

City of Windcrest



AGENDA

**PUBLIC HEARING OF WINDCREST CITY COUNCIL & CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS & WEBEX TELECONFERENCE
MAY 4, 2020**

**CITY COUNCIL CHAMBERS @ 8601 MIDCROWN
WEBEX VIDEO CONFERENCE MEETING**

6:00 P.M.

NOTICE IS HEREBY GIVEN THAT A CITY OF WINDCREST CITY COUNCIL PUBLIC HEARING AND CITY COUNCIL MEETING WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 4TH DAY OF MAY 2020, STARTING AT 6:00 P.M. DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COMMISSION MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

DUE TO THE GOVERNOR'S SUSPENSION OF CERTAIN PROVISIONS OF THE TEXAS OPEN MEETINGS ACT TO HELP SLOW THE SPREAD OF COVID-19, THIS MEETING WILL BE AVAILABLE TELEPHONIC AND BY VIRTUAL PRESENCE ON WEBEX. MEMBERS OF THE PUBLIC WISHING TO LISTEN TO THE MEETING OR PROVIDE CITIZEN COMMENTS CAN FOLLOW THE INSTRUCTIONS AT THE BOTTOM OF THE AGENDA.

THE CITY COUNCIL RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF MAY 4, 2020, AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY, MAY 5, 2020, AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

NOTICE OF ASSISTANCE AT THE PUBLIC MEETING

The City of Windcrest Council Chambers are wheelchair accessible, and accessible parking spaces are available. In compliance with Americans with Disabilities Act, the City of Windcrest will provide reasonable accommodations for persons attending the meeting. To better serve you, requests should be received 48 hours prior to the meeting. Please contact the City Secretary's Office, at 210-655-0022 ext. 2150 or Fax 210-655-8776, or 711 Texas Relay.

DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COUNCIL MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. PLEDGE OF ALLEGIANCE AND INVOCATION**
- IV. CITIZENS TO BE HEARD/CITIZEN PARTICIPATION**

- a) Citizens may address the City Council on topics not on the agenda for no more than three (3) minutes. Two-way communication is available through Webex connection. You must sign up through the Webex app for message participation. Messages will be provided to Council and available to the public not in attendance after the meeting. Comments may also be read to the Council during the meeting for no more than three minutes per person.

- b) In addition to the foregoing, citizens shall also have the opportunity to address the City Council during consideration of posted agenda items for no more than six (6) minutes. Two-way communication is available through Webex connection. You must sign up through the Webex app for message participation. Messages will be provided to Council and available to the public not in attendance after the meeting. Comments may also be read to the Council during the meeting for no more than six minutes per person.
- c) A person will have the opportunity to address City Council in City Hall Council Chambers during the meeting. Only a maximum of 4 public members will be allowed in the Chambers at a time. A web cam has been set up for a person to address City Council. All attendees will be required to be screened for present signs of COVID-19 prior to entering City Hall. Email the city secretary at citysecretary@windcrest-tx.gov to be added to the attendee list.
- d) A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

V. PUBLIC HEARING

Opening of Public Hearing

- a) Public Hearing to receive comments on an ordinance amending the plan and plat process of Windcrest Code to conform to recent state law changes, specifically, Chapter 111, Article II-Plats.

Citizens to be Heard

- I. Citizens shall have the opportunity to address the City Council during public hearing on the posted agenda item for no more than six (6) minutes.
- II. A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

Closing of Public Hearing

THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE REGULAR COUNCIL MEETING:

VI. ORDINANCE

- a) City Council will discuss and take action on Ordinance 2020-012 (O), an ordinance amending the plan and plat approval process aligning with state law changes to ensure compliance. [Dan Reese, Mayor] **2nd Reading**
- b) City Council will discuss and take action on Ordinance 2020-013(O), an ordinance authorizing the city to enforce declarations of emergencies and disasters by amending Chapter 10 of the Windcrest Code of Ordinances and adopting penalties. [Dan Reese, Mayor] **2nd Reading**
- c) City council will discuss and take action on Ordinance 2020-014(O), an ordinance amending the qualification for members of the Planning and Zoning Commission by amending section

113, Division 3, Section 113-62 (C) to align with the City Charter. [Rafael Castillo, Jr., City Manager] **1st Reading**

VII. RESOLUTIONS

- a) City Council will discuss and take action on Resolution 2020-516 (R), a resolution to update the City of Windcrest Employee Manual for Fire Department sick/vacation accrual. [Rafael Castillo, Jr., City Manager]

VIII. DISCUSSION & ACTION

- a) City Council will discuss and may take action on amending Chapter 18, Section 21, Home Occupation in the Windcrest Code of Ordinances. [Rafael Castillo, Jr., City Manager; Cindy Strzelecki, City Council Member, Place 2]
- b) City Council will discuss and may take action on a process for suspending the enforcement of certain city codes during disasters and emergencies. [Rafael Castillo, Jr., City Manager]
- c) City Council will discuss and may take action on the process for placing items on a City Council agenda by an elected official and City staff member. [Frank Archuleta, City Council Member, Place 4]

IX. CITY MANAGER'S REPORT

X. EXECUTIVE SESSION

The City Council may meet in executive session to discuss the following item pursuant to Texas Local Government Code Sec. 552.071 (consultation with attorney):

- a) Ongoing dispute regarding the E-One ladder truck purchase from Lone Star Emergency Group.
- b) Legal issues of SB944 and impacts under the Public Information Act and Temporary Custodianship.

XI. RETURN TO OPEN SESSION

Council may discuss and act on any item discussed in executive session.

XII. GENERAL ANNOUNCEMENTS & FUTURE AGENDA ITEMS REQUESTED

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.

XIII. ADJOURNMENT

The City Council reserves the right to retire into executive session whenever it is considered necessary and legally justified under the Texas Government Code, Subchapter D, Sections 551.071 et. seq. including, but not limited to, consultation with attorney, real property, prospective gifts, personnel matters, exclusion of witness, security devices, and economic development matters.

It is anticipated that members of other city boards, commissions and committees may attend the meeting in numbers that may constitute a quorum of such other city boards, commissions and committees, so that notice is hereby given that the meeting is also a meeting of the other city boards, commissions and committees whose members are in attendance. The members of the other city boards, commissions and committees may participate in discussions which occur at the meeting, but no action will be taken by the other boards, commissions and committees whose members are in attendance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two (72) hours prior to the meeting on May 4, 2020.

By: /s/Rachel C. Dominguez, City Secretary

AGENDA NOTICES:

VIRTUAL PRESENCE AND PARTICIPATION:

NOTICE TO THE PUBLIC TO CALL IN

If you wish to dial in on the meeting/briefing and listen in on the updates, please refer use the call in information below.

CALL IN INFORMATION

- **CALL IN NUMBER: 1-408-418-9388 (US TOLL)**
- **MEETING NUMBER: 291 390 411**
- **MEETING PASSWORD: 8601**

JOIN ONLINE:

- **GO TO WWW.WEBEX.COM**
- **CLICK ON JOIN MEETING (UPPER RIGHT HAND CORNER)**
- **ENTER MEETING NUMBER: 291 390 411**
- **MEETING PASSWORD: 8601**

NOTE: THE CALL IN NUMBER IS NOT TOLL FREE FOR CHARGES MAY APPLY DEPENDING ON YOUR PHONE PROVIDER. HOWEVER, IT IS FREE TO LISTEN AND PARTICIPATE IN THE CHAT ROOM, BY FOLLOWING THE INSTRUCTIONS (ON SCREEN PROMPTS) ON THE FREE CISCO WEBEX WEB APPLICATION ON YOUR COMPUTER OR CISCO WEBEX APP ON YOUR MOBILE DEVICE. PARTICIPATION IN THE CHAT ROOM IS CONSIDERED PUBLIC COMMENTS FOR PURPOSES OF THIS MEETING.

DECORUM REQUIRED:

Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

ACTION BY COUNCIL AUTHORIZED:

The City Council may vote and/or act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code § 551.072 (Deliberations about Real Property); § 551.073 (Deliberations about Gifts & Donations); § 551.076 (Deliberations about Security Devices); §551.087 (Economic Development); and, § 551.071 to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.

EXECUTIVE SESSIONS APPROVED BY CITY ATTORNEY:

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

ATTENDANCE BY OTHER ELECTED OR APPOINTED OFFICIALS:

It is anticipated that members of the City Council, or other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

BUSINESS

Greg Jefferson, Business Editor: greg.jefferson@express-news.net, 210-250-3159

SHIELD
From page B1

the measure. The idea has met resistance from congressional Democrats and workers groups, who warn that it could allow employers to escape consequences for unsafe practices, complicating its likelihood of passage. Congressional Democrats are unlikely to approve the liability shield as part of the next round of negotiations. It also has provoked internal debate among White House officials. Some small businesses have told White House advisers that the liability waiver is not a top priority for them and that they want the administration to instead focus on

expanding the small-business loan program crucial to their survival. At a White House news briefing this month, Trump said the administration was exploring the idea of “trying to take liability away” from companies. “We just don’t want that because we want the companies to open and to open strong,” he said. Kudlow said Friday that the White House does not believe that businesses should be held liable if a customer later tests positive for the coronavirus. The federal government already has granted more limited liability exemptions for companies involved in producing and distributing key medical supplies, through a declaration signed last month by Health and Human

“The idea companies can be held accountable is absolutely crucial to protecting workers and employers.”

Debbie Berkowitz, worker safety and health program director at the National Employment Law Project

Services Secretary Alex Azar. Some powerful industry interests have pushed Congress to adopt similar measures. This month, a consortium representing some of the nation’s largest companies – including the International Foodservice Distributors Association, the International Franchise Association and the National Association of Convenience Stores – wrote to Senate Majority Leader Mitch McConnell, R-Ky., arguing

that their businesses were “good Samaritans” who are putting themselves at risk of frivolous lawsuits by trying to reopen. “These businesses are committed to doing the right thing by remaining open for business and serving the American people during this crisis,” the letter said. “But there is an emerging threat to their ability to continue serving customers: efforts by some to take advantage of the current crisis to file un-

founded lawsuits against them alleging that customers and employees were infected with COVID-19.” But workers groups see the push as an attempt by business interests to shirk their responsibility to protect customers and workers, said Debbie Berkowitz, who worked at the Occupational Safety and Health Administration during the Obama administration and is now director of the worker safety and health program at the National Employment Law Project. “It’s horrible,” Berkowitz said. “The idea companies can be held accountable is absolutely crucial to protecting workers and employers. ... This is one of the most appalling things I’ve heard in the context of this crisis.”

Legal Notices

Legal Bids & Proposals

REQUEST FOR CSP
Great Hearts NO Ph 3
Kencon will accept sub bids for the Great Hearts NO Ph 3 project on Tues. 05/05/2020 before 2:00 PM via bids@kenconllc.com. New 2-story classroom addition, reno existing bldg, related sitework.

Legals/Public Notices
CITY OF UNIVERSAL CITY
LEGAL NOTICE

The Universal City Economic Development Corporation of the City of Universal City, Texas will conduct a PUBLIC HEARING on Tuesday, April 28 at 5:00 P.M for the following project:

1. To discuss Resolution 2020-2: A Resolution of the Universal City Economic Development Corporation, a Type B Economic Development Corporation, approving a project authorized by section 505.158 of the Texas Local Government Code, authorizing certain financial assistance up to \$250,000 for the Universal City Economic Development Corporation Small Business Stimulus Program, a grant program for businesses located within the City of Universal City, Texas; and providing for an immediate effective date.

The public may participate in this meeting by dialing US Toll-free to 888-788-0099 (Meeting ID: 998 3590 9250 Password: 910350) or by joining the Zoom meeting at <https://zoom.us/j/99835909250?pwd=REorUmRnY0pYINPUUxaceElaGN4dz09>.

KRISTIN MUELLER
City Clerk

City of Windcrest Public Hearing
The City Council of the City of Windcrest will hold a Webex videoconference Public Hearing on Monday, May 4, 2020 at 6:00 p.m., to consider amending the plat process of the Windcrest Code to conform to recent state law changes, specifically Chapter 111, Article II, Plats. The Windcrest City Hall Council Chambers located at 8601 Midcrown, Windcrest, Texas 78239, will be open for members of the public to attend. All CDC physical distancing and face mask guidelines will be adhered to. All interested parties are urged to attend. For further information you may contact Rachel C. Dominguez, Windcrest City Secretary at (210) 655-0022, ext 2150.

ORDINANCE NO. 20-06
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HELOTES, TEXAS CONTINUING A CURFEW FOR MINORS UNDER SEVENTEEN (17) YEARS OF AGE AND OVER TEN (10) YEARS OF AGE.

Passed and Approved April 23, 2020
Signed/ Thomas A. Schoolcraft, Mayor
Attest/ Celina Porcu, City Secretary

Public Notice

Q&A

What is a public notice?

It's information about important government activities. Notice in the newspaper is required for a good reason — to make sure it's NOTICED. It's crucial to government transparency...and government accountability.

Your local paper is the most visible, independent source for this crucial service. We not only print notices in the paper, but post them on our website and a statewide website at no extra charge. And they're archived forever, so there's a permanent and unalterable record.

Texas newspapers have published public notices since 1836. As your hometown paper, we're proud to provide this service to our communities.

What makes newspapers the best source for public notice?

Newspapers are independent, credible, and can guarantee readership. Newspaper readers pay attention to what's going on in the community.

Newspapers are read both in print and online. So are the public notices we publish. And after they're published, we archive them. Forever.

Since 1836, Texans have relied on their newspapers to provide public notices. They still do...for lots of good reasons.

Who benefits from public notice?

You do. Public notices are required because a government body or corporation wants to do something you need to know about.

When government is about to change your life, or your property or assets are about to be taken, newspaper notices are there to keep you informed.

Legals/Public Notices

NOTICE OF RECEIPT OF APPLICATION AND INTENT TO OBTAIN AIR QUALITY STANDARD PERMIT REGISTRATION RENEWAL

AIR QUALITY REGISTRATION NO. 93164

APPLICATION. Fencconcrete America, Inc., has applied to the Texas Commission on Environmental Quality (TCEQ) for renewal of Registration No. 93164, for an Air Quality Standard Permit for Concrete Batch Plants, which would authorize continued operation of a Concrete Batch Plant located at 15089 Tradesman, San Antonio, Bexar County, Texas 78249. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/bs610/index.html?la=29586749&img=98583229&zoom=13&type=r>. The existing facility is authorized to emit the following air contaminants: particulate matter (including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

This application was submitted to the TCEQ on March 31, 2020. The application will be available for viewing and copying at the TCEQ central office, the TCEQ San Antonio regional office, and web link <https://tinyurl.com/uk45w9g>, beginning the first day of publication of this notice. The facility's compliance file, if any exists, is available for public review in the San Antonio regional office of the TCEQ. The executive director has determined the application is administratively complete and will conduct a technical review of the application. Information in the application indicates that this permit renewal would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted. The TCEQ may act on this application without seeking further public comment or providing an opportunity for a contested case hearing if certain criteria are met.

PUBLIC COMMENT. You may submit public comments, or a request for a contested case hearing to the Office of the Chief Clerk at the address below. The TCEQ will consider all public comments in developing a final decision on the application. The deadline to submit public comments is 15 days after the final newspaper notice is published. After the deadline for public comments, the executive director will prepare a response to all relevant and material, or significant public comments. Issues such as property values, noise, traffic safety, and zoning are outside of the TCEQ's jurisdiction to consider in the permit process. After the technical review is complete the executive director will consider the comments and prepare a response to all relevant and material, or significant public comments. If only comments are received, the response to comments, along with the executive director's decision on the application, will then be mailed to everyone who submitted a public comment or who is on the mailing list for this application, unless the application is directly referred to a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. You may request a contested case hearing. The applicant or the executive director may also request that the application be directly referred to a contested case hearing after technical review of the application. A contested case hearing is a legal proceeding similar to a civil trial in state district court. Unless a written request for a contested case hearing is filed within 15 days from this notice, the executive director may act on the application. If no hearing request is received within this 15 day period, no further opportunity for hearing will be provided. According to the Texas Clean Air Act § 382.056(o) a contested case hearing may only be granted if the applicant's compliance history is in the lowest satisfaction under applicable compliance history requirements and if the hearing request is based on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission may only grant a hearing on those issues submitted during the public comment period and not withdrawn.

A person who may be affected by emissions of air contaminants from the facility is entitled to request a hearing. If requesting a contested case hearing, you must submit the following: (1) your name or for a group (the name of the facility representative), mailing address, daytime phone number; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing"; (4) a specific description of how you would be adversely affected by the application and air emissions from the facility in what is not common to the general public; (5) the location and distance of your property relative to the facility; (6) a description of how you use the property which may be impacted by the facility; and (7) a list of all disputed issues of fact that you submit during the comment period. If the request is made by a group or association, one or more members who have standing to request a hearing must be identified by name and physical address. The interests which the group or association seeks to protect must also be identified. You may also submit your proposed adjustments to the application/permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing within 15 days following this notice to the Office of the Chief Clerk, at the address below.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for contested case hearing to the Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material air quality concern submitted during the comment period. Issues such as property values, noise, traffic safety, and zoning are outside of the Commission's jurisdiction to consider in this proceeding.

MAILING LIST. In addition to submitting public comments, you may ask to be placed on a mailing list to receive future public notices for this specific application mailed by the Office of the Chief Clerk by sending a written request to the Office of the Chief Clerk at the address below.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www14.tceq.texas.gov/epic/eComment/, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the Public Education Program toll free at 1 800 687-4040. Si desea información en Español, puede llamar al 1-800-687-4040.

Further information may also be obtained from Fencconcrete America, Inc., 15089 Tradesman, San Antonio, Texas 78249-1342 or by calling Mrs. Melissa Fitts, Vice President, Westward Environmental, Inc., at (830) 249-8284.

Notice Issuance Date: April 15, 2020



Brittany Newman / New York Times

A pedestrian passes the New York Stock Exchange. In last month's economic rescue package, the government is giving away \$174 billion in temporary tax breaks overwhelmingly to rich individuals and large companies.

TAX BREAKS
From page B1

of companies hit by the current crisis for at least a year.

The bottom line is that, barely two years after congressional Republicans and President Donald Trump lavished America's wealthiest families and companies with a series of lucrative tax cuts, those same beneficiaries are now receiving a second helping.

Many of the tax benefits in the stimulus are “just shoveling money to rich people,” said Victor Fleischer, a tax law professor at the University of California, Irvine. While the 2017 tax cut package was a bonanza for big companies and wealthy individuals, in order to keep the law's overall costs down it imposed a number of restrictions on who could take advantage of certain tax breaks and how much those taxpayers could reap.

Now, with the 2020 stimulus package, Congress has temporarily repealed a number of those limitations.

“Under the cover of the pandemic, they are undoing the perfectly sensible limitations” that moderated the size of the 2017 tax cuts, said David Rosenbloom, a corporate tax lawyer at Caplin & Drysdale and head of the international tax program at New York University's law school. “And taking into account the giveaways in that act, it's a joke.”

Sen. Charles Grassley, R-Iowa, chairman of the Senate Finance Committee, defended the changes. The stimulus law “threw a much-needed financial lifeline to businesses of all sizes, types and industries to give them the best chance to survive,” he said. He added that “the attempt to paint these bipartisan tax provisions as a boon for particular industries or investors completely misses the mark.”

One of the breaks temporarily rolls back the 2017 restriction on how much debt some companies can deduct from their taxes. That restriction was the subject of lobbying for the last two years by big companies, including Coca-Cola and Hewlett Packard Enterprise, according to federal lobbying records. The National Association of Manufacturers, whose board in-

cludes executives from Exxon Mobil, Raytheon and Caterpillar, has pushed lawmakers for similar changes.

This month, the Joint Committee on Taxation, a nonpartisan congressional body, found that the two other breaks – those that allow people to deduct only on-paper losses from their tax bills – would go largely to people making at least \$1 million a year.

That analysis came in response to requests by Democratic lawmakers Rep. Lloyd Doggett of San Antonio and Sen. Sheldon Whitehouse of Rhode Island. On Tuesday, Doggett introduced legislation that would roll back major chunks of the tax breaks. Among other things, it would no longer let people who earn more than \$500,000 immediately deduct all of that year's business losses from their capital gains.

“Tax giveaways for a wealthy few shouldn't have come near a coronavirus relief bill,” said Whitehouse, who plans to introduce a Senate version.

The biggest tax break permits wealthy investors in, say, the real estate or energy businesses, to use only on-paper financial losses – such as from writing down, or depreciating, the value of assets – to reduce the taxes they owe on profits from stock market investments.

The provision does not single out real estate. But the industry is well known for generating tax losses from depreciation even in profitable years.

The 2017 tax cut law limited the ability to use those losses. A married couple could shelter only the first \$500,000 of their nonbusiness income – such as capital gains from investments

– in the year that the loss was generated. Any leftover losses would be rolled over into future years.

The stimulus undoes those restrictions for this year and, retroactively, for 2018 and 2019 – meaning that wealthy households will be able to shield far more of their capital gains from taxation.

The law also restricted the ability of companies to use net operating losses – which are losses that companies report on their tax returns, even if they are otherwise profitable – to reduce their tax bills. (Net operating losses can include expenses that are only for tax purposes and that don't reduce profits reported to shareholders.) No longer could such losses from one year be used to retroactively cancel out profits accumulated in previous years, thus generating tax refunds.

The new law temporarily undoes that restriction, enabling companies to use losses in one year to get refunds for previous profitable years.

Big companies, including Morgan Stanley, have lobbied on issues relating to such tax losses as recently as the first few months of this year, according to records compiled by the Center for Responsive Politics.

Among the problems with this tax break, critics say, is that it isn't aimed at the companies hit by the coronavirus pandemic. Under the new law, companies that will suffer big losses in 2020 won't be able to use those losses to obtain refunds until they file their tax returns at least a year from now.

The provision will quickly put cash into a company's pockets if it had tax losses from 2019 or earlier – well before the pandemic



New York Times file photo

Big companies, including Morgan Stanley, have lobbied on issues relating to certain tax losses as recently as the first few months of this year.

– that can be applied against profits from preceding years.

“There's no reason to send money in a blanket form to all the companies that have net operating losses,” said Fleischer, the tax law professor in California. “We have some amazingly successful companies that don't pay tax and have net operating losses, and there's no reason to be subsidizing these companies or expect that money will find its way down to the employees.”

The tax breaks for companies that report losses are likely to be especially lucrative because the 2017 tax law created new deductions that could generate large paper losses – for tax purposes only – for otherwise profitable companies in 2018 and 2019. For example, the 2017 law permitted companies to fully write off certain types of investments in the first year, instead of stretching those deductions over several years. That, in turn, meant companies could report profits to their shareholders but losses on their tax returns.

A third break, worth more than \$13 billion over a decade, temporarily loosens 2017 restrictions on how much interest big companies can deduct on their tax returns. Private equity firms, which rely on borrowed money to generate big profits, have been urging the Treasury Department to write favorable rules governing the restrictions on how much interest on their debt companies can deduct from taxes.

The private equity industry is poised to benefit from the rescue package. Companies with at least \$25 million in annual revenue are now eligible to deduct more interest from their tax bills – a change that will make the private equity business model even more lucrative. Private equity firms amplify their profits by using borrowed money to finance their investments. Deducting even more of the interest on that debt from their taxes would further boost their profits.

The tax break “allows private equity to swoop in and scoop up struggling businesses,” said Matthew Rappaport, a tax lawyer who specializes in private equity at Falcon Rappaport & Berkman in New York.

ORDINANCE NO. 2020-012(O)

AN ORDINANCE AMENDING PLAN AND PLAT APPROVAL PROCESSES TO COMPLY WITH RECENT STATE LAW CHANGES BY AMENDING CHAPTER 111, AND SECTION 113-64 OF THE WINDCREST CODE OF ORDINANCES IN ORDER TO ENSURE THAT THE PLAT APPLICATION PROCESS COMPLIES WITH NEW STATE LAW.

WHEREAS, Chapter 212 of the Texas Local Government Code governs the approval procedure for plans and plats submitted to the municipal authority or governing body responsible for approving plans and plats; and

WHEREAS, the Texas legislature recently amended the plan and plat approval procedure to require the municipal authority or governing body to approve, approve with conditions, or disapprove a plan or plat within a defined period of time; otherwise, the plan or plat is considered approved if no decision is made or action taken; and

WHEREAS, the City of Windcrest's current plan and plat approval process and the authority of the planning and zoning commission need to be adjusted to bring them into compliance with state law; and

WHEREAS, the Windcrest City Council finds this ordinance is necessary in order for the City's plat process to be in compliance with new state law.

I.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Chapter 111, Article II. Plats is hereby repealed and replaced by the adopted provisions below and shall read as follows:

Sec. 111-32. Plats Required

At a minimum, plats are required within the city as well as the city's extraterritorial jurisdiction to the same extent plats are required under state law. All plats, regardless of kind or nature, must comply with the minimum state law requirements for recording in county property records.

Sec. 111-33. Preliminary Conference

Prior to the official filing of a preliminary plat, the subdivider shall consult with the city secretary, the city engineer, and the chairperson of the planning and zoning commission for comments and advice on the procedures, specifications, and standards required by the city for the platting of land.

Section. 111-34. Initial Review of Completed Preliminary Plat Application and Data Prior to Official Filing

- (a) *Generally.* After the preliminary conference is complete, the subdivider shall prepare an application for a preliminary plat accompanied by a proposed preliminary plat prepared by a licensed engineer in accordance with this chapter. An application for a preliminary plat is not considered complete until all required parts of the application and proposed preliminary plat are submitted to the City. Only a complete application and proposed preliminary plat shall be considered properly filed by the applicant.
- (b) *Copies required.* The subdivider shall submit five black or blue line copies of the plat with the city secretary.
- (c) *Form and content.* The plat shall be drawn on sheets 22 inches wide and 36 inches long, with a binding margin of not less than 2½ inches on the left side of the sheet and margins on the other three sides of not less than three-eighths of an inch. The plat shall be drawn to a scale of 100 feet to one inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. If applicable, the plat shall show the following:
 - (1) Names and addresses of the subdivider, record owner, and engineer.
 - (2) Proposed name of the subdivision or development, which shall not have the same spelling as or be pronounced similar to the name of any other subdivision or development located within the city or within five miles of the city.
 - (3) Names of contiguous developments or subdivisions and/or indication of whether or not contiguous properties are platted.
 - (4) Subdivision or tract boundary lines, indicated by heavy lines, and approximate acreage of subdivision or tract encompassed by the preliminary plat.
 - (5) Existing sites as follows:
 - a. The location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within the subdivision or tract, intersecting, or contiguous with its boundaries or forming such boundaries.
 - b. The location, dimensions, description and name of all existing or recorded residential lots, parks, public areas, and other sites within or contiguous with the subdivision or tract.
 - c. The location, dimensions, description and name of all proposed streets, alleys, parks, other areas, reservations, easements or other rights-of-way, blocks, lots and other sites within the subdivision or tract.

- (6) Date of preparation, scale of plat and north arrow.
 - (7) Topographical information shall include contour lines on a basis of five vertical feet in terrain with an average slope of five percent or more, and on a basis of two vertical feet in terrain with an average slope of less than five percent.
 - (8) A number or letter to identify each lot or site and each block.
 - (9) Front building setback lines on all lots and sites. Side yard building setback lines at street intersections.
 - (10) Location map at a scale of not more than 4,000 feet to an inch which shall show existing adjacent subdivisions or tracts and major streets.
- (d) *Accompanying data.* If applicable, the preliminary plat shall be accompanied by a proposed master plan of all of applicant's property when the subdivision or tract is a part of a larger tract in accordance with section 111-39, which shall be prepared at a scale of not more than 400 feet to an inch and which shall show:
- (1) Existing and proposed subdivisions, including streets, lots, parks, and drainage easements and rights-of-way.
 - (2) Location of city limits line, the outer border of the city's extraterritorial jurisdiction, and zoning district boundaries, if they lie within the vicinity map.
 - (3) The general drainage plan, flow line of existing watercourses, existing drainage structures, and ultimate destination of water.
- (e) *Preliminary Review by City Engineer.* Following the initial consultation, but before submitting the application and proposed preliminary plat to the city secretary the subdivider shall present a draft of the application and proposed preliminary plat to the city engineer. The city engineer shall review the application as to its completeness and its conformity with the master plan, major street plan, land use plan, zoning districts, the standards and specifications set forth by the city's code of ordinances and the standards and specifications as required by state law. The city engineer shall then return the draft application and data to the subdivider with suggestions as to modifications or alterations of such application and data.
- (f) *Comments Process.* The subdivider will address all comments and suggestions made by the city engineer and then resubmit its draft application and proposed preliminary plat to the city engineer. This process will continue until all comments are addressed. Once all comments are addressed, the city engineer may approve the application for formal filing with the city secretary and review by the planning and zoning commission. Approval of a draft does not equate to approval of the application or preliminary plat, but is a prerequisite

before the City will accept the formal filing of a complete application, preliminary plat and submission to the planning and zoning commission.

- (g) *Complaints Process.* A subdivider may file a written complaint against the city engineer, if the applicant has a reasonable basis to believe the city engineer is not approving a draft application for reasons not founded on any standard or specification set forth in this article, or that the city engineer is purposefully not approving a draft application despite an subdivider's good faith effort to address all comments and suggestions.

(1) A written complaint must include the following information:

- a. Name and address of the applicant;
- b. Name of proposed subdivision;
- c. Date application was initially submitted for review;
- d. Number of times application has been resubmitted for comments and suggestions;
- e. Date of most recent resubmission;
- f. Reasons why application was returned for revisions; and
- g. Actions taken to address comments and suggestions.

(2) The complaint must be filed with the city manager.

(3) After investigating the complaint, the city manager has the authority to reject the complaint or to approve the draft application for formal filing with the city secretary and review by the planning and zoning commission. The city manager may also facilitate a discussion between the applicant and city engineer to resolve any disagreements regarding the draft application and proposed preliminary plat.

Sec. 111-35. Official Filing and Processing of Preliminary Plat Application

- (a) *Copies Required.* Once all comments have been fully addressed, and the city engineer has approved the draft application and proposed preliminary plat the subdivider shall formally file the completed application and preliminary plat, including five black or blue line copies of the preliminary plat with the city secretary.
- (b) *Filing fees.* Such plat shall be accompanied by a filing in the amount established by ordinance. The filing is not considered complete until the filing fee is paid. No action by the planning and zoning commission or the city council shall be valid until the filing is complete, including payment of the fee and all required copies of documents. Whether the subdivider fails to make formal application for preliminary plat approval or the plat is disapproved, this fee shall not be refunded.
- (c) *Submission to the planning and Zoning Commission.* Once the subdivider has officially filed its plat application by complying with Subsections (a) and (b), the city secretary will forward the application to the planning and zoning commission for review and action.
- (d) *Processing of Preliminary Plat Application.*

- (1) Within 30 days after the date the completed application and preliminary plat are filed, the planning and zoning commission shall approve, approve with conditions, or disapprove of the plat. The commission's failure to act, or inaction, within the 30-day period constitutes approval of the preliminary plat as submitted with the application.
- (2) If the commission conditionally approves or disapproves of the preliminary plat, the commission shall provide the subdivider with a written statement of the conditions for the conditional approval or the reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. The chair of the commission may authorize a designee to author and provide the written correspondence containing the specific conditions or reasons.
- (3) After the commission issues a conditional approval or disapproval of a plan or plat, the subdivider may submit to the commission a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. Pursuant to state law, there is no deadline by which to submit a written response. The commission may delegate the authority to the city manager to determine if the written responses satisfy the conditions or remedies the reasons for disapproval. Should the city manager determine, under such delegated authority, that the conditions are met or remedies applies, the city manager may either approve the plan or plat or submit the written responses to the commission for a determination.
- (4) The commission, or the city manager using delegated authority, has 15 days after the date that the subdivider submitted its written response to determine whether to approve or disapprove of the subdivider's plan or plat. The commission, or the city manager using delegated authority, shall approve a plan or plat that was previously conditionally approved or disapproved if the subdivider's written response adequately addresses each condition of the conditional approval or each reason for the disapproval. A previously conditionally approved plan or plat is approved if:
 - (A) the subdivider filed a response that adequately addresses each condition of the conditional approval or each reason for the disapproval; and
 - (B) the commission does not disapprove the plan or plat on or before the 15th day after the date the response was submitted and in accordance with Subsection (d)(2).
- (5) Within 30 days after the date that the plan or plat is approved by the commission, or is approved by the inaction of the commission, the city council shall approve, approve with conditions, or disapprove the plan or plat. The city council's failure to act, or inaction, within the 30-day period constitutes approval of the preliminary plat.
- (6) If the city council conditionally approves or disapproves of the preliminary plat, the process and requirements outlined in Subsections (d)(2) through (d)(4) shall apply.

- (7) If a plan or plat is approved, the city council shall endorse the plan or plat to the extent required by state law.
- (8) If the city council fails to approve, approve with conditions, or disapprove a plan or plat within 30 days, the council on the subdivider's request shall issue any certificates required by law.
- (9) Approval of a preliminary plat application shall remain in effect for a period of one (1) year from the date the application was approved by the city council, during which period the subdivider shall submit to the city secretary the final plat of the subdivision or portion thereof. If no significant progress is made towards completion of a final plat for the land subject to the preliminary plat within the one-year period, the approval shall become null and void, unless extended by the city council.
- (e) *Extension of the 30-day Period.* The parties may extend the 30-day period described by Subsections (d)(1) and (d)(5) for a period not to exceed 30 days if:
 - (1) the subdivider requests the extension in writing to the commission or the city council, as applicable; and
 - (2) the commission or the city council, as applicable, approves the extension request.
- (f) *Bonds.* In order to approve a plat, the applicant may be required to file a bond under state law for certain plans and plats.
- (g) *Extension of Plat Approval Period.* The subdivider may apply to the city council for an extension of the one-year period. Upon consideration of the subdivider's application to extend the preliminary plat approval period, the council may extend the approval by no more than twelve (12) months.
- (h) *Amendments.* Minor changes in the design of the subdivision subject to a preliminary plat may be incorporated in an application for approval of a final plat without the necessity of filing a new application for approval of a preliminary plat. Minor changes shall include adjustment in street or alignments, paving details, and adjustment of lot lines that do not result in creation of additional lots, provided that such changes are consistent with any approved applications. All other proposed changes to the design of the subdivision subject to an approved preliminary plat shall be deemed major amendments that require submittal and approval of a new application for approval of a preliminary plat before approval of a final plat.
- (i) *Groundwater Availability Certification.* If a groundwater availability certification is required under Texas Local Government Code § 212.0101, the 30-day period described by Subsection (d)(1) begins on the date the subdivider submits the groundwater availability certification to the commission.

Sec. 111-36. Filing and Processing of the Final Plat Application; Form, Accompanying Data and Fees

- (a) *Preliminary Plat Required.* No final plat will be considered unless a preliminary plat has been submitted and approved. However, if an approved plat has been duly recorded and the subdivider wishes to increase the size of the lots by combining two or more lots or by combining one lot with a portion of the adjacent lot in such manner that no portion of a lot remains smaller than the original lots, no preliminary plat will be necessary in order to obtain a final plat.
- (b) *Fees.* The application for final plat approval shall not be considered complete until the applicant has first paid to the city building permit officer the applicable fee established by the master fee schedule.
- (c) *Filing of Complete Application.* A final plat application shall not be considered filed until all required portions of the application are submitted, including the fees and all required copies.
- (d) *Form and Content of Final Plat.*
 - (1) The final plat shall conform to the preliminary plat as approved by the city council, incorporating any and all subsequent minor changes, modifications, alterations, corrections, and conditions approved by the city council.
 - (2) The final plat shall be drawn in India ink on linen tracing cloth sheets 18 inches wide and 24 inches long with a margin of 2 ½ inches on the left side of the sheet, and margins of not less than three-eighths of an inch on the other three sides. The plat shall be drawn at a scale of 100 feet to one inch. Where more than one sheet is necessary to accommodate the entire computed area, an index sheet showing the entire subdivision or tract at an appropriate scale shall be attached to the plat.
 - (3) The final plat shall be submitted in four copies, together with the original, and shall contain all of the features required for preliminary plats in Section 111-34 and shall also include the following:
 - (A) The exact location, dimension, name, and description of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within the subdivision or tract, intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, computed area, and central angle, tangent distance, and length of all curves, where appropriate.
 - (B) The exact location, dimensions, description, and name of all proposed streets, alleys, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots, monuments, and other sites within the subdivision or tract with accurate dimensions, bearing or deflecting angles and radii, area, and central angle,

tangent distance, and length of all curves, where appropriate. All lot corners shall be marked with one-half inch diameter by two-feet long iron pins.

(C) Owner's acknowledgement.

STATE OF TEXAS	§
COUNTY OF BEXAR	§
The owner of the land shown on this plat, and whose name is subscribed hereto, and in person or through a duly authorized agent, dedicates to the City of Windcrest, Texas, for the use of the public forever all streets, alleys, parks, water courses, drains, easements, and the water and sewer lines in all of the aforesaid public places and all other public places thereon shown for the purpose and consideration therein expressed.	
	_____ Owner

STATE OF TEXAS	§
COUNTY OF BEXAR	§
BEFORE ME, the undersigned authority, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that has executed the same for the purposes and consideration therein expressed, and in the capacity therein stated. GIVEN under my hand and seal of office this ____ day of _____.	
	_____ Owner

(D) Certification of the surveyor responsible for surveying the subdivision, attesting to its accuracy.

STATE OF TEXAS	§
COUNTY OF BEXAR	§
I hereby certify that this plat is true and correct and was prepared from an actual survey of the property made under my supervision on the ground.	
	_____ Registered Public Surveyor
(Surveyor's Seal)	

Sworn to and subscribed before me this the ____ day of ____, A.D. ____.
_____ Notary Public Bexar County, Texas

(E) A certificate by the engineer responsible for the preparation of the final plat and supporting data, attesting to its accuracy.

STATE OF TEXAS	§
COUNTY OF BEXAR	§
I hereby certify that proper engineering consideration has been given this plat to the matters of streets, lots, and drainage layout.	
	_____ Registered Professional Engineer
(Engineer's Seal)	
Sworn to and subscribed before me this the ____ day of ____, A.D. ____.	
_____ Notary Public Bexar County, Texas	

The City Engineer of the City of Windcrest hereby certifies that this plat conforms to all requirements of the City as to which his/her approval is required.	
_____ City Engineer	
This plat of _____ has be submitted to and considered by the City Council of the City of Windcrest, Texas, and is hereby approved by such City Council.	
Dated this ____ day of _____, ____.	
By:	_____ Mayor
By:	_____ Secretary

(F) County Clerk's recording acknowledgement.

STATE OF TEXAS	§
COUNTY OF BEXAR	§
I, _____, County Clerk of said county, do hereby certify that the foregoing instrument of writing with its certificate of authentication was filed for record in my office, on the _____, day of _____, A.D. _____, at ____ M., and duly recorded the _____ day of _____, A.D., _____, at ____ M, in the Records of Deeds and Plats of said county, in book Volume _____, on Page _____. In testimony whereof, witness my hand and official seal of office, this _____ day of _____, A.D. _____.	
	_____ County Clerk Bexar County, Texas
By:	_____ Deputy

(e) *Accompanying Data.*

- (1) When filed, the final plat shall be accompanied by the following site improvement data:
(All plans and calculations shall bear the seal of an engineer.)

(A) Streets, alleys, sidewalks. Three copies of plans and profiles of all streets and alleys, plans for sidewalks and three copies of construction specifications and of detailed cost estimates.

(B) Storm drainage.

1. Three copies of the storm drainage plan prepared to a scale of 100 feet to one inch and with the same contours and scaled lot sizes as shown on the plat. All street widths and grades shall be indicated, and runoff figures shall be indicated on the outlet and inlet side of all drainage ditches and storm sewers and, at the request of the city engineer, at all points in the street at changes of grade or where the water enters another street or storm sewer or drainage ditch. Drainage easements shall be indicated.
2. A general location map of the subdivision or tract showing the entire watershed (U.S.G.S. Quadrangle is satisfactory.).

3. Calculations showing the anticipated stormwater flow, including watershed area, percent runoff, and time of concentration. When a drainage ditch or storm sewer is proposed, calculations shall be submitted, showing basis for design.
4. When a drainage channel or storm sewer is proposed, three copies of complete plans, profiles, and specifications shall be submitted, showing complete construction details.
5. When conditions upstream or downstream from a proposed channel or storm sewer do not permit maximum design flow, high water marks based on 25-year frequency shall be indicated, based upon existing conditions.

(2) When filed, the final plat shall also be accompanied by:

- (A) Tax certificates from the city, school district, and county, which indicate that all ad valorem taxes have been paid up to and including the current year on all land included within the final plat.
- (B) Signatures of certification by the proper authorized official of each public utility company or board involved to be inscribed on the respective utility layouts required herein certifying approval of the same by said utility company or board.

(f) *Processing Final Plat.*

- (1) If desired by the subdivider, upon approval by the planning and zoning commission and approval by the city council, the final plat may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop. However, such portion shall conform to all the requirements of this chapter.
- (2) Within 30 days after the complete application for the final plat and the accompanying site improvement data and detailed cost estimates are formally submitted to the city secretary, the Commission shall approve, approve with conditions, or disapprove of the final plat. The Commission's failure to act, or inaction, within the 30-day period constitutes approval of the final plat.
- (3) If the commission conditionally approves or disapproves of the final plat, the commission shall provide the applicant with a written statement of the conditions for the conditional approval or the reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. The chair of the commission may assign a designee to author and provide the written statement.
- (4) After the commission issues a conditional approval or disapproval of a final plat the applicant may submit to the commission a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. Pursuant to state law, there is no deadline by which to submit a written response.

- (5) The commission has 15 days after the date that the subdivider submitted its written response to determine whether to approve or disapprove of the subdivider's final plan or final plat. Following the submission of a written response, the commission must comply with Subsection (d)(3) and the commission may disapprove the final plat only for a specific condition or reason provided to the applicant under Subsection (d)(3). The commission shall approve a previously conditionally approved or disapproved plan or plat if the response adequately addresses each condition of the conditional approval or each reason for the disapproval. A previously conditionally approved plan or plat is approved if:
- (A) the subdivider filed a response that adequately addresses each condition of the conditional approval or each reason for the disapproval; and
 - (B) the commission does not disapprove the plan or plat on or before the 15th day after the date the response was submitted and in accordance with Subsection (d)(4).
- (6) Within 30 days after the date that the plan or plat is approved by the commission, the city council shall approve, approve with conditions, or disapprove the final plat. The city council's failure to act, or inaction, within the 30-day period constitutes approval of the final plat.
- (7) The process for approval of the final plan or plat by the city council shall be the same as that for the preliminary plan or plat.
- (8) The approval of a final plat application shall remain in effect for a period of two years from the date the application was approved by the city council, during which period the applicant shall submit any required revisions for approval and make all other changes needed to record the plat. If the final plat has not been recorded within the two-year period, and has not been extended by the city council, such final plat shall expire and the applicable plat shall be deemed null and void.
- (g) *Extension of the 30-day Period.* The parties may extend the 30-day period for approval for a period not to exceed 30 days if:
- (1) the subdivider requests the extension in writing to the Commission or the city council, as applicable; and
 - (2) the commission or the city council, as applicable, approves the extension request.

Sec. 111-37. Subdivider's Responsibility for Costs

The responsibility for all costs of the in-place improvements as required by this article shall be borne by the subdivider.

Sec. 111-38. Where Subdivision or Tract is Part of Larger Tract

Where the proposed subdivision or tract constitutes a unit of a larger tract owned by the applicant, which is intended to be subsequently developed as additional units of the same subdivision or tract, the preliminary and final plats shall be accompanied by a layout of the entire area at a scale of not more than 400 feet to one inch, showing the tentative proposed layout of streets, blocks, lots, drainage, and other improvements for such areas. The overall layout, if approved by the city council, after approval by the planning and Zoning Commission, shall be attached to and filed with a copy of the approved subdivision plat in the permanent files of the city secretary. Thereafter, plats of subsequent units of such subdivision or tract shall conform to such approved overall layout, unless changed by the city council, after approval by the Commission. However, except where the applicant agrees to such change, the city council may change such approved overall layout only when the city council finds:

- (1) that adherence to the previously approved overall layout will hinder the orderly development of other land in the area in accordance with the provisions of this chapter; or
- (2) that adherence to the previously approved overall layout will be detrimental to the public health, safety, or welfare, or will be injurious to other property in the area.

Sec. 111-39. Vacating Plat

- (a) The owners of a tract covered by a plat may vacate the plat at any time before any lot in the plat is sold.
- (b) If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

Sec. 111-40. Re-Platting Without Vacating Preceding Plat

- (a) *General.* A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
 - (1) is signed and acknowledged by only the owners of the property being re-platted;
 - (2) is approved by the planning and zoning commission and city council; and
 - (3) does not attempt to amend or remove any covenants or restrictions.
- (b) *Additional Requirements for Certain Replats.* In addition to compliance with Subsection (a), a replat without vacation of the preceding plat must conform to the requirements of state law.

Sec. 111-41. Expedited Approval Procedure for Amending Plats, Certain Minor Plats or Replats

(a) Notwithstanding the procedures set out hereinabove for approval of preliminary and final plats, authority is delegated to the city manager or his/her designee to approve:

- (1) Amending plats as allowed by state law;
- (2) Minor plats or replats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities; or
- (3) A replat that does not require the creation of any new street or the extension of municipal facilities.

(b) *Amending Plats.*

- (1) An amended plat is required for error correction or a recorded plat, boundary changes between adjacent lots where no new lots would be created; and lot consolidation between two or more lots, where an entire plat will not be vacated.
- (2) An amended plat may be used in the following situations:
 - (A) To correct an error in a course or distance shown on the preceding plat;
 - (B) To add a course or distance that was omitted on the preceding plat;
 - (C) To correct an error in a real property description shown on the preceding plat;
 - (D) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - (E) To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - (F) To correct any other type of scrivener or clerical error or omission previously approved, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (G) To correct an error in courses and distances of lot lines between two adjacent lots if:
 - (i) Both lot owners join in the application for amending the plat and neither lot is abolished;
 - (ii) The amendment does not attempt to remove recorded covenants; or

- (iii) The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - (H) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - (I) To relocate one or more lot lines between one or more adjacent lots if:
 - (i) The owners of all those lots join in the application for amending the plat; and
 - (ii) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (iii) The amendment does not increase the number of lots;
 - (J) To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (i) The changes do not affect applicable zoning and other regulations of the municipality;
 - (ii) The changes do not attempt to amend or remove any covenants or restrictions; or
 - (iii) The area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or
 - (K) To replat one or more lots fronting on an existing street if:
 - (i) The owners of all those lots join in the application for amending the plat;
 - (ii) The amendment does not attempt to remove recorded covenants or restrictions;
 - (iii) The amendment does not increase the number of lots; and
 - (iv) The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities
- (3) Process. An applicant for an amended plat shall undergo a preliminary conference as described in § 111-33. The city engineer will then review the draft amended plat application in accordance with § 111-34. All comments and suggestions made by the city engineer must be addressed before the city manager or his designee can approve or disapprove of an application. Applications properly submitted for formal review under this section shall be approved or disapproved within 30 days from formal submission. Approval of an amended plat shall remain in effect for a period of two (2) years from the date that the application was approved by the city manager or his designee. The applicant may only request an extension as allowed under state law.

(c) *Minor Plats.*

- (1) A minor plat allows for the administrative approval of a plat in which the number of lots is limited and the extension of public infrastructure is not needed.
- (2) The city manager or his designee is authorized to approve minor plats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities.
- (3) Process. An applicant shall undergo a preliminary conference as described in § 111-33. The city engineer will then review the draft application for replat. All comments and suggestions made by the city engineer must be addressed before the city manager or his designee can approve or disapprove of an application. Applications properly submitted for formal review under this section shall be approved or disapproved within 30 days from formal submission.
- (4) Approval of a replat shall remain in effect for a period of two (2) years from the date that the application was approved by the city manager or his designee.

(d) *Re-platting.*

- (1) A replat is required when a property owner seeks to change the number or configuration of current lots within a subdivision.
- (2) A property owner seeking to utilize this expedited process for a replat may do so if the replat is of the kind allowed under state law.
- (3) Public Hearing. In limited circumstances under state law, certain replats require a public hearing. If a proposed replat requires a variance or exception, a public hearing must be held by the city council. Such replats do not qualify for expedited approval and must go to the planning and zoning commission then the city council for approval.

Sec. 111-42. Guarantee of Performance

- (a) After final approval of a plan or plat, but before the plan or plat shall be recorded by the city and before work shall be commenced, the applicant shall furnish the city a bond executed by a surety company holding a license to do business in the state, and acceptable to the council, in an amount determined by the city engineer necessary to afford the maximum protection for the city, conditioned that the applicant will complete such improvements within three years after final approval of such plan or plat, such bond to be approved as to form and legality by the city attorney.

- (b) After final approval of a plan or plat, but before the plan or plat shall be recorded by the city and before work shall be commenced, the applicant shall furnish the city a bond, executed by a surety company holding a license to do business in the state, and acceptable to the city council, in an amount equal to ten percent of the amount required by the city for the security bond in accordance with subsection (a) of this section..
- (c) Where good cause exists, the city council may extend the period of time for completion under subsection (a) of this section for an additional period of time not to exceed six months if the applicant has not completed the required site improvements in compliance with this chapter, the recorded plan or plat, and the approved plans and specifications. No such extension shall be granted unless additional security of the type provided in subsection (a) of this section is first provided by the applicant to cover the extended period of time.

Sec. 111-43. Developer Plans and Plats

- (a) Application. For developments which are larger than fifty square acres, or which have seek to subdivide a tract of land into more than fifty individual lots, the city may require the developer to apply for a developer plan and plat. Such developer plan and plat is authorized under Subchapter B of chapter 212 of the Texas Local Government Code.
- (b) Requirements. Each development plat must meet the requirements set forth in Subchapter B of chapter 212 of the Texas Local Government Code.
- (c) To ensure that it will not incur liabilities, the city may require, before it gives approval of the plans for a development, that the owner of the development provide sufficient surety to guarantee that claims against the development will be satisfied if a default occurs.

Sec. 111-44. Dedication of Right of Ways

The approval of any preliminary plat, final plat, amended plat, replat or development plat is not considered an acceptance of any proposed dedication for public use or use by persons other than the owner of the property covered by the plat, regardless of any language contained within the plat. Approval of any such plat does not impose on the municipality any duty regarding the maintenance or improvement of any purportedly dedicated parts until the city council makes an actual appropriation of the dedicated parts by formal acceptance. The disapproval of a plat is considered a refusal of the offered dedications indicated on the refused plat. Approvals for dedications shall be by ordinance or resolution of the city council.

Sec. 111-45. Miscellaneous Provisions

- (a) On request by a school district, a municipality shall enter an agreement with the board of trustees of the school district to establish review fees, review periods, and land development standards ordinances and to provide alternative water pollution control methodologies for school buildings constructed by the school district. Such agreements are proper only to the extent allowed by state law.
- (b) Nothing in this chapter prevents the city from entering into a development agreement with a private landowner or developer, to the extent allowed by law.

- (c) The requirements of this chapter do not apply if the city is developing land it owns or controls.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Section 113-64 be amended as follows with underlined text being additions and text which is struck through being deletions and shall read as follows:

Sec. 113-64. - Miscellaneous powers.

(a)The planning and zoning commission shall have power:

- (1)To promote public interest in and understanding of the land development plan and the community plan;
- (2)To consult with and advise public officials and agencies, public utilities, civic, educational, professional and other organizations and with citizens in relation to protecting or carrying out the land development plan, community plan or of other special planning reports;
- (3)To request from any public officials, within a reasonable time, any available information as it may reasonably require for its work; and
- (4)To enter upon any land in the performance of its functions, and make examinations and surveys and place and maintain necessary monuments and marks thereon.

(b)Plat approval. Except for plats falling within Section 111-41 and qualify for expedited platting processes, ~~All~~ plats shall be forwarded to the planning and zoning commission for review and recommendations approval before being forwarded to the city council for secondary approval. ~~The planning and zoning commissionshall make recommendations to the city council. The city council shall be the platting board of the municipality and shall control the platting or subdividing of land within the city.~~

(c)Subdivision regulations. The commission shall recommend to city council adoption rules and regulations governing platting and subdividing of land.

(d)Zoning plan. The commission shall recommend to the city council for adoption a zoning plan, and recommend or disapprove proposed changes in such plan subject to the provisions of any existing ordinance covering zoning.

(e)Building plans. The planning and zoning commission shall be responsible for reviewing and recommending approval or disapproval of all building plans for the erection, siting, construction, alteration, reconstruction, enlargement, or finish-out of a structure, building, or parking lot (area) in the "R-2", "B-1", "B-2", "B-3" and "O-1" Zoning Districts. Such responsibility includes:

- (1)The review of all building plans, elevations and construction and materials specifications for compliance with reasonable, recognized and acceptable safety and construction standards;
- (2)Consideration of the general appearance and arrangement of the structure or structures and their overall compatibility with nearby existing or proposed structures;

(3) Verification of compliance, where appropriate, of such plans with any restrictions, conditions or requirements which may have been engrossed by the city council upon the approved plat or land use plan of the area wherein the building is to be erected or sited; and

(4) No building permit may be issued for the erection, siting construction, alteration, reconstruction, enlargement, or finish-out of a structure, building, or parking lot (area) in the R-2", "B-1", "B-2", "B-3" and "O-1" Zoning Districts unless and until the plans have been reviewed by the planning and zoning commission and approved by the city council.

(5) It shall not be necessary for the planning and zoning commission to review building plans for the finish-out of a structure or building which do not alter the exterior appearance or the structural integrity of the building. Finish-outs which do not alter the exterior appearance of a structure or its structural integrity may be approved by the city permits officer.

(g) Inspection of building construction. The planning and zoning commission shall also have the responsibility for reviewing inspection reports of all building construction within said R-2", "B-1", "B-2", "B-3" and "O-1" Districts to assure compliance with all standards and specifications contained in the approved building plans pertaining thereto.

(h) Other duties . The planning and zoning commission shall perform such other duties as the city council shall from time to time prescribe that relate to land development and community planning.

II. CUMULATIVE CLAUSE

This Ordinance shall be cumulative of all provisions of the Windcrest Code of Ordinances except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

III. SEVERABILITY

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

IV. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meetings at which this Ordinance was approved and adopted was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government.

**V.
EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as required by state and local law.

**VI.
READINGS**

FIRST READING approved by the City Council of the City of Windcrest this the 20th day of April, 2020.

SECOND READING DULY PASSED AND APPROVED, on the ____ day of _____, 2020, at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS

Dan Reese, Mayor

ATTEST:

Rachel C. Dominguez, City Secretary

APPROVED:

Ryan S. Henry, City Attorney

ORDINANCE NO. 2020-013 (O)

AN ORDINANCE AUTHORIZING THE CITY TO ENFORCE DECLARATIONS OF EMERGENCIES AND DISASTERS BY AMENDING CHAPTER 10 OF THE WINDCREST CODE OF ORDINANCES AND ADOPTING PENALTIES.

WHEREAS, the City of Windcrest is a home-rule municipality, which has codified its regulations and enforcement; and

WHEREAS, the State of Texas, including the County of Bexar and the areas surrounding the City of Windcrest, experienced a pandemic involving an infectious disease resulting in the Texas Governor, the Bexar County Judge, and the Mayor of Windcrest issuing declarations of emergencies and disasters; and

WHEREAS, the entities issued shelter-in-place orders to address the emergency; and

WHEREAS, the City of Windcrest luckily did not have any reported issues regarding enforcement of such orders, but wishes to be prepared for potential future issues during any emergency or disaster; and

WHEREAS, the City of Windcrest is authorized through the Texas Constitution and various state laws to pass enforcement regulations regarding such emergency declaration; and

WHEREAS, the City Council of the City of Windcrest finds it is in the best interest of the public to adopt the following regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Section 10-1 through Section 10-2 in Article I of chapter 10 of the Windcrest Code of Ordinances is adopted and shall read as follows:

DIVISION

Sec. 10-1 Definitions

Disaster means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural disaster or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, epidemic, contagion, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, cybersecurity event, other public calamity requiring emergency action, or energy emergency. Such also includes any other form of a disaster which the Governor or mayor are legally authorized to declare.

Emergency Management Plan means any plan authorized by federal or state law for the city to create when addressing any form of emergency, disaster, attack, continuity of operations, disaster mitigation, preparedness, response, recovery or other forms of threat to the health, safety, and welfare of the inhabitants of the city and surrounding area. Such term also includes any inter-jurisdictional plans adopted by the city or entered between the city and another agency for emergency management.

State of Disaster means a declaration by executive order or proclamation by the Governor, the county judge for Bexar County, or the mayor of the City of Windcrest under Chapter 418 of the Texas Government Code (disaster declaration), or Chapter 433 of the Texas Government Code (state of emergency) which activates the disaster, emergency response, and recovery aspects of state, local and inter-jurisdictional disaster and emergency plans and authorizes the deployment and use of any forces to which the plan or plans apply. For purposes of this definition, the term also encompasses a local state of disaster and local state of emergency, including those authorized under the city's charter provisions. Such term also encompasses all extensions and subsequent executive order, proclamations and directives issued arising out of or related to the same state of disaster.

Sec. 10-2 Enforcement

- (1) It is a violation of this article for any person to fail to follow any requirement or restriction contained within an executive order or proclamation issued by the Governor, the county judge for Bexar County, or the mayor of the City of Windcrest and applicable to any jurisdiction of the city.
- (2) It is a violation of this article for any person to fail to follow any requirement or restriction contained within an emergency management plan adopted by the city.
- (3) The failure to follow an executive order or proclamation or emergency management plan under this section is declared to be a nuisance. Further, any real property within any jurisdiction of the city which exists in a condition or state in violation of an executive order or proclamation or emergency management plan under this section is declared to constitute a nuisance.
- (4) The failure to follow an executive order or proclamation or emergency management plan under this section may cause separate violations of other provisions of the city's Code of Ordinances. Each violation of other code provisions
- (5) A violation of this article is subject to the general penalty provisions contained in Section 1-5 of the Windcrest Code of Ordinances and more specifically §1-5(a), (b), (c), (d)(2), (f), and (h). Additionally, this article may be enforced through any other criminal, civil, or administrative means authorized by state or local law.

II. CUMULATIVE CLAUSE

That this Ordinance shall be cumulative of all provisions of the City of Windcrest, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinance, in which event the conflicting provisions of such other ordinance are hereby repealed, while leaving the remainder of such other ordinance intact. To the extent of any conflict, this Ordinance is controlling.

III. SEVERABILITY

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

IV. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

DULY PASSED ON FIRST READING, on the 20th day of April, 2020 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

DULY PASSED AND APPROVED, on the _____ day of _____, 2020 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS

Dan Reese, Mayor

ATTEST:

Rachel C. Dominguez, City Secretary

APPROVED:

Ryan S. Henry, City Attorney

ORDINANCE NO. 2020-014(O)

**AN ORDINANCE AMENDING THE QUALIFICATIONS
FOR MEMBERS OF THE PLANNING AND ZONING
COMMISSION BY AMENDING SECTION 113, DIVISION
2, SECTION 113-62 (C) TO ALIGN WITH THE CHARTER**

WHEREAS, the City of Windcrest previously created a planning and zoning commission; and

WHEREAS, the City of Windcrest amended Section 113 of the Windcrest Code of Ordinances establishing the Windcrest Planning and Zoning Commission; and

WHEREAS, the City Council of the City of Windcrest finds it is necessary to adjust the qualifications for the planning and zoning commission to better align with the Charter and allow a larger pool of volunteers willing to serve¹; and

WHEREAS, the City Council of the City of Windcrest finds the amendments are a proper clarification of the regulations and allow for better enforcement.

I.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Section 113, Division 2, Sections 113-62 (C) is amended with underline text being additions and struck through text being deletions and is hereby adopted and shall read as follows:

DIVISION 2. – PLANNING AND ZONING

Sec. 113-62 – Planning and Zoning Commission –~~Reconstituted.~~

(c) The commission shall be composed of seven (7) resident citizens as established by the City Charter. Each commission member ~~who are taxpayers, real property owners and qualified voters of the city. who~~ shall be a qualified voter of the City, shall be not less than twenty-one (21) years of age, shall continually reside within the City during their appointed term, and shall hold no other position in city government with compensation for services set by the city

¹ Official Comment: This official comment holds the same status as a legislative determination and is for context, intent, and reference. Recently, volunteers wishing to serve on the commission had to be disqualified as they did not own property within the City. Based on the wording of the ordinance, it requires property ownership. A question was also raised about whether someone who lives in Windcrest, but rents property, can qualify. As a result, the Council wants to clarify its intent and allow the largest group of volunteers wishing to serve to be eligible. The only restrictions imposed should be those the citizens voted on and contained within the City Charter which apply to council members. Mere reference to City Charter qualifications, however, is impractical as certain restrictions are tied to an election date, which is inapplicable to appointees. So, the key qualifications based on council comments were directly inserted into this ordinance.

council. Members are appointed by the city council upon recommendation from the mayor and serve at the will of the city council pursuant to state law. Vacancies occurring in the commission shall be filled by the city council for the unexpired term period. The city secretary and mayor shall be ex-officio members of this commission.

II. CUMULATIVE CLAUSE

This Ordinance shall be cumulative of all provisions of the Windcrest Code of Ordinances except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

III. SEVERABILITY

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

IV. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meetings at which this Ordinance was approved and adopted was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government.

V. EFFECTIVE DATE

This ordinance shall be effective upon passage and publication as required by state and local law.

VI. READINGS

DULY PASSED ON FIRST READING, on the _____ day of _____, 2020 at a regular meeting of the City Council of the City of _____

Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

DULY PASSED AND APPROVED, on the _____ day of _____, 2020 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS

Dan Reese, Mayor

ATTEST:

City Secretary, Rachel Dominguez

APPROVED:

City Attorney, Ryan Henry

RESOLUTION NO. 2020-516 (R)

**A RESOLUTION OF THE CITY OF WINDCREST CITY
COUNCIL TO ADOPT POLICIES AND PROCEDURES FOR
FIRE DEPARTMENT VACATION AND SICK LEAVE.**

WHEREAS, the City of Windcrest has authorized the creation of several paid fire fighter positions in the City of Windcrest Fire Department; and

WHEREAS, the City previously relied upon the Volunteer Firefighter's Association for staffing during shifts; and

WHEREAS, the Windcrest City Council recognizes that it needs to adjust the employment policies as it relates to the Fire Department to account for the addition of paid positions on shifts; and

WHEREAS, the City Council finds that it is in the best interests of the City and its employees that a policy and procedure be established to accrual of sick leave and for vacation leave which is comparable to other City employees.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the attached policy on sick and vacation leave is hereby adopted and instructs the City Manager to attach the policy and procedure to the appropriate location within the City's personnel manuals.

DULY PASSED AND APPROVED, on the _____ day of _____, 2020 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS

Dan Reese, Mayor

ATTEST:

Rachel C. Dominguez, City Secretary

APPROVED:

Ryan S. Henry, City Attorney

Time Off – Fire Department

Given the unique nature of the shift work required for a fire department, the City's policy and vacation and sick leave for professionally paid members of the Fire Department who serve in a firefighting capacity or supervisor capacity shall be considered separate from the policy applicable to employees assigned to different departments. Professionally paid employees assigned to the Fire Department who serve in a firefighting capacity or supervisor capacity shall be subject to the following policy. This policy does not apply to administrative staff working in the Fire Department and the policies applicable to other departments apply to such administrative staff. This policy does not apply to volunteers.

Administration of Vacation and Sick Leave

The City provides for earning or using of vacation and sick leave by full-time employees. Request for Leave is done via your supervisor and/or the Fire Chief.

Vacation and sick leave are earned as indicated in this policy. Vacation leave and sick leave, when authorized, will only be charged for absence-during-work days. The Fire Chief is authorized to define an absence-during-work day by written policy based on the method by which the Chief organizes the different shifts. The Fire Chief is authorized to define a regular workday by written policy based on the method by which the Chief organizes the different shifts for different employees. The City Manager is authorized to override such written policy if the City Manager believes the policy is illegal, improper, or not in the best interest of the City. Absent a policy, a regular workday for a non-exempt firefighter shall be considered a twenty-four-hour period of continuous work. Shifts for non-exempt firefighters typically consist of two continuous regular workdays during which the employee must be at a location required for their shift. Locations vary depending on calls for service.

All requests for leave must be approved by the employee's supervisor and/or the Fire Chief. Vacation and sick leave may be used to facilitate short periods of absence, i.e., personal business, physician's appointments, etc. However, individuals who utilize all of their sick and vacation leave will not be advanced leave but will be required to take leave without pay.

In the event a regular workday calculation requires a division of time less than a full regular workday, the Fire Chief is authorized, by written policy, to account for the proper division based on the total amount of time each workday entail. For example, for a 48-hour shift consisting of two 24-hour regular workdays, each workday is divisible into 24 equal units. If accumulated sick or vacation time includes multiple periods of work less than a full regular workday, the accumulated units must equal to 24 in order to qualify for a full regular workday of paid time-off. However, since not all employees work the same type of shift, the calculation may vary. The Fire Chief is also authorized, by written policy, to provide for the proper calculation of any time conversions needed to allow the Fire Department employees subject to this policy to take advantage of any donated or transfer of accumulated leave time from City pool. The Fire Chief is authorized to exempt employees subject to this policy from participating in the City's general hour

pool, provided the Fire Chief creates a comparable pool for employees subject to this policy. All such policies created by the Fire Chief are subject to approval or modification by the City Manager.

Accrual / Vacation Leave

Non- exempt

1. Base vacation leave of ten (10) workdays per calendar year will be granted to non-exempt employees, after one (1) year of continuous satisfactory employment.
2. Additional Vacation leave for non-exempt employees may be accumulated not to exceed the workdays listed:
 - 1-5 years: no additional vacation days
 - 5-10 years: 5 additional vacation days from base vacation leave
 - 10+ years: 10 additional vacation days from base vacation leave
3. Reimbursement will be made for accrued unused vacation leave upon termination only after one (1) year of continuous satisfactory employment. The maximum number of vacation days (base plus additional) an employee is allowed to be paid for as accrued days is 20.
4. A request from a non-exempt employee for an anticipated vacation leave must be submitted to the Department Head/Supervisor two (2) weeks prior to the beginning date of requested leave. A Department Head may approve a request for vacation leave with less than a two-week notice that is based on extenuating circumstances.
5. The City will attempt to grant the employee's request for time off; however, circumstances such as absenteeism of other employees, vacation, and workload issues may prohibit the request.

Exempt

1. Base vacation leave of ten (10) workdays per calendar year will be granted to exempt employees, after one (1) year of continuous satisfactory employment.
 - 1-5 years: 5 additional vacation days from base vacation leave
 - 5-10+ years: 10 additional vacation days from base vacation leave
2. Reimbursement will be made for accrued unused vacation leave upon termination only after one (1) year of continuous satisfactory employment. The maximum number of vacation days (base plus additional) an employee is allowed to be paid for as accrued days is 20. Time will be provided for exempt employees, to make satisfactory arrangements for their vacation time without it impacting on their accrual limits for vacation leave. The exempt employees are highly encouraged to take leave to avoid exceeding the accumulated limit.
3. The scheduling of vacation leave for the Fire Chief will be coordinated and approved by the City Manager.

4. A request from an exempt employee, other than the Fire Chief, for an anticipated vacation leave must be submitted to the Fire Chief two (2) weeks prior to the beginning date of requested leave. A Fire Chief may approve a request for vacation leave with less than a two-week notice that is based on extenuating circumstances. A request from the Fire Chief for an anticipated vacation leave must be submitted to the City Manager two (2) weeks prior to the beginning date of requested leave.
5. The City will attempt to grant the employee's request for time off; however, circumstances such as absenteeism of other employees, vacation, and workload issues may prohibit the request.

Sick Leave

Sick leave under this policy has the identical definition as the term is used to describe sick leave for employees in other departments under this manual.

Accrual of Sick Leave

Full-time employees earn sick leave at the rate of one (1) working day per month for each full month of continuous service with the City. Eligibility for sick leave begins at the time of hire. Credit for sick leave may be accumulated from year to year up to twenty (20) working days. Sick leave must be earned before it is used. Earned, unused sick leave credit is not paid upon termination of employment for any reason.

Notice and Verification Requirements for Sick Leave

1. A request for sick leave, other than the Fire Chief, requires notification to supervisor and/or the Fire Chief at least two (2) hours prior to the beginning of a work shift. If this is not possible, the employee must contact the supervisor and/or the Fire Chief at the beginning of the work shift. If conditions make it impossible for the employee to call the supervisor and/or the Fire Chief personally, the employee must arrange for someone to provide such notice. A request from the Fire Chief for sick leave must be submitted, or arrangements must be made to submit, to the City Manager as soon as reasonably possible. Employees using any sick leave may be asked to furnish a health care provider's statement to the supervisor and/or the Fire Chief. Absences beyond three (3) consecutive working days must be documented by a health care provider's statement and the dates that the employee was under the physician's care. For absences lasting more than a full shift, you must contact the central Human Resources designee to determine whether you may qualify for FMLA. Employees must use sick leave for its intended purpose. Supervisors will monitor employee use of sick leave for indications of abuse. Abuse of paid sick leave may result in disciplinary action up to and including termination of employment.

Miscellaneous

1. An employee who is ill one-half (1/2) his/her normal work shift or more must charge this leave time to sick leave unless he/she has no sick leave balance.

2. If an employee is sick while on vacation, he/she may use sick leave time instead of vacation time if he/she furnishes the supervisor with a statement from the doctor.
3. Any scenario or situation that is not addressed in this section will be controlled by any fire department standard operating procedures. If the fire department standard operating procedures are silent to a specific scenario or situation and not addressed in this policy then the City Employee Manual controls.

Pending CC Approval

Sec. 18-21. - Home occupation.

A service-related occupation or profession engaged in by the occupants of a dwelling, limited to any of the following: accounting, architecture, dentistry, interior design, lawyer, physician, musician, artist, seamstress or computer services. The proprietor of a home occupation may not have any employees or assistants, install any signage, create any trash or refuse beyond the average amount normally generated by residences in the neighborhood, create any odor, dust, smoke, vibration, noise, heat, glare or electromagnetic interference which can be detected at, or beyond, the property line, store equipment, material or stock outdoors, store explosives or highly flammable or hazardous materials on the premises, nor permit off-site parking of customers, clients or commercial vehicles.

(Code 1986, § 15.103; Ord. No. 367, 3-20-2001)

ORDINANCE NO. 2019-692 (O)

AN ORDINANCE REPEALING ORDINANCE 2016-618B(O) ENACTED ON FEBRUARY 1, 2016 AND ORDINANCE 2016-618E(O) ENACTED ON JANUARY 9, 2017 AND CREATING ARTICLE III OF CHAPTER 2 OF THE WINDCREST CODE OF ORDINANCES REGARDING PARLIAMENTARY PROCEDURES AT PUBLIC MEETINGS.

WHEREAS, the City of Windcrest is a home rule municipality located within Bexar County, Texas; and

WHEREAS, the City of Windcrest, as a home rule municipality, derives its powers exclusively from its home rule charter and is limited in authority only by express provisions of the Texas Constitution and the State statutes; and

WHEREAS, the City Council has determined necessity exists to update, consolidate and clarify the ordinance setting the rules applicable to public city meetings; and

WHEREAS, the City Council finds this ordinance is necessary for the good and efficient management of the City.

**I.
ADOPTION**

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Ordinance 2019-692 (O) is hereby adopted, Ordinance 2016-618B(O), Ordinance 2016-618E(O) and provisions of any ordinance inconsistent with this Ordinance are repealed and the City Council creates and adopts in their place Article III of Chapter 2 of the City of Windcrest Code of Ordinances which shall read as follows:

ARTICLE III – PARLIAMENTARY PROCEDURES FOR PUBLIC MEETINGS

Section 2-50. - MEETING SCHEDULES

- A. Regular City Council meetings shall be held on the first and third Mondays of each month at 6:00 pm in the City Council Chambers at City Hall. In the event that the date for a regular meeting falls on a City, state, or federal holiday, the City Council may, by motion, change the date of that Meeting. The City Council retains the authority to adjust its legislative calendar as deemed necessary including a change in location of any specific meeting in the event City Hall is not readily available.

- B. In the event closed sessions are needed in conjunction with any City Council meeting, or a meeting of a board, commission, or committee of the City, such executive session shall be held pursuant to the Texas Open Meetings Act.
- C. Special City Council meetings may be called as the need arises for unpredictable or non-recurring events and shall be held at the time and date determined by those authorized to call special City Council meetings under the City Charter.
- D. Meetings for any board, commission, or committee of the City shall be scheduled at a time and location deemed appropriate by those designated by ordinance or the City Charter to call such meetings.

Section 2-51. - PARLIAMENTARY AUTHORITY

All prior parliamentary rules of procedure adopted by the City by ordinance are superseded by this Article. All meetings are held pursuant to the laws of the State of Texas, by the City Charter, and by adopted codes of the City. In the absence of any specific law, charter provision, or code section, the presiding officer at each meeting shall control the meeting and order of business. By a majority vote of the body holding the meeting, the order of business may be adjusted only in relation to the meeting in which the majority vote occurs.

Section 2-52. - PRESIDING OFFICER

A. City Council

- 1. The presiding officer at any meeting of the City Council shall be the Mayor.
- 2. In the absence of the Mayor, the Mayor Pro Tempore shall be the presiding officer at any meeting of the City Council.
- 3. In the absence of both Mayor and the Mayor Pro Tempore at a meeting, the duties of the presiding officer shall be assumed by the Council member with the longest continuous tenure on the City Council and who is present at such meeting.

B. City Board, Commission or Committee

- 1. At a meeting of any board, commission, or committee of the City, the presiding officer shall be the elected or appointed chair of such body.
- 2. In the absence of the chair, the vice-chair shall be the presiding officer at any meeting of a board, commission, or committee of the City.
- 3. In the absence of both the chair and vice-chair, the duties of the presiding officer shall be assumed by the member of the body with the longest continuous tenure on the body and who is present at such meeting.

Section 2-53. - VOTING AUTHORITY AND QUORUM

A. City Council

- 1. A quorum of the City Council at any meeting shall be a quorum as defined by the City Charter or by superseding state law.

2. The Mayor Pro Tempore, or other Council Member who is presiding, may vote as a regular City Council member, and shall count for purposes of a quorum, even when presiding over the meeting.
 - a. When a presiding officer casts a vote resulting in a tie, the motion fails.
 - b. Nothing in this Article requires a presiding officer to cast a vote when presiding.

B. City Board, Commission or Committee

1. At meetings of boards, commissions, and committees of the City, a quorum shall be comprised of a majority of the membership of the body present at a meeting and the vote of a majority of those present shall be required to pass a motion.
2. Unless otherwise provided by the City Charter or state law, the presiding officer of any boards, commissions and committees of the City counts towards a quorum and may vote on a motion.

Section 2-54. - DEBATE -SPEAKING HIERARCHY

In matters of debate, the presiding officer at a meeting of the City Council, city commission, or city board, in recognizing individuals to speak, will give precedence in the following order to: its Members, the City Manager, other staff members, guest presenters and members of the public.

Section 2-55. - PUBLIC COMMENTS ("CITIZENS TO BE HEARD")

- A. At all meetings of the City Council or any board or commission of the City, members of the public may address the body as specified in the City Charter. The City Council, board, or commission may enact rules not inconsistent with the City Charter or this Article, by ordinance or resolution, for the procedure and decorum of the public who wish to address the body.
- B. At all meetings of the City Council or any board or commission of the City, the time limits for comments by any particular individual may not be transferred to another speaker in whole or in part. The presiding officer will assign a time keeper to each meeting. The time keeper will maintain strict compliance with the three-minute and six-minute rules as required by the City Charter, stopping speakers who exceed the allotted time.
- C. If, at a meeting, a member of the public or of the governmental body should inquire about a subject for which notice has not been duly provided under the Texas Open Meetings Act, a City officer or official may, in accordance with state law and the Charter, respond with:
 1. a statement of specific factual information; or
 2. a recitation of existing policy.

- D. Any deliberation of or decision about a subject of inquiry that is not a posted agenda item shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.
- E. Any question posed by a member of the public, council member, board member or commission member for which an answer is not available at a meeting shall be answered by a member of the staff or the Presiding Officer at the earliest opportunity, if an answer is reasonably available and prudent. If the information is sensitive, staff will seek advice from the City Attorney.

Section 2-56. -AGENDAS

A. City Council

1. Definitions for Agenda Items:

- a) *Action Item* shall mean an item requiring or anticipating a vote of the City Council at a meeting.
- b) *Agenda Item* shall mean an item for discussion, action, presentation, information, or administration which is placed on an agenda in compliance with the Texas Open Meetings Act.
- c) *Discussion Item* shall mean an agenda item for information purposes or deliberation purposes, but which is not expected to require a vote of the City Council.
- d) *Executive Session Item* shall mean an agenda item for closed session deliberations pursuant to the Texas Open Meetings Act. The City Council reserves the right to go into executive session for any item on the agenda which qualifies for closed session deliberations, whether identified as an executive session or not. However, the City Council may designate an item for executive session in advance, if it so chooses. Executive Session Items are for deliberation purposes. However, the City Council may take action on any executive session time once it returns to open session.

2. Draft Agenda: Any member of the City Council, including the Mayor or the City Manager, may request an agenda item be placed on an agenda for an upcoming meeting. However, the City Council recognizes City staff needs time to prepare items for submission and the agenda and therefore it imposes the following:

- a) **Preparation:** The City Secretary, at the direction of the City Manager, shall be responsible for the preparation of the City Council agenda.
- b) **Submission of Requests by Council:** When making a request to place an item on an agenda, the requesting member must submit, in writing, the wording of the item and any supporting documentation for the item to the City Secretary by the request deadline. The requesting member must provide a copy to the City

Manager, Mayor, and City Attorney. The City Attorney may adjust the wording of any requested item, while leaving the substance, in order to ensure the item complies with state law, the City Charter, and City ordinances.

- c) **Action Items:** Action items must be requested to be placed on any agenda by the City Council members at least fifteen (15) working days prior to the meeting.
 - d) **Discussion Items:** Discussion items must be requested to be placed on any agenda by the City Council members at least seven (7) working days prior to the meeting.
 - e) **City Staff:** City staff may request the City Manager place agenda items on the agenda during the drafting process. However, placement of such items is at the sole discretion of the City Manager.
 - f) **Amendment or Removal:** Once placed on a draft agenda, agenda items can only be amended or removed from the agenda with the approval of the Council Member or Mayor who requested the item be placed on the agenda.
 - g) **Future Items:** Every agenda shall include items for consideration of future agendas for regular and special meetings. Any member may request the inclusion of such items at any meeting.
 - h) **Draft Agenda Distribution:** City Council members shall be given a draft agenda at least one hundred twenty (120) hours before a meeting, with or without attachments. The City Council members may suggest corrections to the draft agenda or removal of items until ninety-six (96) hours before a meeting.
 - i) **Final Agenda:** The final agenda, with attachments, shall be given to City Council members no later than seventy-two (72) hours prior to the regular or special City Council meeting is scheduled to occur.
 - j) **Special Meetings:** If two (2) City Council members exercise their rights under the City Charter to request a special meeting, the meeting agenda shall include any agenda items submitted by the two (2) members who requested the special meeting.
3. **Staff Conduct:** It shall be deemed misconduct if any employee of the City of Windcrest discloses to any individual confidential written or oral information received from City Council members regarding future proposed City Council actions while such proposed actions are being reviewed and discussed by staff members prior to the release of such information for public consideration. Notwithstanding the foregoing, information regarding future proposed City Council actions may be shared with employees who require such information for the purposes of facilitating City Council meetings or agendas or to conduct research relative to the future proposed City Council actions.

B. Boards, Commissions and Committees of the City

- 1. **Definitions:** Boards, commissions, and committees subject to the Texas Open Meetings Act may adopt individual definitions which are not inconsistent with state

law, the City Charter, or this Article. Absent such adopted definitions, the definitions for agenda items applicable to the City Council shall also be applicable to all boards, commissions, and committees subject to the Texas Open Meetings Act.

2. **Preparation:** Absent individually adopted procedures of a board, commission, or committee of the City, the City Secretary, at the direction of the City Manager, shall prepare all agendas for boards, commissions, and committees of the City.
3. **Draft Agenda:** Any member of the body may request an item be placed on the agenda for that body. Each board, commission, and committee shall adopt procedures for the timing of submission which are consistent with the Texas Open Meetings Act. Absent such adopted procedures, all members wishing to put an item on an agenda must make the request to the City Secretary seven (7) working days prior to the meeting.
4. **Final Agenda:** The final agenda, with attachments, shall be given to body members no later than seventy-two (72) hours prior to the meeting is scheduled to occur.

C. **Meeting Business:** The presiding officer shall attempt to preserve the order of the agenda as published. However, the presiding officer may also propose a change in the order of the agenda for good cause and the proposed change will occur, absent objection from a member of the body. If a member of the body objects to an order change and the presiding officer desires to overrule an objection, the presiding officer shall call for a point of order vote on the order change.

Section 2-57. - CONDUCT AT MEETINGS

Persons in attendance at City Council, city commission, or city board meetings must conduct themselves in a respectable manner and may be ruled out of order by the presiding officer if conduct becomes unruly or disruptive. The public forum of a City Council, city commission, or city board meeting shall be used for the discussion of issues of interest to the City and shall not be used to personally attack, berate, embarrass, libel, or slander any person. The presiding officer shall warn an unruly or disruptive individual or an individual making a personal attack on another person of such misconduct one time, and if such misconduct continues unabated, the presiding officer shall have the individual expelled from the meeting, and if appropriate, refer the matter to law enforcement authorities. The conduct described in this section is in addition to any specific rules adopted by ordinance or resolution of the City Council, city commission, or city board.

Section 2-58. – EXCEPTIONS

Notwithstanding any other section of this Article, the provisions of this Article do not apply to:

- A. **The Windcrest Economic Development Corporation:** The Corporation must adopt its own parliamentary procedures for its public meetings. The Corporation is not subject to this Article.

- B. **Advisory Boards:** City boards which are advisory in nature only and not subject to the Texas Open Meetings Act are not subject to this Article.
- C. **Advisory Committees:** Mayor and City Council committees which are advisory in nature only and not subject to the Texas Open Meetings Act are not subject to this Article.

Section 2-59. - ENFORCEMENT

As these are considered parliamentary procedures, the City Council, through its legislative and administrative authority, is the sole body to enforce the provisions of this Article. Any board, commission, or committee or any members of such board, commission, or committee found to be violating the mandatory provisions of this Article shall be subject to forfeiture of office or position or disbandment of such body. The City Council may enforcement the provisions of this Article through all legal means applicable.

II. CONSTRUCTION

THESE AMENDMENTS ARE TO BE CONSTRUED CONSISTENT WITH CHAPTER 1 OF THE WINDCREST CODE OF ORDINANCES.

III. CUMULATIVE CLAUSE

This Ordinance shall be cumulative of all provisions of the Windcrest Code of Ordinances except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

IV. SEVERABILITY

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

V. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meetings at which this Ordinance was approved and adopted was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government.

**VI.
EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as required by state and local law.

**VII.
READINGS**

FIRST READING approved by the City Council of the City of Windcrest this the 4th day of March 2019.

SECOND READING DULY PASSED AND APPROVED, on the 18th day of March 2019 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS



Dan Reese, Mayor

ATTEST:


Rachel C. Dominguez, City Secretary

APPROVED:


Ryan Henry, City Attorney
Artin Derohanian

CITY COUNCIL AGENDA ITEM MEMO

DEPARTMENT: Choose an item.

REQUESTOR:

DEPARTMENT HEAD:

IMPACTED DEPARTMENT/'S: (if applicable): Choose an item.

SUBJECT:

SUMMARY:

ACTION NEEDED: Choose an item.

BACKGROUND INFORMATION:

ISSUE:

This ordinance/resolution accepts

ALTERNATIVES:

(Example: As an alternative, City Council could choose not to award this
However,...)

FISCAL IMPACT:

(Identify the financial impact to the to City budget.)

RECOMMENDATION:

(Person or Department presenting) recommends approval of this ordinance accepting/amending/etc.