

AGENDA

FOR A REGULAR MEETING OF THE AMARILLO CITY COUNCIL TO BE HELD ON TUESDAY, MARCH 26, 2019 AT 1:00 P.M., CITY HALL, 601 SOUTH BUCHANAN STREET, COUNCIL CHAMBER ON THE THIRD FLOOR OF CITY HALL, AMARILLO, TEXAS.

City Council Mission: Use democracy to govern the City efficiently and effectively to accomplish the City's mission.

Please note: The City Council may take up items out of the order shown on any Agenda. The City Council reserves the right to discuss all or part of any item in an executive session at any time during a meeting or work session, as necessary and allowed by state law. Votes or final decisions are made only in open Regular or Special meetings, not in either a work session or executive session.

INVOCATION: Vera Mann

PROCLAMATION: "Roy Urrutia"

1. City Council will discuss or receive reports on the following current matters or projects.
 - A. Review agenda items for regular meeting and attachments;
 - B. Reports and updates from City Councilmembers serving on outside Boards:
 - Amarillo Local Government Corporation (3/20)
 - Pedestrian and Bicycle Safety Advisory Committee (3/18)
 - Tax Increment Reinvestment Zone #2
 - C. Update on First Robotics Competition;
 - D. Discussion on Downtown Golf Carts Usage;
 - E. Update on MPEV (Hodgetown) and Prop 2 Projects;
 - F. Review Draft Governance and Ends Policy; and
 - G. Consider future Agenda items and request reports from City Manager.

2. **CONSENT ITEMS:**

It is recommended that the following items be approved and that the City Manager be authorized to execute all documents necessary for each transaction:

THE FOLLOWING ITEMS MAY BE ACTED UPON BY ONE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THE ITEMS IS NECESSARY UNLESS DESIRED BY A COUNCILMEMBER, IN WHICH EVENT THE ITEM SHALL BE CONSIDERED IN ITS NORMAL SEQUENCE AFTER THE ITEMS NOT REQUIRING SEPARATE DISCUSSION HAVE BEEN ACTED UPON BY A SINGLE MOTION.

A. **MINUTES:**

Approval of the City Council minutes for the meeting held on March 19, 2019.

B. **ORDINANCE NO. 7779:**

(Contact: Andrew Freeman, Director of Planning and Development Services)

This is the second and final reading of an ordinance amending the municipal code to provide for a civil penalty for certain parking violations within the city limits.

C. **ORDINANCE NO. 7780:**

(Contact: Andrew Freeman, Director of Planning and Development Services)

This is the second and final reading of an ordinance amending the municipal code to create an office of civil administrative hearings and process for adjudicating certain motor vehicle violations as nuisances.

D. **ORDINANCE NO. 7781:**

(Contact: Andrew Freeman, Director of Planning and Development Services)

This is the second and final reading of an ordinance amending the municipal code to conform the hearing requirements for photographic traffic signal enforcement to the provisions of the separate ordinance establishing the office of civil administrative hearings.

3. **NON-CONSENT ITEMS:**

A. **PUBLIC HEARING FOR PROPOSED ANNEXATION:**

(Contact: Cris Valverde, Assistant Director of Planning and Development Services)

This item conducts a public hearing to gather comments for and against annexation of approximately 329 acres in Sections 65 and 66, Block 9, BS&F Survey, Randall County, Texas.

The proposed annexation represents the continuation of the Heritage Hills Subdivision southward and consists of approximately 329 acres adjacent to the southwest quadrant of Amarillo, near the northwest corner of the Hollywood Rd and Soncy Rd/Loop 335 intersection (map of area attached).

The land is vacant, yet is anticipated to develop with 949 single-family detached and/or attached homes, 39 acres of various non-residential uses, and a new elementary school for the Canyon Independent School District.

Amarillo City Hall is accessible to individuals with disabilities through its main entry on the south side (601 South Buchanan Street) of the building. An access ramp leading to the main entry is located at the southwest corner of the building. Parking spaces for individuals with disabilities are available in the south parking lot. City Hall is equipped with restroom facilities, communications equipment and elevators that are accessible. Individuals with disabilities who require special accommodations or a sign language interpreter must contact the City Secretary's Office 48 hours prior to meeting time by telephoning 378-3013 or the City TDD number at 378-4229.

Posted this 22nd day of March 2019.

Regular meetings of the Amarillo City Council stream live on Cable Channel 10 and are available online at:

<http://amarillo.gov/city-hall/city-government/view-city-council-meetings>

Archived meetings are also available.

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STATE OF TEXAS
COUNTIES OF POTTER
AND RANDALL
CITY OF AMARILLO

On the 19th day of March 2019, the Amarillo City Council met at 12:00 p.m. for a work session which was held in the Council Chamber located on the third floor of City Hall at 601 South Buchanan Street, with the following members present:

GINGER NELSON	MAYOR
ELAINE HAYS	COUNCILMEMBER NO. 1
FREDA POWELL	COUNCILMEMBER NO. 2
EDDY SAUER	COUNCILMEMBER NO. 3
HOWARD SMITH	COUNCILMEMBER NO. 4

Absent were none. Also in attendance were the following administrative officials:

JARED MILLER	CITY MANAGER
MICHELLE BONNER	DEPUTY CITY MANAGER
BRYAN MCWILLIAMS	CITY ATTORNEY
STEPHANIE COGGINS	ASSISTANT TO THE CITY MANAGER
FRANCES HIBBS	CITY SECRETARY

Mayor Nelson established a quorum, called the meeting to order, welcomed those in attendance and the following items of business were conducted:

PUBLIC COMMENT

Rusty Tomlinson, 5700 Canyon Drive, spoke on the controversy and for the removal of the Confederate statue. James Scheneck, 6216 Gainsborough Road, spoke on public comment not being recorded. He inquired about Amarillo Morning, LLC item 3F on the regular agenda. He further inquired where the funds were coming from on the Neighborhood Plan improvements. Signed up to speak but did not appear: Mike Fisher, 4410 Van Kriston Drive; Gary Preston, 10000 Amarillo Boulevard; and Claudette Smith, 4410 Van Kriston Drive. There were no further comments.

ATTEST:

Frances Hibbs, City Secretary

Ginger Nelson, Mayor

STATE OF TEXAS
COUNTIES OF POTTER
AND RANDALL
CITY OF AMARILLO

On the 19th day of March 2019, the Amarillo City Council met at 1:00 p.m. for a regular meeting held in the Council Chamber located on the third floor of City Hall at 601 South Buchanan Street, with the following members present:

GINGER NELSON
ELAINE HAYS
FREDA POWELL
EDDY SAUER
HOWARD SMITH

MAYOR
COUNCILMEMBER NO. 1
COUNCILMEMBER NO. 2
COUNCILMEMBER NO. 3
COUNCILMEMBER NO. 4

Absent were none. Also in attendance were the following administrative officials:

JARED MILLER
MICHELLE BONNER
BRYAN MCWILLIAMS
STEPHANIE COGGINS
FRANCES HIBBS

CITY MANAGER
DEPUTY CITY MANAGER
CITY ATTORNEY
ASSISTANT TO THE CITY MANAGER
CITY SECRETARY

The invocation was given by Greg Dowell, Central Church of Christ. Mayor Nelson led the Pledge of Allegiance.

Mr. Miller introduced Izzy Rivera the new Building Official and Jordan Schupbach, the new Director of Communications.

Mayor Nelson established a quorum, called the meeting to order, welcomed those in attendance and the following items of business were conducted:

ITEM 1:

- A. Review agenda times for regular meeting and attachments;
- B. Reports and updates from City Councilmembers serving on outside Boards:
Beautification and Public Arts Advisory Board
- C. Update on First Robotics Competition;
- D. Update on Neighborhood Plans;
- E. Update on Texas Water Day at the Capitol and the Blue Legacy Conservation Award;
- F. Update on March 13, 2019 Wind Weather Event;
- G. Utility Billing Update; and
- H. Consider future Agenda items and request reports from City Manager.

CONSENT ACTION ITEMS:

ITEM 2: Mayor Nelson presented the consent agenda and asked if any item should be removed for discussion or separate consideration. Motion was made by Councilmember Powell to approve the consent items, seconded by Councilmember Sauer.

- A. **MINUTES:**
Approval of the City Council minutes for the meeting held on March 12, 2019.
- B. **ORDINANCE NO. 7777:**
(Contact: Cris Valverde, Assistant Director of Planning and Development Services)
This is the second and final reading of an ordinance for the vacation of Van Buren Street located between Blocks 153 and 154, Plemons Addition Unit No.1, in Section 170, Block 2, AB&M Survey, Potter County, Texas. (Vicinity: Southwest 11 Avenue and Van Buren Street; Applicant: First Presbyterian Church.)

C. **INTERLOCAL COOPERATION CONTRACT WITH TEXAS PARKS AND WILDLIFE DEPARTMENT (TPWD):**

(Contact: Sam Baucom, Deputy Fire Chief)

This Interlocal Cooperation Contract (ILC) provides opportunities for Amarillo Fire Department (AFD) personnel to participate in prescribed fire training on properties managed by TPWD.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

NON-CONSENT ITEMS

ITEM 3A: Mayor Nelson presented first reading of an ordinance amending the municipal code to provide for a civil penalty for certain parking violations within the city limits. This item was presented by Andrew Freeman, Director of Planning and Development Services. Motion was made by Councilmember Powell, seconded by Councilmember Smith, that the following captioned ordinance be passed on first reading:

ORDINANCE NO. 7779

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 1-1, SECTION 1-1-5, TO PROVIDE FOR A CIVIL PENALTY FOR CERTAIN PARKING VIOLATIONS WITHIN THE CITY LIMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF PRIOR LAW AND RATIFICATION OF PRIOR ACTS; PROVIDING EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3B: Mayor Nelson presented first reading of an ordinance amending the municipal code to create an office of civil administrative hearings and process for adjudicating certain motor vehicle violations as nuisances. This item was presented by Andrew Freeman, Director of Planning and Development Services. Motion was made by Councilmember Powell, seconded by Councilmember Smith, that the following captioned ordinance be passed on first reading:

ORDINANCE NO. 7780

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, AMENDING CHAPTER 2-8, TO ADD NEW ARTICLE VI, TO CREATE AN OFFICE OF CIVIL ADMINISTRATIVE HEARINGS AND PROCESS FOR ADJUDICATING CERTAIN MOTOR VEHICLE VIOLATIONS AS NUISANCES, PROVIDING A CIVIL PENALTY, A HEARING OFFICER SYSTEM, APPEALS, NOTICES, EVIDENCE STANDARDS, ENFORCEMENT AND OTHER RELATED PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF PRIOR LAW; PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3C: Mayor Nelson presented first reading of an ordinance amending the municipal code to conform the hearing requirements for photographic traffic signal enforcement to the provisions of the separate ordinance establishing the office of civil administrative hearings. This item was presented by Andrew Freeman, Director of Planning and Development Services. Motion was made by Councilmember Powell, seconded by Councilmember Smith, that the following captioned ordinance be passed on first reading:

ORDINANCE NO. 7781

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 16-3, ARTICLE XII, SECTIONS 16-3-382 AND 16-3-384 TO CONFORM THE HEARING REQUIREMENTS FOR PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT TO THE PROVISIONS OF THE SEPARATE ORDINANCE ESTABLISHING THE OFFICE OF CIVIL

ADMINISTRATIVE HEARINGS; PROVIDING FOR SEVERABILITY;
PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF
PRIOR LAW; PROVIDING PENALTY; PROVIDING FOR PUBLICATION
AND EFFECTIVE DATE

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3D: Mayor Nelson presented an item which would replace and improve the Airport's flight information display system. The scope includes replacement of numerous display monitors throughout the terminal building, replacement of the operating system and associated hardware, the addition of inbound baggage input stations, and 5 years of flight data, system operation, and maintenance. A 5-person evaluation panel from four City departments selected ProDigiq out of four complete proposals. This item was presented by Floyd Hartman, Assistant City Manager. Motion was made by Councilmember Hays, seconded by Councilmember Sauer, that this item be approved.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3E: Mayor Nelson presented an item which considers approval of a Chapter 380 Economic Development Program Agreement between the City of Amarillo and WaiWai Properties, LLC for an Apartment Complex Rehabilitation Project located at 1200 North Monroe Street. This item was presented by Andrew Freeman, Director of Planning and Development Services. Motion was made by Councilmember Powell, seconded by Councilmember Smith, that this item be approved.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3F: Mayor Nelson presented an item approving a location incentives agreement with Amarillo Morning, LLC for the capital investment and creation of jobs in Amarillo. The incentive is a refund of a portion of the purchase price of a 9.09 acre parcel of land in CenterPort Business Park along with the basic extension of utilities to the project site. The agreement prescribes a purchase price of \$363,600.00 with a potential refund of \$260,000.00. The refund will be granted upon the achievement of specific performance criteria that includes documentation of the expenditure of \$5.2MM in construction and equipment costs and the confirmation of the employment of 20 full time equivalent employees. The Amarillo Economic Development Corporation Board of Directors approved this project unanimously at the February 15, 2019 regularly scheduled meeting. This item was presented by Doug Nelson, Amarillo Economic Development Corporation. Motion was made by Councilmember Powell, seconded by Councilmember Smith, that this item be approved.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

ATTEST:

Frances Hibbs, City Secretary

Ginger Nelson, Mayor

Amarillo City Council Agenda Transmittal Memo



Meeting Date	March 19, 2019	Council Priority	Public Safety/Customer Service
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Department	Planning and Development Services	Contact Person	Andrew Freeman, Director of Planning and Development Services
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Agenda Caption

ORDINANCE NO. 7779:

This is the second and final reading of an ordinance amending the municipal code to provide for a civil penalty for certain parking violations within the city limits.

Agenda Item Summary

This is an ordinance amending existing section 1-1-5 (penalties), declaring most stopping, standing, parking violations to now be civil violations, not Class 'C' criminal offenses as they have historically been treated. There are two proposed exceptions to this new civil status for parking offenses. As drafted, this ordinance carves out handicapped parking and fire lane violations to remain criminal offenses.

This ordinance would set the civil parking penalty at \$25. If not timely paid, it doubles to \$50, and if still not timely paid, then it doubles again to \$100, where it is capped. Handicapped parking and fire lane violations remain subject to higher criminal fines (up to \$1,000 for repeat handicapped parking offenses, up to \$250 for fire lane offense, plus court costs for each). These penalty amounts have not changed from previous years. This ordinance simply changes the type of penalty and process for disputing a penalty.

With this change, there will now be an administrative hearing option for an owner or operator instead of going straight to municipal court. If there is an appeal to the hearing officers decision, then the case would go before a judge.

This change from criminal to civil for these violation types is considered a best practice when looking at other cities. This is the first of a package of three ordinances all related to each other for this change.

Requested Action

Request City Council approve the ordinance as presented

Funding Summary

N/A

Community Engagement Summary

N/A

Staff Recommendation

Staff recommends approval as presented

ORDINANCE NO. 14479

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 1-1, SECTION 1-1-5, TO PROVIDE FOR A CIVIL PENALTY FOR CERTAIN PARKING VIOLATIONS WITHIN THE CITY LIMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF PRIOR LAW AND RATIFICATION OF PRIOR ACTS; PROVIDING EFFECTIVE DATE.

WHEREAS, the City Council finds that it is in the best interest of the public welfare to decriminalize most overtime parking violations; and

WHEREAS, other types of parking violations such as unauthorized parking in a disabled/handicapped space, parking in a marked fire lane, or parking on a sidewalk or driveway, shall remain a criminal offense punishable in accordance with the Code of Ordinances;

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

SECTION 1. The Amarillo Municipal Code, Chapter 1-1, Section 1-1-5 be and hereby is amended to read as follows:

Sec. 1-1-5. - General penalty; continuing violations; civil parking penalties.

(a) [TEXT UNCHANGED]

(b) [TEXT UNCHANGED]

(c) [TEXT UNCHANGED]

(d) [TEXT UNCHANGED]

(e) Certain Stopping, Standing and Parking related violations; civil.

(1) Scope. All violations described in subsections (i) through (iii) below are hereby declared to be civil offenses within the City limits of Amarillo. This subsection applies to any violation arising out of:

(i) an overtime parking violation in an unpaid parking space with posted time limits;

(ii) an overtime parking violation in a paid parking space or zone as provided in Chapter 16-5, Article 1;

(iii) other stopping, standing, parking violations established by this Code of Ordinances, Chapter 16-3, Article V (sections 16-3-176 to 16-3-250, and as amended) or in Texas Transportation Code, sections 545.301 and 545.302.

However, this subsection (e) does not apply to or include these offenses: (A) the several offenses provided in Texas Transportation Code, section 681.011, as amended, which relates to or arises

out of disabled/handicap parking, and upon conviction of any such offense shall remain punishable as a criminal offense in accordance with state law and subsections (a)-(d) above; and (B) parking in a designated fire lane, and upon conviction for such offense shall remain punishable in accordance with subsections (a)-(d) above or state law as applicable.

(2) *Enforcement.* Pursuant to both the City's home rule authority and the specific provision of Texas Transportation Code, section 681.010 as amended, the City Manger or designee is authorized to appoint City employees or volunteers to issue citations or notices of violation for the enforcement of parking regulations in the City.

(3) *Civil penalty imposed; Administrative hearing.*

(A) Offenses described in subsection (e)(1) are hereby declared to be a civil nuisance and is punishable by a civil penalty of \$25.00 per violation. Within 12 days after the date of issuance of the notice of violation, the owner or operator must either pay that civil penalty or request an administrative hearing as provided in Chapter 2-8, Article VI of this Code of Ordinances. If such initial penalty is not timely paid or hearing requested, then such penalty is declared to be past due and the penal amount due is enhanced to \$50.00 and shall be payable by the close of business on the 30th day after the notice of violation was issued. If such enhanced penalty is not timely paid, then the penalty is declared to be delinquent and shall double to \$100.00. In the event the City of Amarillo offices are closed on a day when a payment shall be due, then the deadline for that payment is extended to the next business day on which City offices are open.

(B) If the owner or operator requests an administrative hearing during the initial 12 days, then such will be scheduled and notice provided pursuant to Chapter 2-8, Article VI. If the hearing officer determines that the offense occurred and the initial penalty and costs is due and payable within 12 days. Both the initial 12 days allowed for payment and any applicable Late or Delinquent penalties as specified above shall be calculated from the date of the hearing officer's determination. If there is an appeal of the hearing officers determination, then payment is suspended pending such appeal. The maximum civil penalty for an offense under this subsection(e), whether set by a hearing officer or municipal judge shall be \$100.

(C) All civil penalties and assessed costs collected under this section shall be deposited into the city treasury general fund for the use and benefit of the city.

(4) *Collection.* The civil penalties assessed by this ordinance, a hearing officer, or municipal judge shall be enforceable and collectible as provided in Sec. 2-8-203 of this Code of Ordinances or as otherwise provided by state law.

SECTION 2. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 3. Continuation of prior law. Nothing herein shall be construed so as to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or pending proceeding under any prior act or ordinance affected by the adoption of this ordinance, or as to any violations specified in section (e)(1) as remaining criminal violations. For all such matters described in this paragraph, the prior law in effect at time of the violation is continued in effect for purposes of disposing of such pending matter.

SECTION 4. Ratification. All prior parking enforcement actions issued or taken by authorized volunteers and employees of the City, to the effective date of this ordinance, are hereby ratified and approved as being authorized acts.

SECTION 5. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 6. Effective Date. This ordinance shall become effective upon final adoption.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading this the _____ day of March, 2019; and PASSED on Second and Final Reading the _____ day of March, 2019.

Ginger Nelson, Mayor

ATTEST:

APPROVED AS TO FORM:

Frances Hibbs, City Secretary

Bryan S. McWilliams, City Attorney

Amarillo City Council Agenda Transmittal Memo



Meeting Date	March 26, 2019	Council Priority	Public Safety/Customer Service
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Department	Planning and Development Services	Contact Person	Andrew Freeman, Director of Planning and Development Services
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Agenda Caption

ORDINANCE NO. 7780:

This is the second and final reading of an ordinance amending the municipal code to create an office of civil administrative hearings and process for adjudicating certain motor vehicle violations as nuisances.

Agenda Item Summary

This is the second of three ordinances related to changing unlawful stopping, standing, or parking of a motor vehicle from criminal to civil penalties. In addition to these new additions, the City Council has a separate ordinance providing for photographic enforcement of red traffic signal violations that are civil violations per state law.

This ordinance would establish a consolidated administrative hearing process and office for the types of civil offenses described above, and for any other civil matters as may be assigned later by the City Council for administrative civil adjudication. This office and staff will be housed in municipal court and will also be responsible for coordinating the downtown parking management program moving forward.

Included is a provision for impoundment of any vehicle that has been the subject of six or more civil nuisance violations within the prior twelve months, or a sum of \$300 or more is past due on unpaid civil penalties. There are also additional options such as a hold on vehicle registration and other civil action that allows the city reasonable steps to collect the civil penalty and any fees imposed.

Requested Action

Request City Council approve the ordinance as presented

Funding Summary

N/A

Community Engagement Summary

N/A

Staff Recommendation

Staff recommends approval as presented

ORDINANCE NO. 17780

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, AMENDING CHAPTER 2-8, TO ADD NEW ARTICLE VI, TO CREATE AN OFFICE OF CIVIL ADMINISTRATIVE HEARINGS AND PROCESS FOR ADJUDICATING CERTAIN MOTOR VEHICLE VIOLATIONS AS NUISANCES, PROVIDING A CIVIL PENALTY, A HEARING OFFICER SYSTEM, APPEALS, NOTICES, EVIDENCE STANDARDS, ENFORCEMENT AND OTHER RELATED PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF PRIOR LAW; PROVIDING AN EFFECTIVE DATE.

WHEREAS, by a separate ordinance, the City Council amended Section 1-1-5 of the Code of Ordinances to decriminalize most offenses comprising unlawful stopping, standing, or parking of a motor vehicle and providing for a civil penalty; and

WHEREAS by a separate ordinance, the City Council enacted Article XII of Chapter 16-3, providing for photographic enforcement of red traffic signal violations, also a civil violation; and

WHEREAS, the City Council now desires to establish a consolidated administrative hearing process and office for the types of civil offenses described above, and for any other civil matters as may be assigned later by the City Council for administrative civil adjudication.

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

SECTION 1. The Amarillo Municipal Code, Chapter 2-8, be and hereby is amended to reserve certain sections at the end of Article V and to add a new Article VI, to read as follows:

Secs. 2-8-142 to 2-8-199. Reserved.

ARTICLE VI. CIVIL ADMINISTRATIVE HEARINGS.

Sec. 2-8-200. - Administrative adjudication; evidence; penalty; appeal; other procedures.

(a) Establishment of administrative adjudication. For accused violators desiring to contest a notice of violation, this Article provides for a system of civil administrative hearings for the following motor vehicle violations, which are deemed to be civil nuisances and not criminal offenses:

(1) All stopping, standing, and parking violations, except any identified as criminal offenses in Section 1-1-5(e)(1) of this Code of Ordinances; and

(2) All traffic signal photographic enforcement cases, as provided for in Article XII of Chapter 16-3 of this Code of Ordinances.

(b) *Hearing officers.* A sufficient number of hearing officers shall be appointed by the city manager. Such officers shall have authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents, such orders to be enforced by the municipal court. For budgeting purposes or administrative convenience, the city manager may assign the Office of Civil Hearings to a City department, but oversight of these appointees shall remain in the city manager or designee. Hearing officer is disqualified and shall not preside over any case in which the officer has a business relationship; a familial relationship within the third degree by blood or second degree by marriage; or, is otherwise unable to render a fair and unbiased opinion. In such a case, the hearing officers may exchange cases to avoid the conflict or bias if possible, or a special hearing officer to hear such case, as designated by the City Manager.

(c) *Notice of right to hearing; notice of time and place of scheduled hearings.* Notice of a parking violation pursuant to Section 1-1-5(e) may be affixed to the vehicle in a manner reasonably assured that it will be seen by the operator, or handed to the operator, if present. A notice of violation for a traffic signal photographic enforcement system shall be mailed to the registered owner as provided in Chapter 16-3, Article XII. Upon receipt of a notice of violation, the owner receiving a notice of violation must either timely pay the civil penalty or, alternatively, timely appear at the place, time, and day indicated in the notice of violation for an administrative hearing or as stated in a subsequent notice to appear mailed to the address on the State's vehicle title registration records or operator's driver's license address, if allowed for the type of violation being noticed.

Sec. 2-8-201. Hearing procedures.

(a) *Right to hearing.* A person who receives a notice of violation advising the violator of a right to a civil administrative hearing may contest the imposition of the civil penalty for the violation by timely appearing or making a written request for administrative hearing as specified in the notice of violation.

(b) *Evidence.* In a civil administrative hearing, the issues must be proved by a preponderance of the evidence. In addition to any other competent evidence offered at the hearing, the hearing officer is authorized to accept the following presumptive and prima facie evidence:

(1) Presumption. It is presumed that the registered title owner of the vehicle that is the subject of the hearing is the person who parked or stopped the vehicle at the time and place of the offense charged, if the actual operator is not known.

(2) Prima facie evidence. (i) A computer generated record of the State of Texas vehicle title data base indicating the registered vehicle owner is prima facie evidence of the facts stated therein; (ii) The original or copy of the summons or citation is prima facie evidence of the facts stated therein; and (iii) The failure or refusal of a person charged with a violation to appear at the hearing shall be deemed an admission of liability for the charged civil nuisance violation.

(c) Affirmative defenses. It shall be an affirmative defense to the imposition of civil liability under this Article, to be proven by a preponderance of the evidence, that:

(1) The motor vehicle was a stolen vehicle being operated by a person without the effective consent of the Owner;

(2) The vehicle in violation was, at the time of violation, either stolen or was displaying a stolen license plate. To establish that the vehicle was a stolen vehicle or the license plate displayed on the motor vehicle was a stolen plate at the time of the violation, the Owner must submit proof acceptable to the hearing officer that the theft of the vehicle or license plate had been promptly and previous to the violation reported to an appropriate law enforcement agency.

(3) The presence of ice, snow, unusual amounts of rain or other extenuating condition prevented strict compliance; or

(4) The person who received the notice of violation was not the Owner of the motor-vehicle at the time of the violation, as evidenced by a bill of sale or prior transfer or assignment of the State certificate of title for that motor vehicle.

(d) Record of hearing; other procedures. The record of witness testimony shall be preserved by the use of an audio tape recording or a video tape recording for appellant review. Other procedures for conducting a hearing under this Article shall be as stated in Chapter 16-3, Article XII To the extent of any conflict or inconsistency between that Article XII and this Article, this Article shall prevail for hearings conducted pursuant to Section 1-1-5(e)(3).

(e) Entry of Order. At the conclusion of the hearing, the hearing officer shall issue a signed and dated order stating whether the person charged with the violation is liable for the violation and if so, shall re-state the penalty amount and describe the right to appeal to municipal court in accordance with other provisions of this Article.

(g) Retention of records. The orders issued under this section together with any affidavits and other documents associated with each hearing or appeal shall be filed with and maintained by the Office of Civil Hearings, in a separate index and file for each hearing, either in hardcopy or electronic form. Such information shall be retained for the period specified by State law.

Sec. 2-8-202. Appeal.

(a) A person who is found liable after an administrative hearing may appeal that determination of civil liability to the municipal court, by filing both: (1) a written notice of appeal with the clerk of the municipal court not later than the 31st day after the date on which the administrative hearing officer entered the written finding of civil liability; and (2) a notarized statement of personal financial obligation (that is, either post a bond or sign a promissory note that is immediately due and payable upon entry of a judgment of liability by the municipal court and providing for recovery of the City's reasonable attorney fees and court costs for collection of the note, and providing for waiver of notice, presentment, and demand) in the amount of the civil penalty; and, (3) paying the applicable civil court appeal fee of twenty-seven dollars (\$27.00).

(b) Collection or enforcement of the civil penalty is stayed during the period allowed for perfecting an appeal and during the pendency of the appeal.

(c) The clerk of the municipal court shall set the matter for a trial-by judge as expeditiously as possible on the court's docket and issue notice of the date, time and place of the trial to the appellant and the City attorney's office. The appeal shall be conducted as a civil trial de novo and all issues determined by the judge upon a preponderance of the evidence. The municipal judge shall allow into evidence all affidavits, prima facie evidence, or presumptions which were filed or allowed in the administrative hearing, subject to such evidence being further challenged or rebutted in the municipal court trial.

(d) At the conclusion of the trial, the trial judge shall enter a written judgment declaring whether the person is liable for the nuisance and civil penalty stated in this Article or is not liable for same. A person found liable in the municipal court trial shall immediately pay the civil penalty and any

outstanding costs prescribed by this Article. The court is authorized to immediately collect the civil penalty by cash, credit card, or by immediately proceeding against any bond or note posted by the person. If the person is exonerated, then the statement of personal financial obligation required to perfect the appeal shall be immediately released.

Sec. 2-8-203. Nature of liability; collection.

(a) The imposition of a civil penalty under this Article is not a criminal conviction for any purpose and shall not be reported to any insurance company or state agency that issues driver licenses or maintains driving records. However, a failure to pay the civil penalty or a late fee may be enforced or collected as follows:

(b) *Vehicle impoundment.* If a vehicle has been the subject of six (6) or more civil nuisance violations (that is, a civil stopping, standing, or parking offense pursuant to sec. 1-1-5(e); a red light camera violation; or, a combination of those violations) within the prior twelve months, or a sum of \$300 or more is then past due for unpaid civil penalties or costs, and that vehicle is again found parked on a public street, alley, right-of-way, easement, or government owned property, then the police may impound the vehicle in accordance with the procedures then in place for non-consent towing (see, chapter 10-3, Article VII). The vehicle owner is then liable for payment of outstanding parking penalties, any costs that have been assessed by a hearing officer, and the fees owed to the towing company, all of which must be paid before the vehicle will be released. In accordance with Texas Occupation Code, Chapter 2308, Subchapter J, a person who believes his/her vehicle was towed without probable cause is entitled to a hearing in justice of the peace court, upon timely request for a hearing on that issue.

(b) *Hold on vehicle registration.* As provided by Texas Transportation Code § 702.003 reporting to the Texas Department of Transportation an outstanding and unpaid penalty and costs assessed against that vehicle, by a hearing officer or municipal judge. A county may thereafter refuse to re-register the vehicle until the amount is paid to the City.

(c) *Other civil action.* Unless prohibited by other law, the city attorney or designee is authorized to file suit and to take other reasonable steps to collect the civil penalty and any fees imposed.

Sec. 2-8-204. No double violations

A civil penalty may not be imposed under this Article on the Owner of a vehicle if the operator of the vehicle was arrested or was issued a citation or summons to appear in municipal court for the same violation. However, a civil penalty may be imposed on the vehicle Owner for the violation, if the arrest, citation, or summons of the vehicle operator is for a different violation of law than the notice of violation of a civil nuisance as defined in this Code of Ordinances.

SECTION 2. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 3. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 4. Continuation. That nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this ordinance and such prior law is continued in effect for purposes of such pending matter.

SECTION 5. Effective Date. This ordinance shall be effective upon final adoption.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading this the _____ day of March, 2019; and PASSED on Second and Final Reading the _____ day of March, 2019.

Ginger Nelson, Mayor

ATTEST:

APPROVED AS TO FORM:

Frances Hibbs, City Secretary

Bryan S. McWilliams, City Attorney

Amarillo City Council Agenda Transmittal Memo



Meeting Date	March 26, 2019	Council Priority	Public Safety/Customer Service
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Department	Planning and Development Services	Contact Person	Andrew Freeman, Director of Planning and Development Services
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Agenda Caption

ORDINANCE NO. 7781:

This is the second and final reading of an ordinance amending the municipal code to conform the hearing requirements for photographic traffic signal enforcement to the provisions of the separate ordinance establishing the office of civil administrative hearings.

Agenda Item Summary

This is the third of three ordinances related to changing unlawful stopping, standing, or parking of a motor vehicle from criminal to civil penalties. Since an office of civil administrative hearings along with general procedural provisions for conducting civil hearings and related matters is being considered, there are corresponding redundancies in the existing code for photographic traffic signal enforcement to be addressed.

It is staff's recommendation that present and future ordinances which allow or require a civil administrative hearing utilize a consolidated source for all such hearings, using a single set of procedures, as established by the newly created Office of Civil Hearings.

This ordinance as prepared will remove any language that is no longer necessary or conflicts with the new provisions found in the Office of Civil Hearings ordinance, while retaining special rules pertaining only to cases arising under the city's photographic traffic signal system.

Requested Action

Request City Council approve the ordinance as presented

Funding Summary

N/A

Community Engagement Summary

N/A

Staff Recommendation

Staff recommends approval as presented

ORDINANCE NO. 7781

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 16-3, ARTICLE XII, SECTIONS 16-3-382 AND 16-3-384 TO CONFORM THE HEARING REQUIREMENTS FOR PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT TO THE PROVISIONS OF THE SEPARATE ORDINANCE ESTABLISHING THE OFFICE OF CIVIL ADMINISTRATIVE HEARINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF PRIOR LAW; PROVIDING PENALTY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE

WHEREAS, by a separate ordinance, the City Council has established an Office of Civil Administrative Hearings along with general procedural provisions for conducting civil hearings and related matters (see now, Chapter 2-8, Article VI of the Amarillo Code of Ordinances); and

WHEREAS, it is the City Council's intention that present and future ordinances which allow or require a civil administrative hearing will utilize a single consolidated source for all such hearings, using a single set of procedures, as established by and for the newly created Office of Civil Hearings as determined by the City Council; and

WHEREAS, certain existing provisions for a civil hearing for the photographic traffic signal enforcement system are now redundant or in conflict with the new provisions described above, which requires certain procedural rules in the existing ordinance as shown below be changed in order to avoid duplication or conflict with the new civil hearings ordinance while still retaining special rules pertaining only to cases arising under photographic traffic signal system.

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

SECTION 1. The Amarillo Municipal Code, Chapter 16-3, Article XII, Sections 16-3-382 be and hereby is amended to read as follows:

Sec. 16-3-382. - Administrative hearing; affirmative defenses;

(a) A person who receives a notice of violation may contest the imposition of the civil penalty by a written request for administrative hearing within thirty (30) days after issuance of the notice of violation. Upon receipt of such request, the Office of Civil Administrative Hearings

shall notify the person of the date, time, and location of the administrative hearing. Such hearing shall be set for a date no sooner than seven (7) and no longer than thirty (30) days after the request is received.

(b) All procedures and aspects of a civil administrative hearing shall be in accordance with Chapter 2-8, Article VI, except where a procedure is provided in this section that pertains specifically to photographic traffic signal enforcement, in which case the hearing officer shall observe such provisions of this section in addition to those of Chapter 2-8, Article VI.

(c) Notwithstanding anything in this Article to the contrary, a person who fails to pay the amount of a civil penalty or to contest liability in a timely manner is entitled to an administrative hearing if the person files an affidavit with the hearing officer stating the date on which the person actually received the notice of violation that was mailed to the person, provided that the person files said affidavit within thirty (30) days after actual date of receipt of the notice of violation.

(d) The reliability of the Photographic Traffic Signal Enforcement system used to produce the Recorded Image of the violation may be attested to by affidavit of an employee of the city or the entity with which the city contracts to install, maintain, inspect, and operate the system. An affidavit of a city employee or the contractor that alleges a violation, based on an inspection of the Recorded Image, is admissible in a proceeding under this Article and is evidence of the facts contained in the affidavit.

(e) It shall be an affirmative defense to the imposition of civil liability under this Article, to be proven by a preponderance of the evidence, that:

(1) The traffic-control signal was faulty;

(2) The operator of the motor vehicle was acting in compliance with the lawful order or direction of a police officer or other person directing traffic at the request of a police officer, or was a participant in an authorized funeral procession or parade that had the right-of-way through the intersection in disregard of the red signal;

(3) The operator of the motor vehicle disregarded the traffic control signal to safely yield the right-of-way to and make a path for an immediately approaching authorized emergency vehicle;

(4) The suspect motor vehicle was operating as an authorized emergency vehicle;

(5) The presence of ice, snow, unusual amounts of rain or other unusual hazardous road condition existed that would make compliance with this Article more dangerous under the circumstances than disregarding the traffic control signal and, the disregard of such signal did not cause an accident or require evasive maneuver by another driver or pedestrian.

SECTION 2. The Amarillo Municipal Code, Chapter 16-3, Article XII, Sections 16-3-384 be and hereby is amended to read as follows: **Sec. 16-3-384. Reserved.**

SECTION 3. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 4. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 5. Continuation. That nothing in this ordinance (or any code adopted herein) shall be construed to affect any suit or proceeding pending in any court or before a civil hearing officer, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this ordinance and such prior law is continued in effect for purposes of such pending matter.

SECTION 6. Effective Date. This ordinance shall become effective upon final adoption. INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading this the _____ day of March, 2019; and PASSED on Second and Final Reading the _____ day of March, 2019.

Ginger Nelson, Mayor

ATTEST:

APPROVED AS TO FORM:

Frances Hibbs, City Secretary

Bryan S. McWilliams, City Attorney

Amarillo City Council Agenda Transmittal Memo



Meeting Date	March 26, 2019	Council Priority	Regular agenda item
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Department	Planning and Development Services Cris Valverde - Assistant Director of Planning and Development Services
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Agenda Caption

Public hearing to gather comments for and against annexation of approximately 329 acres in Sections 65 and 66, Block 9, BS&F Survey, Randall County, Texas.

Agenda Item Summary

On March 5, 2019, a petition requesting annexation of the above acreage was approved by Council. The acceptance of the petition set the date, time, and place, for two public hearings whereby any interested parties are able to be heard. *The **first** of the two public hearings will occur on March 26, 2019 and the **second** will occur on April 2, 2019.* No action is required other than opening the matter for public hearing, whereas this public hearing is intended to give interested parties an opportunity to be heard.

In addition to setting the date, time, and place for the above public hearings, Council directed staff to begin preparation of a service plan for Council's use in the institution of the annexation proceedings. *(The first Reading of the Annexation Ordinance before Council constitutes the institution of the annexation proceedings. A final service plan will be provided for Council's consideration during this time.)*

As alluded to previously, a final service plan is not required to be formally presented until later in the annexation process (institution of annexation proceedings). That said, staff has begun to gather information on estimated costs of providing services as well as anticipated revenues from City Departments. This Departmental information will be utilized in compiling a Final Service Plan and any comments received from interested parties during the public hearing will be documented. The Final Service Plan will be provided to Council at the institution of the annexation proceedings (April 23, 2019) in which formal consideration to approve or deny the requested annexation is to occur.

The proposed annexation represents the continuation of the Heritage Hills Subdivision southward and consists of approximately 329 acres adjacent to the southwest quadrant of Amarillo, near the northwest corner of the Hollywood Rd and Soncy Rd/Loop 335 intersection (map of area attached).

The land is vacant, yet is anticipated to develop with 949 single-family detached and/or attached homes, 39 acres of various non-residential uses, and a new elementary school for the Canyon Independent School District.

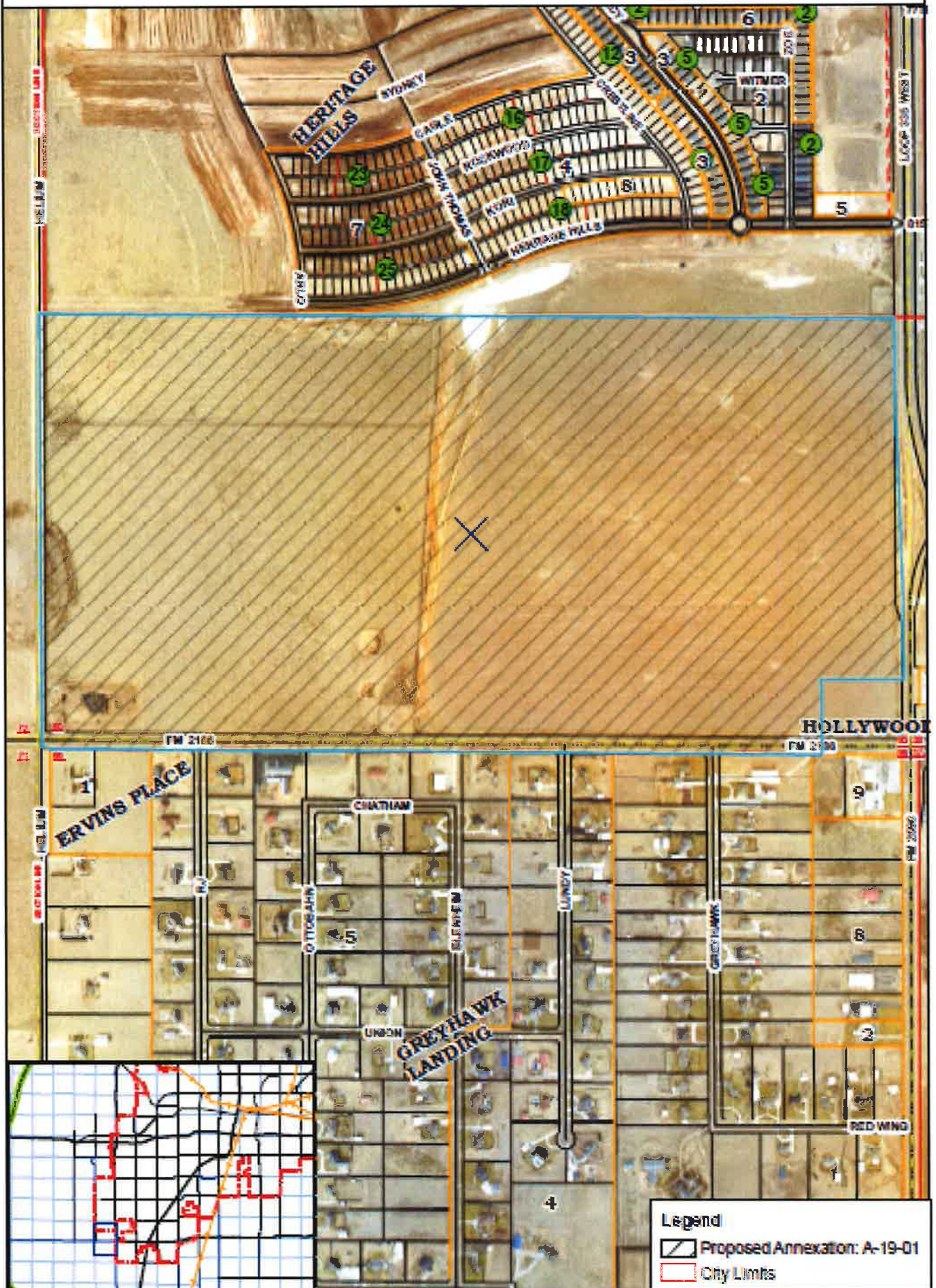
Requested Action/Recommendation

For this public hearing, no action is required, other than to open the matter for public hearing to interested parties in accordance with the Open Meetings Act.

Community Engagement Summary

Notices of the public hearings were sent as required by State Law (utility companies, property owner, School District, and newspaper etc).

Annexation of 329.62 +/- Acres



**CITY OF AMARILLO
PLANNING DEPARTMENT**

Annexation of a 329.62 +/- acre tract of land out of Sections 65 & 66, Block 9, B&B Survey, Randall County Texas.

Scale: 1 inch = 725 feet
Date: 2/27/2019
Case No: A-19-01



