign which is destroyed, deteriorated, or dilapidated to such extent that the cost of repairing the sign to a condition acceptable by the Building Official is more than sixty percent (60%) of the cost of erecting a new sign of the same type at the same location shall be removed.

(C) Illegal signs. Illegal signs shall be immediately removed upon written notice by ~~the Building Official~~ the City.

(D) Time limitations. Except as provided in paragraph (C) above, any sign which is required by this section to be removed, relocated, or repaired shall be removed, relocated or repaired at the expense of the owner, within ten (10) days of a notice given by the Building Official. Any such sign not removed, relocated, or repaired, within this time limit may be removed by the Building Official at the expense of the owner of such sign.

Section 28-33.Variance procedure.

(A) The Planning and Zoning Commission may, for a particular site, recommend variances and exceptions with respect to the provisions of this article.

(B) When the Commission is ready to act upon the variance or exception request, it may recommend approval of the request as it was submitted by the applicant, approval of the request subject to certain conditions or denial of the request. If the Commission's recommendation is to approve the request, either as submitted or with additional conditions, then the request will be automatically forwarded to the City Council for a second public hearing thereon.

(C) When the Planning and Zoning Commission denies a request for a variation or exception to the standards set forth in this Article, a hearing before the City Council shall be set only if a written appeal is filed by the applicant with the City Manager or his/her designee within 15 days of the date of the denial.

(D) The Planning and Zoning Commission shall recommend to the City Council legislation for amendments to this Code in keeping with technological progress with respect to public health, safety and welfare.

(E) The Planning and Zoning Commission may hear and decide appeals which allege error in any order, requirement, decision or determination made by the Building Official in the enforcement of this article.

(F) The Planning and Zoning Commission may require a nonconforming sign to be brought into immediate conformity with all current standards of all ordinances of the City or to be removed when, from the evidence presented, the commission finds the sign to be hazardous to the public or to have been abandoned by its owners.

(G) The Planning and Zoning Commission, in considering an application for a variance, shall consider to what extent, if any, the site for which the applicant seeks a variance differs from adjoining sites, the extent that the hardship or inequity claimed by the applicant is self-created or based upon financial need of the applicant, and the adverse effects that the granting of a variance may or would create.

Section 28-34. Public hearings provided.

The Planning and Zoning Commission shall hold a public hearing on any proposed amendment or supplement to this article. After the public hearing is closed, the Planning and Zoning Commission shall immediately make its recommendation and report to the City Council. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper having a general circulation in the City.

ARTICLE II. FENCING, WALLS AND SCREENING

Section 28-51. Purpose.

The purpose of this division is to encourage the most appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations in this division are prescribed for the location and type of various screening devices to be used when required in the various zoning districts or in this division in accordance with the following standards.

Section 28-52. Screening of nonresidential, multifamily areas and manufactured/mobile home parks.

(A) In the event that a multifamily or manufactured housing district (including planned developments, PDs) sides or backs upon a single-family or duplex residential district, or in the event that a nonresidential district (including PDs) sides or backs upon any type of residential, a solid brick/masonry screening wall of not less than six feet, nor more than eight feet, in height shall be erected on the property line separating these districts. The purpose of the screening wall or fence is to provide a visual and protective barrier between the properties. For these required screening walls, and also for screening walls/fences along arterials, ornamental lighting and detailing that are placed on top of the masonry support columns may exceed the maximum eight-foot height limit by up to 24 inches provided that they are decorative in nature and are integrated

into (and complementary to) the design of the screening wall, and provided that light fixtures do not illuminate adjacent property or cause a nuisance to adjoining neighbors. Grand entryway features into subdivisions from an arterial shall be located on private property, and shall be owned and maintained by a private entity. Such features shall not extend over public right-of-way, and shall be limited to a height of ten feet above grade unless otherwise approved on the screening/landscaping plans by the city council, upon recommendation by the planning and zoning commission. All fences/walls, other than private wood fences on residential lot/tracts, which shall only require a fence permit from the city, and subdivision entryway features shall be properly engineered, and shall be approved by the city engineer and by city council.

(1) The owner of the multifamily or manufactured/mobile home property shall be responsible for and shall build and maintain the required wall on the property line dividing the property from the single-family or duplex residential district.

(2) When screening is required between nonresidential and residential uses, it shall be the responsibility of the nonresidential use to construct and maintain the screening wall.

(3) Any screening wall or fence required under the provisions of this division or under a specific use permit, planned development district, or other requirement shall be constructed of masonry, reinforced concrete, or other similar suitable permanent materials which do not contain openings, except limited gates for pedestrian access, if approved, and which are finished on both sides with the same or similar materials and colors as the main building on the property that is responsible for the screening wall. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or fence.

(4) Alternative equivalent screening may be approved through the site plan approval process, article II, division 7 of this chapter (see the subdivision regulations in chapter 74 for suggested screening alternatives that may be used in lieu of a solid masonry wall).

(B) In nonresidential, multifamily and manufactured housing districts, no fence or wall shall be erected in any front yard or side yard which is adjacent to a public street unless the fence/wall is required to screen the development from an adjacent residential area. In this case, the screening fence/wall shall be extended out to the street right-of-way line by the developer of the nonresidential, multifamily or manufactured/mobile home development, and the fence/wall shall be finished on both sides in a manner/color that is compatible to the exterior finish materials used on the main buildings, except for a manufactured housing park. Screening fences/walls shall be placed such that they do not impede visibility for vehicles entering or exiting the nonresidential, multifamily or manufactured/mobile home development (see section 86-828 for sight visibility requirements).

(C) All fences and walls require permits.

(D) Fence applications will not be accepted without prior written and confirmed approval from respective Homeowners Association, if applicable.

(E) See section 86-828(a) for sight visibility requirements for fences and screening walls.

(F) Open storage of materials, commodities or equipment (see Appendix 3, Use Regulations, for zoning districts permitting outside storage) shall be screened with a minimum six-foot fence or wall, and shall not be visible from the street or from adjacent property. (See definition of "outside storage" in section 86-6).

(G) In districts permitting open storage, screening shall be required only for those areas used for open storage. A six-foot screening fence or wall shall be provided and maintained at the property line adjacent to the area to be screened by one or a combination of the following methods:

- (1) Solid masonry (brick, concrete block or concrete panels).
- (2) Wrought iron with solid landscape screening.
- (3) Alternate equivalent screening may be approved through the site plan approval process under article II, division 7 of this chapter.

No outside storage may exceed the height of the fence. Outside storage exceeding eight feet shall require a specific use permit.

(H) Refuse storage areas which are not within a screened rear service area and which are visible from a public right-of-way for all nonresidential, multifamily and manufactured housing park uses shall be visually screened by a minimum six-foot solid masonry wall on at least three sides (see Illustration 11 for refuse container enclosure diagrams printed at the end of this chapter). The fourth side, which is to be used for garbage pickup service, shall provide a solid gate to secure the refuse storage area. Alternate equivalent screening methods may be approved through the site plan approval process, article II, division 7 of this chapter. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies. Adequate reinforced paved areas shall be provided for refuse facilities and their approaches for loading and unloading, as per Illustration 11.

(I) Plans and specifications for screening and/or fencing around ground-mounted utility structures shall be approved in writing by the affected utility company, and shall be submitted, along with an approval letter/document from the utility company, to the city manager, or his designee, for review and approval prior to construction of said screening/fencing.

Section 28-53. Fences in residential areas.

(A) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Build shall mean construct, erect, or place or cause, suffer or allow another to construct, erect or place.

Fence shall mean any structure which exceeds 18 inches in height above the nearest grade and which encloses, partitions or divides any yard as defined in this chapter.

Residentially-zoned shall mean property zoned single-family, patio home, single-family attached, or any property zoned as a planned development district, (hereafter PD district), where the base zoning within the PD district is one of the foregoing.

Zoning ordinance shall mean city zoning ordinance, as set out in this chapter, as amended.

(B) Height limitation. No fence shall be built so as to exceed eight feet in height on any residentially-zoned property nor shall a fence be built so as to exceed ten feet on any nonresidential property.

(C) Measurement of fence height. Fence height shall be measured from the grade adjacent to the fence from the applicant's side of the fence. If the fence is constructed on top of a retaining wall it shall be measured from the top of the retaining wall.

(D) Depth of posts. Posts must be set at a depth according to the following.

<u>Fence Height</u>	<u>Post Depth</u>
• 8 feet or higher	3 feet
• 6 feet	2 feet
• 4 feet or lower	18 inches

(E) Permit requirement. ~~It shall be unlawful for any person to construct or repair a fence that is equal to or greater than 25 percent of the total existing linear footage of a fence on any lot without having first obtained a fence permit from the permit department. All fences require a permit; however, if the construction or repair is equal to or greater than 25% of the total existing linear footage, a permit fee will be assessed.~~ A person may not construct or repair less than 25 percent of the total linear footage of a fence more than once in a consecutive six-month period. Adequate plans and specifications, as determined by the City, must accompany each application for a permit. ~~If you are adding any percentage of linear feet to existing fencing, a fence permit fee will be assessed.~~

(1) *Inspection and maintenance.* When any fence is completed, it must be inspected. The ~~building inspection~~ permit department shall be notified upon completion of the fence. The building official (or his designee) will issue a card of acceptance if the fence complies with the provisions of this division, or it will be rejected. All fences constructed under the provisions of this division shall be maintained so as to comply with the requirements of this division at all times. Fences shall be maintained by the owner or person in charge of the property in as near as possible the condition of such fence when installed and accepted as provided herein, and shall be maintained as follows:

(a) Such fence shall not be out of vertical alignment more than 20 degrees.

(b) All damaged, removed or missing portions of such fence shall be replaced or repaired with comparable materials of a comparable color to the remaining portion of such fence.

(c) If a new fence, section of fence or fence replacement is proposed to be composed of wood, all wood elements (posts, fence panels, etc.) used shall be pressure treated with

the chemicals Alkaline Cooper Quaternary (ACQ), Copper Azole (CA) or Micronized Copper Quaternary (MCQ). In addition, non pressure treated cedar and redwood are acceptable.

(d) All masonry columns greater than four (4) feet in height shall require an engineered stamped design.

(F) Appeals.

(1) An appeal from a decision of the building official under the terms of this division shall be made to the zoning board of adjustments.

(2) When in its judgment the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured, the zoning board of adjustments may authorize special exceptions to the regulations provided in this division in order to permit reasonable development and improvement of property where the literal enforcement of the regulations would result in an unnecessary hardship.

(G) Prohibited materials.

(1) No person shall build any fence composed, in whole or in part, of:

- a. Barbed wire or razor wire;
- b. Welded or woven wire such as chicken wire, hog wire, stockade panels and similar agricultural wires, (does not include chain link);
- c. Used materials (as defined by the city);
- d. An electric fence;
- e. Galvanized sheet metal, corrugated metal, or corrugated fiberglass; or
- f. Materials not approved for exterior exposure.

(2) The following are affirmative defenses to a violation of this section:

- a. On a lot that has an area of 1 1/2 acres or more, provided that the fence is not otherwise prohibited by any other ordinance or law, a fence may be composed of barbed wire, welded wire or woven wire, or both and may include an electric fence if the electric fence charging device is approved by a nationally recognized testing laboratory.
- b. In a residential zone, an electric fence may be located only within the side and rear yard, all electrified components must be located a minimum of six inches inside another fence (which must be a minimum of 36 inches in height), the electric fence charging device must be approved by a nationally recognized

testing laboratory and the fence shall otherwise comply with all applicable laws and ordinances.

c. This section does not prohibit the use of corrugated metal material with a minimum 26 gauge and one inch corrugation when commercially designed and engineered as a fencing material as a component of a modular, prefabricated fence.

d. When mandated by state or federal statute.

e. When required for public safety for local governmental facilities.

(H) Not permitted on public property. No fence or any part of such fence shall be constructed upon or caused to protrude over public property. All fences must be maintained in a plane so as not to overhang public property.

(I) Certain locations, construction prohibited.

(1) *Within easements.* No fence shall be located within any easement except by prior written approval of those agencies having interest in such easement. Fences within utility, surface drainage (including inlets and concrete plumes) and maintenance easements must be constructed with ornamental iron and removable fence sections. All vertical bars must be a minimum of three inches on center and must not exceed 3 15/16 inches on center. The maximum diameter of all vertical and horizontal bars shall be two inches. The minimum clearance between the bottom of the fence and grade is two inches. Fences within drainage easements that serve underground reinforced concrete pipe (i.e. – non-surface drainage) must be constructed with metal posts and with removable fence sections.

(2) *Screening walls.* Where subdivisions are platted so that the rear or side yards of single-family residential lots are adjacent to a public street on which a screening wall has been provided, no wall or fence shall be attached to the screening wall.

(J) Front yard fencing. No fence shall be built within the required front yard, as defined in this zoning ordinance, except for lots that have an area of 1 1/2 acres or greater. Front yard fencing shall be limited to four feet in height and shall not be of solid construction, providing that at least 50 percent of the fence be open.

(K) Gates required.

(1) Any fence built so as to enclose an area shall provide a gate or other opening in the fence of at least three feet in width and with a minimum headroom clearance of six feet, eight inches in height.

(2) Gates for vehicular use must be a minimum of 24 feet from the property line for all types of property other than residential.

(L) Wind load requirement. Fences must be able to structurally support fencing materials for a 70-mile-per-hour wind speed.

(M) Fences around swimming pools. Fences around swimming pools shall be in conformance with this section and with chapter 18, article VI.

(N) Sight visibility. See section 86-828(a) for sight visibility requirements for fences and screening walls.

(O) Special purpose fencing. Special purpose fencing, such as fencing around tennis courts, dog runs, etc. is permitted. Special purpose fencing shall comply with the requirements as set forth in this section. Smooth, nonclimbable two-inch by four-inch mesh on metal posts will be acceptable behind the building line. Any other materials require approval from the building official.

(P) Back-to-back fencing. Back-to-back fencing is not allowed at a distance of less than five (5) feet.

(Q) Nonconforming fences. A fence that does not comply with the requirements of this division as of May 27, 2004, shall be allowed to remain unless the fence is replaced, destroyed or damaged to the extent of 60 percent or more of the value of the structure, in which event the right to maintain the structure shall terminate.

(R) Fence Transition. Where a privacy fence and a fence or wall that screens a thoroughfare or public street of different heights meet or connect, a gradual stair step transition/effect shall be provided to match the height of the fence that is smaller lower in height. Such transition must be approved by the City.

(S) Fence Post Visibility - Where a privacy fence faces a public right of way, the fence must be built with the posts on the inside of the property and may not be facing the public right of way.

Section 28-54. Variance Procedure.

(A) The Planning and Zoning Commission shall hold a public hearing on any request for a variation or exception to the standards provided by this Article. The Planning and Zoning Commission may not recommend a variation or exception unless the Planning and Zoning Commission determines that the variation or exception will not substantially alter the intent of the standards established by this Article.

(B) All recommendations of the Planning and Zoning Commission under this Article shall be forwarded to City Council. When the Planning and Zoning Commission denies a request for a variation or exception to the standards set forth in this Article, a hearing before the City Council shall be set only if a written appeal is filed by the applicant with the City Manager or his/her designee within 15 days of the date of the denial.

ARTICLE III. LIGHT AND GLARE

Section 28-75. Glare.

(A) Any use shall be operated so as not to produce glare or direct illumination across the bounding property line from a visible source of illumination of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected that acting together the light beam is controlled and not directed across any bounding property line above a height of three (3) feet.

(B) The allowable maximum intensity measured at the property line abutting a residential use shall be 0.5 foot candles.

Section 28-76. Parking and Loading Area Lighting.

(A) All off-street parking areas for nonresidential uses in nonresidential districts which are used after dark shall be illuminated beginning at sunset and shall remain continually illuminated until sunrise. The level of intensity of illumination, measured at a height of three (3) feet above the pavement surface, shall be a minimum average of 2.0 foot candles, and a minimum level at any point of at least 0.66 foot candles. Illumination shall be uniformly distributed throughout the lighted area at an average-to-minimum uniformity ratio of 3:1.

(B) The mounting height of luminaire fixtures shall not exceed the following heights:

Width of Parking Area	Maximum Luminaire Mounting Height
0 - 60 feet	14 feet
61 - 102 feet	20 feet
103 or greater feet	30 feet

(C) Standards, poles and fixtures shall be of a single color, compatible with the architecture of the building.

(D) All lighting fixtures shall be restricted to down-light, cut-off types or shielded.

(E) Low-pressure sodium lighting or lighting of similar color shall not be used.

(F) All efforts should be made to install energy efficient lighting.

(G) If establishment is not open, non operating hours, lighting should be minimal; for security purposes and entries.

Section 28-77. Walkway Lighting.

(A) All outdoor pedestrian areas and uncovered walkways, separate from parking or buildings but essential to the nighttime operation of nonresidential uses within nonresidential districts, shall be continually illuminated between sunset and sunrise. The level of intensity of illumination, measured at the walkway surface, shall be a minimum average of 0.8 foot candles 1 foot-candle, distributed at an average-to-minimum uniformity ratio of 5:1.

(B) The mounting height of luminaire fixtures shall not exceed 12 feet.

(C) Pole and wall-mounted fixtures mounted above 6 feet shall be of a down-light or cut-off type.

Section 28-78.Accent Lighting.

Up-lighting shall be concealed or otherwise positioned in such a manner that the light source cannot be seen from any property line of the site on which the light is located.

Section 28-79.Security Lighting.

(A) Pole and wall-mounted fixtures mounted above 6 feet shall be of a down-light or cut-off type.

(B) If a rear yard security light is mounted higher than 10 feet, it shall be placed at the property line and directed away from adjacent properties.

Section 28-80.Recreational Area Lighting.

(A) Lighting for recreational uses such as athletic courts and fields may employ fixtures mounted in excess of the heights described in this Chapter, subject to the approval of the City.

(B) Where recreational uses are adjacent to residential uses, separation by streets notwithstanding, and such recreational use is illuminated in such a manner as to produce a light intensity in excess of 0.5 foot candles at the property line of the residential use, or where the light source is exposed to the residential use, live screening consisting of a variety of tree which normally grows to or in excess of a height of 30 feet shall be planted no more than 30 feet on center along the property line abutting the residential use. Further, the tree variety shall maintain a crown width sufficient to form a continuous screen at heights between 10 feet and 30 feet above grade. Such trees shall be a minimum of one-half the required height at the time of planting.

Section 28-81.Thoroughfare Lighting.

Lighting provided by governmental entities on public thoroughfares is expressly exempted from this section.

Section 28-82.Maintenance.

All fixtures and supports shall be painted or otherwise treated to resist rust and corrosion and shall be maintained in an attractive condition and in a manner compatible with the surrounding architecture.

Section 28-83. Variance Procedure.

(A) The Planning and Zoning Commission shall hold a public hearing on any request for a variation or exception to the standards provided by this Article. The Planning and Zoning Commission may not recommend a variation or exception unless the Planning and Zoning Commission determines that the variation or exception will not substantially alter the intent of the standards established by this Article.

(B) All recommendations of the Planning and Zoning Commission under this Article shall be forwarded to City Council. When the Planning and Zoning Commission denies a request for a variation or exception to the standards set forth in this Article, a hearing before the City Council shall be set only if a written appeal is filed by the applicant with the City Manager or his/her designee within 15 days of the date of the denial.

ARTICLE IV. PERFORMANCE STANDARDS

Section 28-101. Performance standards generally.

In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by county, state and/or federal agencies. All uses, including those which may be allowed by planned development or special use permit, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, and vibration, and glare as set out in division 9 of this article.

Section 28-102. Environmental legal requirements to be observed.

All federal and state pollution, noise, and requirements for toxic waste disposal shall be observed by all uses, including those which may be allowed by planned development or special use permit.

Section 28-103. Smoke and particulate matter.

No operation or use shall cause, create, or allow the emission for more than three minutes in any one hour of air contaminants which at the emission point or within the bounds of the property are:

(A) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed by the ASTM except that, when the presence of uncombined water is the only reason for failure to comply or when such contaminants are emitted inside a building which prevents their escape into the atmosphere, the standards specified in 3-1302-1 and 3-1302-2 shall not apply.

(B) The emission of particulate matter from all sources shall not exceed 0.5 pounds per acre of property within the plant site per any one hour.

(C) Open storage and open processing operations, including on-site transportation movements which are the source of wind or airborne dust or other particulate matter; or which involves dust or other particulate air contaminants, generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage or sandblasting shall be so conducted that dust and other particulate matter so generated are not transported across the boundary line of the tract on which the use is located in concentrations exceeding four grains per 1,000 cubic feet of air.

Section 28-104. Odorous matter.

(A) No use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the bounding property line or any point beyond the tract on which such use or operation is located.

(B) The odor threshold as herein set forth shall be determined by observation by a person or persons. In any case where uncertainty may arise or where the operator or owner of an odor emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures specified by American Society for Testing Materials ASTM D 1391-57 entitled "Standard Method for Measurement of Odor in Atmospheres" shall be used and a copy of ASTM D 1391-57 is hereby incorporated by reference.

Section 28-105. Fire or explosive hazard material.

(A) No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, perchlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the fire chief of the city.

(B) The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the city fire code or are approved by the fire chief.

Section 28-106. Toxic and noxious matter.

No operation or use shall emit a concentration across the boundary property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed ten percent of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the state department of health in "Threshold Limit Values Occupational Health Regulation No. 3," a copy of which is hereby incorporated by reference.

Section 28-107. Vibration.

No operation or use shall at any time create earth borne vibrations which when measured at the bounding property line of the source operation exceed the limits of displacement set forth in the following table in the frequency ranges specified:

Frequency Cycles Per Second	Displacement (in inches)
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

Section 28-108. Variance Procedure.

(A) The Planning and Zoning Commission shall hold a public hearing on any request for a variation or exception to the standards provided by this Article. The Planning and Zoning Commission may not recommend a variation or exception unless the Planning and Zoning Commission determines that the variation or exception will not substantially alter the intent of the standards established by this Article.

(B) All recommendations of the Planning and Zoning Commission under this Article shall be forwarded to City Council. When the Planning and Zoning Commission denies a request for a variation or exception to the standards set forth in this Article, a hearing before the City Council shall be set only if a written appeal is filed by the applicant with the City Manager or his/her designee within 15 days of the date of the denial.

ARTICLE V. EXTERIOR CONSTRUCTION AND DESIGN

Section 28-131. Definitions.

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Masonry Construction:~~

~~(A) The term "masonry construction" means that form of construction composed of brick, stone, decorative concrete block or tile, or other similar building units or materials (or combination of these materials) laid up unit by unit and set in mortar, and shall exclude wall area devoted to doors and windows. As applicable to meeting the minimum requirements for the~~

~~exterior construction of buildings within each zoning district, the term "masonry construction" shall include the following materials:~~

~~(1) — Hard fired brick (kiln fired clay or slate material; severe weather grade; minimum thickness of three inches when applied as a veneer; shall not include unfired or under fired clay, sand or shale brick; may include concrete brick if it conforms to the same ASTM standards, and to the above stated additional standards, as hard fired clay brick);~~

~~(2) — Stone (includes naturally occurring granite, marble, limestone, slate, river rock, and other similar hard and durable all weather stone that is customarily used in exterior building construction; may also include cast or manufactured stone product, provided that such product yields a highly textured, stone-like appearance, its coloration is integral to the masonry material and shall not be painted on, and it is demonstrated to be highly durable and maintenance free; natural or manmade stone shall have a minimum thickness of 3 5/8 inches when applied as a veneer);~~

~~(3) — Concrete pre cast or tilt wall panels (only allowed if a highly textured, architectural finish which is at least as textured in appearance and physically as face brick or stone; can be brick like or stone like in appearance; coloration shall be integral to the masonry material and shall not be painted on; shall not include smooth, untextured or inadequately textured finishes).~~

~~(B) — The following materials shall not qualify nor be defined as "masonry construction" in meeting the minimum requirements for the exterior construction of buildings:~~

~~(1) — Decorative concrete block~~

~~(2) — Glass blocks or tiles~~

~~(3) — Stucco, exterior plaster, adobe or mortar wash surface material;~~

~~(4) — Exterior insulation and finish system (EIFS), acrylic matrix, synthetic plaster, or other similar synthetic material;~~

~~(5) — Cementitious fiber board siding (such as "HardyPlank," "HardyBoard," etc.);~~

~~(6) — PVC or other plastic based siding material;~~

~~(7) — Lightweight or featherweight concrete blocks or cinderblocks; or~~

~~(8) — Any other cementitious product not listed above.~~

~~Section 28-132. — Minimum Exterior Construction Standards.~~

~~The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new building construction occurring within the city. (See subsection (D) of this section for exemptions.)~~

~~(A) — Single family.~~

~~(1) — All new single family residences shall be of exterior fire resistant construction, and shall have a minimum of 85 percent masonry construction for the entire residence.~~

~~(2) — Any exterior elevation of new single family residences (regardless of location) that faces a public or private street shall be 80 percent masonry. No single elevation of the residence shall be comprised of less than 75 percent masonry construction. Areas of a residence elevation that are devoted to windows, doors, covered porches or stoops, chimneys, breezeways or courtyards shall not be counted as "wall surface" when calculating the masonry requirement provided that covered porches and stoops are at least four feet deep and eight feet wide (i.e., at least 32 square feet in area) and breezeways are not over four feet wide and eight feet deep (i.e., no larger than 32 square feet in area) and courtyards are no larger than 500 square feet.~~

~~(3) — Concrete, concrete block or metal exterior construction is not permitted on any single family residential structure.~~

~~(4) — Roof materials for a single family structure shall be comprised of architectural/dimensional composition shingle (30 year minimum), flat pan standing seam metal roofing (only with a factory baked on muted color finish; no bright colors or natural colored metal roofing allowed), or terra cotta or slate tile in muted colors. Minimum roof pitch shall be at least 8:12, unless otherwise stated in the applicable zoning district or PD ordinance, and except for "Santa Fe" (with a flat roof and highly articulated parapet that conceals the roof and any roof mounted equipment), "Texas ranch house" (with low pitched roofs, large eaves/overhangs, rambling design), or other uniquely styled home. Any proposed addition to an existing single family structure shall have a minimum roof pitch of 4:12.~~

~~(B) — Single family attached residential.~~

~~(1) — All single family attached residential dwelling units shall be of exterior fire resistant construction, and shall have a minimum of 85 percent masonry construction for the entire structure.~~

~~(2) — Any exterior elevation of a single family attached building that faces, or is visible from, a public or private street shall be 100 percent masonry. No single elevation of the residence shall be comprised of less than 75 percent masonry construction. Areas of a single family attached building elevation that are devoted to windows, doors, covered porches or stoops, chimneys, breezeways or courtyards shall not be counted as "wall surface" when calculating the masonry requirement provided that covered porches and stoops are at least four feet deep and eight feet wide (i.e., at least 32 square feet in area) and breezeways are not over four feet wide and eight feet deep (i.e., no larger than 32 square feet in area) and courtyards are no larger than 500 square feet.~~

~~(3) — Concrete, concrete block, or metal exterior construction is not permitted on any multifamily or single family attached residential structure.~~

~~(4) — Roof materials for a single family attached structure shall be the same as for single family detached or duplex residences (see subsection (1) of this section).~~

~~(5) — All elevations of buildings that face a public street or a residentially zoned district shall have elevation offsets of at least five feet for every 50 foot length of flat wall, both horizontally and vertically.~~

~~(C) — Nonresidential and institutional buildings.~~

~~(1) — All nonresidential and institutional buildings shall have a minimum of 90 percent masonry construction for the first story (i.e., below the first floor ceiling plate), and a minimum of 80 percent for any story above one.~~

~~(2) — Any exterior elevation of a nonresidential or institutional building that faces, or is visible from, a public street shall have a minimum of 100 percent masonry construction, and no single elevation shall be comprised of less than 75 percent masonry construction. Areas of an elevation that are devoted to windows, doors, covered porches or stoops or arcades/colonnades, breezeways or courtyards shall not be counted as "wall surface" when calculating the masonry requirement provided that covered porches, stoops, arcades/colonnades, breezeways and courtyards are at least four feet deep and eight feet wide (i.e., at least 32 square feet in area).~~

~~(3) — Metal exterior construction is not allowed on any nonresidential or institutional structure located within any zoning district, and is only allowed on such a structure within a business park (BP) zoning district on a building facade that does not face, and that is not visible, from an existing or planned public street. The use of any type of metal for exterior building construction (such as profiled panels, deep ribbed panels, concealed fastener system panels, etc.) shall be clearly shown on the site plan, and shall only be allowed with site plan approval. The exterior finish of metal used in exterior construction shall be of a permanent, maintenance free nature such as a baked on finish. The use of corrugated, galvanized, aluminum coated, zinc coated, unfinished, or similar metal surfaces shall be prohibited (unless approved on the site plan for a restaurant that uses such materials as part of its "signature design aesthetic," in which case a maximum of ten percent of any wall facade may be devoted to such materials if this is specifically approved on the site plan).~~

~~(4) — Any roof materials for a nonresidential or institutional structure that are visible from a public street shall be comprised of architectural/dimensional, composition shingle (30 year minimum), flat pan standing seam metal roofing (only with a factory baked on muted color finish; no bright colors or natural colored metal roofing allowed), or terra cotta or slate tile in muted colors. Minimum roof pitch of a gabled or otherwise pitched roof shall be at least 8:12, unless otherwise stated in the applicable zoning district or PD ordinance, and except for flat roofed structures that shall have a highly articulated parapet that conceals the roof and any roof mounted equipment. e. All facades of main buildings that face a public or private street or a residentially zoned district shall have elevation offsets of at least five feet for every 50 foot length of flat wall, both horizontally and vertically~~

~~(D) — Exemptions. — The following structures are exempt from the masonry construction requirements outlined within this subsection:~~

~~(1) — Barns or other accessory buildings in the agricultural (AG) zoning district and SF-E estate district, or located on property of five acres or more in any zoning district, provided that such barns or accessory buildings are used solely for agricultural purposes (as distinguished from commercial purposes) or for residential use only;~~

~~(2) — Historic structures (with a local, state or national designation/registry as an historic structure);~~

~~(3) — Accessory building in a single family, duplex or single family attached zoning district that has equal to or less than 120 square feet of floor area;~~

~~(4) — Accessory and maintenance buildings (any size) for a public golf course, a public or parochial school no larger than 120 square feet, or any city facility;~~

~~(5) — Temporary construction buildings and field offices (provided that such facilities are legally permitted by the city for a specific period of time, and provided that they are completely removed from the premises upon expiration of the permit or upon completion of construction, whichever occurs first); temporary sales offices shall be permitted with first model home, provided that sales office is completely removed from the premises upon expiration of the permit or upon completion of construction; and~~

~~(6) — Residential and nonresidential structures legally in existence as of the effective date of this chapter, and any additions to such structures that do not exceed 20 percent of the original building size (as it existed on May 27, 2004.). Such additions shall be allowed to be constructed of the same exterior materials as the original building.~~

~~(E) — Accessory buildings.~~

~~(1) — In the agricultural (AG) zoning district: See subsection (D)(1) of this section regarding exceptions.~~

~~(2) — In a single family, duplex or single family attached zoning district: Accessory buildings that have over 500 square feet of floor area shall conform to the minimum exterior construction standards for the main building on the lot/tract, tract or site, and shall be compatible in exterior finishes and colors as the main building, unless located on property of one-half (1/2) acre or more.~~

~~(3) — In a multifamily or nonresidential zoning district: Accessory buildings (any size) shall conform to the minimum exterior construction standards for the main building on the lot/tract, tract or site, and shall be architecturally compatible in design and constructed of the same exterior finishes and colors as the main building.~~

~~(F) — Alternative exterior materials.~~

~~(1) — All written requests for alternative exterior building materials shall be clearly noted and described in detail on a color elevation plan that is submitted along with the site plan (for multifamily, single family attached and nonresidential structures only). The city shall require submission of an actual sample of the proposed exterior finish material along with the elevations plan and the site plan.~~

~~(2) — Consideration for exceptions to the above exterior construction requirements shall be based only upon the following:~~

~~(a) — Architectural design, creativity and innovation;~~

~~(b) — Compatibility with surrounding structures;~~

~~(c) — Relative ease of maintenance of the material;~~

~~(d) — Long term durability and weather resistance of the material; and~~

~~(e) — Long term stability in property value due to the high quality of the material.~~

~~Section 128-133. — Variance Procedure.~~

~~(A) — The Planning and Zoning Commission shall hold a public hearing on any request for a variation or exception to the standards provided by this Article. The Planning and Zoning Commission may not recommend a variation or exception unless the Planning and Zoning Commission determines that the variation or exception will not substantially alter the intent of the standards established by this Article.~~

~~(B) — All recommendations of the Planning and Zoning Commission under this Article shall be forwarded to City Council. When the Planning and Zoning Commission denies a request for a variation or exception to the standards set forth in this Article, a hearing before the City Council shall be set only if a written appeal is filed by the applicant with the City Manager or his/her designee within 15 days of the date of the denial.~~

Sec. 28-131 Minimum Exterior Construction Standards:

Definitions - For the purpose of this section, the following definitions shall apply:

Masonry Construction shall include all construction of stone material, brick material, concrete masonry units, or concrete panel construction, which is composed of solid, cavity, faced, or veneered-wall construction. Synthetic masonry materials are prohibited.

The standards for masonry construction types are listed below:

(1) Stone Material. Masonry construction using stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all-weather stone. Cut stone and dimensioned stone techniques are acceptable. Stone veneer is acceptable with a minimum thickness of 3 5/8 inches.

(2) Brick Material. Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material which meets the latest version of ASTM standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), and shall be Severe Weather (SW) grade, and Type FBA or FBS or better. Unfired or underfired clay, sand, or shale brick are not allowed. Brick veneer is acceptable with a minimum thickness of three (3) inches.

(3) Concrete Masonry Units. Concrete masonry units used for masonry construction shall meet the latest version of the following applicable specifications; ASTM C90, Standard Specification for Hollow Load Bearing Concrete Masonry Units; ASTM C145, Standard Specification for Solid Load Bearing Masonry Units; ASTM C129, Standard Specification for Hollow and Solid Nonload Bearing Units. Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish as approved by the City Council. Lightweight concrete block or cinderblock construction is not acceptable as an exterior finish. Colored concrete masonry units are prohibited.

(4) Concrete Panel Construction. Concrete finish, precast panel, tilt wall, or cementitious composition reinforced panel construction shall be painted, fluted, or exposed aggregate. Smooth or untextured concrete finishes are not acceptable.

(5) Glass and Metal Standards are as follows: Glass walls shall include glass curtain walls or glass block construction. Glass curtain wall shall be defined as an exterior wall which carries no structural loads, and which may consist of the combination of metal, glass, or other surfacing material supported in a metal framework.

Sec. 28-132 Construction Standards:

Construction Standards - The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new, altered or repaired construction occurring within the City.

(a) Residential:

(1) All residential buildings and structures shall be of exterior fire resistant construction having at least eighty-five percent (85%) of the total exterior walls above grade level, excluding doors and windows, constructed of brick, stone, brick veneer, or stone veneer, in accordance with the City's Building and Fire Codes.

(2) All principal buildings and structures located in the SFA and MF Districts shall be of exterior fire resistant construction having at least eighty-five percent (85%) of the total exterior walls, excluding doors and windows, constructed of brick, stone, brick veneer, stone veneer in accordance with the City's Building and Fire Codes.

(3) Concrete or metal exterior construction is not permitted on any residential structure.

(4) The concrete foundation of any building or structure may not be exposed more than two feet from the final grade.

(5) Exemptions:

(a) Barns or other accessory buildings in the agricultural (AG) zoning district and SF-E Estate District, or located on property of five (5) acres or more, provided that such barns are used solely for agricultural purposes as distinguished from commercial or industrial purposes, shall be exempt from provisions of this Section.

(b) Mobile homes otherwise lawfully existing under the provisions of this chapter shall also be excluded from provision of this Section.

(c) Historic structures (with a local, state or national designation/registry as an historic structure).

(d) Accessory building in a single-family, duplex or single-family attached zoning district that has equal to or less than 120 square feet of floor area;

(e) Accessory and maintenance buildings (any size) for a public golf course, a public or parochial school no larger than 120 square feet, or any city facility;

(f) Temporary construction buildings and field offices (provided that such facilities are legally permitted by the city for a specific period of time, and provided that they are completely removed from the premises upon expiration of the permit or upon completion of construction, whichever occurs first); temporary sales offices shall be permitted with first model home, provided that sales office is completely removed from the premises upon expiration of the permit or upon completion of construction; and

(g) Structures in existence on May 27, 2004, and any addition to those structures that does not exceed 25% of the heated and cooled square footage of the structure as measured on May 27, 2004.

(6) Roof materials shall be composition (30-year), standing seam metal, terra-cotta tiles, concrete tiles or slate in muted colors. Wood shingle, shake, and metal roofing systems associated with agricultural or industrial buildings are prohibited. Only flat pan, standing seam metal roof materials are allowed with a factory finish of an approved color. Natural metal roofs are not allowed, whether galvanized or metal aluminum. Minimum roof pitch shall be at least 8:12, unless otherwise stated in the applicable zoning district or PD ordinance, and except for "Santa Fe" (with a flat roof and highly articulated parapet that conceals the roof and any roof-mounted equipment), "Texas ranch house" (with low pitched roofs, large eaves/overhangs, rambling design), or other uniquely styled home. Any proposed addition to an existing single-family structure shall have a minimum roof pitch of 4:12.

The exterior color of all residential structures must be muted, rustic earth tones. Bright colors like pinks, purples, and those classified as primary colors are expressly prohibited.

(b) Nonresidential:

(1) All nonresidential structures, including parking structures, shall be of exterior fire resistant construction having at least seventy-five percent (75%) of the total exterior walls above grade level, excluding doors and windows, constructed of masonry in accordance with the City's building and fire codes. Strict adherence to this requirement shall not be such as to prevent architectural creativity.

(2) The following materials are permitted materials for exterior construction:

- (a) Stone
- (b) Granite
- (c) Marble
- (d) Other stone (e.g. – limestone)
- (e) Glass, permitted as thirty percent (30%) or less of the exterior wall
- (f) Brick

Use of other exterior construction materials may be permitted by the City Council at the time of site plan approval.

(3) The following materials for exterior construction shall not exceed twenty-five percent (25%):

- (a) Painted wood
- (b) Concrete (including painted or stained concrete)
- (c) Glass, when over thirty percent (30%) of the exterior wall
- (d) Synthetic materials

(4) The concrete foundation of any building or structure may not be exposed more than two feet from the final grade.

(5) Any roof materials that are visible from a public street shall be comprised of architectural/dimensional, composition shingle (30-year minimum), flat pan standing seam metal roofing (only with a factory baked-on muted color finish; no bright colors or natural-colored metal roofing allowed), or terra cotta or slate tile in muted colors. Minimum roof pitch of a gabled or otherwise pitched roof shall be at least 8:12, unless otherwise stated in the applicable zoning district or PD ordinance, and except for flat-roofed structures that shall have a highly articulated parapet with a minimum length of two (2) feet and a maximum length of 100 feet that conceals the roof and any roof-mounted equipment.

(6) The exterior color of all nonresidential structures shall be muted, rustic earth tones. Bright colors like pinks, purples, and those classified as primary colors are expressly prohibited.

(7) Elevated Water Storage Tanks and Pump Stations - All water storage facilities which serve the public shall be designed and painted to complement natural surroundings. All public water storage facilities shall be placed, to the extent possible, so as to have minimal negative impact on surrounding areas and shall be painted earth-tone,

natural colors. The City Council shall be authorized to approve alternate color selections if such color(s) are more acceptable with surrounding areas.

(8) Temporary Construction Buildings - Temporary buildings and temporary building material storage areas to be used for construction purposes may be permitted for a specific period of time in accordance with a permit issued by the building official and subject to periodic renewal by the inspector for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices or buildings and material storage areas shall be removed at the satisfaction of the building official.

(c) Procedure for Determining Alternative Exterior Materials:

(1) All written requests for alternative exterior building materials shall be noted and described on the site plan. If requested by the City, a sample(s) of the proposed exterior finish material(s) may be required to be submitted with the site plan.

(2) The City may approve an alternative exterior material if it is determined to be equivalent or better than the exterior materials cited in subsection (b)(2) above as part of the approval of the site plan.

(3) Consideration for exceptions to the above requirements shall be based only on the following:

(a) Architectural design and creativity

(b) Compatibility with surrounding developed properties

(4) The request shall be reviewed by the Planning and Zoning Commission, and shall be approved or disapproved by the City Council.

(d) Exterior Building Design Standards:

(1) Purpose: To ensure the aesthetic value and visual appeal of nonresidential land uses and to ensure that structures relate harmoniously with the land and on a pedestrian, human scale. The architectural character of the built environment should complement the natural landscape and not dominate it. Vertical proportions which exaggerate building height shall be avoided. Building masses shall be broken up horizontally and vertically to provide relief in the facade. It is encouraged that every building reduce its perceived height and bulk by dividing the building into smaller components, and providing both Articulation and Variation on all building sides.

(2) Variation: Variation shall refer (for purposes of this section) to a combination of colors, textures, design features, and/or building materials. Variation shall include but not be limited to design features such as recessed windows, awnings, shutters, canopies, balconies, columns, arches and mullions, cornices, best courses, corbelling, molding, stringcourses, latticework or ornamentation with vegetation, decorative light fixtures, and other sculpturing of the facade with permitted materials.

(3) Variation shall be accomplished as follows:

(a) A minimum thirty-three (33) percent of the front and any building side visible from a public roadway shall contain Variation. This percentage is reduced to twenty-five (25) percent of the total square footage of the face of each building side for any face not visible from a public roadway; and,

(b) For the front of buildings and any side visible from a public roadway, a minimum of five (5) changes in variation (5 textures, 5 colors and materials) is required, excluding the roof, doors and gutters; the required number of variation or design features is reduced to three (3) changes for all other building sides; and,

(4) Articulation: Articulation shall be defined (for purposes of this section) as an interruption of the building wall plane with an offset, either a recess or projection of at least four (4) feet, at an angle or arc of between forty-five (45) degrees and one hundred thirty five (135) degrees to the wall plane. Articulation shall include (and be used synonymously with) an offset, inset, relief, recess, setback, or projection.

(5) Horizontal Articulation shall be accomplished as follows:

(a) Wall planes of thirty (30) feet or less in length do not require an horizontal Articulation (offsets); and,

(b) No wall plane shall extend more than fifty (50) feet in length. Larger buildings shall be divided into modules, preferably not exceeding thirty (30) feet, but permitted up to fifty (50) feet in length, that are expressed three-dimensionally throughout the entire building (modifications to the facade only shall not meet this standard). The building modules should be expressed with at least one of the following:

(1) A setback in wall planes a minimum of four (4) feet;

(2) A change in the primary facade material for the extent of the building module; or

(3) A vertical architectural element such as a change in roof type or other vertical articulation described below.

Alternating use of similar building modules shall not be permitted.

(6) Vertical Articulation, as defined above, shall be accomplished as follows:

(a) By providing varying roof lines for each building mass through the use of pitched roofs with eaves, false pitch roofs with the appearance of true hips and gables from all public rights-of-way, flat roofs with projecting cornices, parapets and other variations in roof heights and angles (excluding mansard roofs); and,

(b) Except for pitched roof buildings, no less than thirty (30) percent of the roofline distance for each building side shall have vertical articulation of at least two (2) feet or ten (10) percent of the average height of the wall plane, whichever

is greater; however, no single run of roofline shall exceed sixty (60) feet in length without a minimum two-foot transition in vertical roofline height; and,

(c) Except for pitched roof buildings, by vertically articulating and emphasizing all principal building entrances by at least two (2) feet or ten (10) percent of the average height of the wall plane, whichever is greater; and,

(7) Facade articulations or offsets shall be shown, along with calculations verifying that the building elevations meet the above requirements, on a building facade elevation plan for all sides, and shall be submitted for Planning and Zoning Commission review and approval by the City Council, along with the site plan.

(8) All building sides shall have aesthetic detail including Articulation and Variation, with architectural elements that provide shadow lines and visual depth (unless substantially screened with landscaping, whereby the landscape screening in itself provides the aesthetic detailing), with proper maintenance program in place to provide upkeep of landscaping.

(9) Street-level storefronts and building entrances shall be open and inviting to pedestrians. Buildings 10,000 sq. ft. or greater shall have a street/parking-to-building zone of at least twenty (20) feet to be used for sidewalks, including a minimum fifteen-foot landscaped buffer strip or pedestrian spaces including benches and other seating facilities.

(10) A minimum exterior entryway offset/inset to help delineate a building's main entrance and add variety to the streetscape shall be provided for businesses based on their floor space as follows:

(a) Less than 5,000 sq. ft. shall have a minimum entryway area of 15 sq. ft.

(b) 5,000 to 15,000 sq. ft. shall have a minimum entryway area of 25 sq. ft.

(c) 15,001 to 30,000 sq. ft. shall have a minimum entryway area of 50 sq. ft.

(d) Greater than 30,000 sq. ft. shall have a minimum entryway area of 100 sq. ft.

(11) Windows shall be offset by no less than 4 inches and/or have a perimeter accent border of at least four (4) inches. No section of glass windows shall extend longer in width than fifteen (15) feet without a three-foot minimum break.

(12) All rooftop mechanical equipment shall be shielded from public view. The parapet must be of equal height to the tallest equipment.

(13) Building placement on slopes shall not only incorporate stepped massing, but shall also create footprint offsets to save vegetation and natural landforms. Topographical changes shall be reflected by vertical offsets in the massing of buildings wherever possible.

(14) Garage-style roll-up doors shall not face public roadways. When used, they must be screened from adjacent properties and public view, unless used for an outdoor patio or bar.

(15) Every outparcel building, liner building or other building set between the street right-of-way and a larger adjacent building shall include the architectural detailing set forth above on all sides on the building, including those that face internal parking areas.

(e) Accessory buildings.

(1) In the agricultural (AG) zoning district: See subsection (a)(5)(a) of this section regarding exceptions.

(2) In a single-family, duplex or single-family attached zoning district: Accessory buildings that have over 500 square feet of floor area shall conform to the minimum exterior construction standards for the main building on the lot/tract, tract or site, and shall be compatible in exterior finishes and colors as the main building, unless located on property of one-half acre or more.

(3) In a multifamily or nonresidential zoning district: Accessory buildings (any size) shall conform to the minimum exterior construction standards for the main building on the lot/tract, tract or site, and shall be architecturally compatible in design and constructed of the same exterior finishes and colors as the main building.

Section 28-133. Variance Procedure.

(a) The Planning and Zoning Commission shall hold a public hearing on any request for a variation or exception to the standards provided by this Article. The Planning and Zoning Commission may not recommend a variation or exception unless the Planning and Zoning Commission determines that the variation or exception will not substantially alter the intent of the standards established by this Article.

(b) All recommendations of the Planning and Zoning Commission under this Article shall be forwarded to City Council. When the Planning and Zoning Commission denies a request for a variation or exception to the standards set forth in this Article, a hearing before the City Council shall be set only if a written appeal is filed by the applicant with the City Manager or his/her designee within 15 days of the date of the denial.

ARTICLE VI. LANDSCAPE STANDARDS

Section 28-151. Purpose.

Landscaping is accepted as adding value to property and is in the interest of the general welfare of the city. The provision of landscaped areas also serves to increase the amount of a property that is devoted to pervious surface area which, in turn, helps to reduce the amount of impervious surface area, stormwater runoff, and consequent nonpoint pollution in local waterways. Therefore, landscaping is hereafter required of new development.

Section 28-152. Scope and Enforcement.

(A) The standards and criteria contained within this division are deemed to be minimum standards and shall apply to all new, or altered, exceeding 30 percent of the original floor area, construction occurring within the city. Additionally, any use requiring a specific use permit or a PD zoning designation must comply with these landscape standards unless special landscaping standards are otherwise provided for in the ordinance establishing the SUP or PD district. The provisions of this division shall be administered and enforced by the city manager or his designee. The landscape standards in this division apply to nonresidential and multifamily developments, including uses such as schools and churches within a residential zoning district, and minimal front yard landscaping standards apply to single-family and duplex residential developments and individual lot/tracts.

(B) If at any time after the issuance of a certificate of occupancy, the approved landscaping is found to be not in conformance with the standards and criteria of this division, the city manager, or his designee, shall issue notice to the owner, citing the violation and describing what action is required to comply with this division. The owner, tenant or agent shall have 30 days from date of said notice to establish/restore the landscaping, as required. If the landscaping is not established/restored within the allotted time, then such person shall be in violation of this chapter.

Section 28-153. Permits.

(A) No permits shall be issued for building, paving, grading or construction until a detailed landscape plan is submitted and approved by the city manager or his designee, along with the site plan and engineering/construction plans. A landscape plan shall be required as part of the site plan submission. The landscape plan may be shown on the site plan (provided the site plan remains clear and legible) or may be drawn on a separate sheet. Prior to the issuance of a certificate of occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the landscape plan.

(B) In any case in which a certificate of occupancy is sought at a season of the year in which the city manager, or his designee, determines that it would be impractical to plant trees, shrubs or ground cover, or to successfully establish turf areas, a temporary certificate of occupancy may be issued provided a letter of agreement from the property owner is submitted that states when the installation shall occur. All landscaping required by the landscaping plan shall be installed within six months of the date of the issuance of the certificate of occupancy.

Section 28-154. Landscape Plan.

(A) Prior to the issuance of a building, paving, grading or construction permit for any use, a landscape plan shall be submitted to the Planning and Zoning Commission. The Planning and Zoning Commission shall review such plans and shall provide City Council with a recommendation and City Council shall take final action on such plans. If the plans are in accordance with the criteria of these zoning regulations an action of approval shall be taken. If the plans are not in conformance, they shall be disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.

(B) Landscaping plans shall be prepared by a person knowledgeable in plant material usage and landscape design (e.g., landscape architect, landscape contractor, landscape designer, etc.) and shall contain the following minimum information:

- (1) Minimum scale of one inch equals 50 feet; show scale in both written and graphic form.
- (2) Location, size and species of all trees to be preserved (do not use "tree stamps" unless they indicate true size and location of trees).
- (3) Location of all plant and landscaping material to be used, including plants, paving, benches, screens, fountains, statues, earthen berms, ponds (to include depth of water), topography of site, or other landscape features.
- (4) Species and common names of all plant materials to be used.
- (5) Size of all plant material to be used (container size, planted height, etc.).
- (6) Spacing of plant material where appropriate.
- (7) Layout and description of irrigation, sprinkler, or water systems including location of water sources.
- (8) Description of maintenance provisions.
- (9) Name and address of the person responsible for the preparation of the landscape plan.
- (10) North arrow/symbol, and a small map showing where the property is located.
- (11) Date of the landscape plan.
- (12) The plan shall also be provided electronically and in color.

Section 28-155. General Standards.

The following criteria and standards shall apply to landscape materials and installation:

(A) All nonpaved surfaces shall be completely covered with living plant material. Landscaping materials such as wood chips and gravel may be used under trees, shrubs and other plants, but shall not comprise a significant portion of the total pervious surface area.

(B) Plant materials shall conform to the standards of the approved plant list for the city (see section 86-741 for the approved plant list referenced in that section) and the current edition of the "American Standard for Nursery Stock" (as amended), published by the American Association of Nurserymen. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects.

(C) Trees shall have an average crown spread of greater than 15 feet at maturity. Trees having a lesser average mature crown of 15 feet may be substituted by grouping the same so as to create the equivalent of 15 feet of crown spread. Large trees shall be a minimum of three inches in caliper (measured four feet above the ground) and seven feet in height at time of planting. Small ornamental trees shall be a minimum of 1.5 inches in caliper and five feet in height at time of planting. All new trees shall be provided with a permeable surface under the dripline a minimum of five feet by five feet diameter.

(D) Shrubs not of a dwarf variety shall be a minimum of two feet in height when measured immediately after planting. Hedges, where installed for screening purposes, shall be planted and maintained so as to form a continuous 75 percent visual screen which will be at least six feet high within three years after time of planting, except for parking lot/tract/headlight screens, which shall form a continuous, solid visual screen three feet high within two years after planting.

(E) Vines not intended as ground cover shall be a minimum of two feet in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet landscape screening requirements as set forth.

(F) Grass areas shall be sodded, plugged, sprigged, hydro-mulched and/or seeded, except that solid sod shall be used in swales, earthen berms or other areas subject to erosion.

(G) Ground covers used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonably completed coverage within one year of planting.

(H) All landscaped areas shall be equipped with an automatic, underground irrigation system with freeze and moisture sensors to prevent watering at inappropriate times. Landscaped areas having less than ten square feet in area may be irrigated by some other inconspicuous method. If appropriate xeriscape planting techniques are utilized, the city council may waive the requirement for an underground irrigation system at the time of site plan approval. However, the landscaping shall be required to be maintained in a healthy, living and growing condition, and any irrigation devices shall not be visible from public streets or walkways.

(I) Earthen berms shall have side slopes not to exceed 33.3 percent (three feet of horizontal distance for each one foot of vertical height). All berms shall contain necessary drainage provisions as may be required by the city engineer.

Section 28-156. Minimum Landscaping Requirements for Nonresidential and Multifamily Developments.

(A) For all nonresidential and multifamily developments, including schools, churches, day care facilities, and other similar uses in a residential district, at least 20 percent of the lot/tract area shall be pervious, permanently landscaped area. For corner lot/tracts, a 600 square foot landscaped area shall be provided at the street intersection, which can be counted toward the 20 percent requirement.

(B) A minimum 25-foot landscaped street buffer adjacent to the right-of-way of any arterial (Type "B" or larger) is required for the first 250 feet from the beginning (i.e., tangent) point of

the street corner radius. Beyond the first 250 feet, the landscaped street buffer may either continue at the 25-foot width (developer's option), or it shall transition down to a required width of 15 feet along the remainder of the arterial frontage (minimum length of transition shall be 100 feet). A minimum 15-foot landscaped street buffer shall be required along any street frontage for any other nonresidential or multifamily development (including schools, churches, day care facilities, and other similar uses in a residential district). Corner lot/tracts fronting two arterials shall provide the appropriate required landscape buffer on both street frontages. ~~One~~ **Two** large shade tree and four small ornamental trees shall be required per 50 linear feet (or portion thereof) of street buffer frontage. Trees should be grouped or clustered to facilitate site design and to provide an aesthetically pleasing, natural looking planting arrangement. The landscaped street buffer area may be included in the required landscape area percentage.

(C) Landscape areas within parking lot/tracts should generally be at least one parking space in size, with no landscape area less than 50 square feet in area. Landscape areas shall be no less than five feet wide, shall equal a total of at least ~~46~~ **32** square feet per parking space, and shall be dispersed throughout the parking area (i.e., not confined to the perimeter). There shall be a landscaped area with at least one large shade tree within 60 feet of every parking space. There shall be a minimum of one large shade tree, **a minimum of four inch caliper measured 48 inches above the ground**, planted within the parking area for every ten parking spaces for parking lot/tracts having more than 20 spaces. Within parking lot/tracts, landscape areas should be located to define parking areas and to assist in clarifying appropriate circulation patterns. Landscape islands shall be located at the terminus of all parking rows and within bays of parking such that bays do not generally exceed 15 parking spaces in length, and all islands shall contain at least one tree (large or ornamental). All landscape areas shall be protected by a monolithic concrete curb or wheel stops, and shall remain free of trash, litter, and car bumper overhangs.

(D) Each lot/tract shall provide a minimum ~~five~~ **fifteen**-foot-wide landscaped buffer strip around the sides and rear perimeters of the lot/tract, provided that each side or rear lot/tract line does not abut residentially zoned property, which requires a screening wall, per division 5 of this article. Within the five-foot perimeter buffer shall be provided a four-foot-tall screen comprised of hardy, evergreen shrubs, decorative walls with shrubs, or similar landscaping. If a side or rear lot/tract line abuts a residentially zoned property, and for nonresidential and institutional uses in residential zoning districts, then that portion of the perimeter buffer strip shall observe the required screening per division 5 of this article, shall be a minimum of ten feet in width, and shall be required to have one large shade tree, in lieu of the four-foot-high screen described above for every 30 linear feet for overstory screening/buffering for the adjacent residences.

(E) Only shrubs, ground covers and small ornamental trees shall be used under existing or proposed overhead utility lines.

(F) Vehicular driveways from the public right-of-way and sidewalks, in accordance with city regulations, shall be permitted through all required landscaping.

Section 128-57. Minimum Landscaping Requirements for Single-Family and Two-Family Residential Developments.

(A) For all single-family and two-family developments, each residential lot/tract shall be required to have one large shade tree for each 50 feet, **or portion thereof**, of lot/tract width. Trees may be clustered or spaced linearly and need not be placed evenly at 50-foot intervals. The required trees shall be installed prior to issuance of a certificate of occupancy for the premises.

(B) The shade trees shall be a minimum of ~~three~~ **four** -inch caliper measured 48 inches above the ground. If the tree is located on a slope, measurement shall be from the highest side of the slope. The shade trees shall be selected from the current Texas A&M University Collin County Extension Agent's recommended tree list.

(C) The minimum height required for shade trees shall be seven feet.

(D) Shade trees in single-family developments are **not** required to be maintained.

Section 128-58. Sight Distance and Visibility.

(A) Rigid compliance with these landscaping requirements shall not be such as to cause visibility obstructions and/or blind corners at intersections (see section 86-828 for visibility requirements at street intersections and corners).

(B) Landscaping, except required grass and low ground cover, shall not be located closer than three feet from the edge of any vehicular pavement in order to avoid visibility problems when plant materials mature.

(C) In the event other visibility obstructions are apparent in the proposed landscape plan, as determined by the city manager, or his designee, the requirements set forth herein may be slightly reduced, if necessary, to remove the conflict.

Section 128-59. Maintenance.

(A) The owner, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not be limited to, mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds, and other such material or plants not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials which die shall be replaced with plant material of similar variety and size, within 90 days. Trees with a trunk diameter in excess of six inches measured four feet above the ground may be replaced with ones of similar variety having a trunk diameter of no less than three inches measured four feet above the ground on a caliper-inch for caliper-inch basis (e.g., for a six-inch tree, two three-inch replacement trees shall be required). A time extension may be granted by the city manager or his designee, if substantial evidence is presented to indicate abnormal circumstances beyond the control of the owner or his agent.

(B) It shall be the duty of any person or persons owning or occupying real property bordering on any street to prune trees next to the street in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs,

or obstruct the view from any street or alley intersection (see visibility requirements in division 5 of this article). The minimum clearance of any portion of a tree overhanging public street right-of-way shall be 14 feet, and overhanging a public sidewalk shall be eight feet.

(C) Failure to maintain any landscape area in compliance with this section is considered a violation of this division and may be subject to penalties.

Section 28-160. Variance Procedure.

(A) The Planning and Zoning Commission shall hold a public hearing on any request for a variation or exception to the standards provided by this Article. The Planning and Zoning Commission may not recommend a variation or exception unless the Planning and Zoning Commission determines that the variation or exception will not substantially alter the intent of the standards established by this Article.

(B) All recommendations of the Planning and Zoning Commission under this Article shall be forwarded to City Council. When the Planning and Zoning Commission denies a request for a variation or exception to the standards set forth in this Article, a hearing before the City Council shall be set only if a written appeal is filed by the applicant with the City Manager or his/her designee within 15 days of the date of the denial.

" ARTICLE I. SIGNS

Section	Current Ordinance	Recommendations
Section 28-2. Definitions	<i>Sign, freestanding</i>	It is recommended to keep this definition in addition to <i>Sign, Monument</i> .
	No current definition for <i>Sign, Monument</i>	It is recommended to add the definition: <i>Sign, monument</i> means any permanent low profile sign built on a monument base, solid from the ground up, which has no clear space for the full width of the sign between the bottom of the sign and the ground and is not an attached, portable or vehicular sign. Pole(s) or support(s) must be concealed.
	No current definition for <i>Sign, Pole</i>	It is recommended to add the definition: <i>Sign, pole</i> means a permanent freestanding pole sign, utilizing either a monopole or dual pole design.
	No current definition for <i>Sign, Temporary</i>	It is recommended to add the definition: <i>Sign, Temporary</i>
	No current definition for <i>Sign, Window</i>	It is recommended to add the definition: <i>Sign, window</i> means a sign posted, painted, placed, or affixed in or on a window exposed to public view. An interior sign that faces a window exposed to public view and located within three (3) feet of the window is considered a window sign for the purpose of calculating the total area of all window signs.
	<i>Wind device</i> means any flag, banner, pennant, streamer or similar device that moves freely in the wind. All wind devices are considered to be signs, and are regulated and classified as attached or detached by the same rules as other signs.	It is recommended to add the verbiage: Heavier-than-air inflatables must be firmly tethered to the ground and shall not exceed a maximum of 35 feet in height. Feather signs are considered wind device signs.
Section 28-10. Political Signs	It is recommended to add additional bullets to subsection 1.	(1) Political signs must comply with state law and are prohibited from: a., b., c., d. - remain as is e. Being located in center medians or within 15 feet of any stop sign / traffic light. f. Being placed on private property without the permission of the property owner. g. Being placed on City of Murphy owned property except: 1) Along the south entrance of the Municipal Complex. Signs may be placed on the south side of this driveway beginning 10 days prior to early voting. The sign placement area shall be between the Customer Service Utility Payment Drive area and the right of way at Murphy Road. 2) The total sign area of a candidate on City of Murphy owned property may not exceed 16 square feet. 3) All candidate signs must be removed within 7 days after the conclusion of the election. h. The City may remove any sign that is not in compliance
Section 28-11. Special Purpose Signs	Section C:Permits for such signs may be granted for a maximum period of six month intervals, with such signs being removed upon ninety (90) percent completion of the project.	It is recommended to change the interval from six months to twelve months.
	(E) Wind devices, heavier-than-air inflatable, and similar special purpose signs promoting a single-family subdivision or multi-family complex shall be allowed a maximum single use period not to exceed sixty (60) days, with a minimum period between permits of sixty (60) days and a maximum number of three (3) permits per year for a given subdivision or complex.	It is recommended to change the single use permit interval from sixty days to fifteen days with a minimum period between permits of thirty days.
	(F) Wind devices, heavier-than-air inflatables, and similar special purpose signs promoting a retail or commercial establishment or center shall be allowed a maximum single use period not to exceed sixty (60) days with a minimum period between permits of sixty (60) days and a maximum number of three (3) permits per year for a given establishment or center.	It is recommended to change the interval from sixty days to seven days with a minimum period between permits of fifteen days.
	(G) Signs that advertise sales, specials, grand openings, or other goods or services available within an establishment may be placed in windows using water soluble paint, appliques or other temporary and removable means provided that no such window sign may: (1) Be located on the window surface in any manner that obscures more than twenty five percent (25%) of the visible window area available in the absence of any signs; and (2) Remain in place more than 60 days in any six month period.	It is recommended to change the interval noted in (2) from sixty days to thirty days.
Section 28-14. Sale or lease signs.	It is recommended to add bullet (C) to this section.	A site may contain on-premise attached or freestanding signs for the purpose of advertising the sale or lease of the real property on which such sign is located, subject to the following provisions: (A), (B) remain as is. (C) Permits for such signs may be granted for a maximum period of twelve month intervals.
Section 28-16. Kiosk Signs.	It is recommended to edit staff contact verbiage.	It is recommended to edit staff contact verbiage in section (A) and (B).

Section	Current Ordinance	Recommendations
Section 28-22. Freestanding signs - Business Districts.	Current section is as follows: Freestanding signs are permitted in business zoning districts as follows: (A) Number of Freestanding Signs: (1) Only one freestanding sign of any type may be erected on any site, except that: (a) A site which has more than three hundred (300) feet along a single thoroughfare may have one (1) additional freestanding sign. (b) Freestanding signs shall be allowed on each thoroughfare frontage of a site. (c) No more than two (2) freestanding signs shall be allowed on each thoroughfare frontage of a site. (d) In no case shall a site possess more than four (4) freestanding signs. (e) Fast food and drive-through restaurants may have additional sign(s) not exceeding eight (8) feet in height nor fifty (50) square feet in area and, if freestanding, located no further than fifteen (15) feet from the building housing that activity. (f) Signs not exceeding sixteen (16) square feet and not exceeding six (6) feet in height are allowed for an activity providing engine fuel sales which advertise prices of fuel on premises. No activity shall have more than one such sign per street front. In no case shall such sign be freestanding.	It is recommended to change this section as follows: Section 28-22. Monument signs - Business Districts. Monument signs are permitted in business zoning districts as follows: (A) Number of Monument Signs: (1) Only one monument sign of any type may be erected on any site's thoroughfare frontage, not to exceed two monument signs per site. (a) Fast food and drive-through restaurants may have additional sign(s) not exceeding eight (8) feet in height nor fifty (50) square feet in area and, if monument, located no further than fifteen (15) feet from the building housing that activity. (b) Signs not exceeding sixteen (16) square feet and not exceeding six (6) feet in height are allowed for an activity providing engine fuel sales which advertise prices of fuel on premises. No activity shall have more than one such sign per street front. In no case shall such sign be monument.
Section 28-22. Freestanding signs - Business Districts. (CONT...)	Current Section is as follows: (C) Size and Height: (1) No freestanding sign shall exceed fifty (50) square feet in sign area or seven (7) feet in height except as herein provided. (2) Freestanding signs may incorporate embellishments or cut-outs; provided, that they shall not exceed twenty (20) percent of the area of the sign face and that they shall not extend beyond the sign face a distance exceeding eighteen (18) inches as measured horizontally.	It is recommended to change this section as follows: (C) Size, Height and Building Materials: <i>please see Chapter 28 draft, Section 29-22 for Size, Height and Building Materials recommendations.</i>
Section 28-24. Window Signs	It is recommended to change the visible window area percentage from 25 to 50 percent.	Window signs in the use districts, where permitted, do not require a sign permit and do not require approval by any municipal agency prior to erection. In no event may signs be located on the window surface internally or externally in any manner to obscure more than 50 percent of the visible window area available in the absence of any signs. Where multiple windows exist fronting on a single street or sidewalk, the 50 percent visibility shall be maintained for the total window area on such street or sidewalk. Specifically, window signs shall include: (4) Decorations intended to direct attention to and stimulate citizens' interest in public events, providing such signs are painted on the external surface of the window and a 50 percent visibility requirement is maintained.
Section 28-27. Freestanding signs - Residential Districts.	Current Section is as follows: Section 28-27. Freestanding signs – Residential Districts.	It is recommended to change this section as follows: Section 28-27. Monument signs – Residential Districts. <i>please see Chapter 28 draft, Section 29-27 for Size, Height and Building Materials recommendations.</i>
Section 28-30. Permits, applications, fees.	It is recommended to add an additional subsection.	It is recommended to add a new subsection after (G) Expiration (H) Special Purpose / Builder Sign Renewal -If previously permitted sign has not been moved or altered in any way, a sign permit renewal request, photo or artwork of sign and appropriate fee payment are required.
"ARTICLE II. FENCING, WALLS AND SCREENING		
Section 28-52. Screening of nonresidential, multifamily areas and manufactured/mobile home parks.	It is recommended to add an additional subsection.	It is recommended to edit this section as follows: insert new subsection and shift lettering (D) Fence applications will not be accepted without prior written and confirmed approval from respective Homeowners Association.
Section 28-53. Fences Residential Areas.	It is recommended to change verbiage of section (E) Permit requirement.	It is recommended to edit this section as follows: (E) Permit Requirement. Permit requirement. It shall be unlawful for any person to construct or repair a fence that is equal to or greater than 25 percent of the total existing linear footage of a fence on any lot without having first obtained a fence permit from the permit department. All fences require a permit; however, if the construction or repair is equal to or greater than 25% of the total existing linear footage, a permit fee will be assessed. A person may not construct or repair less than 25 percent of the total linear footage of a fence more than once in a consecutive six-month period. Adequate plans and specifications, as determined by the City, must accompany each application for a permit. If you are adding any percentage of linear feet to existing fencing, a fence permit fee will be assessed.

Section	Current Ordinance	Recommendations
	Current section is as follows: (R) Fence Transition. Where a privacy fence and a fence or wall that screens a thoroughfare of different heights meet or connect, a gradual transition shall be provided to match the height of the fence that is smaller in height.	It is recommended to edit this section as follows: (R) Fence Transition. Where a privacy fence and a fence or wall that screens a thoroughfare or public street of different heights meet or connect, a stair step transition/effect shall be provided to match the height of the fence that is lower in height. Such transition must be approved by the City.
	New subsection addition recommended	(S) Fence Post Visibility - Where a privacy fence faces a public right of way, the fence must be built with the posts on the inside of the property and may not be facing the public right of way.
	New subsection addition recommended	(S) Fence Post Visibility - Where a privacy fence screens a public right of way, the fence must be built with the posts on the inside of the property and may not be facing the public right of way.
"ARTICLE III. LIGHT AND GLARE"		
Section 28-76. Parking and Loading Area Lighting	New subsection addition recommended	(G) If establishment is not open, non operating hours, lighting should be minimal; for security purposes and entries.
Section 28-77. Walkway Lighting	It is recommended to change the minimum average of foot candles from 0.8 to 1 foot.	(A) All outdoor pedestrian areas and uncovered walkways, separate from parking or buildings but essential to the nighttime operation of nonresidential uses within nonresidential districts, shall be continually illuminated between sunset and sunrise. The level of intensity of illumination, measured at the walkway surface, shall be a minimum average of 1 foot candles, distributed at an average-to-minimum uniformity ratio of 5:1.
"ARTICLE V. EXTERIOR CONSTRUCTION AND DESIGN"		
Section 28-131 - Minimum Exterior Construction Standards	It is recommended that this entire section be rewritten.	Please see Section 28-131 Minimum Exterior Construction Standards recommendation.
"ARTICLE VI. LANDSCAPE STANDARDS"		
Section 28-156 Minimum Landscaping Requirements for Nonresidential and Multifamily Developments	It is recommended that edits as noted in Section 28-156 of the Draft Chapter 28.	Please see Section 28-156 Minimum Landscaping Requirements for Nonresidential and Multifamily Developments