

Harker Heights

*The Bright Star Of
Central Texas*

OCTOBER 12, 2021

5:00 P.M.

CITY COUNCIL MEETING AGENDA



**Harker Heights
Public Service Day**

**Saturday, October 9, 2021
8:00 am - 1:00 pm
Harker Heights City Hall
305 Miller's Crossing**

Visit the Harker Heights Farmers Market to shop with local vendors and meet City of Harker Heights departments! The following will be in attendance:

- The Harker Heights Pet Adoption Center
- The Harker Heights Police Department
- The Harker Heights Fire Department (from 10 am - 12 pm)

<http://bit.ly/heightsfarmersmarket>
254-953-5493



**Community Garage Sale
Address List**

The City of Harker Heights community wide garage sale has been postponed to
Saturday, October 9, 2021 from 7:00 am - 5:00 pm.

Due to time constraints for the rescheduled date, the map will not be available but the list of garage sales is now available.

Community Garage Sale Address List:
<https://bit.ly/harkerheightsevents>
Harker Heights Activities Center, 400 Indian Trail
Harker Heights Recreation Center, 307 Miller's Crossing

254-953-5493



**NOTICE OF MEETING OF THE CITY COUNCIL OF
THE CITY OF HARKER HEIGHTS, TEXAS**

The City Of Harker Heights
305 Miller's Crossing
Harker Heights, Texas 76548
Phone 254/953-5600
Fax 254/953-5614

Notice is hereby given that, beginning at 5:00 p.m. on Tuesday, October 12, 2021, and continuing from day to day thereafter if necessary, the City Council of the City of Harker Heights, Texas, will hold a meeting in the in the Kitty Young Council Chamber at 305 Miller's Crossing, Harker Heights, Texas 76548. The subjects to be discussed are listed in the following agenda:

MEETING AGENDA

Mayor

Spencer H. Smith

Mayor Protem

Jennifer McCann

City Council

Michael Blomquist
Jackeline Soriano Fountain
Lynda Nash
Sam Halabi

I. Invocation:

II. Pledge of Allegiance:

I Pledge Allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Honor the Texas Flag. I pledge allegiance to thee Texas; one State under God, one and indivisible.

III. Roll Call:

IV. Consent Items:

1. Discuss and consider approving the minutes of the meetings held on September 27, 2021, and September 28, 2021, and take the appropriate action.

V. Presentations by Citizens:

1. Receive and discuss a presentation by John and Vicki Foster regarding the permanent foundation requirement for a single manufactured home placed on a single leased lot in a multi-use district.
2. Citizens who desire to address the Council on any matter may do so during this item. Please understand that while the Council appreciates hearing your comments, State law (Texas Gov't Code §551.042) prohibits them from: (1) engaging in discussion other than providing a statement of specific factual information or reciting existing City policy, and (2) taking action other than directing Staff to place the matter on a future agenda. Please state your name and address for the record and limit your comments to three minutes.

VI. Public Hearing:

1. Conduct a Public Hearing to discuss and consider approving an Ordinance of the City of Harker Heights, Texas, to change zoning designation from B-3 (Local Business District) to B-4 (Secondary and Highway Business District) on property described as Meadow Acres, Block 006, Lot Pt 7, 8, (E 14.5' of N 130' of 7 & W 85.5 of N 130' Of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas; and take the appropriate action. (Planning and Development Director)

2. Conduct a Public Hearing to discuss and consider approving an Ordinance of the City of Harker Heights, Texas, Amending §155.003 of the Harker Heights Code of Ordinances to clarify the Definition of Board of Adjustment; and take the appropriate action. (Planning and Development Director)

VII. Regular Business:

1. Discuss and consider approving an Appeal of the False Robbery Alarm Service Charge for Danny East at 211 Evergreen Drive, Harker Heights, Texas, and take the appropriate action. (City Secretary)
2. Receive and discuss the revised Lead and Copper Rule, and the Senate Bill 3, Emergency Preparedness Plan Updates. (Public Works Director)
3. Receive and discuss the City Manager's Report. (City Manager)

VIII. Items from Council and Announcements:

1. Council member closing statements.
2. Updates and comments from the Mayor.

IX. Adjournment:

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Harker Heights, Texas, a place readily accessible to the general public at all times, on the 8th day of October 2021, by 4:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.



Julie Helsham
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 254-953-5600, or FAX 254-953-5614, or email jhelsham@harkerheights.gov for further information.

Pursuant to Chapter 551 of the Government Code the City Council reserves the right to go into Closed Meeting on any item listed above if deemed necessary.

Note: On occasion the City Council may consider agenda items out of order.

Minutes of the City of Harker Heights Special Council Meeting held at 5:00 p.m. on Monday, September 27, 2021, in the Kitty Young Council Chamber at the Harker Heights City Hall at 305 Miller's Crossing, Harker Heights, Texas 76548:

Roll Call:	Spencer H. Smith	Mayor
	Jennifer McCann	Mayor Pro-tem
	Michael Blomquist	Councilmember Place 2
	Jackeline Soriano Fountain	Councilmember Place 3 – <i>Joined the meeting at 5:44 p.m.</i>
	Lynda Nash	Councilmember Place 4
	Sam Halabi	Councilmember Place 5
	David Mitchell	City Manager
	Julie Helsham	City Secretary

Presentations by Citizens:

1. Howard Arey, 2027 Sandy Point Road, Harker Heights, Texas, made a presentation.
2. Nigel Dunn, 3410 Shoreline Drive, Harker Heights, Texas, made a presentation.

Budget Items:

1. Council conducted a Public Hearing to discuss and consider approving an Ordinance of the City Council of the City of Harker Heights, Texas, adopting the Budget for the Fiscal Year beginning October 1, 2021, and ending September 30, 2022. Ayesha Lealiiee, Finance Director, and David Mitchell, City Manager, made the presentation.

Mayor Smith opened the Public Hearing at 5:38 p.m.

The following Harker Heights citizens were present at the meeting and presented verbal comments during the public hearing:

- Randy Schoel, 3226 Eagle Ridge, Harker Heights, Texas
- Brenda S. Johnson, 717 Coyote Circle, Harker Heights, Texas
- Howard Arey, 2027 Sandy Point, Harker Heights, Texas
- Lynne Boehm, 3908 Deer Ridge, Harker Heights, Texas
- John Reider, 2017 Caribou Trail, Harker Heights, Texas
- Richard Keagle, 511 Llama, Harker Heights, Texas
- Hal Schiffman, 890 Verna Lee Blvd., Harker Heights, Texas
- Larry Robison, 410 Robison Drive, Harker Heights, Texas
- Robert Beers, 3914 Bella Vista Loop, Harker Heights, Texas

The following Harker Heights citizens were present but did not speak or make a presentation. Attached is the speaker form submitted with comments.

- Brian Egan, 2011 Kangaroo Trail, Harker Heights, Texas
- J Michael Miller, 715 Bobcat Circle, Harker Heights, Texas
- Lisa Colon-Flores, 1706 Antelope Trail, Harker Heights, Texas
- Laura Oliver, 316 Tanner Lane, Harker Heights, Texas
- Jody Nicholas, 308 Bareback Trail, Harker Heights, Texas

Attached is a written email sent by Glen and Cheryl Cipriani for public comment.

Fountain made the motion to approve an Ordinance of the City Council of the City of Harker Heights, Texas, adopting the Budget for the Fiscal Year beginning October 1, 2021, and ending September 30, 2022. Seconded by Nash. Mayor Smith conducted a record vote. The results are as follows: McCann voted aye, Blomquist voted aye, Fountain voted aye, Nash voted aye, and Halabi voted aye. All in favor. Motion approved 5-0.

Mayor Smith called for a short break at 7:34 p.m.

Mayor Smith reconvened the meeting at 7:45 p.m.

2. Council conducted a Public Hearing to discuss and consider approving an Ordinance of the City Council of the City of Harker Heights, Texas, prescribing and setting the Fiscal Year 2021-2022 Rates and Charges; Penalties for non-payment; and providing for an effective date. Ayesha Lealiiee, Finance Director, made the presentation.

Blomquist made the motion to approve an Ordinance of the City Council of the City of Harker Heights, Texas, prescribing and setting the Fiscal Year 2021-2022 rates and charges; penalties for non-payment; and providing for an effective date. Seconded by McCann. All in favor. Motion approved 5-0.

3. Council discussed and considered ratifying the Property Tax increase reflected in the Fiscal Year 2021-2022 Budget. Ayesha Lealiiee, Finance Director, made the presentation.

Fountain made the motion to Ratify the property tax increase reflected in the Fiscal Year 2021-2022 Budget. Seconded by Nash. Mayor Smith conducted a record vote. The results are as follows: McCann voted aye, Blomquist voted aye, Fountain voted aye, Nash voted aye, and Halabi voted aye. All in favor. Motion approved 5-0.

Adjournment:

There being no further business the City of Harker Heights City Council Meeting was adjourned at 7:54p.m.

CITY OF HARKER HEIGHTS, TEXAS:

Spencer H. Smith, Mayor

ATTEST:

Julie Helsham, City Secretary

REQUEST TO ADDRESS AN ITEM ON THE AGENDA
AT THE CITY COUNCIL MEETING OF THE
CITY OF HARKER HEIGHTS

3.
No Speak.

MEETING DATE: 9/27/21

AGENDA ITEM: Budget

Print Name: Brian Egan

Address: 2011 Kangaroo TR.
Harker Height

Phone number: _____

Cell Phone Number: (254) 541-6890

E-Mail Address: bjeegan@hotmail.com

Comments: _____

- I do not wish to speak or make a presentation.
- I would like to speak and make my presentation at the meeting.

Please give this completed form to the City Secretary. Responses will be limited to three (3) minutes. No action can be taken.

I understand that I must limit my comments to three (3) minutes. I will also refrain from the use of any obscene, vulgar, or profane language. I understand that if I do not follow this procedure, my speaking time may be terminated.

[Signature]
Signature

9/27/21
Date

Office Use Only
Received by: [Signature]
Date: 09-27-21
Time: 4:55 pm

REQUEST TO ADDRESS AN ITEM ON THE AGENDA
AT THE CITY COUNCIL MEETING OF THE
CITY OF HARKER HEIGHTS

12
Not to report

MEETING DATE: 9-28-21

AGENDA ITEM: VI

Print Name: J Michael Miller

Address: 715 Robert Ct Harker Heights TX

Phone number: 254 289-2281 690-5000

Cell Phone Number: ✓

E-Mail Address _____

Comments: _____

I do not wish to speak or make a presentation.

I would like to speak and make my presentation at the meeting.

Please give this completed form to the City Secretary. Responses will be limited to three (3) minutes. No action can be taken.

I understand that I must limit my comments to three (3) minutes. I will also refrain from the use of any obscene, vulgar, or profane language. I understand that if I do not follow this procedure, my speaking time may be terminated.

J Michael Miller
Signature

9-28-21
Date

Office Use Only
Received by: [Signature]
Date: 09-27-21
Time: 4:49 pm

REQUEST TO ADDRESS AN ITEM ON THE AGENDA
AT THE CITY COUNCIL MEETING OF THE
CITY OF HARKER HEIGHTS

MEETING DATE: 9.27.21

AGENDA ITEM: _____

Print Name: Lisa Colón - Flores

Address: 1706 Antelope Trl

Phone number: 254-577-0768

Cell Phone Number: 17

E-Mail Address lcolonflores@yahoo.com

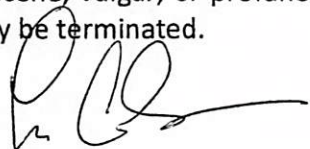
Comments: I wish to comment the council use
"no-new-tax-revenue" for upcoming fiscal year.

I do not wish to speak or make a presentation.

I would like to speak and make my presentation at the meeting.

Please give this completed form to the City Secretary. Responses will be limited to three (3) minutes. No action can be taken.

I understand that I must limit my comments to three (3) minutes. I will also refrain from the use of any obscene, vulgar, or profane language. I understand that if I do not follow this procedure, my speaking time may be terminated.



Signature

9.27.21

Date

Office Use Only
Received by: Ed
Date: 9.27.2021
Time: 4:55 pm

REQUEST TO ADDRESS AN ITEM ON THE AGENDA
AT THE CITY COUNCIL MEETING OF THE
CITY OF HARKER HEIGHTS

MEETING DATE: _____

AGENDA ITEM: Budget

Print Name: Laura Oliver

Address: 316 Tanner Lane
HH, 76548

Phone number: _____

Cell Phone Number: 808-375-7647

E-Mail Address: AuntLaura75@yahoo.com

Comments: ~~Please~~

There is distinct difference between
Revenue increase & tax rate increase. As the city
continues to grow, revenue will increase &
should increase to support infrastructure.

I do not wish to speak or make a presentation.

I would like to speak and make my presentation at the meeting.

Please give this completed form to the City Secretary. Responses will be limited to three (3) minutes. No action can be taken.

I understand that I must limit my comments to three (3) minutes. I will also refrain from the use of any obscene, vulgar, or profane language. I understand that if I do not follow this procedure, my speaking time may be terminated.

[Signature]
Signature

27 Sept 21
Date

Office Use Only
Received by: [Signature]
Date: 4:51 pm
Time: 09-27-2021

REQUEST TO ADDRESS AN ITEM ON THE AGENDA
AT THE CITY COUNCIL MEETING OF THE
CITY OF HARKER HEIGHTS

#10.
did not speak

MEETING DATE: 9/27/2021

AGENDA ITEM: V31

Print Name: JODY NICHOLAS

Address: 308 BAREBACK TRAIL
HARKER HTS

Phone number: 703-675-2959

Cell Phone Number: ↓

E-Mail Address: Jody.nicholas1114@gmail.com

Comments: TAXES

Last speaker if not already addressed

- I do not wish to speak or make a presentation.
- I would like to speak and make my presentation at the meeting.

Please give this completed form to the City Secretary. Responses will be limited to three (3) minutes. No action can be taken.

I understand that I must limit my comments to three (3) minutes. I will also refrain from the use of any obscene, vulgar, or profane language. I understand that if I do not follow this procedure, my speaking time may be terminated.

Jody Nicholas
Signature

9/27/2021
Date

Office Use Only
Received by: [Signature]
Date: 9.27.2021
Time: 4:43 pm

From: David Mitchell
To: Julie Helsham; Jerry Bark; Spencer Smith
Subject: FW: September 27 Budget Hearing
Date: Thursday, September 16, 2021 4:22:53 PM

From: Jackeline Soriano Fountain <jfountain@harkerheights.gov>
Sent: Thursday, September 16, 2021 3:47 PM
To: David Mitchell <dmitchell@harkerheights.gov>
Subject: Fwd: September 27 Budget Hearing

Afternoon David in the event you have not seen this letter

Jackeline Soriano Fountain
Harker Heights City Council
Place #3

Begin forwarded message:

From: Glen Cipriani <painless2u@att.net>
Date: September 16, 2021 at 10:06:03 AM CDT
To: Michael Blomquist <mblomquist@harkerheights.gov>, Jackeline Soriano Fountain <jfountain@harkerheights.gov>, Lynda Nash <lnash@harkerheights.gov>, Sam Halabi <shalabi@harkerheights.gov>
Subject: September 27 Budget Hearing

Dear City Council Member,

Concerning the 4.9% property tax increase for the proposed city budget, my wife and I wish to let it be known we oppose this increase and ask the Council to reduce the tax rate to the "no-new-revenue-rate" and reduce city reserves from the proposed \$10,235,244 to \$9,770,244. We are current residents of Harker Heights and are now in the process of building a new home located at 103 Rodeo Circle. We are retired and have been alarmed at the recent property tax increases over the last few years. This proposed increase furthers our concern to the point we may regret building our retirement home in this city.

It is our understanding that the nearby community of Nolanville is actually reducing their rate to below the no-new-revenue-rate and will see a 2% reduction in property tax. It also appears our city has a budget surplus of a 6 month operating expense. We have not been made aware as to the plans the city has for the surplus or why it is felt another increase is needed. Some residents have already reached out with these questions to the Council and have not received any satisfactory answers to date.

We will be unable to attend the upcoming meeting due to previously planned travel out of state. Please allow this letter as our input for that meeting. It is our hope that the

Council will reconsider any increase to the already high property tax rate and, at minimum, reduce to the no-new-revenue-rate for the proposed budget. We also wish the Council would be more transparent as to why such increases were considered necessary.

Sincerely,

Glen and Cheryl Cipriani
2035 Rain Dance Loop
Harker Heights, TX 76548
254-760-4047

Minutes of the City of Harker Heights Council Meeting held at 5:00 p.m. on Tuesday, September 28, 2021, in the Kitty Young Council Chamber at the Harker Heights City Hall, 305 Miller's Crossing, Harker Heights, Texas 76548:

Roll Call:	Spencer H. Smith	Mayor
	Jennifer McCann	Mayor Pro-tem
	Michael Blomquist	Councilmember Place 2
	Jackeline Soriano Fountain	Councilmember Place 3
	Lynda Nash	Councilmember Place 4
	Sam Halabi	Councilmember Place 5
	David Mitchell	City Manager
	Julie Helsham	City Secretary

Mayoral Proclamations and Presentations:

1. Mayor Smith proclaimed the month of October, 2021, as "Fire Prevention Month" and October 3rd - 9th, 2021, as "Fire Prevention Week". Fire Chief Paul Sims and members of the Fire Department were present to accept the proclamation.

Consent Items:

1. Council discussed and considered approving the minutes of the meetings held on September 14, 2021, and September 21, 2021.

Blomquist made the motion to approve the minutes of the meetings held on September 14, 2021, and September 21, 2021, as written. Seconded by McCann. All in favor. Motion approved 5-0.

Presentations by Citizens:

1. Eunice Humphrey, 1105 Alberta Circle, Harker Heights made a presentation regarding drainage issues.

Budget Items:

1. Council conducted a Public Hearing to discuss and consider approving an Ordinance of the City Council of the City of Harker Heights, Texas, Levying a Tax Rate of \$0.6519 Per \$100 Valuation, comprised of \$0.5063 for Maintenance and Operations and \$0.1456 for Interest and Sinking, for Fiscal Year 2021-2022 (Tax Year 2021). Ayesha Lealiiee, Finance Director, made the presentation.

Fountain made the motion to approve an Ordinance of the City Council of the City of Harker Heights, Texas, levying a tax rate of \$0.6519 per \$100 valuation, comprised of \$0.5063 for maintenance and operations and \$0.1456 for interest and sinking, for Fiscal Year 2021-2022 (Tax Year 2021). Seconded by Nash. Mayor Smith conducted a record vote. The results are as follows: McCann voted aye, Blomquist voted aye, Fountain voted aye, Nash voted aye, and Halabi voted aye. All in favor. Motion approved 5-0.

Nash made the motion that the property tax rate be increased by the adoption of a tax rate of \$0.6519, which is effectively a 3.39% increase in the tax rate. Seconded by Halabi. Mayor Smith conducted a record vote. The results are as follows: McCann voted aye, Blomquist voted aye, Fountain voted aye, Nash voted aye, and Halabi voted aye. All in favor. Motion approved 5-0.

Regular Business:

1. Council discussed and considered approving an Ordinance of the City of Harker Heights, Texas, amending Chapter 33, of the Code of Harker Heights establishing an Arts Commission; Providing for Membership, Filling Vacancies, Removal; Providing for Qualifications of Members, Providing for Meetings and By-Laws; and Providing for an effective date. Jerry Bark, Assistant City Manager, made the presentation.

McCann made the motion to approve an Ordinance of the City of Harker Heights, Texas, Amending Chapter 33, of the Harker Heights Code establishing an Arts Commission; Providing for Membership, Filling Vacancies, Removal; Providing for Qualifications of Members; Providing for Meetings and By-Laws; and providing for an effective date. Seconded by Fountain. All in favor. Motion approved 5-0.

2. Council discussed and considered approving an Ordinance of the City of Harker Heights, Texas, amending Chapter 33, of the Code of Harker Heights to remove the Assistant Public Works Director and the Public Works Customer Relations Supervisor from the Storm Water Committee and adding the Public Works Administrative Assistant to the Storm Water Committee. Mark Hyde, Public Works Director, made the presentation.

Fountain motion to approve an Ordinance amending Chapter 33, of the Code of Harker Heights to remove the Assistant Public Works Director and the Public Works Customer Relations Supervisor from the Storm Water Committee and adding the Public Works Administrative Assistant to the Storm Water Committee. Seconded by Halabi. All in favor. Motion approved 5-0.

3. Council received and discussed the City Manager's Report. David Mitchell, City Manager, made the presentation. No action taken.

Items from Council and Announcements:

1. Council member closing statements.

Councilmember Fountain stated that she attended the following events:

- September 17th – POW/MIA Ceremony at VFW 3892 Harker Heights
- September 18th – A Hispanic Heritage Month Event
- September 20th – Harker Heights High School Community Homecoming Rally
- September 24th – III Corps Phantom Honors Ceremony for Fort Hood Retirees

Councilmember Blomquist stated that he attended the following events:

- September 18th – Harker Heights Farmer's Market
- September 20th – Harker Heights High School Community Homecoming Rally
- September 25th - Harker Heights Farmer's Market

Councilmember Blomquist thanked the City Manager and City Staff for providing him assistance as the Chairman for the Bell County Health District.

Councilmember Nash stated that she attended the following events:

- September 16th – Attended the Unaccompanied Soldier who had no family members at the Veteran's Cemetery
- September 17th – Command Sgt. Maj. A.C. Cotton Funeral Service
- September 20th – Harker Heights High School Community Homecoming Rally
- September 24th – Rededication of Brig. Gen. Terence J. Hildner Field at 13th ESC
- September 24th - III Corps Phantom Honors Ceremony for Fort Hood Retirees

Mayor Pro-tem McCann stated that she attended the following events:

- September 25th – Harker Heights Farmer’s Market
- September 20th – Harker Heights High School Community Homecoming Rally
- September 21st – Tour of the National Mounted Warfare Museum construction site with City Staff and City Council at Fort Hood

2. Updates and comments from the Mayor.

Mayor Smith stated that he attended the following events:

- September 15th – Harker Heights City Hall meeting with City Staff
- September 15th – Harker Heights Chamber of Commerce Board Meeting
- September 17th - POW/MIA Ceremony at VFW 3892 Harker Heights
- September 18th – House Redistricting Committee testimony at Austin State Capital
- September 20th – Harker Heights City Hall meeting with representative from 14 Forward and City Staff
- September 20th - Harker Heights High School Community Homecoming Rally
- September 21st - Tour of the National Mounted Warfare Museum construction site with City Staff and City Council at Fort Hood
- September 21st – Harker Heights City Council Workshop
- September 22nd – Killeen Temple Metropolitan Planning Organization, Transportation Policy Planning Board Meeting (Virtual) – Elected Chairman for October 2021-September 2022
- September 22nd – Fort Hood Community Services Council Meeting at Fort Hood
- September 23rd – Central Texas Council of Governments Executive Board Meeting in Belton
- September 24th – 1st Cavalry Division Centennial Ceremony at Fort Hood
- September 24th - III Corps Phantom Honors Ceremony for Fort Hood Retirees
- September 24th – Harker Heights City Hall Meeting with City Staff
- September 25th – Tri-Unity Ministries Gathering at the Harker Heights Fire Department Central Station
- September 25th – Harker Heights Farmer’s Market
- September 27th – Harker Heights City Council Special Meeting
- September 28th – Senior Expo 2021 at Bell County Expo Center

Adjournment:

There being no further business the City of Harker Heights City Council Meeting was adjourned at 5:47 p.m.

CITY OF HARKER HEIGHTS, TEXAS:

Spencer H. Smith, Mayor

ATTEST:

Julie Helsham, City Secretary



COUNCIL MEMORANDUM

AGENDA ITEM # V-1

FROM: THE OFFICE OF THE CITY MANAGER

DATE: OCTOBER 12, 2021

RECEIVE AND DISCUSS A PRESENTATION BY JOHN AND VICKI FOSTER REGARDING THE PERMANENT FOUNDATION REQUIREMENT FOR A SINGLE MANUFACTURED HOME PLACED ON A SINGLE LEASED LOT IN A MULTI-USE DISTRICT.

EXPLANATION:

Mr. and Mrs. Foster own several Lots in the Comanche Land Second Unit subdivision that are currently zoned R-MU (Mixed Residential). R-MU allows for R-1(M) or Manufactured Home use within that zoning district. On July 20, 2021, Staff met with the Fosters regarding the code requirements for having manufactured homes placed on permanent foundations on Lots not located within a Manufactured Home Park. Since that time, the Fosters have met with staff on multiple occasions to discuss options for their properties.

John and Vicki Foster are coming before City Council to discuss potential changes to the City of Harker Heights Code of Ordinance Section 155.020(G).

City of Harker Heights Code of Ordinance Section 155.020(G) states the following:

- ***R-1(M) zoning designation.*** R-1(M) is a one family residential lot that also allows manufactured homes. All manufactured housing structures installed after December 31, 1999, must be installed on a permanent foundation, as that term is defined in § [152.01](#).

City of Harker Heights Code of Ordinance Section 155.01 defines a permanent foundation as follows:

- ***PERMANENT FOUNDATION.*** When used in the context of a manufactured home, means a system of supports, including piers, either partially or entirely below grade which is certified by the consumer/mortgagor and the lender/mortgagee in a real estate loan transaction as having permanently affixed the structure to the real estate or which is:
 - (1) capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure;
 - (2) placed at an adequate width below grade to prevent frost damage;
 - (3) constructed of concrete, metal, treated lumber or wood, or grouted masonry;
 - (4) designed so that the components of the foundation system cannot be removed from the site and used at any other location;

- (5) designed so that the attached structure resists overturning due to wind pressure by the dead load resisting moment of the structure and foundation. The weight of earth superimposed over footings may be used to calculate the dead load resisting moment. The overturning moment shall not exceed 2/3 of the dead load resisting moment;
- (6) designed to have the structure attached without the towing hitch, axles, brakes, wheels and other parts of the chassis that operate only during transportation; and
- (7) designed in accordance with accepted engineering practice to resist damage due to decay, insects and condensation. A licensed engineer or architect shall stamp and sign each foundation drawing. The foundation drawings shall contain the statement, "This foundation drawing describes a permanent foundation."

STAFF RECOMMENDATION:

None.

ATTACHMENTS:

1. Email from Mr. & Mrs. Foster
2. Lease History
3. Photos
4. Texas Build Guide
5. Texas Manufactured Housing Rules
6. Permanent Foundation Certifications
7. Letter from City with date and time of issue/ request to be heard
8. Zoning Ordinances

From: [vicki foster](#)
To: [Julie Helsham](#)
Subject: Placement on Harker Heights City Council Meeting Agenda
Date: Tuesday, September 7, 2021 9:30:15 AM

John and Vicki Foster want to discuss the ordinance that requires permanent foundation for a single manufactured home placed on a single leased lot in a multi use district. Reference: Definition for Permanent Foundation under General Provisions Ordinance 152.01; Requirement for One Family Dwelling District Ordinance 155.020 R-1 {G}.

Sent from [Mail](#) for Windows

John & Vicki Foster

Our Harker Heights History

In 1995 we decided the time was right to develop our lots for manufactured home leases. We talked to city officials and they liked the idea of bringing more families into the city. We went to city council meetings and received their support by having a utilities inspector (Jim Womack) work with us. My wife and I laid down over a mile of water and sewer pipe following his guidance. In 1997 we started leasing out lots. We kept working on other lots to prepare for leasing. On December 31, 1999 a new ordinance came in effect that required permanent foundations. This immediately affected us. I made an appointment with the city manager. He heard our problem and told us the city would get back with us later. An official of the city did get back with us about a week later and told us to provide a lease agreement to the application to have a manufactured home moved to our lot and the city would forgo the permanent foundation requirement. The first home was placed in early 2000 at 1408 Mohican Trail. From my recollection there has been 31 homes moved on our lots since January 1, 2000 without a permanent foundation. I now have been told in early 2021 that I have been in violation of the permanent foundation ordinance from the start. We own 24 lots. The addresses of our properties are as follows:

1501 Maya Trail	1404 Mohican Trail	1414 Mohican Trail
1503 Maya Trail	1406 Mohican Trail	1415 Mohican Trail
1505 Maya Trail	1408 Mohican Trail	1416 Mohican Trail
1507 Maya Trail	1409 Mohican Trail	1417 Mohican Trail
1509 Maya Trail	1410 Mohican Trail	1418 Mohican Trail
1511 Maya Trail	1411 Mohican Trail	1419 Mohican Trail
1513 Maya Trail	1412 Mohican Trail	1501 Mohican Trail
1517 Maya Trail	1413 Mohican Trail	1420 Hopi Trail





INDUSTRIALIZED HOUSING AND BUILDINGS

Builder's Guide

Revised October 15, 2009



Texas Department of Licensing and Regulation

PO Box 12157, Austin, TX – 1-800-803-9202 – 1-512-463-7353

Email address: industrialized.buildings@license.state.tx.us – Web Address: www.license.state.tx.us

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BUILDER'S GUIDE

The information in this document is provided as a guide to the requirements of the Industrialized Housing and Buildings (IHB) statute and rules, but is not intended as a replacement. It is the responsibility of the industrialized builder to review the actual statute and rules to assure a complete understanding of the requirements of the IHB program as they relate to the functions of the builder.

Most of the information in this guide is applicable to both industrialized housing (residential) and buildings (commercial). Look for the **RES** symbol for information that is pertinent only to housing (residential) or the **COM** symbol for information that is pertinent only to buildings (commercial).

Applicable Law and Rules

Chapter 1202 of the Occupations Code, Industrialized Housing and Buildings, is the statute governing the IHB program.

Chapter 70, Industrialized Housing and Buildings (Department Rules), are the rules written to enforce the statute.

Chapter 51, Texas Department of Licensing and Regulation, is the enabling statute for the Department.

Definitions

Industrialized Housing **RES**

Statute Definition [Section 1202.002 of the Occupations Code]

Industrialized housing is a residential structure that is

- ✓ Designed for the occupancy of one or more families
- ✓ Constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site
- ✓ Designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system

Industrialized housing includes the structure's plumbing, heating, air conditioning, and electrical systems.

Industrialized housing does not include

- ✓ A residential structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof
- ✓ Housing constructed of a sectional or panelized system that does not use a modular component
- ✓ A ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location

Other housing exempted from program [Department rule 70.30(a)]

The following types of housing are exempt from the IHB program.

- ✓ Mobile homes or HUD-code manufactured homes as defined in the Texas Occupations Code, Chapter 1201
- ✓ Housing constructed of sectional or panelized systems not utilizing modular components

Industrialized Buildings **COM**

Definition [Section 1202.003 of the Occupations Code]

An industrialized building is a commercial structure that is

- ✓ Constructed in one or more modules or constructed using one or more modular components built at a location other than the commercial site

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- ✓ Designed to be used as a commercial building when the module or modular component is transported to the commercial site and erected or installed

An industrialized building includes the following.

- ✓ The building's plumbing, heating, air conditioning, and electrical systems
- ✓ A permanent commercial structure and a commercial structure designed to be transported from one commercial site to another commercial site

An industrialized building does not include the following.

- ✓ A commercial structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof
- ✓ A structure that is not installed on a permanent foundation and is not open to the public
- ✓ A structure that is not installed on a permanent foundation and is less than 1,500 square feet in total area unless the building is used as a school or place of religious worship

Other buildings exempted from program [Department rule 70.30(a)]

The following types of buildings are exempt from the IHB program.

- ✓ Construction site buildings
 - Section 1202.001 of the Occupations Code defines a construction site building as a commercial structure that is not open to the public and that is used for any purpose at a commercial site by a person constructing a building, road, bridge, utility, or other infrastructure or improvement in real property
 - Section 1202.204 requires the Commission to exempt by rule construction site buildings
- ✓ Structures that are specifically referenced in the mandatory building code as exempt from permits

Other pertinent definitions [Department rule 70.10]

Reference the complete text of Department Rule 70.10 for all definitions pertinent to the IHB program. The following definitions are those that pertain particularly to retailers and installers of industrialized housing and buildings.

Industrialized builder – A person who is engaged in the assembly, connection, and on-site construction and erection of modules or modular components at the building site or who is engaged in the purchase of industrialized housing or buildings or of modules or modular components from a manufacturer or from another industrialized builder for sale or lease to the public; a subcontractor of an industrialized builder is not a builder for purposes of this chapter.

Installation permit – A registration issued by the department to a person who purchases an industrialized house or building for his/her own use and who assumes responsibility for the installation of the industrialized house or building. A person who applies for an installation permit may not be engaged in the purchase of industrialized housing or buildings or of modules or modular components for sale or lease to the public. A subcontractor of an installation permit holder is not an industrialized builder for the purposes of this chapter.

On-site construction – Preparation of the site, foundation construction, assembly and connection of the modules or modular components, affixing the structure to the permanent foundation, connecting the structures together, completing all site-related construction in accordance with designs, plans, specifications, and on-site construction documentation.

Permanent foundation system – A foundation system for industrialized housing or buildings designed to meet the applicable building code as set forth in §§70.100, 70.101, and 70.102 of the Department Rules.

Residential structure – Industrialized housing designed for occupancy and use as a residence by one or more families.

Commercial structure – An industrialized building classified by the mandatory building codes for occupancy and use groups other than residential for one or more families.

Permanent industrialized building – An industrialized building that is not designed to be transported from one commercial site to another commercial site.

Sale, sell, offer to sell, or offer for sale – Includes any contract of sale or other instrument of transfer of ownership of property, or solicitation to offer to sell or otherwise transfer ownership of property for an established price.

Site or building site – A lot, the entire tract, subdivision, or parcel of land on which industrialized housing or buildings are sited.

Third party inspector – An approved person or agency, private or public, determined by the council to be qualified by reason of facilities, personnel, experience, demonstrated reliability, and independence of judgment to inspect industrialized housing, buildings, and portions thereof for compliance with the approved plans, documentation, compliance control program, and applicable code.

Acronyms

IHB is Industrialized Housing and Buildings

TDLR is the Texas Department of Licensing and Regulation

Commission is the Texas Commission of Licensing and Regulation

Council is the Texas Industrialized Building Code Council

Builder is an Industrialized Builder

ICC is the International Code Council

IBC is the International Building Code

IRC is the International Residential Code

NEC is the National Electrical Code

IECC is the International Energy Conservation Code

TDHCA is the Texas Department of Housing and Community Affairs

Titling Requirements

There are no provisions in Chapter 1202 of the Occupations Code for titling of industrialized (modular) housing or buildings. The Department does not issue titles for any industrialized housing or buildings.

Industrialized Housing vs. Manufactured Housing RES

What are the differences between an industrialized (modular) home and a HUD-code manufactured home?

- ✓ The codes to which the housing is constructed
 - Modular housing in the State of Texas is constructed to the same codes as site built housing – in this case either the International Residential Code (single-family, duplex, or town home) or the International Building Code (all other housing)
 - Manufactured housing is constructed to Federal HUD code standards
- ✓ Modular housing is required to be installed on a permanent foundation system
- ✓ The Department does not issue titles on modular housing. Once installed the house becomes part of the real property and is titled as part of the real property
- ✓ Except as provided by Section 1202.253 of the Occupations Code, a municipality may not discriminate against modular housing built under the IHB program
- ✓ Certification labels
 - Industrialized housing decals are white acrylic with a blue star, a label serial number, and blue lettering. The text on the label reads as follows: “This label certifies that this module has been manufactured in accordance with the requirements of Chapter 1202 of the Occupations Code and the Texas Industrialized Building Code Council.” The label is permanently attached to each module that makes up an industrialized house in a location designated by the manufacturer on the floor plan or cover page of the construction plans for each model (for information concerning past decal designs see Bulletin #97-001 in appendix H)
 - The HUD label for HUD-Code Manufactured Housing is a red metal plate intended to be permanently attached on the exterior of a manufactured home, near the rear of each

section. For more information about manufactured housing contact the Texas Department of Housing and Community Affairs (TDHCA) at (800) 500-7074 or (512) 475-2200

How is an industrialized (modular) house titled?

- ✓ **The Department does not issue titles to industrialized (modular) housing.** Unlike manufactured housing, industrialized housing is titled as part of the real property, the same as site built housing
- ✓ Do not have the purchaser (owner) fill out paper work to submit to TDHCA for a title – TDHCA has no authority over industrialized housing and will not issue a title for an industrialized house
- ✓ Do not have the purchaser (owner) fill out the paper work for titling a manufactured house and submit it to this Department – manufactured housing is titled through TDHCA.

Certification Labels

Certification labels for modular units are called decals. The decals are white acrylic with a blue star, a label serial number, and blue lettering. The text on the label reads as follows: "This label certifies that this module has been manufactured in accordance with the requirements of Chapter 1202 of the Occupations Code and the Texas Industrialized Building Code Council." The label is permanently attached to each module that makes up an industrialized house or building in a location designated by the manufacturer on the floor plan or cover page of the construction plans for each model or project. See IHB Bulletin #97-001 for more information concerning past decal designs and to see the insignia design for certifying modular components. A copy of this bulletin may be found in appendix H.

Mandatory Building Codes

Reference sections 1202.151 and 1202.152 of the Occupations Code, Industrialized Housing and Buildings (IHB Statute) and sections 70.100, 70.101 & 70.102 of the Department Rules governing Industrialized Housing and Buildings

Building Codes and Building Code Amendments [Sections 1202.151 and 1202.152 of the Occupations Code]

Section 1202.151 specifies the mandatory building codes adopted under the Texas IHB program. Section 1202.152 grants the Texas Industrialized Building Code Council (Council) the authority to adopt later editions of the mandatory building codes.

The Texas Industrialized Building Code Council may adopt a later edition of the codes adopted in section 1202.151 of the Texas Occupations Code if the Council finds that the use of the amended code is

- ✓ In the public interest
- ✓ Consistent with the purposes of the statute

Mandatory Building Codes [Department rule 70.100]

Section 70.100 of the Department Rules specifies the current mandatory building codes adopted by the Council for the IHB program.

Effective July 1, 2004 all industrialized housing and buildings, modules, and modular components, shall be constructed in accordance with the following codes.

- ✓ National Fire Protection Association--National Electrical Code, 2008 Edition, including appendices, as amended in Department Rule 70.101
- ✓ The International Building Code, 2006 edition, including appendices C, F, and K, published by the ICC, as amended in Rule 70.101
- ✓ The International Fuel Gas Code, 2006 edition, published by the ICC, as amended in Rule 70.101
- ✓ The International Plumbing Code, 2006 edition, including appendices C, E, F, and G, published by the ICC, as amended in Rule 70.101
- ✓ The International Mechanical Code, 2006 edition, published by the ICC, as amended in Rule 70.101
- ✓ The International Residential Code, 2006 edition, including appendix K, published by the ICC, as amended in Rule 70.101
- ✓ Other codes, such as the International Energy Conservation Code (IECC), are adopted by reference in the IBC

Amendments to Mandatory Building Codes [Department rule 70.101]

Section 70.101 of the Department Rules requires the Council to consider and review all amendments to the mandatory building codes that are approved and recommended by ICC. This section also contains other amendments adopted by the Council.

ICC amends the codes every year

- ✓ The Council determined that it was not in the public interest to adopt the code amendments every year
- ✓ Amended codes are adopted approximately every 3 years within approximately 1 to 2 years after publication by ICC of the new code editions

The Council may consider other amendments to the Code that are recommended by building officials, the Department, or other interested parties. Amendments are effective a minimum of 180 days following the date of the Council's approval or adoption of the amendment or at such a later date as set by the Council.

Use and Construction of Codes [Department rule 70.102]

Section 70.102 sets guidelines for the use of the mandatory building codes.

- ✓ Industrialized housing and buildings are constructed to comply with the mandatory building codes in effect at the time of construction of the house or building
- ✓ Industrialized housing and buildings are installed in accordance with the mandatory building codes in effect at the time of installation of the house or building [foundation and inspection checklists for industrialized housing may be found in Appendix C]
 - The code in effect will be determined by the date construction begins on the installation site of the house or building

Registration, Renewals, and Responsibilities of Builder

Reference Sections 70.20, 70.75, and 70.78 of the Department Rules governing Industrialized Housing and Buildings.

The registration of an industrialized builder shall be valid for 12 months and must be renewed annually.

- ✓ A renewal notice will be mailed 60 to 90 days prior to the expiration date of your registration
 - The builder is responsible for renewing the registration even if a renewal notice is not received
 - Failure to receive a renewal notice will not excuse a builder from late registration fees
- ✓ An industrialized builder must register each separate sales office but is not required to register each job location

Registration Process

The application is date stamped upon receipt in accounting, where it takes approximately five working days to process. The application is then forwarded to the IHB section. It takes two to three working days to process a COMPLETED application.

- ✓ An application that does not contain all information requested or that is not signed by a person authorized to sign the application is not considered complete
- ✓ Corporations – application must be signed by officer of the corporation
- ✓ Partnership – application must be signed by one of the managing partners
- ✓ Sole Proprietorship – application must be signed by the sole proprietor

If the applicant has criminal convictions, then the application is forwarded to enforcement for review and approval. Procedures and guidelines are on the Department's web site at <http://www.license.state.tx.us/crimconvict.htm>.

An information packet including forms, procedures, and a copy of the law and rules will be mailed along with your certificate of registration.

Responsibilities of the Industrialized Builder [Department rule 70.20]

A registered industrialized builder shall notify the department in writing within 10 days if

- ✓ The corporate or firm name is changed
- ✓ The main address of the registrant is changed

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- ✓ There is a change in 25% or more of the ownership interest of the company within a 12-month period
- ✓ An industrialized builder transfers or sells a module or modular component to another industrialized builder

The builder must provide the customers with access to the name, mailing address and telephone number of the department for purposes of directing complaints [reference Department Rule 70.78(b)]. The information shall be included on

- ✓ A sign prominently displayed in the place of business (this information is on your registration certificate)
- ✓ Any written contract for services
- ✓ Any bill for services

The builder must have written proof that the information above was delivered to the purchaser (owner) or installation permit holder and keep this proof in the industrialized builder's files. A checklist of items received that is signed and dated by the purchaser (owner) or installation permit holder would be acceptable evidence.

Responsibilities of the Manufacturer to the Builder [Department rule 70.75(a)]

The manufacturer shall provide the industrialized builder the following information.

- ✓ The name, Texas registration number, and physical address of the manufacturer of the house or building
- ✓ The location of the decal(s) or insignia on the modules or modular components
- ✓ A description of the location of the data plate and explanation of the information thereon
- ✓ A set of approved plans as necessary to obtain a building permit and as necessary to complete construction of the house or building at the installation site. The documents shall include critical load points for attachment of the house or building to the foundation
- ✓ The floor plan of the building and schematic drawings of the plumbing, electrical, and heating/ventilation systems for the owner of the building
- ✓ A completed signed copy of the energy compliance checklist [reference Department Rule 70.70(c)(8)(C)]
- ✓ The name, mailing address, and telephone number of the Department for purposes of directing complaints to the Department [reference Department Rule 70.78(b)]

The manufacturer must have written proof that the information above was delivered to the industrialized builder and keep this proof in the manufacturer's files for a minimum of five years.

Responsibilities of the Builder to the Owner [Department rule 70.75(b)]

The industrialized builder shall provide the purchaser (owner) or permit holder of any industrialized house or building the following information.

- ✓ The name, Texas registration number, and physical address of the manufacturer and industrialized builder
- ✓ A description of the location of the data plate and explanation of the information thereon
- ✓ The floor plan of the house or building and schematic drawings of the plumbing, electrical, and heating/ventilation systems
- ✓ A complete set of approved plans and specifications and all records pertinent to the alteration of the house or building
- ✓ A copy of the foundation system design and any unique on-site construction details
- ✓ The location of the decal(s) or insignia on the module or modular components
- ✓ A site plan showing the on-site location of all utilities and utility taps
- ✓ A completed signed copy of the energy compliance checklist [reference Department Rule 70.70(c)(8)(C)]
- ✓ The name, mailing address, and telephone number of the Department for purposes of directing complaints to the Department [reference Department Rule 70.78(b)]. The notification shall be included on
 - A sign prominently displayed at the place of business

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- Any written contract for services
- Any bill for services

The builder must have written proof that the information above was delivered to the purchaser (owner) or installation permit holder and keep this proof in the builder's files. A checklist of items received that is signed and dated by the purchaser (owner) or installation permit holder would be acceptable evidence.

Builder Audits

Reference sections 70.50(b) and 70.73 of the Department Rules governing Industrialized Housing and Buildings.

Builder Audits - General

Each industrialized builder shall keep records of all industrialized housing, buildings, modules, and modular components that were sold, leased, or installed

- ✓ These records shall be kept for a minimum of ten years from the date of successful completion of the final site inspection
- ✓ If the builder is not responsible for the installation of the house or building, then the records shall be kept for a minimum of five years from the date of sale – hiring a subcontractor to install a home does not relieve the builder from responsibility for the installation

An annual audit of units sold, leased, or installed by the builder shall be conducted by the Department [see Appendix A for a sample Builder's audit]. The audit will identify the modules or modular components by the name and Texas registration number of the manufacturer of each unit and the assigned Texas decal or insignia numbers and the corresponding identification, or serial, numbers as assigned by the manufacturer. The builder shall report or provide the information to the Department for each unit identified in the audit within the timeframe set by the audit

Builder Audits – Information Provided by the Builder

The builder shall report or provide the following information to the Department.

- ✓ Evidence that the information required by Department Rule 70.75 was delivered to the purchaser (owner) or installation permit holder of the house or building. The builder must have written proof, such as a checklist of items received signed by the purchaser (owner) or installation permit holder, that the information was delivered and provide this proof upon request of the Department
- ✓ The address where each unit was installed. If the house or building has not yet been installed, then the address where the unit is stored. If the builder is not responsible for the installation, then the address to where each unit was delivered
- ✓ The occupancy use of each building containing modules or modular components, i.e., single-family home, duplex, apartment, etc
- ✓ If the builder is not responsible for the installation provide either of the following
 - The name and registration number of the builder who is responsible
 - OR
 - The name and installation permit number, issued by the Department, of the installation permit holder who is responsible
- ✓ Where the builder is responsible for the installation and site work and the house or building is installed inside the jurisdiction of a municipality
 - The builder shall report the name of the city responsible for the site inspections
 - When requested, the builder shall also provide a copy of the foundation plans

Residential Builder RES

Where the builder is responsible for the installation and site work

- ✓ The builder shall provide a copy of the site inspection report for each industrialized housing unit installed outside of the jurisdiction of a municipality
- ✓ The builder shall provide a copy of the permanent foundation plan for each residential building

Commercial Builder COM

Where the builder is responsible for the installation and site work

- ✓ The builder shall provide a copy of the site inspection report for each permanent industrialized building installed outside the jurisdiction of a municipality
 - Exception: Site inspections are not required from the installation of unoccupied industrialized buildings not open to the public, such as communication equipment shelters, that are not also classified as a hazardous occupancy by the mandatory building code
- ✓ The builder shall provide a copy of the site inspection report for each industrialized building designed to be moved from one commercial site to another commercial site and that is installed outside the jurisdiction of a municipality if the building is used as a school building or place of worship
- ✓ The builder shall provide a copy of the foundation plan as requested by the Department

General Installation Requirements

Deed restrictions are applicable and may restrict the installation of an industrialized house or building in a neighborhood.

Site construction must be performed by persons licensed to do the work, i.e., plumbers, AC contractors, electricians.

Foundation systems and unique on site construction details shall be designed by a Texas licensed engineer or architect.

Foundations

General Foundation Requirements [Department rules 70.70(d) and (e)]

The foundation system for each industrialized house or building shall be designed and constructed in accordance with the mandatory building codes and shall comply with the following.

- ✓ Shall be designed in accordance with the critical load points for attachment of the house or building to the foundation provided by the manufacturer. A manufacturer is not required to provide a typical foundation design
- ✓ Shall be designed and sealed by a licensed professional engineer or architect
- ✓ Shall contain complete details for the construction and attachment of the house or building to the foundation, including, but not limited to the following
 - Address or area for which foundation is suitable
 - Minimum load specifications, including wind loads, seismic design loads, soil bearing capacity, and if the foundation is designed for expansive soils
 - Site preparation details
 - Requirements for corrosion resistance, protection against decay, and termite resistance
 - Size, configuration, and depth below grade of all footings, piers, and slabs, including, but not limited to, details of concrete reinforcement, spacing of footings and piers, capping or piers, and mortar or concrete fill requirements for piers
 - Fastening requirements, including, but not limited to, size, spacing, and corrosion resistance
 - Requirements for surface drainage
 - Details for enclosure of the crawl space including details for ventilation and access

Characteristics of a Permanent Foundation

What are the characteristics of a permanent foundation?

- ✓ The foundation and all related construction shall comply with the requirements of the mandatory building codes – reference Department Rule 70.10 for the definition of a permanent foundation system [see Appendix D for a foundation checklist for one- and two-family dwellings]
- ✓ The foundation system shall be capable of transmitting all design loads imposed by or upon the foundation and the attached building into the soil or bedrock without failure

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- ✓ The structure is attached without the towing hitch, axles, brakes, wheels, and other parts of the chassis that only operate during transportation
- ✓ Ventilation and decay details shall comply with the requirements of the mandatory building codes
- ✓ **The use of ground anchors is not approved**

Industrialized Housing – Requirements for Permanent Foundation Designs RES

Permanent foundation designs for single-family homes, duplexes, and townhouses shall comply with the International Residential Code (IRC).

- ✓ A foundation checklist that may be used as a guide to assist the builder and his engineer or architect to assure that the foundation design complies with the IRC can be found in appendix D. It is the responsibility of the industrialized builder and the engineer to review the actual code to assure that the foundation is in compliance

Permanent foundations for other residential occupancies must comply with the International Building Code.

Plans must indicate compliance with the mandatory building codes adopted under the Texas IHB program.

- ✓ Compliance with the HUD Handbook for Permanent Foundations or with FHA requirements is not an acceptable alternative
- ✓ Plans may indicate compliance with FHA requirements and HUD handbook as long as they also indicate compliance with the mandatory building codes adopted under the Texas IHB program

Permanent foundation plans shall not require or use ground anchors

- ✓ Ground anchors are an alternate to the mandatory building codes and have not been approved by the Council for permanent foundation systems

Industrialized Buildings – Requirements for Temporary Foundation Designs COM

The foundation and all related construction shall comply with the requirements of the mandatory building codes.

- ✓ The use of ground anchors is approved for temporary foundation designs if allowed by the municipality or other approving authority
- ✓ The structure may be attached with the towing hitch, axles, brakes, wheels, and other parts of the chassis that only operate during transportation

Site Inspections

Reference sections 1202.203 of the Occupations Code, section 70.73 of the Department Rules governing Industrialized Housing and Building, and the Building Site Inspection Program – a copy of the **Building Site Inspection Program** is provided in Appendix B.

On-site inspections – General [Section 1202.203 of the Occupations Code]

Who performs site inspections of industrialized housing and buildings?

- ✓ Municipalities are responsible for inspecting all construction involving industrialized housing and buildings located within the jurisdiction of the municipality
- ✓ An approved third party inspector (approved by the Council) shall perform on-site inspections of industrialized housing outside the jurisdiction of a municipality
- ✓ If required by rule, an approved third party inspector (approved by the Council) shall perform on-site inspections of industrialized buildings to be located outside the jurisdiction of a municipality

When are site inspections required outside the jurisdiction of a municipality?

[Department rule 70.73(b)]

Industrialized Housing RES

Site inspections are required for the first installation of all industrialized housing

Industrialized Buildings COM

Site inspections are required for the first installation of all permanent industrialized buildings.

- ✓ Exception: Site inspections are not required for the installation of unoccupied industrialized buildings not open to the public, such as communication equipment shelters, that are not also classified as a hazardous occupancy by the mandatory building code

Site inspections are required for industrialized buildings that are designed to be moved from one commercial site to another commercial site if the buildings are used as a school or place of religious worship.

Who is responsible for site inspections?

Inside the jurisdiction of a municipality

- ✓ Builder must contact the city for requirements for site inspections – inspections shall be performed in accordance with procedures established by the city
- ✓ City may charge fees for the performance of site inspections or require that the builder contract with a Texas licensed engineer or architect for the inspection

Outside the jurisdiction of a municipality

The builder must contract with an approved third party inspector for all required inspections

- ✓ Approved third party inspectors include those registered with the IHB program and Texas licensed engineers and architects
 - HUD, FHA, or licensed Real Estate Inspectors are not recognized as acceptable third party inspectors for the performance of site inspections for the IHB program
- ✓ The industrialized builder may use a different third party inspector for different projects, but may not change the inspector (or inspection agency) for a project once started without written approval from the Department

What is the minimum number of inspections required for site inspections outside the jurisdiction of a municipality?

- ✓ The builder shall schedule a site inspection to assure that construction is observed in at least the following 3 inspection phases
 - Foundation inspection – After forms are constructed, steel reinforcement is installed, but before concrete is poured
 - Set Inspection – When the modules are connected and fastened to the foundation
 - Final Inspection – When utility services are connected and tests are performed
- ✓ Additional inspections may be required for large construction projects
- ✓ Reinspections may be required for inspection of corrective actions, if the inspector is unable to inspect all aspects during any inspection phase, or if the builder was not ready for the inspection
- ✓ System testing in accordance with the requirements of the mandatory building codes must be witnessed by the inspector

How are site inspections outside the jurisdiction of a municipality recorded?

Industrialized Housing RES

Site inspections are documented on the following forms:

- ✓ TDLR Form #053ihb, Site Inspection Report Form [see Appendix C]
- ✓ TDLR Form #067ihb, Residential Site Inspection Checklist for Industrialized Housing-General, Foundation, and Structural – residential installations that fall under the IRC only [see Appendix D]
- ✓ TDLR Form #068ihb, Residential Site Inspection Checklist for Industrialized Housing-Energy, Mechanical, Plumbing, Gas, and Electrical Work Performed at the Installation Site – residential installations that fall under the IRC only [see Appendix E]

Industrialized Buildings 

Site inspections are documented on TDLR Form #053ihb, Site Inspection Report Form [see Appendix C]

Remedial Actions

Remedial actions for failure to have an industrialized house installed on a permanent foundation or for failure to have the site inspections performed for industrialized housing or buildings as required by the law and rules are set out in the "Building Site Inspection Program" (see Appendix B).

Failure to comply with the remedial actions specified may result in administrative penalties of up to \$5,000 per violation per day.

Residential Builders – Remedial action for failure to have industrialized housing installed on a permanent foundation

Where an industrialized house has not been installed on a permanent foundation or a Department review of the foundation indicates that the foundation does not comply with the requirements of the mandatory building code, the industrialized builder or installation permit holder responsible for the foundation and installation shall be required to engage an engineer to evaluate and inspect the foundation system. The engineer may or may not be the same engineer who prepared the foundation design.

- ✓ The engineer shall be licensed in Texas and qualified to evaluate and inspect foundations
- ✓ The engineer shall prepare a report to the Department detailing recommendations for bringing the foundation into compliance with the requirements of the IHB program for a permanent foundation and with the requirements of the mandatory building code
- ✓ The industrialized builder or installation permit holder shall have the evaluation and inspection performed and the report submitted to the Department within the time frame set by the Department

Engineer's Report

The report shall include, as a minimum, the following.

- ✓ The engineer's name, Texas license number, and seal
- ✓ The name, address, and registration number of the industrialized builder, or the name, address, and installation permit number of the permit holder
- ✓ The installation address of the industrialized house
- ✓ The serial numbers assigned by the manufacturer to the modules that make up the industrialized house (see data plate on house)
- ✓ The Texas decal numbers of the decals affixed to the modules that make up the industrialized house (see data plate on house)
- ✓ A description of the existing foundation
- ✓ The engineer's professional opinion and recommendations of what steps need to be taken to bring the foundation into compliance

Actions taken

The industrialized builder or installation permit holder shall take action to bring the foundation into compliance in accordance with the recommendations outlined in the engineer's report and as approved by the Department.

- ✓ A time table approved by the Department shall be established for completing the construction required
- ✓ Inspection of the work shall be performed by the engineer who evaluated the foundation. An addendum to the evaluation report shall be prepared by the engineer showing successful completion of the construction
- ✓ The builder or installation permit holder shall submit the addendum to the Department within the time frame established for completing the construction
- ✓ Failure to have the foundation evaluation and corrective construction completed and inspected within the time frame established by the Department may result in administrative penalties

NOTE: In addition to the remedial actions, subsequent failures to have industrialized housing installed on a permanent foundation may also result in administrative penalties of up to \$5,000 per violation per day.

Remedial action for failure to have site inspections – Foundation Inspection

Where a foundation inspection has not been performed, the industrialized builder or installation permit holder responsible for the installation shall be required to engage an engineer to evaluate and inspect the foundation system and prepare a report to the Department.

- ✓ The industrialized builder or installation permit holder shall have the evaluation and inspection performed and the report submitted to the Department within the time frame set by the Department.
- ✓ The engineer shall be licensed in Texas and qualified to evaluate and inspect foundations.

Engineer's Report:

The report shall include, as a minimum, the following.

- ✓ The site inspection report, form #'s TDLR 053ihb and TDLR 067ihb (IRC residential installations) only [see Appendix C for inspection report forms]
- ✓ The engineer's name, Texas license number, and seal
- ✓ A description of the existing foundation, including the method used to determine the configuration of the foundation. As a minimum the engineer shall rely on inspection and observation, testimony, and testing, where deemed necessary, to evaluate the foundation
- ✓ The engineer's professional opinion as to whether the foundation is structurally adequate for the house or building at the location installed. Where necessary the report shall include recommendations to bring the foundation into compliance
- ✓ The engineer's professional opinion as to whether the foundation meets the requirements of the mandatory building code. Where necessary the report shall include recommendations to bring the foundation into compliance

Actions taken:

The industrialized builder or installation permit holder shall take action to bring the foundation into compliance in accordance with the recommendations of the engineer who evaluated the foundation

- ✓ A time table, approved by the Department, shall be established for completing the construction required. Inspection of the work shall be by the engineer who evaluated the foundation
- ✓ An addendum to the evaluation report shall be prepared by the engineer showing successful completion of the construction
- ✓ The builder or installation permit holder shall submit the addendum to the Department within the time frame established for completing the construction
- ✓ Failure to have the foundation evaluation and corrective action completed and inspected within the time frame established by the Department may result in administrative penalties

NOTE: In addition to the remedial actions, subsequent failures to have foundation inspections may also result in administrative penalties of up to \$5,000 per violation per day.

Remedial action for failure to have site inspections – Set and/or Final Inspection

Where a set inspection or final inspection has not been performed, the industrialized builder or installation permit holder shall engage a registered Texas third party inspector or Texas licensed engineer or architect to perform the required inspections and prepare a written inspection report using form #'s TDLR 053ihb, TDLR 067ihb (IRC residential installations only), and TDLR 068ihb (IRC residential installations only) [see Appendix C for inspection report forms].

- ✓ The industrialized builder or installation permit holder shall have the inspections performed and the report submitted to the Department within the time frame set by the Department
- ✓ Failure to have the set and/or final inspection and corrective action completed within the time frame established by the Department may result in administrative penalties

NOTE: In addition to the remedial actions, subsequent failures to have set or final inspections performed may also result in administrative penalties of up to \$5,000 per violation per day.

Municipal Authority

Reference sections 1202.251 through 1202.253 of the Occupations Code (IHB Statute) and see IHB Bulletin #00-001, Areas of Authority Belonging to a Municipality – Industrialized Housing (see appendix F) and Bulletin #04-001, Areas of Authority Belonging to a Municipality – Industrialized Buildings (see appendix F).

Reservation of Municipal Authority (Section 1202.251 of the Occupations Code)

Municipalities may not treat industrialized housing and buildings differently from site built housing and buildings.

- ✓ Exception - **RES**: Per section 1202.253 of the Occupations Code, Municipalities may adopt regulations that require industrialized housing to meet certain requirements that are not required of site built housing.

Municipal authority is specifically and entirely reserved to a municipality as follows.

- ✓ Land use and zoning requirements
- ✓ Building setback requirements
- ✓ Side and rear yard requirements
- ✓ Site planning and development and property line requirements
- ✓ Subdivision control
- ✓ Landscape architectural requirements

Municipal Regulation of Industrialized Housing and Buildings (Section 1202.252 of the Occupations Code)

Municipalities have the authority to require the following for all industrialized housing and buildings installed within their jurisdiction.

- ✓ Require and review, for compliance with mandatory building codes, a complete set of construction documents
 - Foundation design shall be approved by the city
 - Regardless of city's approval, foundation designs for industrialized housing must be permanent and not include the use of ground anchors
- ✓ Require that local permits and licenses be obtained before construction begins
- ✓ Require that all modules or modular components bear an approved Texas decal or insignia
- ✓ Establish procedures for site inspections of industrialized housing and buildings

Municipal Regulation of Industrialized Housing (Section 1202.253 of the Occupations Code) **RES**

A municipality may adopt regulations that apply only to industrialized housing. The regulations may require single-family or duplex industrialized housing to comply with the following.

- ✓ Have a value equal to or greater than the median taxable value for each home within 500 feet of the lot on which the industrialized house will be installed
 - Value means the taxable value of the industrialized housing and the lot after installation of the housing
- ✓ Have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the homes within 500 feet of the lot on which the industrialized house will be installed
- ✓ Comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family housing
- ✓ Except as provided by the above, a municipality may not adopt regulations that are more restrictive for industrialized housing than for housing constructed on site

For More Information

Web site

THE TEXAS DEPARTMENT OF LICENSING AND REGULATION is the state's umbrella licensing agency, regulating diverse occupations and industries including Industrialized Housing and Buildings. Please visit the agency's web page at <http://www.license.state.tx.us> for additional information about TDLR.

Additional information about the IHB program may be found at the sites listed below.

- ✓ **INDUSTRIALIZED HOUSING AND BUILDINGS LAW:** To view the Industrialized Housing and Buildings governing statute visit <http://www.license.state.tx.us/ihb/ihblaw.htm>
- ✓ **INDUSTRIALIZED HOUSING AND BUILDINGS RULES:** To view the Rules promulgated under the Industrialized Housing and Buildings Law visit <http://www.license.state.tx.us/ihb/ihbrules.htm>
- ✓ **INDUSTRIALIZED HOUSING AND BUILDINGS FORMS:** To view the list of forms for Industrialized Housing and Buildings visit <http://www.license.state.tx.us/ihb/ihbforms.htm>
- ✓ **FREQUENTLY ASKED QUESTIONS:** To view a list of the frequently asked questions for Industrialized Housing and Buildings visit <http://www.license.state.tx.us/ihb/ihbfaq.htm>
- ✓ **INDUSTRIALIZED HOUSING AND BUILDINGS PROGRAM PAGE:** There are many other items on the Industrialized Housing and Buildings program page that you might find of interest. To view this page visit <http://www.license.state.tx.us/ihb/ihb.htm>
- ✓ **SEARCH OR DOWNLOAD LISTS OF VARIOUS INDUSTRIALIZED HOUSING AND BUILDINGS REGISTRANTS**
<http://www.license.state.tx.us/databases.htm#ihblists>
- ✓ **VIEW THE LIST OF THE AGENCY'S ENFORCEMENT ACTIONS**
<http://www.license.state.tx.us/cimsfo/fosearch2.asp>
- ✓ **LINKS TO OTHER GOVERNMENT AGENCIES AND PROGRAMS**
<http://www.license.state.tx.us/links.htm>

Subscribe to industrialized housing and buildings e-mail notification list

You may sign up to receive email updates on changes to the IHB program at: www.license.state.tx.us. Look to your right and click on "[Updates and Information by e-mail](#)" and follow the instructions for subscribing. You may also subscribe to email notifications for any of the other statutes regulated by the Texas Department of Licensing and Regulation

How to Reach Us

Mailing address:

TEXAS DEPARTMENT OF LICENSING AND REGULATION, Industrialized Housing and Buildings, PO Box 12157, Austin, TX 78711

Physical address:

920 Colorado St, Austin, TX 78701

Phone:

(800) 803-9202 (in Texas only) or (512) 463-7353

Fax:

(512) 475-4364

Web address:

www.license.state.tx.us

IHB Compliance Personnel:

- ✓ Industrialized Housing & Buildings Program – industrialized.buildings@license.state.tx.us
- ✓ Donna Lipke – IHB – Manager: donna.lipke@license.state.tx.us, (512) 463-7346
- ✓ Mark Egleston – IHB – Inspector: mark.egleston@license.state.tx.us, (512) 463-7344
- ✓ Katherine Vaughan – IHB – Program Specialist: katherine@license.state.tx.us, (512) 463-7353
- ✓ David Gonzales – Building & Mechanical Manager: david.gonzales@license.state.tx.us, (512) 463-3516

Industrialized Housing and Buildings - Builder's Guide

Revised effective T æ 1G 200J

- ✓ George Ferrie – Director of Compliance: george.ferrie@license.state.tx.us, (512) 463-2907

Other:

- ✓ For information about, or to purchase a copy of the codes adopted under the IHB program, contact the International Code Council (ICC) at <http://www.iccsafe.org/index.html>
- ✓ For information concerning the requirements of the Texas Engineering Practice Act, or to find an engineer licensed in Texas, go to <http://www.tbpe.state.tx.us/>
- ✓ For information concerning the requirements of the statute regulating the practice of Architecture, or to find an architect licensed in Texas, go to <http://www.tbae.state.tx.us/active/home.html>
- ✓ For information about REScheck or COMcheck (energy compliance software from the Department of Energy) go to <http://www.energycodes.gov/>
- ✓ Contact TDHCA for information about manufactured housing – (800) 500-7074, (512) 475-2200, or <http://www.tdhca.state.tx.us/mh/index.htm>

Appendices

The following appendices contain information that describes and clarifies the requirements of the Texas IHB program as it relates to the installation of industrialized housing.

Appendix A Builder's Audits

Sample residential builder's audit **RES**

Sample commercial builder's audit **COM**

Appendix B Building Site Inspection Program

Site inspection procedures approved by the Texas Industrialized Building Code Council, revised effective June 1, 2006

Appendix C Inspection Report Forms

Building Site Inspection Report, form #TDLR 053ihb

Residential Site Inspection Checklist for Industrialized Housing – General, Foundation, and Structural, form #TDLR 067ihb **RES**

Residential Site Inspection Checklist for Industrialized Housing – Energy, Mechanical, Plumbing, Gas, and Electrical, form #TDLR 068ihb **RES**

Appendix D Foundation Checklist **RES**

Residential plan review checklist

Appendix E What Every Builder Should Know

Form #TDLR 048ihb, revised June 1, 2006

Appendix F Areas of Authority Belonging to a Municipality – Industrialized Housing

Industrialized Housing **RES**, Bulletin #00-001, form #TDLR 047ihb, revised June 1, 2006

Industrialized Buildings **COM**, Bulletin #04-001, form #TDLR 060ihb, revised T æ 1G 200J

Appendix G Frequently Asked Questions

General Questions

Technical Questions

Licensing Questions

Enforcement Questions

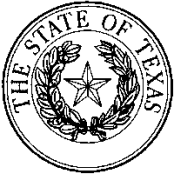
Appendix H Bulletin #97-001

Form #TDLR 033ihb, revised May 2006 – An informational bulletin that defines industrialized housing and buildings and provides depictions of certification decals

Appendix A – Builder’s Audits

Sample residential builder’s audit

Sample commercial builder’s audit



TEXAS DEPARTMENT OF LICENSING AND REGULATION

Compliance Division – Industrialized Housing and Buildings Program

P.O. Box 12157 • Austin, Texas 78711 • (512) 463-7353 • (800) 803-9202 • FAX (512) 475-4364
Email Address: industrialized.buildings@license.state.tx.us Internet Address: www.license.state.tx.us

«Date06»

«Audit_Contact»

«Name»

«Mailing1»

«Mailing2»

RE: Audit Report IHB- «IHB_»

Dear Registrant:

In accordance with Department Rule 70.50, an audit of units reported as being sold to «Name» is being conducted. Please review the attached report and complete the information for the sections indicated below. The completed report must be submitted to the Department no later than «FirstNoticeDue»

Please review the attached report and complete the information for the sections indicated.

Section II:

D. Month & Year Installed: If the unit(s) were installed, enter the month and year unit was installed.

E. Destination Information:

1. **If the unit(s) were installed**, enter the name of the recipient and the complete address where unit(s) were installed.
2. **If unit(s) have not been installed**, (still on the sales lot) please indicate **"in inventory "**.
3. **If you did not receive the unit(s)** please verify with the manufacturer, then enter **"Did not Receive"** in this section.

F. Type of Structure: The use of the module, i.e., restaurant, school building, classroom, office, single-family residence, equipment shelter, etc.

G. Type of Installation:

1. enter the type of foundation system, either permanent or temporary, **OR**
2. If you are not responsible for the installation, enter the builder registration number or installation permit number of the person responsible. The Department issues these numbers; (please reference Department rule 70.73 Responsibilities of the Registrants – Building Site Inspections)

H. City:

1. If the unit was installed within the corporate limits of a city enter the name of the city responsible for the site inspection.
2. If the unit was installed outside the corporate limits of a city, on a permanent foundation, please provide the following:
 - a. A copy of the foundation plans as designed by the manufacturer or as designed and stamped by a Texas professional engineer or architect. (Please reference §70.70 (e) of the IHB Rules).

Note: Industrialized Housing and Buildings are not constructed to HUD codes as manufactured housing is; therefore the HUD Handbook for permanent foundations is not accepted.

- a. A copy of the site inspection report done by one of the following: (Please reference § 70.73(b) of the IHB Rules).
 1. A professional engineer or architect.
 2. A third party inspector licensed by this department.

NOTE: HUD, FHA, or Texas real-estate inspectors are not acceptable inspectors for the performance of the site inspection.

The inspector must use the site inspection report and inspection checklists required by the building site inspection program for documenting site inspections. These forms were included in the builder's guide and have been mailed to each builder. They can also be downloaded from the website at:

<http://www.license.state.tx.us/ihb/ihb.htm>

In addition to the attached audit report, please provide evidence that the following was provided to the owner as required by §70.75(b) of the IHB Rules.

- (1) The name, Texas registration number, and address of the manufacturer and industrialized builder.
- (2) A description of the location of the data plate and explanation of the information thereon.
- (3) The floor plan of the building and schematic drawings of the plumbing, electrical, and heating/ventilation systems.
- (4) A complete set of approved plans and specifications in accordance with §70.70, including all records pertinent to alterations of the house or building in accordance with §70.74.
- (5) The location of the decal(s) or insignia on the module(s) or modular components.
- (6) A site plan showing the on-site location of all utilities and utility taps.
- (7) A completed signed copy of the energy compliance checklist (reference Rule 70.75(a)(6)).
- (8) Evidence that the Department's name, mailing address and phone number was on any written contract for services or any bill for services as required by §70.78(b) of the IHB Rules.

Failure to comply with any of the above information may result in a penalty of \$5000 maximum per violation.

If you have any questions or if I may be of any assistance please call me at (512) 463-7353 or email me at katherine.vaughan@license.state.tx.us.

Sincerely yours,



Katherine Vaughan, IHB Program

Texas Department of Licensing and Regulation

PO Box 12157, Austin, TX 78711 (512) 463-7353 [800] 803-9202 - In Texas Only | FAX: (512) 475-4364
 Internet address: www.license.state.tx.us; Email address: industrialized.buildings@license.state.tx.us

INDUSTRIALIZED HOUSING AND BUILDINGS BUILDER'S AUDIT REPORT

Audit Date: «Date06»

If you have any questions or if I may be of any assistance please call me at (512) 463-7353 or email me at katherine.vaughan@license.state.tx.us.

Section I

Builder's Name: «Name»	Reg # IHB-«IHB_»
Address: «Address»	
City, State and Zip: «Expr1»	
Form Completed By (please print):	
Phone:	

Section II

A. Manufacturer's Name & Registration #	B. Decal or Insignia Number	C. Unit ID Number (Serial Number)	D. Month & Year unit installed	E. Destination Information - COMPLETE ADDRESS	F. Type of Structure	G. Type of Installation	H. City: Was the site work inspected by the city? (yes, no; if no see instructions)
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TEXAS DEPARTMENT OF LICENSING AND REGULATION

Compliance Division – Industrialized Housing and Buildings Program

P.O. Box 12157 • Austin, Texas 78711 • (512) 463-7353 • (800) 803-9202 • FAX (512) 475-4364
Email Address: industrialized.buildings@license.state.tx.us Internet Address: www.license.state.tx.us

«Audit_Date_06»

«Audit_Contact»

«Name»

«Mailing1»

«Mailing2»

RE: Builder's Audit IHB-«IHB_»

Dear Registrant:

In accordance with Department Rule 70.50, an audit of units reported as sold to «Name» is being conducted. Please review the attached report and complete the information for the sections indicated below. The completed report must be submitted to the Department no later than **«FirstNoticeDue»**.

For units reported as a school or place of religious worship, please provide the following:

- A. A copy of the foundation plans** as designed by the manufacturer or as designed and stamped by a Texas professional engineer or architect. (Please reference §70.70 (e) of the IHB Rules).
- B. A copy of the site inspection** done by one of the following: (Please reference § 70.73(b) of the IHB Rules).
 - 1. A professional engineer or architect.
 - 2. A third party inspector licensed by this department.

The engineer or architect must use the site inspection form (TDLR 03ihb 10/02) that was mailed along with your registration or it can be downloaded from the website at:
<http://www.license.state.tx.us/ihb/ihb.htm>.

Failure to comply with any of the above information may result in a penalty of \$5000 maximum per violation.

Instructions on filling out the form are found on the back of the audit. If you have any questions or if I may be of any assistance please call me at (512) 463-7353 or email me at katherine.vaughan@license.state.tx.us.

Sincerely yours,

A handwritten signature in blue ink that reads "Katherine Vaughan".

Katherine Vaughan, Program Specialist
Industrialized Housing & Buildings

Texas Department of Licensing and Regulation

PO Box 12157, Austin, TX 78711 (512) 463-7353 [(800) 803-9202 - In Texas Only] FAX: (512) 475-4364
 Internet address: www.license.state.tx.us; Email address: industrialized.buildings@license.state.tx.us

INDUSTRIALIZED HOUSING AND BUILDINGS AUDIT REPORT

«Audit_Date_05»

(see back of audit for instructions)

Section I

Builder's Name: «Name»	IHB# «IHB_»
Address: «Address»	
City, State and Zip: «Expr1»	
Form Completed By (please print):	Phone:

Section II

A. Manufacturer's Name & Registration #	B. Decal or Insignia Number	C. Unit ID Number (Serial #)	D. Size in Square foot	E. Mo/Yr unit installed	F. Destination Information - COMPLETE ADDRESS	G. Type of Structure	H. Type of Installation	I. Site work inspected by city? (yes..no)
IHM-991, ACME Structures	90001	47002						
IHM-991, ACME Structures	90002	26403						
IHM-991, ACME Structures	90003	25603						
IHM-991, ACME Structures	99009	25604						
IHM-930, Modular Manufactures	99010	1521-A						
IHM-930, Modular Manufactures	99011	1521-B						
IHM-930, Modular Manufactures	99012	1521-C						

Instructions for completing the audit:

Section I:

Form Completed By: Enter the name and phone number of the person completing the form.

Section II: (A – D are provided)

E. Month & Year Installed: If the unit(s) were installed, enter the month and year unit was installed.

F. Destination Information: If the unit(s) were installed, enter the name of the recipient and the complete address where unit(s) were installed. If in storage, please indicate "Storage". If you did not receive the unit(s) please verify with the manufacturer, then enter "**Did not Receive**" in this section.

G. Type of Structure: The use of the module, i.e., restaurant, school building, classroom, office, single-family residence, equipment shelter, etc.

H. Type of Installation:

1. enter the type of foundation system, either permanent or temporary, **OR**
2. If you are not responsible for the installation, enter the builder registration number or installation permit number of the person responsible. The Department issues these numbers; (please reference Department rule 70.73 Responsibilities of the Registrants – Building Site Inspections)

I. Site work done by city: Answer yes or no if the site inspection was performed by the city.

1. **Yes**, within the city - When the building site is within a municipality that has a building inspection agency or department, the local building official will inspect all on-site construction done at the site and the attachment of the structure to the permanent foundation to assure completion and attachment in accordance with the design package, the on-site construction documentation, and any unique foundation system or on-site detailed drawings. **Reference §70.73(a) of the IHB Rules.**
2. **No**, outside the city - When the building site is outside a municipality, or within a municipality that has no building department or agency, a third party inspector will perform the required inspections. The on-site inspection is normally accomplished in three phases: foundation inspection, set inspection, and final inspection. The builder, or installation permit holder, is responsible for scheduling each phase of the inspection with the third party inspector. Additional inspections will be scheduled as required for larger structures and to correct discrepancies. **Reference §70.73(b) of the IHB Rules.**

NOTE: For units installed outside the corporate limits of a city, a site inspection is not required in the following cases:

- A. If the building is not installed on a permanent foundation and either:
 - a. Is not open to the public, or
 - b. Is less than 1500 square feet in total area and is not used as a school or a place of religious worship, or
- B. Of unoccupied buildings on permanent foundations with a gross area of less than or equal to 400 square feet, such as communication equipment shelters that are not classified as a hazardous occupancy by the mandatory building code.

Appendix B – Building Site Inspection Program

*Site inspection procedures approved by the Texas
Industrialized Building Code Council, revised, effective
June 1, 2006*



TEXAS DEPARTMENT OF LICENSING AND REGULATION
COMPLIANCE DIVISION – INDUSTRIALIZED HOUSING AND BUILDINGS

P.O. Box 12157 • Austin, Texas 78711 • (512) 463-7353 • (800) 803-9202 • FAX (512) 475-4364
industrialized.buildings@license.state.tx.us • www.license.state.tx.us

Building Site Inspection Program

Revised effective: June 1, 2006

REFERENCES.....	1
PURPOSE	1
FOUNDATIONS.....	2
HOUSING AND BUILDINGS INSTALLED OUTSIDE THE JURISDICTION OF A MUNICIPALITY.....	2
HOUSING AND BUILDINGS INSTALLED WITHIN THE JURISDICTION OF A MUNICIPALITY	3
REMEDIAL ACTIONS.....	4
REPORTING TO THE DEPARTMENT	5
INSPECTION REPORTS.....	6
DEED RESTRICTIONS	7

Marginal Markings – Solid vertical lines within the right hand margins of the procedures indicate a revision from the previous procedures.

REFERENCES

- (a) A person responsible for the installation of an industrialized house or building should be familiar with Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings; Chapter 70, Industrialized Housing and Buildings Rules; and the mandatory building codes.
- (b) Specific sections of Texas Occupations Code, Chapter 1202, that are applicable to building site inspections include, but are not limited to, the following:
 - (1) § 1202.203, On-site Inspections;
 - (2) § 1202.251, Reservation of Municipal Authority;
 - (3) § 1202.252, Municipal Regulation of Industrialized Housing and Buildings; and
 - (4) § 1202.253, Municipal Regulation of Single-Family and Duplex Industrialized Housing.
- (c) Specific sections of the rules governing Industrialized Housing and Buildings that are applicable to building site inspections include, but are not limited to, the following:
 - (1) § 70.50, Manufacturer’s and Builder’s Monthly Reports
 - (2) § 70.62, Responsibilities of the Local Building Official – Building Site Inspections;
 - (3) § 70.70(d) through (f), Responsibilities of the Registrants – Manufacturer’s Design Package;
 - (4) § 70.73, Responsibilities of the Registrants – Building Site Inspections;
 - (5) § 70.100, Mandatory Building Codes;
 - (6) § 70.101, Amendments to Mandatory Building Codes; and
 - (7) § 70.102, Use and Construction of Codes.

PURPOSE

Site inspections of industrialized housing and buildings are performed to assure:

- (a) completion and attachment in accordance with the mandatory building code and the approved design package and on-site construction documentation;
- (b) completion and attachment in accordance with the foundation system design and unique on-site details that have been sealed by a Texas licensed engineer or architect; and
- (c) that all tests required by approved on-site documentation and mandatory building codes are performed.

FOUNDATIONS

- (a) **General** – All foundations shall be designed and constructed in accordance with the mandatory building codes. A permanent foundation system is one that is designed to meet the applicable building code as set forth in department rules 70.100 and 70.101.
- (b) **Permanent Foundations** – The foundation shall be designed by a Texas licensed engineer or architect. The use of ground anchors is not approved for permanent foundations. Industrialized housing is required by law to be installed on a permanent foundation.
- (c) **Temporary Foundations (not approved for industrialized housing)** – The foundation shall be designed by a Texas licensed engineer or architect. The Council has approved, as an alternate to the mandatory building codes, the use of ground anchors for temporary, or non permanent, foundations of commercial buildings subject to the approval of, or acceptance by, the local authorities. The plans and specifications for a temporary foundation system shall include the following.
 - (1) A soil investigation report prepared by a qualified engineer; or, if the exact site location is unknown, a description of the soil type for which the anchoring system is suitable.
 - (2) Structural calculations and related plans prepared by a qualified engineer.
 - (3) Specifications for adequate corrosion protection for the anchors and associated tie-down system.
- (d) **Foundation system designs** – The manufacturer shall provide critical load points for attachment of the house or building or component to the foundation, but is not required to provide a foundation design. The industrialized builder or installation permit holder shall have a licensed professional engineer or architect design and seal the foundation designs for each industrialized house or building in accordance with Department rule 70.70(e). The design shall comply with the mandatory building code referenced in Department rules 70.100 and 70.101. Review by a DRA is not needed or required. The foundation system design shall contain complete details for the construction of the foundation and for the attachment of the house or building, including, but not limited to the following.
 - (1) Address or area for which foundation is suitable.
 - (2) Minimum load specifications, including wind loads, seismic design loads, soil bearing capacity, and if the foundation is designed for expansive soils.
 - (3) Site preparation details.
 - (4) Material specifications.
 - (5) Requirements for corrosion resistance, protection against decay, and termite resistance.
 - (6) Size, configuration, and depth below grade of all footings, piers, and slabs including, but not limited to, details of concrete reinforcement, spacing of footings and piers, capping of piers, and mortar or concrete fill requirements for piers.
 - (7) Fastening requirements, including, but not limited to, size, spacing, and corrosion resistance.
 - (8) Requirements for surface drainage.
 - (9) Details for enclosure of the crawl space including details for ventilation and access.

HOUSING AND BUILDINGS INSTALLED OUTSIDE THE JURISDICTION OF A MUNICIPALITY

- (a) Site Inspection requirements.
 - (1) Site inspections are required for the first installation of all industrialized housing and permanent industrialized buildings. Exception: Site inspections are not required for the installation of

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- unoccupied industrialized buildings not open to the public, such as communication equipment shelters, that are not also classified as a hazardous occupancy by the mandatory building code.
- (2) Site inspections are required for industrialized buildings designed to be moved from one commercial site to another commercial site if the building is used as a school or place of religious worship.
- (b) **Inspection personnel** – Site inspections of IHB units shall be performed by a Texas registered third party inspector or Texas licensed engineer or architect. A list of Texas approved third party inspectors is available from the Department and may be downloaded from the agency's web site at <http://www.license.state.tx.us/databases.htm#ihblists>. The industrialized builder, or installation permit holder, may use a different inspector for different projects, but may not change the inspector for a project once started without the written approval of the Department.
- (c) **Scheduling of inspections** – The industrialized builder, or installation permit holder, shall schedule site inspections to assure that construction is observed in at least the following phases. Additional inspections shall be scheduled as required for larger structures or projects and to inspect construction performed to correct discrepancies. The final inspection shall be completed within 180 days of the start of construction. The Department may grant an extension upon receipt of a written request that demonstrates a justifiable cause.
- (1) **Foundation** – After forms are constructed, steel reinforcement is installed, but before concrete is poured.
 - (2) **Set Inspection** – When the modules or modular components are connected and fastened to the foundation.
 - (3) **Final inspection** – When utility services are connected and tests are performed.

HOUSING AND BUILDINGS INSTALLED WITHIN THE JURISDICTION OF A MUNICIPALITY

- (a) The industrialized builder, or installation permit holder, must contact the local building official, or building inspection Department, for a site inspection. A municipality, or other local political subdivision, may not require or enforce any amendments to the mandatory building codes as a prerequisite for granting or approving any local building or construction permits or certificates of occupancy except as provided in paragraph (c) below. A municipality, or other local political subdivision, may enforce local land use and zoning requirements, building setback requirements, side and rear yard requirements, site planning and development and property line requirements, subdivision control, and landscape architectural requirements, and any other requirements not in conflict with the IHB law or any other state law. A municipality that regulates the on-site construction or installation of industrialized housing and buildings may:
- (1) require and review, for compliance with mandatory building codes, a complete set of designs, plans, and specifications bearing the council's stamp of approval, a copy of the foundation system design, and a copy of all unique on-site details for each installation of industrialized housing or buildings in the municipality;
 - (2) require that all applicable local permits and licenses be obtained before construction begins on a building site;
 - (3) require that all modules or modular components bear an approved decal or insignia;
 - (4) establish procedures for the inspection of the erection and installation of industrialized housing or buildings to ensure compliance with the mandatory building codes and commission rules; and
 - (5) establish procedures for the inspection of all foundation and other on-site construction, to ensure compliance with the approved designs, plans, and specifications.

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- (b) A municipality may also require a final inspection or test in accordance with the mandatory building codes and correction of any deficiency identified by the test or discovered in the final inspection.
- (c) Municipalities may also adopt regulations that require single-family or duplex industrialized housing to:
 - (1) have a value equal to or greater than the median taxable value for each dwelling located within 500 feet of the lot where the industrialized house is to be located;
 - (2) have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the dwellings located with 500 feet of the lot where the industrialized house is to be located;
 - (3) comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to dwellings; or
 - (4) be securely fastened to a permanent foundation.

REMEDIAL ACTIONS

- (a) **Remedial action for failure to have industrialized housing installed on a permanent foundation.** In addition to the remedial action described below, subsequent failures to have industrialized housing installed on a permanent foundation may also result in administrative penalties.
 - (1) Where an industrialized house has not been installed on a permanent foundation, or the foundation does not comply with the requirements of the mandatory building code, the industrialized builder or installation permit holder responsible for the foundation and installation shall be required to engage an engineer to evaluate and inspect the foundation system. The engineer shall prepare a report to the Department detailing recommendations for bringing the foundation into compliance with the requirements of the IHB program for a permanent foundation and with the requirements of the mandatory building code. The industrialized builder or installation permit holder shall have the evaluation and inspection performed and the report submitted to the Department within the time frame set by the Department. The engineer shall be licensed in Texas and qualified to evaluate and inspect foundations. The report shall include, as a minimum, the following:
 - (A) the engineer's name, license number, and seal;
 - (B) the name, address, and registration number of the industrialized builder, or the name, address, and installation permit number of the permit holder;
 - (C) the installation address of the industrialized house;
 - (D) the serial numbers assigned by the manufacturer to the modules that make up the industrialized house;
 - (E) the Texas decal numbers of the decals affixed to the modules that make up the industrialized house;
 - (F) a description of the existing foundation; and
 - (G) the engineer's professional opinion and recommendations of what steps need to be taken to bring the foundation into compliance.
 - (2) The industrialized builder or installation permit holder shall take action to bring the foundation into compliance in accordance with the recommendations outlined in the engineer's report and as approved by the Department. A time table approved by the Department shall be established for completing the construction required. Inspection of the work shall be performed by the engineer who evaluated the foundation. An addendum to the evaluation report shall be prepared by the engineer showing successful completion of the construction. The builder or installation permit holder shall submit the addendum to the Department within the time frame established for completing the construction.

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- (3) Failure to have the foundation evaluation and corrective construction completed and inspected within the time frame established by the Department may result in administrative penalties.
- (b) **Remedial action for failure to have site inspections performed.** In addition to the remedial action described below, subsequent failures to have site inspections performed may also result in administrative penalties.
 - (1) Where a foundation inspection has not been performed, the industrialized builder or installation permit holder responsible for the installation shall be required to engage an engineer to evaluate and inspect the foundation system and prepare a report to the Department. The industrialized builder or installation permit holder shall have the evaluation and inspection performed and the report submitted to the Department within the time frame set by the Department. The engineer shall be licensed in Texas and qualified to evaluate and inspect foundations. The report shall include, as a minimum, the following:
 - (A) the site inspection report, form #'s TDLR 053ihb and 067ihb (IRC residential installations only);
 - (B) the engineer's name, license number, and seal;
 - (C) a description of the existing foundation, including the method used to determine the configuration of the foundation. As a minimum the engineer shall rely on inspection and observation, testimony, and testing, where deemed necessary, to evaluate the foundation;
 - (D) the engineer's professional opinion as to whether the foundation is structurally adequate for the house or building at the location installed. Where necessary the report shall include recommendations to bring the foundation into compliance; and
 - (E) the engineer's professional opinion as to whether the foundation meets the requirements of the mandatory building code. Where necessary the report shall include recommendations to bring the foundation into compliance.
 - (2) The industrialized builder or installation permit holder of the house or building shall take action to bring the foundation into compliance in accordance with the recommendations of the engineer who evaluated the foundation. A time table, approved by the Department, shall be established for completing the construction required. Inspection of the work shall be by the engineer who evaluated the foundation. An addendum to the evaluation report shall be prepared by the engineer showing successful completion of the construction. The builder or installation permit holder shall submit the addendum to the Department within the time frame established for completing the construction.
 - (3) Where a set inspection or final inspection has not been performed, the industrialized builder or installation permit holder shall engage a registered Texas third party inspector or Texas licensed engineer or architect to perform the required inspections and prepare a written inspection report on form #'s TDLR 053ihb, TDLR 067ihb (IRC residential installations only), and TDLR 068ihb (IRC residential installations only). The industrialized builder or installation permit holder shall have the inspections performed and the report submitted to the Department within the time frame set by the Department.
 - (4) Failure to have the foundation evaluation or set and final inspection completed within the time frame set by the Department may result in administrative penalties.

REPORTING TO THE DEPARTMENT

- (a) **Industrialized builders** – Records of industrialized housing, buildings, modules, and modular components that were sold, leased, or installed shall be kept for a minimum of ten years from the date of successful completion of the final site inspection and shall be made available to the Department upon request. If the builder is not responsible for the installation, then the records shall be maintained for a period of five years

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from the date of sale or lease and shall be made available to the Department upon request. An annual audit of units sold, leased, or installed by the builder shall be conducted by the Department. The audit will identify the modules or modular components by the name and Texas registration number of the manufacturer of each unit and the assigned Texas decal or insignia numbers and the corresponding identification, or serial, numbers as assigned by the manufacturer. The builder shall report or provide the following information to the Department for each unit identified in the audit, within the time frame set by the audit.

- (1) Evidence of compliance with Department rule 70.75 (relating to Responsibilities of the Registrants – Permit/Owner Information).
 - (2) The address where each unit was installed. If the builder is not responsible for the installation, then the address to where each unit was delivered.
 - (3) The occupancy use of each building containing modules or modular components, i.e., classroom, restaurant, bank, equipment shelter, etc.
 - (4) If the builder is responsible for the installation and site work, then the builder shall:
 - (A) for units installed outside the jurisdiction of a municipality, keep a copy of the foundation plans and the site inspection report and provide a copy to the Department upon request.
 - (B) if installed within the jurisdiction of a municipality, provide the name of the city responsible for the site inspection. The Department may also request a copy of the foundation plan as part of the audit.
 - (5) If the builder is not responsible for the installation and site work, or if the builder has transferred the ownership of the unit to another person, then the builder shall provide identification of the installation permit number, assigned by the Department, or the builder registration number, assigned by the Department, of the person responsible.
- (b) **Installation permit holder** – A person who purchases an industrialized house or building from a manufacturer or industrialized builder for their own use and who assumes responsibility for the installation of the industrialized house or building may file for an installation permit from the Department in lieu of registering as an industrialized builder. A person who buys industrialized housing or buildings for sale or lease to the public may not file for an installation permit. The installation permit holder swears at the time of filing for the permit that the foundation and installation of all units will be constructed in accordance with the mandatory building codes, the engineered plans, and the commission rules, and that a site inspection will be performed in accordance with the site inspection procedures established by the Council. An installation permit holder shall keep a copy of the foundation plans, and for units installed outside the jurisdiction of a municipality, a copy of the site inspection report for a period of ten years from the date of successful completion of the final inspection. A copy of these records shall be provided to the Department upon request.

INSPECTION REPORTS

- (a) The inspector (either a Texas registered third party inspector or Texas licensed engineer or architect) shall provide the builder or permit holder a completed copy of the site inspection report. The site inspection report shall include the following forms – copies of these forms may be downloaded from the agency's web site at <http://www.license.state.tx.us/ihb/ihbforms.htm>.
- (1) TDLR form #053ihb, Site Inspection Report Form – for both commercial and residential installations
 - (2) TDLR form #067ihb, Residential Site Inspection Checklist for Industrialized Housing-General, Foundation, and Structural – IRC residential installations only
 - (3) TDLR form #068ihb, Residential Site Inspection Checklist-Energy, Mechanical, Plumbing, Gas, and Electrical Work Performed at the Installation Site – IRC residential installations only.

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- (b) The inspector shall keep a copy of the inspection report for a minimum of five years from the date of successful completion of the final inspection. The builder or permit holder shall keep a copy of the inspection report in their files for a minimum of 10 years from the date of successful completion of the final inspection.

DEED RESTRICTIONS

Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings, does not affect the validity of any deed restriction that is otherwise valid.

Appendix C – Inspection Report Forms

Building Site Inspection Report, form #TDLR 053ihb

***Residential Site Inspection Checklist for Industrialized
Housing – General, Foundation, and Structural,
form #TDLR 067ihb RES***

***Residential Site Inspection Checklist for Industrialized
Housing – Energy, Mechanical, Plumbing, Gas, and
Electrical, form #TDLR 068ihb RES***



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SITE INSPECTION REPORT FORM

Site inspections of industrialized housing and buildings located outside the corporate limits of a city or within a municipality that has no inspection agency shall be performed by a licensed Texas architect or engineer or by a Third Party Inspector registered by this Department. Department rule 70.73(b) requires the inspector to provide the industrialized builder or installation permit holder a site inspection report containing the following information. The Residential Site Inspection checklists, form #'s TDLR 067ihb and TDLR 068ihb, are considered a part of the site inspection report for residential installations that fall under the International Residential Code. The residential checklists shall be completed by the inspector and a copy provided to the industrialized builder or installation permit holder with this form.

Inspection performed by (check one):

IHB TPIA Reg. #IHA-_____ Name of IHB Third Party Inspection Agency

Licensed Texas Engineer (affix seal)
 License # _____

Licensed Texas Architect (affix seal)
 License # _____

Manufacturer's Name: _____ Reg #IHM- _____

Builder's Name
 (Retailer/Installer): _____ Reg #IHB- _____

OR Installation Permit
 Holder Name: _____ Installation
 Permit #: _____

Texas Decal or Insignia
 Number(s): _____

Manufacturer's Serial or
 ID Number(s): _____

Owner's Name and
 Address: _____

Installation Address: _____

Construction of the foundation, installation, and other site construction related to the building meets the following mandatory building codes (check one):

2003 IBC, IMC, IPC, IFGC, IECC, 1994 TAS, and 2002 NEC 2003 IRC and 2002 NEC

2006 IBC, IMC, IPC, IFGC, IECC, 1994 TAS, and 2008 NEC (effective October 31, 2008) 2006 IRC and 2008 NEC (effective October 31, 2008)

Occupancy Group: _____ Construction Type: _____

Enter dates of all inspections performed below – do not complete this section if report is part of a remedial foundation evaluation in accordance with the procedures outlined in the "Building Site Inspection Program."

Inspection	Inspection Date	Inspection	Inspection Date	Name of Inspector and, for IHB TPI's, IHI#	Signature of Inspector
Foundation		Reinspection			
Set		Reinspection			
Inspection		Reinspection			
Final inspection		Reinspection			

Additional reinspections required – see attached report.

Remedial site inspection

Form continued on back

Site Inspection Report Form

Enter tests observed and date of test below

Test Observed	Date of Test	Test Observed	Date of Test

Check one:

- No deviations observed
- Deviation report attached. A report of deviations observed to approved plans, engineered foundation design, unique site completion documentation, or mandatory codes is required to be attached. Report shall include the date each deviation was observed, a description of each deviation observed, a description of the corrective action taken, and the date corrected. **If deviations are not corrected within 180 days from the start of construction or prior to occupancy of the house or building, then the inspector shall notify the Department and provide a copy of the inspection report and deviation report to the Department.**
- Remedial foundation evaluation report attached

Instructions for Completing Report

Check if inspection is performed under supervision of a Texas IHB third party inspection agency, Texas licensed engineer, or Texas licensed architect. Provide registration and license number of agency, engineer, or architect. If engineer or architect, affix seal.

Enter the manufacturer's name and registration number. Information may be obtained from the data plate* on the building.

Enter the industrialized builder's (builder) name and registration number. Alternately, enter the installation permit number and name of the permit holder. Installation permits are issued by the Department.

Enter the Texas decal or insignia number of each unit that comprises the building. This information may be obtained from the data plate* on the building.

Enter the manufacturer's serial or identification number of each unit that comprises the building. This information may be obtained from the data plate* on the building.

Enter the owner's name and address.

Enter the installation address.

Check the codes that the construction meets. Construction begun on or after October 31, 2008 must comply with the applicable 2006 International Codes and with the 2008 NEC.

Enter the occupancy group for the building. This information may be obtained from the data plate* on the building.

Enter the construction type of the building. This information may be obtained from the data plate* on the building.

Enter the date of each inspection performed, the name and signature of the inspector, and, if a Texas IHB third party inspector, the IHI registration number. Complete only for inspections observed. Complete for a remedial re-inspection, but do not complete this section if report is part of a remedial foundation evaluation. Check box if remedial site inspection (reference "Building Site Inspection Program").

1. Foundation – After forms are constructed, steel reinforcement installed, but before concrete is poured.
2. Set inspection – When modules or modular components are connected and fastened to foundation.
3. Final inspection – When utility services are connected and tests are performed.

Re-inspections may be required for inspection of corrections, if the inspector is unable to inspect all aspects during the foundation, set, or final inspection, or if the builder wasn't completely ready for the foundation, set, or final inspection. If more than one re-inspection is required for each phase of a site inspection, then check the applicable box and attach a report with dates of additional re-inspections. Be sure to include the name of the inspector responsible for the re-inspection and other information as necessary to identify the report as an addendum to this report.

Enter a description of each test observed and the date observed.

Check either "No deviations observed," "Deviation report attached," or "Remedial foundation evaluation report attached."

A deviation report must be attached if any of the construction observed does not comply with the approved plans, engineered foundation design, unique site completion details, or mandatory building codes. The report shall describe the deviation, the date of the deviation, reference the document or code reference with which it must comply, the description of the corrective action taken to correct the deviation, and the date corrected. Be sure to include the name of the inspector responsible for the inspection and other information as necessary to identify the report as an addendum to this report.

If "Remedial foundation evaluation report attached" is checked, then attach evaluation report from engineer on foundation (reference "Building Site Inspection Program"). Be sure to include information as necessary to identify the report as an addendum to this report.

*The location of the data plate on the building is required to be shown on the approved floor plan or cover sheet of the plan set for the house or building.



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**Residential Site Inspection Checklist for Industrialized Housing
General, Foundation, and Structural**

This checklist is a guide to items involving code compliance of the foundation and structural connections that need to be checked during a residential site inspection but does not necessarily constitute a complete list of items to be checked. The checklist provides minimum check points for work performed at the installation site; however, not all check points may be applicable. The inspector shall also check to assure that construction performed on site does not result in non-compliance of construction completed in the manufacturing facility. Note: NA = Not applicable

Industrialized builder's name & reg #: _____

Texas Decal or Insignia Number(s): _____

Manufacturer's Serial or ID Number(s): _____

Owner's Name and Address: _____

Installation Address: _____

IRC = International Residential Code (2003 edition); IECC = International Energy Conservation Code (2003 edition); Rule = Chapter 70 rules governing Industrialized Housing and Buildings; ACI = ACI 318-02, Building Code Requirements for Structural Concrete (2002 edition)

NA	Meets		Item #	Check Point
	YES	NO		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1	IRC R301.1 – Wind speed on data plate is correct for installation site, foundation is designed for correct wind speed (note: per figure R301.2(4) of the IRC, the minimum basic wind speed in Texas is 90 mph and maximum basic wind speed in Texas is 140 mph, depending on location)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2	IRC N1101. – House is designed for climate zone where installed. Climate zone for site per code is _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3	Rules 70.70(d) and (e) and 70.73 – Foundation plan available – plan is either approved foundation plan from manufacturer or unique “engineered” foundation plan. If engineered, provide architect’s or engineer’s name and license number: _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4	Rules 70.70(d) and (e) and 70.73 – Plans and specifications for completion of house at installation site provided – either approved details and typicals from manufacturer or unique “engineered” details
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5	IRC R301.1 – Soil bearing pressure complies with foundation plan: Soil bearing pressure = _____ psf Builder shall provide documentation to substantiate that site complies
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6	IRC R401.4 – Expansive soil site: <input type="checkbox"/> Yes <input type="checkbox"/> No Builder shall provide documentation to substantiate that site complies. Soil test report # & name of responsible party: _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7	IRC R403.1 – Footings are supported on undisturbed natural soils or engineered fill
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8	Foundation plan does not call for use of ground, or soil, anchors [reference decision of Texas Industrialized Building Code Council of July 27, 1989]
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	9	IRC R408.4 – Under-floor grade is cleaned of all debris, vegetation, and organic material
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10	IRC R403.1.4.1 – Foundation walls, piers and other permanent supports extend below the frost line
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11	IRC R403.1.4 – Exterior footings are at least 12” below undisturbed ground
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12	IRC R403.1 and IRC R404.1.5.1 – Load bearing walls placed on continuous concrete footings
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	13	IRC R403.1.1 – Minimum footing depth (thickness of footing) not less than 6” or as required on plans, whichever is greater
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	14	IRC R403.1.1, IRC Table R403.1, and IRC Figure R403.1(1) – Minimum footing width not less than foundation design or minimum requirements of code, whichever is greater
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	15	IRC R403.1.1 and Figure R403.1(1) – Footing projection is minimum 2” but not more than depth (thickness) of footing
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16	IRC R403.1.5 – Top surface of footings level, slope of bottom surface of footings does not exceed 1 unit vertical in 10 units horizontal (10% slope)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17	IRC R402.2 and IRC Table R402.2 – Minimum concrete compressive strength per Table R402.2 of the IRC or as required by foundation plan, whichever is greater



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**Residential Site Inspection Checklist for Industrialized Housing
 Energy, Mechanical, Plumbing, Gas, and Electrical Work Performed at the Installation Site**

This checklist is a guide to items involving code compliance of the energy, mechanical, plumbing, gas, and electrical work that needs to be checked during a residential site inspection but does not necessarily constitute a complete list of items to be checked. The checklist provides minimum check points for work performed at the installation site; however, not all check points may be applicable. The inspector shall also check to assure that construction performed on site does not result in non-compliance of construction completed in the manufacturing facility. Note: NA = Not applicable

Industrialized builder's name & reg #: _____

Texas Decal or Insignia Number(s): _____

Manufacturer's Serial or ID Number(s): _____

Owner's Name and Address:	
Installation Address:	

IRC = International Residential Code (2003 edition); IECC = International Energy Conservation Code (2003 edition); NEC = National Electrical Code (2002 edition); Rule = Chapter 70 rules governing Industrialized Housing and Buildings

NA	Meets		Item #	Check Point
	YES	NO		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1	HVAC work performed by a person or persons licensed to perform this work as required by applicable state law: Name and license #: _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2	Plumbing work performed by a person or persons licensed to perform this work as required by applicable state law: Name and license #: _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3	Electrical work performed by a person or persons licensed to perform this work as required by applicable state law: Name and license #: _____
ENERGY				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	E-1	IRC N1102.1.11 – Air leakage: Sealing of joints, seams, and penetrations
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	E-2	IRC N1103, IRC Table N1103.2, IECC 503.2, and IECC Table 503.2 – Mechanical equipment efficiency
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	E-3	IRC N1103 and IECC 503.2 – Mechanical equipment installed in accordance with equipment manufacturer's instructions
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	E-4	IRC N1104, IRC Table 1104.1, IECC 504.2.1, and IECC 504.2.1 – Water heater efficiency
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	E-5	IRC N1103.3, IRC M1601.2, IRC M1601.3.4, and IECC 503.3.3.3 – Duct insulation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	E-6	IRC N1103.4 and IECC 503.3.4.3 – Sealing of joints and seams in ducts
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	E-7	IECC 504.7 – Heat traps on water heaters
MECHANICAL				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-1	Equipment and appliances meet requirements of manufacturer's approved details or unique engineered design
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-2	IRC M1303 and IRC M1304 – Labeling and type of fuel for mechanical equipment
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-3	IRC M1305 and IRC M1401.2 – Access for appliances and heating and cooling equipment
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-4	IRC M1306 – Clearances for appliances
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-5	IRC M1307 and IRC M1401.1 - Installation conforms to the conditions of their listing and the appliance manufacturer's installation instructions. Operating and installation instructions attached to the appliance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-6	IRC M1401.4 – Equipment installed outdoors listed and labeled for outdoor installation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-7	IRC M1601.1.1 – Above-ground duct systems
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-8	IRC M1601.2 - Factory-made ducts or duct material
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-9	IRC M1601.3 – Duct installation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-10	IRC M1601.3.2 – Duct support
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-11	IRC M1601.3.5 – Factory-made air ducts not installed in or on ground

TDLR - Residential Site Inspection Checklist for Industrialized Housing – Energy, Mechanical, Plumbing, Gas, and Electrical

Installation address: _____

IRC = International Residential Code (2003 edition); IECC = International Energy Conservation Code (2003 edition); NEC = National Electrical Code (2002 edition); Rule = Chapter 70 rules governing Industrialized Housing and Buildings

NA	Meets		Item #	Check Point
	YES	NO		
MECHANICAL (Continued)				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-12	IRC M1601.3.6 – Duct separation from earth
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-13	IRC M2005.1 – Water heating equipment is installed in accordance with the equipment manufacturer’s instructions
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	M-14	IRC M2005.2 – Prohibited locations for water heaters
PLUMBING				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-1	Plumbing meets requirements of manufacturer’s approved details or unique engineered design
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-2	IRC P2603.1 – Protection against physical damage
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-3	IRC P2603.3 – Pipes protected from breakage and corrosion
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-4	IRC P2603.5 – Pipes through footings or foundation walls
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-5	IRC P2603.6 – Pipes protected from freezing
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-6	IRC P2604.4 and IRC Figure P2604.4 – Trenching and backfilling
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-7	IRC P2605 and IRC Table 2605.1 – Piping support
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-8	IRC P2608 – Pipes, pipe fittings, traps, etc are listed, installed, and certified
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-9	IRC P2803.6.1 – Discharge pipe of water heater relief valves
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-10	IRC P2902.3.3 – Hose connections
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-11	IRC P2903.9.1 – Service valves
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-12	IRC P2903.9.3 – Valve requirements
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-13	IRC P2904.2 – Lead content
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-14	IRC P2904.4, IRC Table P2904.4.1 – Standards for water service pipe
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-15	IRC P2904.4.1 – Water service installation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-16	IRC P2904.5 and IRC Table P2904.5 – Standards for water-distribution pipe
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-17	IRC P2904.6 through IRC P2904.17 – Pipe fittings and connections
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-18	IRC P3001.2 – Protection from freezing
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-19	IRC P3002, IRC Table P3002.1, IRC Table P3002.2 – DWV materials
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-20	IRC P3003 – DWV joints and connections
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-21	IRC P3005.1 – Drainage fittings and connections
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-22	IRC P3005.2.1 – Drainage pipe cleanouts
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-23	IRC P3005.3 – Horizontal drainage piping slope
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P-24	IRC P2503.5.2 and P2503.6 through P2503.8 - Testing
GAS				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-1	Gas piping in accordance with approved details or unique engineered details
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-2	IRC G2404.3 – Appliances listed and labeled
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-3	IRC G2404.6 – Wind resistance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-4	IRC G2406.3 – Outdoor locations
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-5	IRC G2408.1 – Equipment and appliances installed in accordance with listing, manufacturer’s installation instructions and code
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-6	IRC G2408.2 – Elevation of ignition source
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-7	IRC G2408.4 – Clearances from grade
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-8	IRC G2408.5 – Clearances to combustible construction
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-9	IRC G2414 – Piping materials
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-10	IRC G2415.3 – Piping in concealed locations
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	G-11	IRC G2415.4 – Piping through foundation walls

Appendix D – Foundation Checklist RES

Residential plan review checklist



TEXAS DEPARTMENT OF LICENSING AND REGULATION
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Foundation Checklist

THE FOLLOWING IS AN EXAMPLE OF THE CHECKLIST USED BY THIS DEPARTMENT TO REVIEW A TYPICAL FOUNDATION PLAN.

This checklist is a guide that will assist you and your engineer to assure that the foundation design complies with the mandatory building code – this guide is not intended as a replacement for the code. It is the responsibility of the industrialized builder and engineer to review the actual code to assure that the foundation is in compliance.

Department rule 70.10 defines a permanent foundation system as a foundation system designed to meet the applicable building code. A permanent foundation system for one- and two-family industrialized housing must be designed to meet the International Residential Code (IRC).

The “Building Site Inspection Program” prescribes remedial action for foundations that do not comply with the requirements of the mandatory building code. The industrialized builder is required to engage an engineer to evaluate and inspect the foundation system of the home as installed whenever a Department review of a permanent foundation indicates that the foundation design does not comply with the IRC. The engineer may or may not be the same engineer who prepared the original foundation design. The engineer shall prepare a report to the Department detailing recommendations for bringing the foundation into compliance with the IRC.

Please reference the procedures for remedial action as outlined in the “Building Site Inspection Program” for more details

Legend: Chapter 1202 of the Occupations Code – Law governing Industrialized Housing and Buildings; Rule – Chapter 70 rules governing Industrialized Housing and Buildings; IRC – 2003 International Residential Code;

Reference	Description of Deviation
<input type="checkbox"/> Rule 70.100, 70.102	Design references the “Permanent Foundation Guide for Manufactured Housing” or FHA standards. Design must comply with the International Residential Code (IRC) in effect at the time of the start of construction at the building installation site.
<input type="checkbox"/> Rule 70.100, 70.102	Design references the wrong edition of the International Residential Code. Design must comply with the ____ IRC.
<input type="checkbox"/> §1202.156 of Occupations Code; IRC 104.11	Foundation plans call for use of ground anchors. Ground anchors are considered an alternate method of construction. The Texas Industrialized Building Code Council has not approved the use of ground anchors as an approved alternate for use in permanent foundation systems.
<input type="checkbox"/> IRC R401.2 – Requirements	Minimum load specifications could not be determined (reference IRC R301).
<input type="checkbox"/> IRC R401.3 - Drainage	Surface drainage shall be diverted to storm sewer or other approved point. Grade shall fall a minimum of 6” within first 10 feet. Could find no requirement that drains or swales be provided where lot lines, walls, slopes or other physical barriers prohibit 6” of fall within 10 feet.
<input type="checkbox"/> IRC R402.2 – Concrete	Minimum compressive strength of concrete must comply with IRC Table R402.2.

TDLR - Industrialized Housing and Buildings
 Example Foundation Checklist

Reference	Description of Deviation
<input type="checkbox"/> IRC 403.1.1 – Minimum size (footings)	Footing size must meet minimum requirements of IRC Table R403.1.
<input type="checkbox"/> IRC R403.1.1 – Minimum size (footings)	Footing projection shall be a minimum of 2" [reference IRC Table 403.1 and Figure 403.1(1)].
<input type="checkbox"/> IRC R403.1.1 – Minimum size (footings)	Footing projection shall not exceed the depth of the footing [reference IRC Table 403.1 and Figure 403.1(1)].
<input type="checkbox"/> IRC R403.1.1 – Minimum size (footings)	Minimum footing depth must be at least 6".
<input type="checkbox"/> IRC R403.1.4 – Minimum depth of footings	Exterior footings shall be placed at least 12" below undisturbed ground and conform to R403.1.4.1.
<input type="checkbox"/> IRC R403.1.4.1 – Frost protection	Foundation walls, piers and other permanent supports shall extend below the frost line specified.
<input type="checkbox"/> IRC R404.1.5.1 – Pier and curtain wall foundations	All load-bearing walls shall be placed on continuous concrete footings.
<input type="checkbox"/> IRC R404.1.5.1 – Pier and curtain wall foundations	Minimum actual thickness of a load-bearing masonry wall shall not be less than 4' nominal or 3 3/8" actual thickness and shall be bonded integrally with piers spaced as required in Table R606.8 of the IRC
<input type="checkbox"/> IRC R606.5 – Piers	Hollow concrete masonry units shall be filled solidly with concrete or Type M or S mortar. Hollow piers may be used if their unsupported height is not more than 4 times their least dimension.
<input type="checkbox"/> IRC R606.5.1 – Pier caps	Hollow piers shall be capped with 4 inches of solid concrete masonry or concrete or shall have the top course filled with concrete or grout or other approved methods.
<input type="checkbox"/> IRC R403.1.6 – Foundation anchorage	Anchor bolts shall extend a minimum of 7" into masonry or concrete.
<input type="checkbox"/> IRC R403.1.6 – Foundation anchorage; IRC R404.1.5.1(5) – Pier and curtain wall foundation; IRC R403.1 – General	Code requires home to be anchored to foundation with 1/2" anchor bolts spaced a maximum of 6' o.c. with one bolt located not more than 12" or less than 7 bolt diameters from the end of each bottom plate section. Exception: Foundation anchor straps, spaced as required to provide equivalent anchorage to 1/2" anchor bolts. Straps shall be corrosion resistant or treated with coatings to prevent corrosion.
<input type="checkbox"/> IRC R404.4.6.1 – Reinforcing Steel, General; ACI 318, section 7.7	Minimum concrete coverage shall be provided for reinforcement in accordance with ACI 318, section 7.7.
<input type="checkbox"/> IRC R408.1 – Ventilation	Code requires crawl space to be ventilated with a minimum net area of openings of not less than 1 square foot for each 150 square feet of under-floor space.
<input type="checkbox"/> IRC R408.1 – Ventilation	There shall be one crawl space ventilation opening within 3 feet of each corner of building.

Reference	Description of Deviation
<input type="checkbox"/> IRC R408.2 – Openings for under-floor ventilation	Ventilation openings shall be covered with one of the following materials provided that the least dimension of the covering shall not exceed ¼": <ol style="list-style-type: none">1. Perforated sheet metal plates not less than 0.070 inch thick2. Expanded sheet metal plates not less than 0.047 inch thick3. Cast iron grills or grating4. Hardware cloth of 0.035 inch wire or heavier5. Corrosion-resistant wire mesh, with the least dimension being 1/8 inch
<input type="checkbox"/> IRC R408.3 – Access	Crawl space access shall be provided with minimum dimensions of 16 inches by 24 inches. Bottom of area shall be below threshold of access opening and access opening shall not be located under a door to the residence.
<input type="checkbox"/> IRC R408.4 – Removal of debris	The under-floor grade shall be cleaned of all vegetation and organic material.

Appendix E – What Every Builder Should Know

Form #TDLR 048ihb, revised May 19, 2006



TEXAS DEPARTMENT OF LICENSING AND REGULATION
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INDUSTRIALIZED HOUSING AND BUILDINGS
BULLETIN #01-001

Revised May 11, 2005

WHAT EVERY INDUSTRIALIZED BUILDER SHOULD KNOW

DEFINITION OF AN INDUSTRIALIZED BUILDER [reference Department rule 70.10(a)]

An industrialized builder is defined as "a person who is engaged in the assembly, connection, and on-site construction and erection of modules or modular components at the building site or who is engaged in the purchase of industrialized housing or buildings or of modules or modular components from a manufacturer for sale or lease to the public; a subcontractor of an industrialized builder is not a builder for purposes of this chapter."

REGISTRATION [Reference department rules 70.20 and 70.78]

1. The builder must notify the department within 10 days of any changes in information regarding the location or ownership of the registrant.
2. Provide the customers with access to the name, mailing address, and telephone number of the department for purposes of directing complaints to the department. The information shall be included on:
 - (a) a sign prominently displayed in the place of business
 - (b) any written contract for services
 - (c) any bill for services
3. The registration is valid for 12 months and must be renewed annually. Each separate sales office, or leasing office, must be registered.

FOUNDATIONS [reference Occupations Code, Chapter 1202, §1202.002, §1202.003, and §1202.203; department rule 70.70(e) and 70.100; *Frequently Asked Questions*; and the *Building Site Inspection Program* procedures]

Residential modular construction must be installed on a **permanent foundation** and installed **in accordance to the manufacturer's specifications**. If the typical foundation drawing is not suitable for a specific site, a licensed Texas professional engineer or architect shall design and stamp the unique foundation drawings or on-site details. Construction shown on drawings must meet or exceed the codes adopted by the **Texas Industrialized Building Code Council**.

The Texas Industrialized Building Code Council permits commercial modular construction to be installed on a temporary foundation system **subject to the acceptance of the local authority**.

INSPECTIONS [reference Occupations Code, Chapter 1202, §1202.203; department rules 70.62 and 70.73 and the *Building Site Inspection Program* procedures]

A. Inside Jurisdiction of a Municipality:

Fall under the jurisdiction of the local authorities for site inspections. Permits must be pulled in accordance with the requirements set by the municipality.

B. Outside Jurisdiction of a Municipality:

- Units installed on a temporary foundation system: no site inspection required.
NOTE: Residential units are required to be placed on a permanent foundation.
- Units installed on a permanent foundation system: Are performed in accordance with the ***Building Site Inspection Program***, and require a **site inspection performed by a Texas registered IHB third party inspector or a Texas licensed professional engineer or architect.**
NOTE: HUD, FHA, or licensed Real Estate Inspectors are not acceptable inspectors for the performance of the site inspection.

The builder may not change inspectors in the middle of a project. These inspections must be scheduled to assure that construction is observed in at least the following phases:

1. **FOUNDATION AND SITE PREPARATION.** After forms are constructed, steel reinforcement is installed, but before concrete is poured.
2. **SET INSPECTION.** When the modules or modular components are connected and fastened to the foundation.
3. **FINAL INSPECTION.** When utility services are connected and tests are performed.

Inspectors are required to use the Site Inspection Report form and the Residential Inspection Checklists (residential installations only), form #'s TDLR 053ihb, TLDR067ihb, and TDLR 068ihb, and provide a copy to the industrialized builder for their records.

RECORDS AUDIT [Reference Department rule 70.50(b), and *Building Site Inspection Program* procedures]

An annual audit of units sold, leased, or installed by the builder shall be conducted by the Department. As an industrialized builder you are required to keep records of all modular units installed for a minimum of ten years. For modular units sold or leased but not installed by the industrialized builder you are required to keep records of all units for a minimum of five years. These records must be kept regardless if your registration is active or inactive.

The Department shall identify each unit in the audit by the manufacturer's name and registration number, manufacturer's serial number, and Texas decal or insignia number. The builder shall provide the following information to the Department for each unit identified in the audit, within the timeframe set by the audit.

- 1) Evidence of compliance with department rule 70.75. Department rule 70.75 requires the builder to provide the following to the purchaser:
 - a) the name, Texas registration number, and address of the manufacturer and industrialized builder;
 - b) a description of the location of the data plate and explanation of the information thereon;
 - c) the floor plan of the building and schematic drawings of the plumbing, electrical, and heating/ventilation systems;
 - d) the location of the decal(s) or insignia on the module or modular components;
 - e) a site plan showing the on-site location of all utilities and utility taps;
 - f) a completed signed copy of the energy compliance checklist.
- 2) The address where each unit was installed. If the builder is not responsible for the installation, then the address to where each unit was delivered.

- 3) The occupancy use of each building containing modules or modular components, i.e., classroom, restaurant, bank, equipment shelter, etc.
- 4) Identification of the type of foundation system, either permanent or temporary, on which each unit was installed. NOTE: Residential units must be installed on a permanent foundation.

If the builder is responsible for the installation and site work, then the builder:

- a) shall, for units installed outside the jurisdiction of a municipality, keep a copy of the foundation plans and, for units installed on a permanent foundation, keep a copy of the site inspection report in accordance with department rule 70.73 (relating to Responsibilities of the Registrants – Building Site Inspections). A copy of these documents shall be made available to the department upon request; or
- b) shall, if installed within the jurisdiction of a municipality, provide the name of the city responsible for the site inspection.

If the builder is not responsible for the installation and site work, then the builder shall provide identification of the installation permit number, assigned by the Department, or builder registration number, assigned by the Department, of the person responsible.

Copies of all documents referenced in this bulletin may be downloaded from our web site at www.license.state.tx.us. While you're checking out the web site, take a few minutes and subscribe to our email subscriber list and become one of the first to be informed of upcoming events and changes related to the IHB program.

If you have questions, or require further information, please contact us at (512) 463-7353, or you may email us at industrialized.buildings@license.state.tx.us.

Appendix F – Areas of Authority Belonging to a Municipality

*Industrialized Housing RES, Bulletin #00-001
Form #TDLR 047ihb, revised June 1, 2006*

*Industrialized Buildings COM, Bulletin #04-001,
Form #TDLR 060ihb, revised June 1, 2006*



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INDUSTRIALIZED HOUSING AND BUILDINGS – BULLETIN #00-001

Revised: May 19, 2006

Areas of Authority Belonging to a Municipality – Industrialized Housing

The Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings, outlines the areas of authority belonging to a municipality. Department rules 70.62 and 70.73 further define the areas of authority pertaining to site inspections.

Any disputes that cannot be resolved between the local officials and the industrialized builder (retailer/installer) shall be referred to the Department. Disputes that cannot be resolved by the Department shall be referred to the Texas Industrialized Building Code Council. The decisions, actions, and interpretations of the Council are binding on the Department, third-party inspectors, design review agencies, manufacturers, and municipalities and other local political subdivisions.

§1202.151(b) of the Texas Occupations Code requires that industrialized housing installed within the jurisdiction of a municipality is constructed to meet the applicable code group for that municipality. With the merger of the International Conference of Building Officials (ICBO) and the Southern Building Code Congress (SBCCI) into the International Code Council (ICC) and the adoption of the International Codes by the Texas Industrialized Building Code Council (Council), this means that the construction of new industrialized housing must be in compliance with the International Codes. The International Codes are the latest editions of the Uniform Codes (published by ICBO) and the Standard Codes (published by SBCCI). Effective July 1, 2004, the applicable mandatory building codes for new construction as adopted by the Council (reference §1202.152 of the Texas Occupations Code) are the 2003 International Building Code, the 2003 International Mechanical Code, the 2003 International Plumbing Code, the 2003 International Fuel Gas Code, the 2003 International Energy Conservation Code, the 2003 International Residential Code, and the 2002 National Electrical Code. Amendments adopted by the Council to these codes are outlined in Department rule 70.101.

§1202.252(a)(1) of the Texas Occupations Code grants the municipality the authority to require and review, for compliance with the mandatory state codes, a complete set of design plans, specifications, and calculations bearing the stamp of the council for each installation within its corporate limits. The municipality may refuse to issue a permit if a review of the plans and specifications indicates any violations of the mandatory building codes in effect at the time of construction of the industrialized house. The municipality may require correction of these violations, and inspection of the corrections made, as a condition for granting a permit. The municipality is not required to accept an industrialized house that has been found to be in violation of the mandatory building codes in effect at the time of construction.

§1202.153 of the Texas Occupations Code does not permit a municipality to require or enforce any local amendments to the mandatory codes adopted by the Council. However, the municipality may assure that the load conditions described in the plans and specifications meet the load requirements for the area in which the unit is installed. For example, a municipality is not required to accept a unit that was designed to meet a 90 mph wind speed if the basic wind speed map in the code indicates that the municipality is located in an area where the basic wind speed is 100 mph.

§§1202.252(a)(2) and 1202.253(a) of the Texas Occupations Code grants the municipality the authority to require that all applicable local permits and licenses are obtained before any construction begins on a building site. Contractors, electricians, and other workmen on the construction site must be licensed in accordance with the requirements of the municipality in which the module is sited and with applicable state requirements. Department rules require that the person responsible for retailing and installing the industrialized house be registered with the Department as an industrialized builder. Industrialized builders are not required to be registered as a builder under the Texas Residential Construction Commission Act.

1202.252(a)(3) of the Texas Occupations Code grants the municipality the authority to require that all modules or modular components bear an approved decal or insignia. IHB Bulletin #97-001 provides a description of the decals and insignia used to certify compliance with the Texas IHB statute. Each separate module or modular component must bear a decal or insignia. The location of the decal or insignia on the module or modular component must be indicated on the floor plan or cover page of the approved plans. Only manufacturers that have met the requirements of the State are eligible to purchase

decals or insignia (Department rule 70.77). By affixing the decal or insignia, the manufacturer certifies that the module or modular component was constructed and inspected in accordance with the law and rules governing industrialized housing and buildings. The control of the decals and insignia remains with the Department.

§§1202.251(a) and 1202.253(c)(3) of the Texas Occupations Code grants the municipality the authority to enforce local land use and zoning requirements, building setback requirements, side and rear yard requirements, site planning and development and property line requirements, subdivision control, and landscape architectural requirements. These local requirements and regulations and others not in conflict with the Act or other State law relating to transportation, erection, installation, or use, shall be reasonably and uniformly applied and enforced without distinction as to whether the housing is manufactured or constructed on site. A municipality cannot restrict an industrialized house to an area zoned for manufactured housing or prohibit an industrialized house constructed under Chapter 1202 from being placed inside city limits. A municipality can prohibit an industrialized house from being placed in an area zoned for business, but cannot prohibit an industrialized house from being placed in an area zoned residential except as provided in §1202.253(c) of the Texas Occupations Code.

§1202.253(c) permits a municipality to adopt regulations that require single-family or duplex industrialized housing to:

- have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located. Value means the taxable value of the industrialized housing and the lot after installation of the home;
- have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is to be located; and
- comply with municipal aesthetic standards, square footage, and other site requirements applicable to single-family dwellings;

§1202.252(a)(4) of the Texas Occupations Code grants the municipality the authority to establish procedures for inspection of the erection and installation of any industrialized house located within their jurisdiction to assure compliance with the mandatory building codes and the approved plans and specifications. These procedures may require final inspections and tests before occupancy and may require correction of deficiencies identified by the tests or discovered during inspections.

§1202.203 of the Texas Occupations Code grants the municipality the authority to inspect the foundation system and erection and installation of the modules or modular components on the foundation system to assure compliance with the mandatory building codes adopted by the Council and approved plans and specifications. All construction performed on site shall be inspected by the municipal inspectors in accordance with their inspection procedures. The municipality may require repair of any items damaged in transit on the module or modular components to be installed. The municipality may require correction of code (mandatory codes identified in Department rules 70.100 and 70.101) violations identified on the module or modular component during the site inspections. The municipality may require correction of items that are not in conformance with the approved plans and specifications. Construction uncovered during repairs of violations may be inspected for conformance to the mandatory state codes and approved plans. However, destructive disassembly (Department rule 70.73) of a module or modular component is not permitted. Inspection of anything visible on a module or modular component is permitted. Nondestructive disassembly (opening access panels, cover plates, etc) is permitted during inspection.

Department rule 70.70(d) requires a manufacturer to provide on-site construction documentation that includes the critical load points for attachment of the house or building to the foundation. **Department rules 70.70(e) and 70.70(f)** require a licensed engineer (or architect for one or two family dwellings having one story and total floor area of 5,000 square feet or less) to design and seal the foundation system and unique on-site construction details for each industrialized house or building. The foundation is required to be suitable for the location where the house or building will be installed. The foundation design and unique on-site details shall be reviewed by the municipality for conformance to the mandatory building codes – review by a Texas approved design review agency is not required.

§1202.002 of the Texas Occupations Code defines an industrialized house as one that is erected or installed on a permanent foundation. **Department rule 70.10(a)** defines a “permanent foundation system” as one that is designed to meet the applicable mandatory building code adopted under the Texas

IHB program. A municipality shall require that an industrialized house be installed on a permanent foundation system. The use of ground anchors is not approved for permanent foundations. Components of a foundation system allowed for use in site built construction must also be allowed for IHB housing. Typically, a "permanent" foundation is one with the following characteristics.

- The foundation and all related construction complies with the requirements of the mandatory building code
- The foundation system is capable of transmitting all design loads imposed by or upon the foundation and the attached building into soil or bedrock without failure
- The structure is attached without the towing hitch, axles, brakes, wheels and other parts of the chassis that only operate during transportation.
- Ventilation and decay details are provided in accordance with code requirements.



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INDUSTRIALIZED HOUSING AND BUILDINGS – BULLETIN #04-001

Revised May 12, 2009

Areas of Authority Belonging to a Municipality – Industrialized Buildings

This bulletin deals only with the areas of authority of a municipality for industrialized buildings – reference IHB Bulletin #00-001 for the areas of authority of a municipality for industrialized housing.

The Occupations Code, Chapter 1202, Industrialized Housing and Buildings, defines the areas of authority belonging to a municipality. Department rules 70.62 and 70.73 further define the areas of authority pertaining to site inspections.

Disagreements that cannot be resolved between the local officials and the industrialized builder (retailer/installer) shall be referred to the Department. Disagreements that cannot be resolved by the Department shall be presented to the Texas Industrialized Building Code Council. The decisions, actions, and interpretations of the Council are binding on the Department, third-party inspectors, design review agencies, manufacturers, and municipalities and other local political subdivisions.

Section 1202.151(b) of the Occupations Code requires that industrialized buildings installed within the jurisdiction of a municipality be constructed to meet the National Electrical Code and the applicable code group for that municipality. With the merger of the International Conference of Building Officials (ICBO) and the Southern Building Code Congress (SBCCI) into the International Code Council (ICC) there is only one code group, the International Codes. The International Codes are published by the International Code Council and are the latest editions of the Uniform Codes (published by ICBO) and the Standard Codes (published by SBCCI).

The International Codes have been adopted by the Texas Industrialized Building Code Council (Council) in accordance with **Section 1202.152 of the Occupations Code**. This section requires the Council to adopt new code editions in place of those originally adopted by the law if the Council determines that the use of the new code editions are in the public interest and consistent with the purposes of the law. The International Codes were first adopted by the Council as the replacement codes for both of the original codes groups in February 2002 (adopted as the replacement codes for parts of the Uniform Code group in February 2000). The applicable mandatory building codes for construction of new industrialized buildings are the International Building Code, the International Mechanical Code, the International Plumbing Code, the International Fuel Gas Code, the International Energy Conservation Code, and the National Electrical Code. The applicable edition of these codes can be found in Department Rules 70.100 and 70.101.

Section 1202.252(a)(1) of the Occupations Code gives the municipality the right to require and review, for compliance with the mandatory building codes, a complete set of design plans, specifications, and calculations marked with the stamp of the council for each installation within its corporate limits. The municipality may refuse to issue a permit if a review of the plans and specifications indicates any items that do not meet the mandatory building codes in effect at the time of construction of the industrialized building. The municipality may require correction of these items, and inspection of the corrections, as a condition for granting a permit. The municipality is not required to accept an industrialized building that does not meet the mandatory building codes in effect at the time of construction.

Section 1202.153 of the Occupations Code does not allow a municipality to require or enforce any local amendments to the mandatory building codes adopted by the Council. However, the municipality may make sure that the load conditions described in the plans and specifications meet the minimum loads for the area in which the unit is installed. For example, a municipality does not have to accept a unit that was designed to meet a 90 mph wind speed if the basic wind speed map in the code indicates that the municipality is located in an area where the basic wind speed is greater than 90 mph.

Section 1202.252(a)(2) of the Occupations Code gives the municipality the right to require that all applicable local permits and licenses are obtained before any construction begins on a building site. Contractors, electricians, and other workmen on the construction site must be licensed in accordance with the requirements of the municipality in which the industrialized building will be installed and with applicable state requirements. Department rules require that the person responsible for retailing and installing the industrialized buildings is registered with the Department as an industrialized builder.

Section 1202.252(a)(3) of the Occupations Code gives the municipality the right to require that all modules or modular components have an approved decal or insignia attached. IHB Bulletin #97-001 gives a description of the decals and insignia used to certify compliance with the Texas IHB law. Each separate module or modular component must have a decal or insignia attached. The location of the decal or insignia on the module or modular component must be shown on the floor plan or cover page of the approved plans. Only manufacturers that have met the requirements of the State can buy decals or insignia (Department rule 70.77). The manufacturer certifies that the module or modular component was constructed and inspected in accordance with the law and rules governing industrialized housing and buildings by attaching the decal or insignia. The control of the decals and insignia remains with the Department.

Section 1202.1535(a) of the Occupations Code states that a building meets a new mandatory building code or an amendment to the mandatory building code adopted by the Council if:

1. the building has an approved decal or insignia attached indicating compliance with the mandatory building codes; and
2. the building has not been altered or modified from its original construction.

A municipality may not require that these buildings meet either the current mandatory building code or building code amendment adopted by the Council or the local building code. A building that has not been maintained shall be considered altered.

Section 1202.1535(b) of the Occupations Code requires alterations of industrialized buildings that have an approved decal or insignia attached to be in compliance with the current mandatory building code or building code amendment adopted by the Council. A recertified unit shall have an alteration decal attached indicating compliance with the mandatory building code in accordance with Department rules 70.74 and 70.102. A building that does not conform to the original approved construction documents shall be considered altered if it has not been recertified. A municipality is not required to accept an altered industrialized building that has not been recertified.

Section 1202.251(a) of the Occupations Code gives the municipality the right to enforce local land use and zoning requirements, building setback requirements, side and rear yard requirements, site planning and development and property line requirements, subdivision control, and landscape architectural requirements. These local requirements and regulations and others not in conflict with the IHB law or other State law relating to transportation, erection, installation, or use, shall be reasonably and uniformly applied and enforced the same for all buildings – the municipality may not enforce different requirements for industrialized buildings. A municipality cannot limit an industrialized building to an area zoned for manufactured buildings. A municipality cannot bar an industrialized building constructed under Chapter 1202 from being placed inside city limits. A municipality can bar an industrialized building from being placed in an area zoned residential.

Section 1202.252(a)(4) of the Occupations Code gives the municipality the right to set procedures for inspection of the erection and installation of any industrialized building located within their jurisdiction to assure compliance with the mandatory building codes and the approved plans and specifications. These procedures may require final inspections and tests before occupancy and may require correction of code violations identified by the tests or discovered during inspections.

Section 1202.203 of the Texas Occupations Code gives the municipality the right to inspect the foundation system and erection and installation of the modules or modular components on the foundation system to make sure that they meet the mandatory building codes and approved plans and specifications. All construction performed on site shall be inspected by the municipal inspectors in accordance with their inspection procedures. The municipality may require repair of any items damaged during transportation on the module or modular component to be installed. The municipality may require correction of code (mandatory building codes identified in Department rules 70.100 and 70.101) violations identified on the module or modular component during the site inspections. The municipality may require correction of items that do not meet the approved plans and specifications. Construction uncovered during repairs of violations may be inspected to make sure that they meet the mandatory building codes and approved plans. The municipality cannot require removal of permanent components or construction to inspect hidden portions of the construction to make sure it meets the mandatory building codes (Department Rule 70.73, destructive disassembly). Inspection of anything visible on a module or modular component is allowed. Nondestructive disassembly (opening access panels, cover plates, etc) is allowed during inspection.

Department rule 70.70(d) requires a manufacturer to supply on-site construction documentation that includes the critical load points for attachment of the building to the foundation. **Department rules 70.70(e) and 70.70(f)** require a licensed engineer (or architect for buildings having one story and total floor area of 5,000 square feet or less) to design and seal the foundation system and unique on-site construction details for each industrialized building. The foundation is required to be suitable for the location where the building will be installed. The foundation design and unique on-site details are reviewed by the municipality for compliance to the mandatory building codes – review by a Texas approved design review agency is not required.

Department rule 70.10(a) defines a “permanent foundation system” as one that is designed to meet the mandatory building codes adopted under the Texas IHB program. A permanent foundation system shall not include ground anchors. Components of a foundation system allowed for use in site built construction must also be allowed for industrialized buildings.

The Council has decided that municipalities may allow the installation of an industrialized building on a temporary foundation system. A temporary foundation system typically uses tie downs and ground anchors similar to the foundation systems used for manufactured housing and may be adequate where a building is to be placed at a temporary location. The documents, plans, and specifications for a temporary foundation system shall include the following.

- A soil investigation report prepared by a qualified engineer, or, if the exact location is unknown, a description of the soil type for which the system is suitable.
- Structural calculations and related plans prepared by a professional engineer or architect.
- Specifications for adequate corrosion protection for the anchors and related tie-down system.
- The plans and specifications must clearly show that the system is designed for the temporary location of the structure.

Appendix G – Frequently Asked Questions

General Questions

Technical Questions

Licensing Questions

Enforcement Questions



TEXAS DEPARTMENT OF LICENSING AND REGULATION
COMPLIANCE DIVISION – INDUSTRIALIZED HOUSING AND BUILDINGS

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**Industrialized Housing and Buildings
Frequently Asked Questions**

Revised August 31, 2005

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General Questions

1. My home has a chassis – doesn't this mean it's a manufactured home?

No, a chassis does not necessarily make the home a manufactured home. As long as the construction of the industrialized house complies with the mandatory building code, the house may be constructed of any materials allowed by the code. Industrialized (modular) housing may be constructed with a steel chassis.

Unlike site built housing, industrialized housing requires a means of transport to move the house to the installation site. In many cases, the house is designed with the means of transport, in this case the chassis or steel frame, as a structural component of the house. A chassis that is designed to remain with the house is required to comply with all the applicable sections of the mandatory building code. However, the house must be installed without the towing hitch, axles, brakes, wheels, and other parts of the chassis that operate only during transportation and are only there to facilitate transportation of the house.

2. What is the difference between an "IHB" or industrialized (modular) home and a "manufactured home?"

The primary differences between an industrialized (modular) home and a manufactured home are as follows.

- The codes to which the homes are built. Industrialized housing in the State of Texas is constructed to the same codes as traditional site built housing. Manufactured housing is constructed to Federal HUD code standards. For information on manufactured housing please contact the Texas Department of Housing and Community Affairs at 800-500-7074 (in state only) or (512) 475-2200;
- Industrialized housing must be installed on a permanent foundation system;
- Titles are not issued by this Department for industrialized homes. Once installed, the house becomes part of the real property. Titles of ownership are provided the same as with site built homes and buildings.
- The units that make up an industrialized house will each bear a certification decal (label). A description of these decals may be found in the Industrialized Housing and Buildings Bulletin #97-001. Copies of bulletins may be downloaded from our web site at <http://www.license.state.tx.us/ihb/ihbforms.htm#Bulletins>. Decals are purchased from the Department by approved manufacturers for placement on units that were constructed in accordance with the mandatory building codes and the approved design package and that were inspected in accordance with the requirements of the Texas IHB program.
- A municipality may not prohibit industrialized housing constructed under the IHB program from being placed inside city limits or restrict these buildings to areas zoned for "manufactured" housing.

3. Can a municipality prohibit buildings constructed under the IHB program from being placed inside their city limits or restrict these buildings to an area zoned for manufactured housing? If not, what authority do the municipalities have over IHB buildings?

No. However, there are areas of authority belonging to municipalities that are specifically and entirely reserved to them. That authority may include local land use and zoning requirements, building setback requirements, side and rear yard requirements, site planning and development and property line requirements, subdivision control, and landscape architectural requirements. Those local requirements and regulations and others not in conflict with the IHB law or other state law relating to transportation, erection, or installation, or use, shall be reasonably and uniformly applied and enforced **without distinction as to whether the housing or buildings are manufactured under the IHB program or are constructed on site.**

In other words, a municipality must accept buildings that have been constructed under the Texas Industrialized Housing and Buildings program. If an area is zoned single-family residential, then the municipality must accept a single family residential IHB building in that area. If an area is zoned commercial, then the municipality must accept a commercial IHB building in that area. A municipality may enforce all local ordinances and zoning requirements that are not in conflict with the requirements of the IHB law.

A municipality has the authority to:

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Revised August 31, 2005

- require and review for compliance with the mandatory state codes a complete set of design plans and specifications bearing the stamp of the Texas Industrialized Building Code Council for each installation within its corporate limits;
- require that all applicable local permits and licenses be obtained before any construction begins on a building site;
- require that all modules or modular components bear an approved Texas decal or insignia; and
- establish procedures for inspection of the erection and installation of any industrialized housing and buildings to be located within its corporate limits to assure compliance with the mandatory state codes. These procedures may require final inspections and tests before occupancy is permitted.

In addition, a municipality may adopt ordinances that require single-family or duplex industrialized housing to meet requirements not required to be met by housing constructed on-site. The ordinance may require the housing to:

- have a value equal or greater than the median taxable value for each dwelling located within 500 feet of the proposed installation site;
- have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the dwellings within 500 feet of the proposed installation site;
- comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to dwellings; or
- be securely fixed to a permanent foundation.

A municipality may not require or enforce any amendments to the mandatory state codes for industrialized housing and buildings as a prerequisite for granting construction permits or certificates of occupancy. A municipality must accept industrialized buildings as compliant with the current mandatory building code adopted under the Texas IHB program provided the building has not been altered from the original plans (reference §1202.1535 of the Texas Occupations Code). A building that has not been maintained shall be considered altered. Buildings that are altered may be recertified under the Texas IHB program. Once recertified the buildings must be accepted by municipalities as in compliance with the current mandatory building code adopted under the Texas IHB program.

More information concerning the areas of authority of municipalities may be found on the web site at <http://www.license.state.tx.us/ihb/ihbforms.htm#Bulletins>.

4. What is the difference between an IHB manufacturer and an industrialized builder?

An IHB manufacturer is a person who constructs or assembles modules or modular components at a manufacturing facility which are offered for sale or lease, sold or leased, or otherwise used.

An industrialized builder is a person who is engaged in the assembly, connection, and on-site construction and erection of modules or modular components at the building site. Alternately an industrialized builder is a person who is engaged in the purchase of industrialized housing or buildings or of modules or modular components from a manufacturer for sale or lease to the public. A subcontractor of an industrialized builder does not have to be registered as an industrialized builder.

5. Why do I have to get a site inspection for my building when the site is outside corporate city limits?

§1202.203(b) of the Texas Occupations Code requires the construction of the foundation system and the erection and installation of industrialized housing modules or modular components to be inspected by third party inspectors approved by the Texas Industrialized Building Code Council. §1202.203(d) requires the construction of the foundation system and the erection or installation of industrialized building modules or modular components to be inspected, if required by Commission rule, by third party inspectors approved by the Texas Industrialized Building Code Council. Department rule 70.73 and the Building Site Inspection Program provides detailed information on when site inspections are required. Please visit the following site to learn more about when site inspections are required and who may perform them: <http://www.license.state.tx.us/ihb/bldgsite.htm>.

6. Who is responsible for assuring that the site inspections are completed in accordance with the requirements of the Industrialized Housing and Buildings Statute?

That depends on your contract with the industrialized builder (retailer/installer) or manufacturer from whom you purchased the modules or modular components. Generally, if your contract with the builder or manufacturer calls for a turn key operation, i.e., they are responsible for the foundation and installation and erection of the modules or modular components, then the builder or manufacturer is responsible for assuring that the site inspections are completed. If the builder or manufacturer is only transporting or performing a portion of the site work, such as installation of the modules or modular components, and you are subcontracting out other portions of the site work, then you are responsible for assuring that the site inspections are completed. Please visit the following site to learn more about when site inspections are required and who may perform them: <http://www.license.state.tx.us/ihb/bldgsite0504.htm>.

7. The local building official said I need an IHB decal for my building. How do I get one?

If the building is already constructed it is too late to obtain IHB decals or insignia for the modules or modular components that comprise the building. If the building has not yet been constructed, then you may contact one of the Texas registered industrialized builders (retailers/installers) or certified (approved) Texas IHB manufacturers to purchase your building. A list of industrialized builders can be found at www.license.state.tx.us/IHB/Builders.htm. A list of certified manufacturers can be found at www.license.state.tx.us/IHB/Manuafaclist.htm. Manufacturers that wish to become certified under the Texas IHB program may download an information packet at www.license.state.tx.us/IHB/041IHB.htm.

8. Can industrialized housing be installed on a temporary foundation? What is the difference between a "permanent" foundation and a "temporary" foundation?

Industrialized housing cannot be installed on a temporary foundation system. Generally, a "permanent" foundation is a foundation system with the following characteristics.

- The foundation system and all related construction complies with the requirements of the mandatory building codes.
- The foundation system is capable of transmitting all design loads imposed by or upon the foundation and the attached building into soil or bedrock without failure.
- The structure is attached without the towing hitch, axles, brakes, wheels and other parts of the chassis that only operate during transportation.
- Ventilation and decay details are provided in accordance with code requirements.
- The use of ground anchors is not approved for permanent foundations.

A temporary foundation typically consists of tie downs and anchors consistent with the foundation systems employed for manufactured housing. The Texas Industrialized Building Code Council (Council) permits the use of temporary foundation systems for industrialized **buildings** subject to the acceptance of the approving agency. The documents, plans, and specifications for a temporary foundation system must include the following:

- a soil investigation report prepared by a qualified engineer, or if the exact site location is unknown, a description of the soil type for which the system is suitable;
- structural calculations and related plans prepared by a qualified engineer;
- specifications for adequate corrosion protection for the anchors and associated tie-down system; and
- the plans and specifications must clearly indicate that the system is designed for the temporary location of the structure.

Design review agencies may approve temporary foundation systems in compliance with the above, but the local authorities have the final say on what foundation system is appropriate for the installation site. The Council does not wish to force acceptance of a temporary foundation system where the building is to be placed in a permanent location, but determined that these systems may be adequate where a building is placed at a temporary location.

9. Section 1202.151 of the Occupations Code, Industrialized Housing and Buildings, adopts the National Electrical Code, the Uniform Building Code group, and the Standard Building Code group as they existed on January 1, 1985, but the construction documents for modular housing and buildings installed within my jurisdiction indicate compliance with the 2002 National Electrical Code (NEC) and the 2003 International Codes (I Codes). Is this legal?

Yes. Section 1202.152 of the Occupations Code, Industrialized Housing and Buildings, grants authority to the Texas Industrialized Building Code Council (Council) to adopt later editions of the codes adopted in section 1202.151. In October 2003 the Council adopted the 2002 NEC and 2003 I Codes with an effective date of July 1, 2004. The mandatory building codes currently in effect may be found in Department rule 70.100 and 70.101 (rules may be downloaded from our web site at <http://www.license.state.tx.us/ihb/ihbrules.htm>). Section 70.100(c) provides the effective dates for past code editions adopted by the Council.

10. Where can I obtain a copy of the mandatory building codes adopted under the Texas Industrialized Housing and Buildings program?

The mandatory building codes adopted under the Texas Industrialized Housing and Buildings program are published by the International Code Council (ICC) and can be purchased from the ICC. For more information visit the ICC web site at www.iccsafe.org.

The mandatory building codes currently in effect can be found in Department rule 70.100 and 70.101 (rules may be downloaded from our web site at <http://www.license.state.tx.us/ihb/ihbrules.htm>).

11. What is the difference between an industrialized builder's registration and an installation permit?

Manufacturers of industrialized housing and buildings cannot release a module or modular component for shipping without the installation permit number of the owner or the registration number of the industrialized builder. An industrialized builder (retailer) who is not responsible for the foundation and installation of the modules or modular components may not release the modules or modular components without the installation permit number of the owner. **If you are a retailer, (i.e., purchasing industrialized housing or buildings for sale or lease to the public) then you must be registered as an industrialized builder.** If you are purchasing or leasing an industrialized house or building for your own use, or your company's use, you may file for an installation permit in lieu of registering as an industrialized builder.

12. Are all commercial modular buildings regulated under the Texas IHB program?

No. Chapter 1202 of the Occupations Code does not regulate the following commercial industrialized (modular) buildings.

- Structures that exceed 3 stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof
- A commercial building that is installed in a manner other than on a permanent foundation and that is not open to the public
- A commercial building that is installed in a manner other than on a permanent foundation and that is less than 1,500 square feet in total area and used other than as a school or a place of religious worship
- Construction site buildings. A construction site building is a commercial structure that is not open to the public and used for any purpose at a commercial site by a person constructing a building, road, bridge, utility, or other infrastructure or improvement to real property

Note: Many exempt commercial modular buildings have been constructed and labeled under the Texas IHB program to assure acceptance by municipalities and because many municipalities want the assurance that the building has been constructed in compliance with the building codes. The policies of a municipality with regards to buildings not labeled under the IHB statute are not covered by the IHB statute or governed by IHB staff; however, buildings that are labeled under the Texas IHB program must comply with all the requirements of the program.

13. How do I transfer the title to my industrialized house or building?

There are no provisions in Chapter 1202 of the Occupations Code for **the Department to issue or transfer titles for** industrialized housing and buildings. Unlike manufactured housing, permanently

IHB – Frequently Asked Questions

Revised August 31, 2005

installed industrialized housing or buildings are considered part of the real property and titles of ownership are provided the same as with site built housing and buildings.

Licensing Questions

1. Can I apply for an installation permit for the installation of an industrialized house that will then be sold as real estate with the property on which it is installed?

No. An installation permit can only be obtained for the purchase and installation of an industrialized house if you plan to live in the house after it is installed. The intent of an installation permit was to give some relief from the registration requirements for an industrialized builder to a person who wants to purchase an industrialized house to live in and who is willing to take responsibility for the foundation and installation of the house.

2. Why do I have to give you my social security number when applying for registration?

In order to comply with the laws relating to child support enforcement under Parts A and D of the federal Social Security Act (42 U.S.C. Sections 601-617 and 651-669), Texas Family Code Section 231.302(c)(1) requires Texas State licensing agencies to obtain the social security numbers of all persons requesting a license or registration. Please be assured that the furnishing of social security numbers will be for the limited purpose of complying with the Family Code Section 231.302(c)(1). This information will not be used for any other purpose or made available to any other individual, organization or entity. Under Texas Attorney General Open Records Opinion No. 622 (January 27, 1994) even an open records request will not force us to release such information.

3. Does the Texas IHB program have reciprocity with any other state modular construction program?

No, the Department does not currently have reciprocity with any other state modular construction programs. Please see the IHB web site at <http://www.license.state.tx.us/ihb/ihbreciprocity.htm> for more information about reciprocity with other states.

4. How does a manufacturer become a certified (approved) industrialized housing and buildings manufacturer for Texas?

A manufacturer's information packet may be downloaded from our website at www.license.state.tx.us/IHB/041IHB.htm. A flow chart showing the steps to becoming a certified IHB manufacturer can be found at <http://www.license.state.tx.us/ihb/pdf/ihb044.pdf>. A checklist of the pre-certification requirements that must be fulfilled prior to the start of a Texas certification inspection may be found at <http://www.license.state.tx.us/ihb/pdf/ihb019.pdf>.

5. If I was on active duty in the National Guard, do I have any additional time to complete continuing education and other requirements related to the renewal of my license?

Yes. If you were a member of the state military forces or a reserve component of the armed forces of the United States, such as the National Guard, and you were ordered to active duty on or after September 1, 2004, you have additional time equal to the total number of years or parts of years that the you served on active duty.

When you apply to renew your license you must provide documentation of the date your active duty began and the date it ended.

Enforcement Questions

1. How do I file a complaint against a licensee?

To file a complaint, you may [download the Complaint Form](#) from our website or contact the department at 800-803-9202 (Texas only) or 512-463-6599.

Communication Questions

1. How may I receive notification of new and changing information with your department?

You may sign up on the [TDLR E-mail Subscriber Notification Lists](#). These list(s) were established to allow subscribers to receive automated notification of new and changing information. To include yourself in the TDLR e-mail notification list(s), follow the instructions on the page.

Appendix H – Bulletin #97-001

Form #TDLR 033ihb, Revised May 2006

An informational Bulletin that defines Industrialized Housing and Buildings and provides depictions of certification decals



TEXAS DEPARTMENT OF LICENSING AND REGULATION
COMPLIANCE DIVISION – INDUSTRIALIZED HOUSING AND BUILDINGS

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INDUSTRIALIZED HOUSING AND BUILDINGS

BULLETIN 97-001

Revised May 3, 2006

The Occupations Code, Chapter 1202, regulates the construction of modular buildings and modular components, both residential and commercial, in the State of Texas.

The Texas Industrialized Housing and Buildings Act, Texas Civil Statutes, Article 5221f-1, became effective on January 1, 1986. House Bill 2813, 77th Legislature (2001), Chapter 1202, enacted a nonsubstantive revision of Article 5221f-1, effective June 1, 2003. Senate Bill (SB) 279, 78th Legislature (2003), added an exemption for construction site office buildings, effective September 1, 2003. SB 443, 79th Legislature (2005), enacted changes in the definition of an industrialized building and extended the exemption for construction site office buildings to all construction site buildings, effective September 1, 2005.

Modular Components: Section 1202.001(5) of the Occupations Code defines a **“Modular component”** as a structural part of housing or of a building constructed at a location other than the building site in a manner that prevents the construction from being adequately inspected for code compliance at the building site without damage or removal and reconstruction of a part of the housing or building.

Industrialized Housing: Section 1202.002 of the Occupations Code defines **“industrialized housing”** as a residential structure, including the structure’s plumbing, heating, air conditioning, and electrical systems, that meets all of the following criteria.

- A building designed for the occupancy of one or more families
- A building constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site
- A building designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system

Industrialized housing does not include the following:

- ✓ A residential structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof
- ✓ Housing constructed of a sectional or panelized system that does not use modular components
- ✓ A ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location

Industrialized Buildings: Section 1202.002 of the Occupations Code defines an **“industrialized building”** as a commercial structure, including the structure’s plumbing, heating, air conditioning, and electrical systems, that meets all of the following criteria.

- A building that is constructed in one or more modules or constructed using one or more modular components built at a location other than the commercial site
- A building that is designed to be used as a commercial building when the module or the modular component is transported to the commercial site and erected or installed

Industrialized buildings include permanent commercial structures and commercial structures designed to be transported from one commercial site to another commercial site but does not include the following.

- ✓ A commercial structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof
- ✓ A commercial building or structure that is installed in a manner other than on a permanent foundation and either is not open to the public or is less than 1,500 square feet in total area and used other than as a school or a place of religious worship
- ✓ **Construction site buildings** (reference section 1202.204 of the Occupations Code). Section 1202.001(2) of the Occupations Code defines a **“construction site building”** as a commercial structure that is not open to the public and that is used for any purpose at a commercial site by a person constructing a building, road, bridge, utility, or other infrastructure or improvement to real property

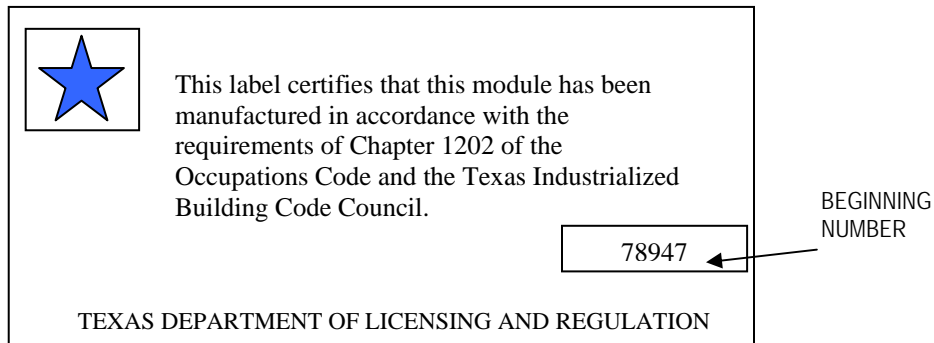
Manufactured Housing is built to Federal HUD Code Standards. For information on “Manufactured Housing” please contact the Texas Department of Housing and Community Affairs at 800-500-7074 (in state only) or (512) 475-2200, internet address <http://www.tdhca.state.tx.us/mh.htm>.

Mandatory Building Codes. Industrialized housing and buildings, modules, and modular components are constructed in accordance with the following codes [reference department rules 70.100 and 70.101].

- The National Electrical Code, 2002 Edition; and
- The International Building Code, 2003 edition; the International Fuel Gas Code, 2003 edition; the International Plumbing Code, 2003 edition; the International Mechanical Code, 2003 edition; the International Residential Code, 2003, and the 2003 International Energy Conservation Code.

Decals and insignia are labels used to certify that the modules or modular components are constructed and inspected in accordance with the approved design package, the mandatory building codes in effect at the time of construction, and the in-plant inspection requirements approved by the Texas Industrialized Building Code Council. Decals are used for module certification and insignia are used for modular component certification. The department issues labels to a registered certified manufacturer upon application and payment of the fee following certification of the manufacturing facility. Labels must be affixed before the modules or modular components are shipped from the manufacturing facility. The labels may be placed in any visible location so long as the location is specified on the floor plan or plan or project cover page and so long as the location is not a readily removable item such as a cabinet door (labels may be placed on the cover of the electrical distribution panel).

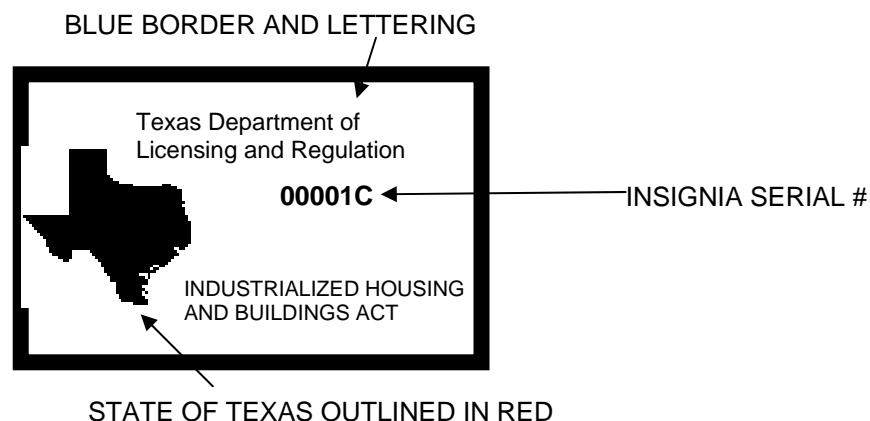
DECAL DESCRIPTION (Current – beginning with decal #78947):



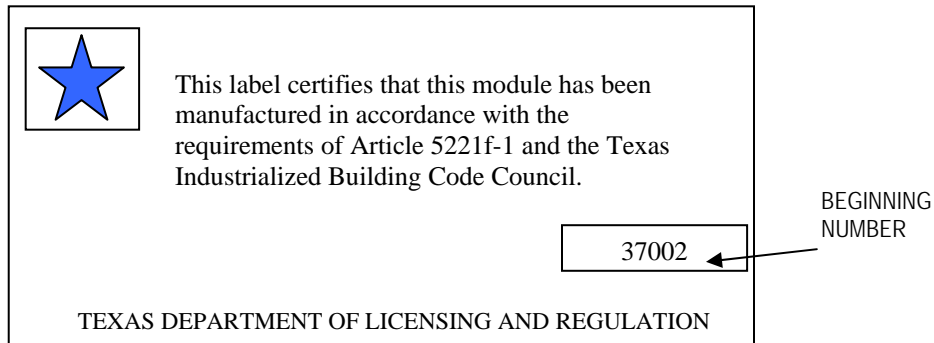
COLORS: White background, blue star, blue lettering **SIZE:** 2 X 4

If product is tampered with the label will chip away in tiny pieces. Permanent acrylic adhesive used. Material is 3.5 mil. thick. Five-year exterior application warranty. Temperature range -30 deg. F to 245 deg. F. Minimum application temperature is 50 deg. F.

INSIGNIA DESCRIPTION (modular components):



PAST DECAL DESCRIPTION (decal #'s 37002 - 78946):

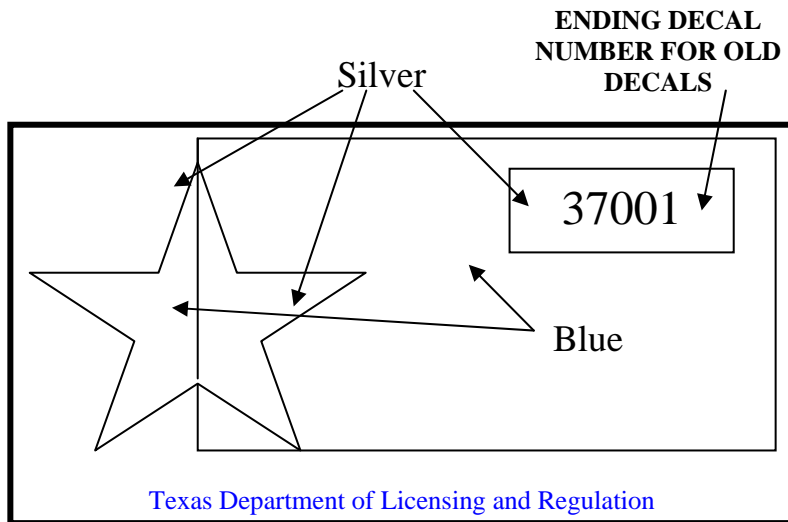


COLORS: White background, blue star, blue lettering **SIZE:** 2 X 4

If product is tampered with the label will chip away in tiny pieces. Permanent acrylic adhesive used. Material is 3.5 mil. thick. Five-year exterior application warranty. Temperature range -30 deg. F to 245 deg. F. Minimum application temperature is 50 deg. F.

PAST DECAL DESCRIPTION (1986 through 1998):

Aluminum alloy type material (non-rusting) 2" x 4" x 0.18." Blue on natural color of metal with 1/8" hole in each corner. Center of hole located 3/16" from end/top or bottom. Serial number in upper right hand corner. Texas Department of Licensing and Regulation along lower part of decal. Large star on left end. Left vertical half of star is blue. Right half of star is natural color of metal.



Manufactured Housing Rules

Effective: January 7, 2018

*Administrative Rules of the Texas Department of Housing and Community Affairs
10 Texas Administrative Code, Chapter 80*

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SUBCHAPTER A. CODES, STANDARDS, TERMS, FEES AND ADMINISTRATION

§80.1. *Texas Manufactured Housing Standards Code.* ***(Effective: December 30, 2007)***

The standards and requirements for the installation and construction of manufactured housing adopted by the board in accordance with §1201.251(a)(1) of the Texas Manufactured Housing Standards Act (Standards Act) are as follows:

- (1) The construction standards set out in Chapter VI of the Housing and Community Development Act of 1974, as the same may be amended from time to time, or under any official rule, official interpretation, or adopted standard issued or adopted by the Department of Housing and Urban Development under such law;
- (2) The installation standards set forth in this chapter; and
- (3) Applicable standards for installation components established by
 - (A) Chapter 43 of the latest edition of the International Residential Code;
 - (B) The stabilizing component destruction test failure criteria of the FMHCSS, as implemented by 24 CFR, Part 3280 and the latest edition of the International Residential Code, Appendix E; and
 - (C) The American Wood Preserver's Association and referenced by the latest edition of the International Residential Code Preservation for treated (PT) wood components.
- (4) Collectively, the foregoing, together with the Standards Act and these rules, are referred to as the Texas Manufactured Housing Standards Code (“the Code”).

§80.2. *Definitions.* ***(Effective: January 7, 2018)***

Terms used herein that are defined in the Code and the Standards Act have the meanings ascribed to them therein. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) APA--Administrative Procedure Act, Texas Government Code, Chapter 2001.
- (2) Business days--Includes every day on the calendar except Saturday, Sunday, and federal and state holidays. If there is a time limitation of five (5) days or less, within the Standards Act, it is business days unless specified otherwise.

- (3) Chattel Mortgage--Any loan that is not subject to the Real Estate Settlement Procedures Act (RESPA).
- (4) Coastline--The shoreline that forms the boundary between the land and the Gulf of Mexico or a bay or estuary connecting to the Gulf of Mexico that is more than five miles wide.
- (5) Cosmetic--Matters of flaws and finish, appearance, materials or workmanship not covered by 24 CFR Part 3280.
- (6) Credit document--Any executed written agreements between the consumer and creditor that describe or are required in connection with an actual credit transaction.
- (7) Creditor--A person involved in a credit transaction who:
 - (A) extends or arranges the extension of credit; or
 - (B) is a retailer or broker as defined in the Standards Act and participates in arranging for the extension of credit.
- (8) Custom designed stabilization system--An anchoring and support system that is not an approved method as prescribed by the state generic standards, manufacturer's installation instructions, or other systems pre-approved by the Department.
- (9) Dangerous conditions--Any condition which, if present, would constitute an imminent threat to health or safety.
- (10) DAPIA--The Design Approval Primary Inspection Agency.
- (11) Department or TDHCA--The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (TDHCA).
- (12) Deposits--Money or other consideration given by a consumer to a retailer, salesperson, or agent of a retailer to hold a manufactured home in inventory for subsequent purchase or to confirm the agreed price on a home to be specially ordered.
- (13) Down Payment--An amount, including the value of any property used as a trade-in, paid to a retailer to be applied to the purchase price of a manufactured home, including any goods or services that are a part of that transaction.
- (14) Dwelling unit--One or more habitable rooms which are designed to be occupied for living.

- (15) FMHCSS--Federal Manufactured Home Construction and Safety Standards that implement the National Manufactured Home Construction and Safety Standards Act of 1974, 42 USC 5401, et seq., as amended from time to time.
- (16) Frost Line Zone--An area in Texas designated by the Department, as having a frost line depth to consider when conforming with federal rules.
- (17) Independent testing laboratory--An agency or firm that tests products for conformance to standards and employs at least one engineer or architect licensed in at least one state.
- (18) Inventory Lender--A person that is involved in extending credit for inventory financing secured by manufactured housing.
- (19) IPIA--The Production Inspection Primary Inspection Agency which evaluates the ability of manufactured home manufacturing plants to follow approved quality control procedures and/or provides ongoing surveillance of the manufacturing process.
- (20) Long-Term Lease--For the purpose of determining whether or not the owner of a manufactured home may elect to treat the home as real property, is a lease on land to which the manufactured home has been attached and which:
 - (A) has been approved by each lienholder for the manufactured home by placing on file with the Department written consent to have the home treated as real property; or
 - (B) is for at least five years if the home is not financed.
- (21) Main frame--A chassis or structure serving a similar purpose.
- (22) Manufactured home identification numbers--HUD label number, serial number, or Texas seal number. For the purpose of maintaining ownership and location records, including the perfection of liens, the numbers shall include the HUD label number(s) and the serial number(s) imprinted or stamped on the home in accordance with HUD departmental regulations. For homes manufactured prior to June 15, 1976, the Texas seal number, as issued by the Department, shall be used instead of the HUD label number. If a home manufactured prior to June 15, 1976, does not have a Texas seal, or if a home manufactured after June 15, 1976, does not have a HUD label, a Texas seal shall be purchased from the Department and attached to the home in upper left corner on the end opposite the tongue end and used for identification in lieu of the HUD label number.
- (23) Manufactured home site--That area of a lot or tract of land on which a manufactured home is or will be installed.
- (24) Permanent foundation--A foundation which meets the requirements of §80.21 of this chapter (relating to Requirements for the Installation of Manufactured

Homes) and was constructed according to drawings, as required by that section, which state that the foundation is a permanent foundation for a manufactured home.

- (25) Promptly--Means within the time prescribed by the Standards Act, these Rules, and any administrative order (including any properly granted extension) or, in the case of a matter that constitutes an imminent threat to health or safety, as quickly as reasonably possible.
- (26) Stabilization systems--A combination of the anchoring and support system. It includes, but is not limited to the following components:
 - (A) Anchoring components--Any component which is attached to the manufactured home and is designed to resist the horizontal and vertical forces imposed on the manufactured home as a result of wind loading. These components include, but are not limited to auger anchors, rock anchors, slab anchors, ground anchors, stabilizing devices, connection bolts, j-hooks, buckles, and split bolts.
 - (B) Anchoring equipment--Straps, cables, turnbuckles, tubes, and chains, including tensioning devices, which are used with ties to secure a manufactured home to anchoring components or other devices.
 - (C) Anchoring systems--Combination of ties, anchoring components, and anchoring equipment that will resist overturning and lateral movement of the manufactured home from wind forces.
 - (D) Diagonal tie--A tie intended to primarily resist horizontal forces, but which may also be used to resist vertical forces.
 - (E) Footing--That portion of the support system that transmits loads directly to the soil.
 - (F) Ground anchor--Any device at the manufactured home site designed to transfer manufactured home anchoring loads to the ground.
 - (G) Longitudinal ties--Designed to prevent lateral movement along the length of the home.
 - (H) Shim--A wedge-shaped piece of hardwood or other registered component not to exceed one (1) inch vertical (actual) height.
 - (I) Stabilizing components--All components of the anchoring and support system such as piers, footings, ties, anchoring equipment, ground anchors and any other equipment, which supports the manufactured home and secures it to the ground.
 - (J) Support system--A combination of footings, piers, caps and shims that support the manufactured home.

- (K) Vertical tie--A tie intended primarily to resist the uplifting and overturning forces.

§80.3. Fees.
(Effective: January 7, 2018)

- (a) License Fees and Renewal Fees:
 - (1) \$850 for each manufacturer's plant license;
 - (2) \$550 for each retailer's sales license;
 - (3) \$350 for each broker's license;
 - (4) \$350 for each installer's license;
 - (5) \$200 for each salesperson's license; and
 - (6) \$25.00 for each reprint of a license.
- (b) Installation Fees:
 - (1) There is a reporting fee of \$75 for the installation of a single section manufactured home and \$25 for each additional section.
 - (2) The reporting fee must be submitted to the Department with the completed Notice of Installation (Form T) no later than seven (7) days after which the installation is completed, but not later than three (3) days for installers with a provisional license.
 - (3) Fee distributions to local governmental entities performing inspection functions pursuant to contract with the Department shall be made in accordance with Department procedures and the provisions of the contract.
- (c) Seal Fee: Except for an application by a tax appraiser or a tax assessor-collector, for which there is no fee, there is a fee of \$35 for the issuance of a Texas Seal for one manufactured home section. Any person who sells, exchanges, or offers for sale or exchange one or more sections of used HUD-Code manufactured homes manufactured after June 15, 1976, that do not each have a HUD label affixed, or one or more sections of a used mobile home manufactured prior to June 15, 1976, that do not each have a Texas Seal affixed shall file an Application for Statement of Ownership to the Department for a Texas Seal and issuance of an updated Statement of Ownership. The application shall be accompanied by the seal fee of \$35 per section made payable to the Department.
- (d) Education Fee:
 - (1) Core Education Fee: Each attendee at the regularly offered course of initial instruction in the law and consumer protection regulations for license

applicants shall be assessed a fee of \$150. Subject to availability of staff, the Department may provide additional initial instruction courses upon request for a fee of \$150 per attendee plus reimbursement to the Department for the actual costs of the training session and any related costs, such as travel, meal, and lodging.

- (2) Retailer Education Fee: \$50 for each attendee.
 - (3) Installer Education Fee: \$50 for each attendee.
- (e) There is a fee of \$300 to process an application for a contract to be approved to provide a continuing education program under §1201.113 of the Standards Act.
 - (f) Industry Request. The manufacturer, retailer, or installer may request a consumer complaint home inspection. The request must be accompanied by the required fee of \$150.00.
 - (g) There is a fee of \$150 for the inspection of a manufactured home which is to be designated for residential use and is elected as personal property after having been designated as real property. The purpose of the inspection is to determine if the home is habitable. The fee must accompany a written request for inspection and must be submitted either prior to or in connection with the submission of an Application for Statement of Ownership.
 - (h) There is a fee of \$200 for the plan review and inspection of a salvaged manufactured home which is to be rebuilt. The purpose of the inspection is to determine if the home is habitable as defined by §1201.453 of the Standards Act so that it may be designated for residential use.
 - (1) The fee and required notification shall be submitted in accordance with §80.36 of this chapter (relating to Retailer's Rebuilding Responsibilities and Requirements).
 - (2) The retailer shall also be charged for mileage and per diem incurred by Department personnel traveling to and from the location of the home.
 - (3) The Department shall invoice the retailer for the charges incurred, and no Statement of Ownership shall be issued until all charges and fees have been paid.
 - (i) There is no fee for an initial inspection relating to a complaint. If a re-inspection is requested by a consumer or a licensee, a fee of \$150 will be assessed against any licensee found, by final order, to have violated any warranty or any other requirements of the Standards Act or these rules made the subject of the complaint.
 - (j) There is a fee of \$100 for the Department to go to a site and perform a field verification confirming a home's identity, location, identification numbers, or ownership.

- (k) Fees Relating to Statements of Ownership. Each fee shall accompany the required documents delivered or mailed to the Department at its principal office in Austin.
 - (1) A fee of \$55 will be required for the issuance of a Statement of Ownership.
 - (2) If a correction of a document is required as a result of a mistake by the Department, there is no fee for the issuance of corrected document. However, if the error was not made by the Department, a request for correction of the error must be made on a completed Application for Statement of Ownership and submitted to the Department along with the required fee of \$55 and any necessary supporting documentation.
 - (3) When multiple applications are submitted, the Form M set forth on the Department's website must be completed and attached to the front of the applications to identify each application and reconcile the fee for each application with the total amount of the payment. Failure to provide this form, properly completed, will delay the application's being deemed complete for processing.
 - (4) A priority handling service may be offered by the Department for an additional fee of \$55, for each review of an application, whether the application is complete or incomplete.
- (l) Method of Payment.
 - (1) All checks shall be made payable to the Texas Department of Housing and Community Affairs or TDHCA.
 - (2) All fees for available electronic transactions may also be paid by credit card or ACH, if submitted through Texas Online.
- (m) Loss of Check Writing Privileges. Any person who has more than one (1) time paid for anything requiring a fee under these rules with a check that is returned uncollectible, whether "NSF," closed account, refer to maker, or for any similar reason, is required to make all future payments, if any, by means of money order or cashier's check.
- (n) The director may approve a refund of all or a portion of any fee collected if he or she makes a documented determination showing that:
 - (1) The fee was for a service applied for in error based on incorrect advice from the Department;
 - (2) The fee represented a duplicate payment for a service for which money had already been collected by the Department or a licensee; or
 - (3) A refund is justified and warranted.

§80.4. Advisory Committee.
(Effective: November 6, 2011)

The Board shall designate the membership of an advisory committee of not more than 24 members, that meets the requirements of §1201.251(d) of the Standards Act, and the committee shall report as specified §1201.251(e) of the Standards Act.

SUBCHAPTER B. INSTALLATION STANDARDS AND DEVICE
APPROVALS

§80.20. Requirements for Manufacturer's Designs and Installation Instructions.
(Effective: July 21, 2009)

- (a) With each new home, the manufacturer shall provide printed instructions which at a minimum must:
 - (1) specify the location, orientation and required capacity of stabilizing components on which the design is based;
 - (2) be filed with the Department;
 - (3) be approved by the manufacturer's DAPIA; and
 - (4) contain DAPIA approval stamps, engineer or architect approval stamps, and the installation manual effective date on each page of the installation instructions or on the cover pages of bound installation manuals, unless an equivalent method of authentication is used for electronically filed documents.

- (b) For used manufactured homes, if a manufacturer determines that one or more of its homes requires a deviation from the generic standards to protect the structural integrity of the home, the manufacturer must include instructions for the necessary deviation in the manufacturer's DAPIA-approved installation instructions and provide a list of all homes affected. The manufacturer must provide a copy to the Department along with a letter informing the Department of the required deviation included in the instructions and giving the Department permission to reproduce and release copies of such instructions upon request. On the Department's website, the Department will maintain a current list of all required deviations from generic standards and will provide a copy to anyone who requests it.

- (c) At least thirty (30) calendar days prior to the effective date of any change, modification, or update to the manufacturer's installation instructions or any appendix, the manufacturer shall file such change, modification, or update with the Department and mail a copy(s) to all the manufacturer's retailers. Links to appendix are posted on the Department's website.

- (d) The manufacturer shall file with the Department additional copies of manufacturer's installation instructions for each model in the number specified by the Department. If no number is specified, one copy of each such set of instructions will suffice.

§80.21. Requirements for the Installation of Manufactured Homes.
(Effective: December 25, 2012)

- (a) All new manufactured homes shall be installed by a licensed installer and in accordance with the home manufacturer's DAPIA-approved installation instructions.
- (b) All used manufactured homes shall be installed by a licensed installer to resist overturning and lateral movement of the home, and the installation must be completed in accordance with instructions appropriate for the Wind Zone where the home is to be installed as per one of the following:
 - (1) the home manufacturer's DAPIA-approved installation instructions;
 - (2) the state's generic standards set forth in §§80.22, 80.23, 80.24, and 80.25 of this subchapter (relating to Installation Standards and Device Approvals);
 - (3) the instructions for a stabilization system registered with the Department in accordance with §80.26 of this subchapter (relating to Registration of Stabilizing Components and Systems); or
 - (4) the instructions for a special stabilization system which:
 - (A) may or may not be a permanent foundation;
 - (B) is for a particular manufactured home or an identified class of manufactured homes to be installed at a particular area with similar soil properties according to county soil survey or other geotechnical reports; and
 - (C) is either:
 - (i) a pre-existing foundation for which a professional engineer or architect licensed in Texas has issued written approval for the installation of a particular home, and the written approval shall be submitted to the Department with the installation report; or
 - (ii) installed in accordance with a custom designed stabilization system drawing that is stamped by a Texas licensed professional engineer or architect. A copy of the stabilization system drawing must be forwarded to the Department along with the installation report.
- (c) When a home is installed on a stabilization system registered with the Department or a special stabilization system, the installer must follow the home manufacturer's DAPIA-

approved installation instructions for any aspect of the installation that is not covered by the system's installation instructions or drawings.

- (d) The installer must use stabilizing components that have the required capacity and install them according to the anchor or stabilizing component manufacturer's current installation instructions. All stabilizing components must be resistant to all effects of weathering including that encountered along the Texas gulf coast. Anchors must be made resistant to corrosion. Nonconcrete stabilizing components and systems for use within 1500 feet of the coastline shall be specifically certified for this use. Preservative treated (PT) wood components shall conform to the applicable standards issued by the American Wood Preserver's Association and referenced by the latest edition of the International Residential Code. The use of re-conditioned equipment (i.e. anchor, strap, and clip) or any anchoring component by licensed installer on the new installations is not permitted. Homeowners are exempt from this requirement provided the integrity of the component is acceptable and approved by the state and the original product number, vendor name, and/or patent number must be legible on the product.
- (e) Site Preparation Responsibilities and Requirements:
 - (1) The responsible installer of a new manufactured home is responsible for the proper preparation of the site where the manufactured home will be installed.
 - (2) A consumer acquiring a used manufactured home to be installed is responsible for the proper preparation of the site where the manufactured home will be installed except as set forth in §80.22 of this chapter (relating to Generic Standards for Moisture and Ground Vapor Controls).
 - (3) Whenever a licensed retailer intends to sell a used manufactured home, regardless of where it is located or is to be located, the retailer is required to give the consumer the Site Preparation Notice, for signature by the consumer, in the form set forth on the Department's website PRIOR to the execution of any binding sales agreement.
 - (4) Whenever a licensed installer proposes to move a used manufactured home, the installer is required to give the consumer the Site Preparation Notice, for signature by the consumer, in the form set forth on the Department's website PRIOR to entering into a binding agreement to move that home.
- (f) If at the time of installation or within 90 days thereafter as stated on the contract, the retailer or installer provides the materials for skirting or contracts for the installation of skirting, the retailer or installer is responsible for installing any required moisture and ground vapor control measures in accordance with the home installation instructions, specifications of a registered stabilization system, or the generic standards and shall provide for the proper cross ventilation of the crawl space. If the consumer contracts with a person other than the retailer or installer for the skirting, the consumer is responsible for installing the moisture and ground vapor control measures and for providing for the proper cross ventilation of the crawl space.

- (g) Clearance: If the manufactured home is installed according to the state's generic standards, a minimum clearance of 18 inches between the ground and the bottom of the floor joists must be maintained. In addition, the installer shall be responsible for installing the home with sufficient clearance between the I-Beams and the ground so that after the crossover duct prescribed by the manufacturer is properly installed it will not be in contact with the ground. Refer to §80.25 of this chapter (relating to Generic Standards for Multi-Section Connections Standards) for additional requirements for utility connections. The Installer must remove all debris, sod, tree stumps and other organic materials from all areas where footings are to be located.
- (h) Drainage: The Installer is responsible for proper site drainage where a new manufactured home is to be installed unless the home is installed in a rental community. The consumer is responsible for proper site drainage where a used manufactured home is to be installed unless the home is installed in a rental community. Drainage prevents water build-up under the home. Water build-up may cause shifting or settling of the foundation, dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors.
- (i) Frost Line Zone.
 - (1) The following Texas counties have a 12 inch frost line depth to consider for the installation of a new manufactured home: Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, King, Knox, Lamb, Lipscomb, Lubbock, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, and Wilbarger.
 - (2) For a new home to be installed in a Frost Line Zone county, footings placed in freezing climates must be designed using methods and practices that prevent the effects of frost heave by one of the following methods:
 - (A) Conventional footings. Conventional footings must be placed below the frost line depth for the site unless an insulated foundation or monolithic slab is used (refer to 24 CFR §3285.312(b)(2) and (3)).
 - (B) This is not subject to the provisions in 24 CFR §3285.2(c) that also require review by the manufacturer and approval by its DAPIA for any variations to the manufacturer's installation instructions for support and anchoring.
 - (C) Monolithic slab systems. A monolithic slab is permitted above the frost line when all relevant site-specific conditions, including soil characteristics, site preparation, ventilation, and insulative properties of the under floor enclosure, are considered and anchorage requirements are accommodated as set out in 24 CFR §3285.401. The

monolithic slab system must be designed by a licensed professional engineer or registered architect:

- (i) In accordance with acceptable engineering practice to prevent the effects of frost heave; or
 - (ii) In accordance with SEI/ASCE 32-01 as defined in 24 CFR §3285.4.
- (D) Insulated foundations. An insulated foundation is permitted above the frost line, when all relevant site-specific conditions, including soil characteristics, site preparation, ventilation, and insulative properties of the under floor enclosure, are considered, and the foundation is designed by a licensed professional engineer or registered architect:
- (i) In accordance with acceptable engineering practice to prevent the effects of frost heave; or
 - (ii) In accordance with SEI/ASCE 32-01 as defined in 24 CFR §3285.4.
- (j) Electrical testing. At the time of installation, the following tests must be performed on all new manufactured homes:
- (1) All site installed or shipped loose fixtures shall be subjected to a polarity test to determine that the connections have been properly made;
 - (2) All grounding and bonding conductors installed or connected during the home installation shall be tested for continuity; and
 - (3) All electrical lights, equipment, ground fault circuit interrupters and appliances shall be subjected to an operational test to demonstrate that all equipment is connected and functioning properly.

§80.22. *Generic Standards for Moisture and Ground Vapor Controls.*
(Effective: July 21, 2009)

- (a) If the used manufactured home is installed according to the state's generic standards and the space under the home is to be enclosed with skirting and/or other materials provided by the retailer and/or installer, the enclosure must meet the following requirements:
 - (1) At least one access opening that does not require the use of tools to gain access shall not be less than 18 inches in any dimension and not less than three square feet in area shall be provided by the installer. The access opening shall be located so as to enable, to the extent reasonably possible, the visual inspection of water supply and sewer drain connections.

- (2) If a clothes dryer exhaust duct, air conditioning condensation drain, or combustion air inlet is present, the installer must pass it through the skirting to the outside. All air conditioning condensation lines must be installed in such manner that prevents ponding within 5 feet of the foundation.
 - (3) Crawl space ventilation must be provided at the rate of minimum 1 square foot of net free area, for every 150 square feet of floor area.
 - (4) At least six openings shall be provided, one at each end of the home and two on each side of the home. There must be a ventilation within 3 feet of each corner. The openings shall be screened or otherwise covered to prevent entrance of rodents (note: screening will reduce net free area). For example, a 16'x76' single section home has 1216 square feet of floor area. This 1216 square feet divided by 150 equals 8.1 square feet or 1166 square inches of net free area crawl space ventilation.
- (b) The generic ground vapor control measure shall consist of a ground vapor retarder that is minimum 6 mil polyethylene sheeting or its equivalent, installed so that the area under the home is covered with sheeting and overlapped approximately 12 inches at all joints. Any tear larger than 18 inches long or wide must be taped using a material appropriate for the sheeting used. The laps should be weighted down to prevent movement. Any small tears and/or voids around construction (footings, anchor heads, etc.) are acceptable.

§80.23. Generic Standards for Footers and Piers.
(Effective: January 20, 2009)

- (a) Proper sizing of footings depends on the load carrying capacity of both the piers and the soil. To determine the load bearing capacity of the soil, the installer may use any of the following methods:
 - (1) Using a pocket penetrometer;
 - (2) Soil surveys from the U.S. Department of Agriculture;
 - (3) Values from tables of allowable or presumptive bearing capacities given in local building codes. Such tables are commonly available from the local authority having jurisdiction; or
 - (4) Any other test data from soil analysis reports.

FOOTER CAPACITIES (LBS)

-----Soil Bearing Capacity-----

Footer size	1000psf	1500psf	2000psf	2500psf	3000psf or greater
16x16x4	1700	2700	3500	4400	5300
20x20x4	2700	4100	5500	6900	8300
16x32x4	3500	5200	6800	8600	10400

Footer size	1000psf	1500psf	2000psf	2500psf	3000psf or greater
24x24x4	4000	6000	8000	10000	12000

Notes:

- 1) 8x16x4 footers may be used for perimeter and/or exterior door supports. Capacity is half that of the tabulated values for a 16x16x4 footer. For double 8x16x4 footers use the 16x16x4 row.
- 2) Footers of material other than concrete may be used if registered with the Department and the listed capacity and area is equal to or greater than the footer it replaces. Concrete footers of sizes not listed may be used as long as their size is equal to or greater than the size listed.
- 3) Footers with loads greater than 8,000 lbs. require a double stacked pier.
- 4) All poured concrete is minimum 2500 psi at 28 days.
- 5) Actual footer dimensions may be 3/8 inch less than the nominal dimensions for solid concrete footers conforming to the specifications in ASTM C90-99a, Standard Specification for Load bearing Concrete Masonry Units.

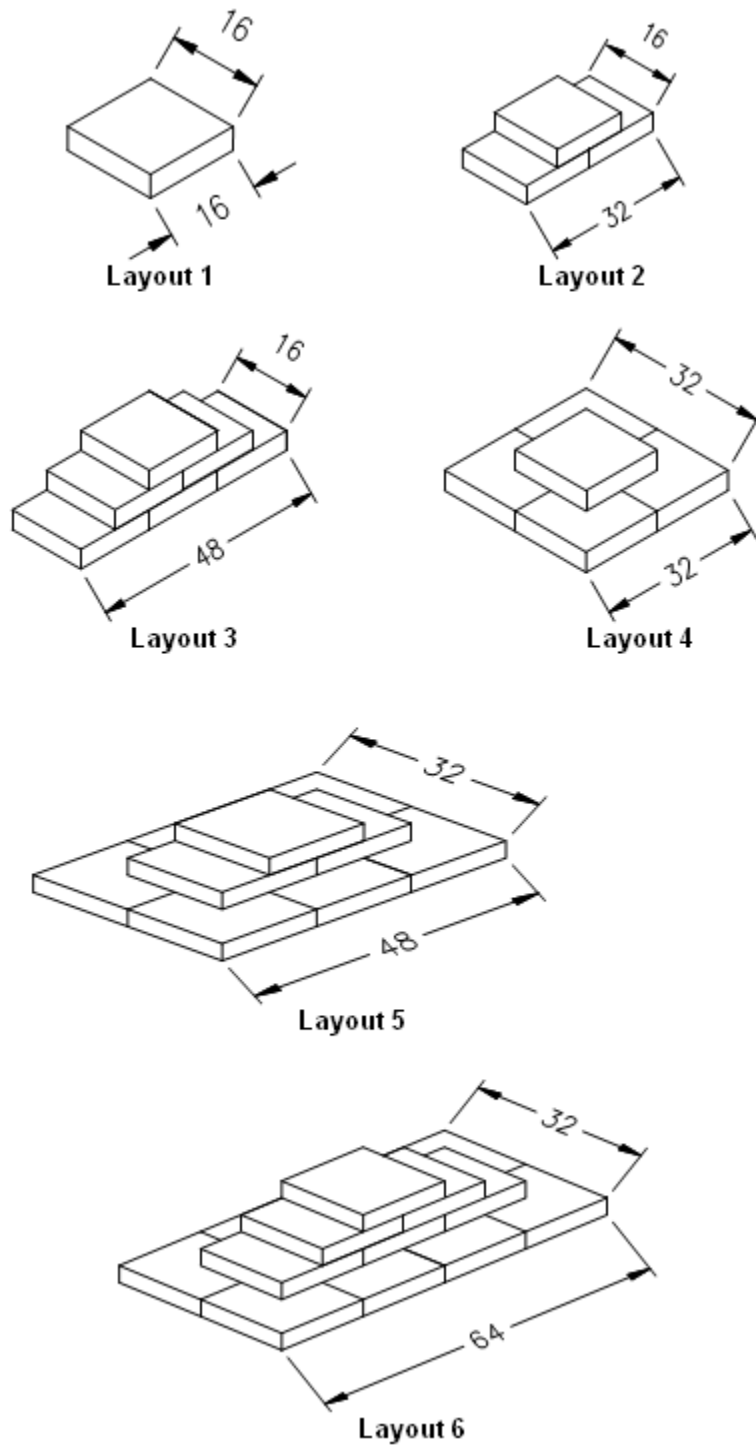
SOIL TYPE CHART

Class of Material	Load-Bearing Pressure (lbs per s.f.)
Crystalline bedrock	12,000
Sedimentary and foliated rock	4,000
Sandy gravel and/or gravel (GW and GP)	3,000
Sand, silty sand, clayey sand, silty gravel and clayey gravel (SW, SP, SM, SC, GM and GC)	2,000
Clay, sandy clay, silty clay, clayey silt, silt and sandy silt (CL, ML, MH and CH)	1,500 ^b
For information only. Exact soil type must be determined by a certified lab.	

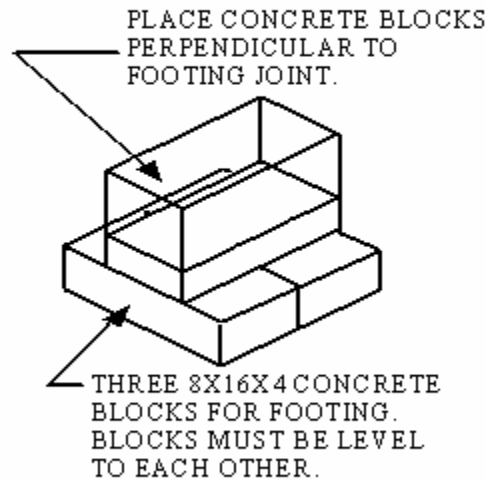
- (b) The footing must be placed on firm, undisturbed soil, or fill compacted to at least 90% of its maximum relative density is required and must be verified every 6”– 8” vertically on the build-up. Installation on loose, noncompacted fill may result in settlement/movement of the home and may invalidate the home's limited warranty.
- (c) Footer Configurations.

Notes: Typical pier pad: 16 in. x 16 in. x 4 in. thick precast concrete.

FOOTER CONFIGURATIONS



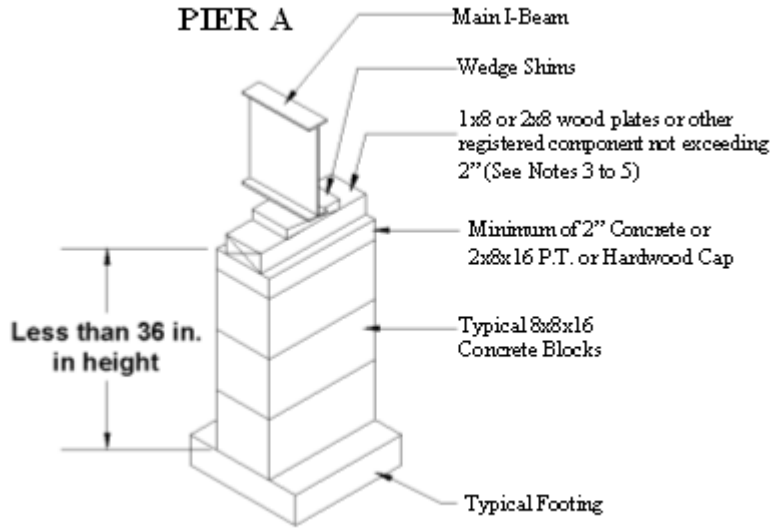
DOUBLE 8x16x4



Layout 7

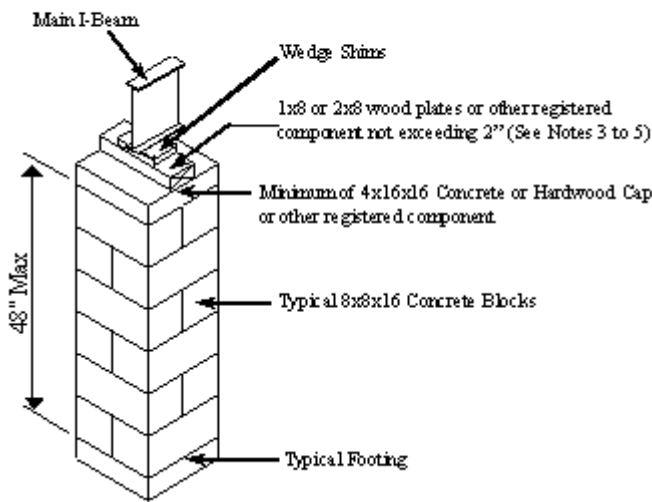
- (d) Footer sizing and capacities: The Footer Capacities table in subsection (a)(4) of this section represent maximum loads and spacings based on footer size and soil bearing capacity. Other footers may be used if equal or greater in bearing area than those footer sizes tabulated.
- (e) Piers and pier spacings: Spacing and location of piers shall be in accordance with the tables listed in this chapter.
- (1) Spacing shall be as even as practicable avoiding obstacles that are not in control of the installer along each main I-Beam. Pier spacing may exceed tabulated values up to 30% so long as the total pier count remains the same. End piers are to be located within 24 inches of the end of the main frame.
 - (2) Piers shall extend at least 6 inches from the centerline of the I-Beam or be designed to prevent dislodgment due to horizontal movement of less than 4 inches.
 - (3) Load bearing supports or devices shall be registered with the Department in accordance with §80.26 of this chapter (relating to Registration of Stabilizing Components and Systems).
 - (4) Sidewall openings greater than 4 feet shall have perimeter piers located under each side of the opening, *i.e.* patio doors, recessed porches/entries, bay windows and porch posts. Perimeter piers for openings are not required for endwalls.
- (f) Pier design: Piers shall be constructed per the details in the Pier Design.

PIER DESIGN (SINGLE & MULTI-SECTION STACK)



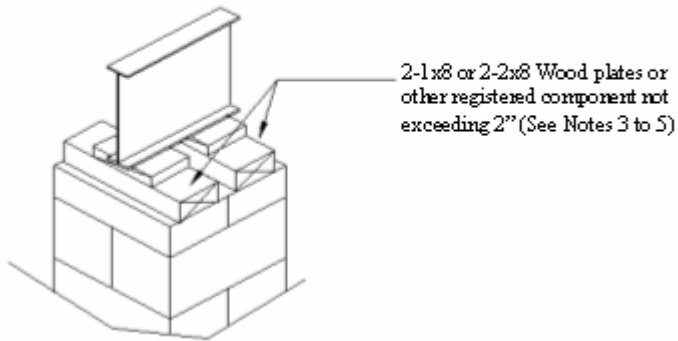
Pier A: Single stack of solid or open cell, 8x8x16 concrete blocks. Maximum height is 36 inches as measured from the top of the footer to the top of the last concrete block. Concrete blocks are installed with their lengths perpendicular to the main I-Beam. Open cells must be vertical and in alignment.

Pier B



Pier B: Interlocked double stack of solid or open cell 8x8x16 concrete blocks. The maximum height is 48 inches as measured from the top of the footer to the top of the last concrete block. Piers of greater heights are allowed if they are within limits established in adopted federal standards. The pier is capped with a minimum 16x16x4 concrete cap. Open cells must be vertical and in alignment. Each course of open cell blocks must be perpendicular to the previous course.

Pier B-1



Note:

- 1) Open cell and solid concrete blocks shall meet ASTM-C90-99a, Standard Specification for load bearing Concrete Masonry Units.
- 2) Support system components are to be undamaged and installed in a manner to accomplish the purpose intended.
- 3) Either wood caps or shims must be used between I-Beam and concrete.
- 4) Preservative treated (PT) wood components shall conform to the applicable standards issued by the American Wood Preserver's Association and referenced by the latest edition of the International Residential Code.
- 5) When concrete caps are used, wood plates or other registered components are required. When wood caps are used, wood plates shall not be used. A maximum of 4 inches of wood including shims, nominal is allowed.

- (1) **Shimming (if needed):** Shims are commonly used as a means for leveling the home and filling any voids left between the bottom flange of the I-Beam and the top of the pier cap. Wedge shaped shims must be installed from both sides of the I-Beam to provide a level bearing surface. The allowable height must not exceed 1 inch. Shims shall be a minimum of 3"x 6" nominal. All adjustment shims (marriage and perimeter) must be installed in manner which prevents dislodgement.
- (2) Table for pier spacing without perimeter piers.

PIER LOADS (LBS) AT TABULATED SPACINGS
(WITHOUT PERIMETER SUPPORTS)

----- maximum pier spacing -----

Unit Width(ft)	4 ft o.c.	5 ft o.c.	6 ft o.c.	7 ft o.c.	8 ft o.c.
12 Wide	1725	2150	2600	3000	3400
14 wide	2000	2500	3000	3500	4000
16 Wide	2350	2900	3500	4100	4700

Note: *18 ft. wides require perimeter support.*
Example: Determine maximum pier spacing for a 16 ft. wide x 76 ft. long single section with a soil bearing capacity of 1500 psf. Footer size to be used is a single 16x16x4 precast concrete footer.
Step 1: capacity of 1500 psf. Footer size to be used is a single 16x16x4 precast concrete footer.
Step 2: Look up the maximum load for a single 16x16x4 pad set on 1500 psf soil.
 Answer = 2700 psf
Answer: In the table in the column for 16 ft. wide, find the on-center spacing (o.c.) load equal to or less than the footer capacity of 2700 lbs.
 The 4ft column shows minimum capacity of 2350 lbs.
 Therefore, for a 16 ft. wide and a soil bearing capacity of 1500 psf using 16x16x4 footers the maximum pier spacing is 4 ft. o.c.

- (3) Table for pier spacing WITH perimeter supports and the Perimeter Pier Front and Side View.

PIER LOADS (LBS) AT TABULATED SPACINGS
(WITH PERIMETER SUPPORTS)

----- maximum I-Beam pier spacing -----

Unit width (ft)	4 ft o.c.	6 ft o.c.	8 ft o.c.	10 ft o.c.	12 ft o.c.
12 Wide	750	1150	1500	1900	2300
14 Wide	1050	1600	2100	2600	3100
16 Wide	1200	1800	2400	3000	3600
18 Wide	1450	2150	2850	3600	4300

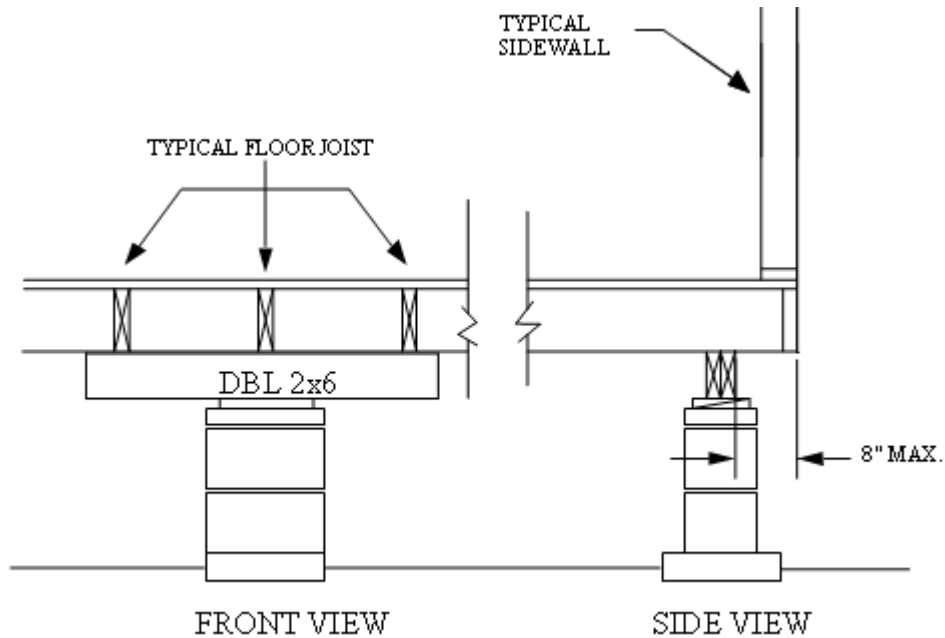
Note: Maximum I-Beam pier spacing is 8 ft. o.c. for 8" I-Beam, 10 ft. o.c. for 10" I-Beam and 12 ft. o.c. for 12" I-Beam or the resultant maximum spacing based on soil bearing and footer size per the table in §80.23(a)(4), whichever is less.

----- maximum perimeter pier spacing -----

Unit width (ft)	4 ft o.c.	5 ft o.c.	6 ft o.c.	7 ft o.c.	8 ft o.c.
12 Wide	1000	1200	1500	1700	1900
14 Wide	1100	1400	1650	1900	2200
16 Wide	1300	1600	1900	2250	2500
18 Wide	1600	2000	2300	2700	3000

Example: Determine maximum I-Beam pier spacing for a 16 ft. wide with 12" I-Beam, perimeter support and 1500 psf soil bearing capacity.
Step 1 From the table in §80.23(a)(4), the maximum load for a 16x16x4 at 1500 psf soil is 2700 lbs.
Step 2: From the I-beam pier spacing table, the I-Beam pier load @ 10 ft. o.c. is 3000 lbs ==> no good, the I-Beam pier load @ 8 ft. o.c. is 2400 lbs ==> ok
 I-Beam pier spacing is at 8 ft. o.c.
Step 3: The perimeter pier load @ 8ft. o.c. is 2500 lbs ==> ok
 Perimeter pier spacing is at 8 ft. o.c.

PERIMETER PIER FRONT & SIDE VIEW

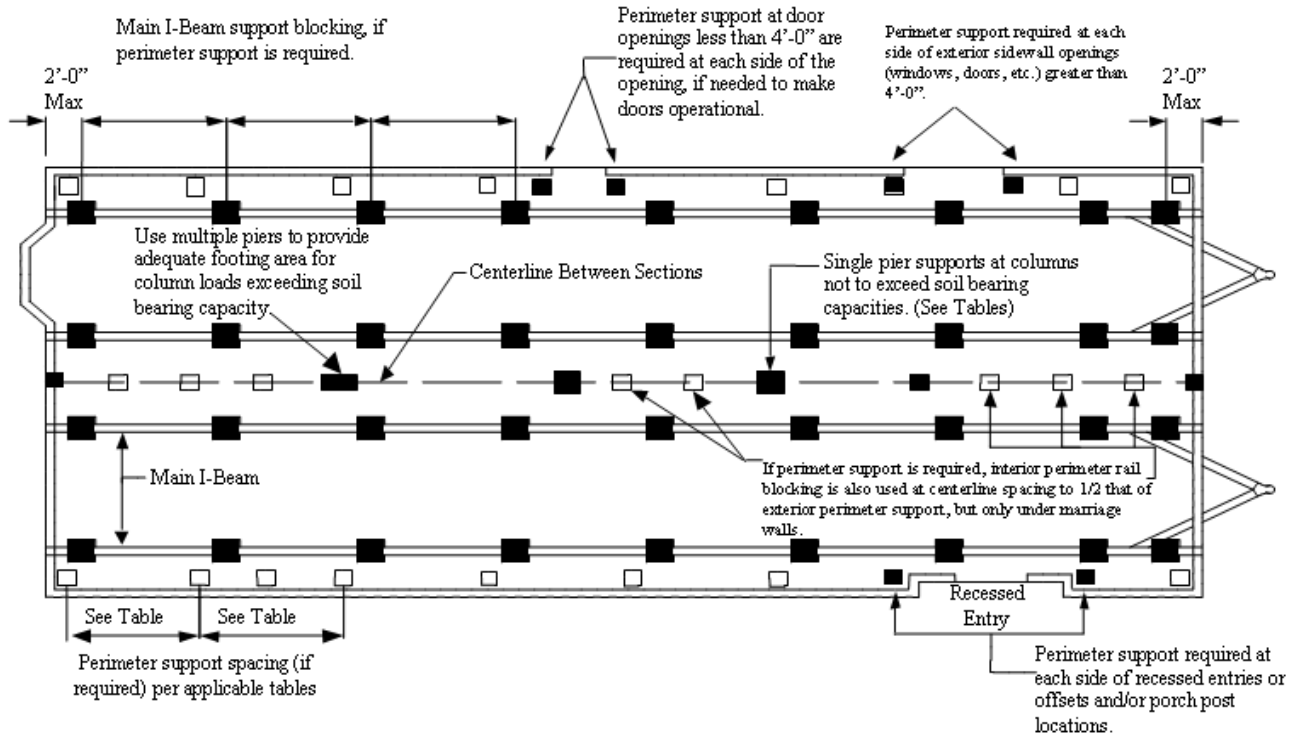


Notes:

- 1) Perimeter pier may be inset from edge of floor up to 8". The 2x6 brace may be omitted if the front face of a perimeter pier is flush with the perimeter joist and the perimeter pier supports the intersection of an interior joist and perimeter joist.
- 2) Dbl 2x6 are min. #3 Yellow Pine or pressure treated Spruce-Pine, nailed together with min. 16d galvanized nails 2-rows at maximum 8" o.c.
- 3) 2x6 brace must span at least two (2) but not more than three (3) floor joists.

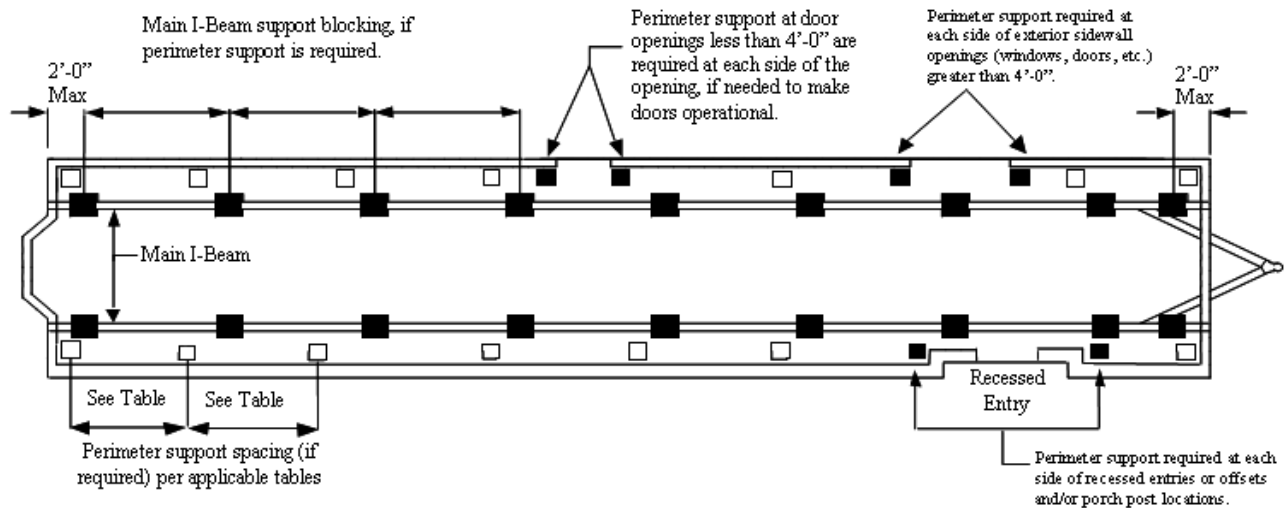
(g) Typical Multi-Section Pier Layout.

TYPICAL MULTI-SECTION PIER LAYOUT



(h) Typical Single Section Pier Layout.

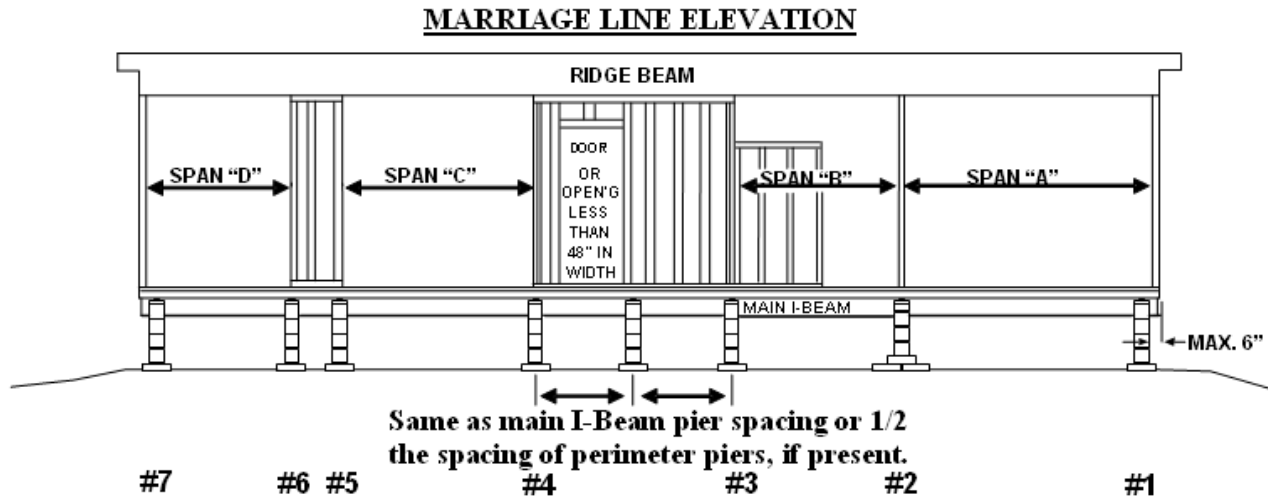
TYPICAL SINGLE SECTION PIER LAYOUT



- (i) Multi-section units mating line column supports:
 - (1) On multi-section units, openings larger than 4 feet must have piers installed at each end of the opening. And within 6 inches of each end.

DETERMINING COLUMN LOAD

To determine the column load for Column #1 at the endwall look up Span "A" in the table in §80.23(i)(4). To determine the column load for Column #2, look up the combined distance of both Span "A" and Span "B". To determine the column load for Column #3 look up Span "B" in the table.
 (NOTE: Mating line walls not supporting the beam must be included in the span distance.)
 To determine the loads for Columns #4 and #5 look up Span "C". For Columns #6 and #7 look up load for span "D".



- (2) Column loads for each section may be combined when the columns are opposite each other. The footer must be sized for the combined loading.
- (3) Additional piers are required under marriage walls (see wall between column #3 and #4 in the Marriage Line Elevation figure in paragraph (1) of this subsection. The maximum spacing is the same as the spacing at the main I-Beams, without perimeter piers, and one half the spacing of the perimeter piers, with perimeter piers installed.
- (4) See the table for the mating line column loads.

Mating Line Column Loads

-----Unit width in feet (nominal)-----

Span in feet	12 Wide	14 Wide	16 Wide
4	720	840	960
6	1080	1260	1440
8	1440	1680	1920
10	1800	2100	2400
12	2160	2520	2880
14	2520	2940	3360
16	2880	3360	3840
18	3240	3780	4320
20	3600	4200	4800
22	3960	4620	5280
24	4320	5040	5760
26	4680	5460	6240
28	5040	5880	6720
30	5400	6300	7200
32	5760	6720	7680
34	6120	7140	8160
36	6480	7560	8640

Note: If actual span is not shown use next higher tabulated span.

- (j) Temporary support is required to insure the structural continuity of homes placed at the retail location. Thirty (30) days after the arrival of multi-section and sixty (60) days after the arrival of single-section manufactured dwellings to the retail location, homes must be temporarily lot set. If the manufacturer has instructions for temporary blocking, home should be blocked according to the manufacturer specifications. In absence of any manufacturer instructions, State Generic requirement, either paragraph (1) or (2) of this subsection, shall be used:
 - (1) Manufacturer dwellings supported by its running gear (left on their wheels and draw bar/hitch) shall be adequately supported under the main beam (I-beam) of within 5 feet of each end of the beam, within 5 feet of a supporting wheel and 10 feet on-center of each floor section. Any required marriage line and perimeter pier locations that are clearly marked by the manufacturer are also to be installed. Sidewall openings less than 4 feet in length do not have to be supported. Multi-section homes shall be sealed at the centerline and at all other openings to prevent exposure to the elements.
 - (2) Manufactured dwellings not supported on their running gear shall be adequately supported under each main frame (I-beam) within 5 feet of each end of the home and 10 feet on-center along the length of the main beam. Any required marriage line and perimeter pier locations that are clearly marked by the manufacturer are also to be installed. Sidewall openings less than 4 feet in length do not have to be supported. Multi-section homes shall

be sealed at the centerline and at all other openings to prevent exposure to the elements.

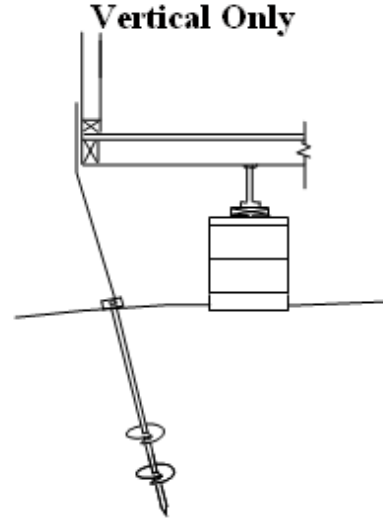
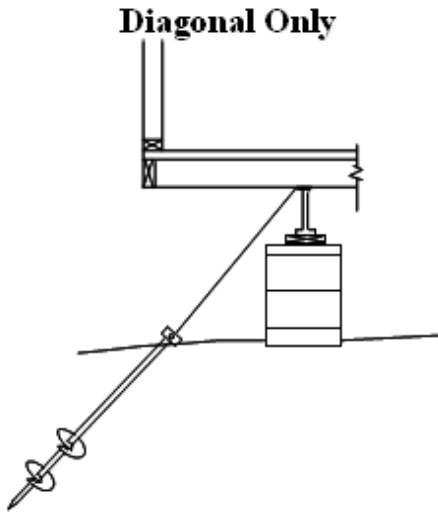
§80.24. Generic Standards for Anchoring Systems.
(Effective: January 29, 2008)

- (a) General Requirements: For units built on or after September 1, 1997, the installer must verify that the unit is designed for the Wind Zone in which it is to be installed and must follow all applicable installation instructions for that Wind Zone as set forth herein. Note: A Wind Zone I unit, built on or after September 1, 1997, may not be installed in a Wind Zone II area. However, a Wind Zone II unit may be installed in a Wind Zone I area. The counties are defined in the FMHCSS.
- (b) Material Specifications:
 - (1) Strapping shall be Type 1, Finish B, Grade 1 steel strapping, 1.25 inches wide and 0.035 inches in thickness, certified by a licensed professional engineer or architect as conforming with the American Society for Testing and Materials (ASTM) Standard Specification D3953 91, Standard Specification for Strapping, Flat Steel, and Seals. Strapping shall be marked at least every five feet with the marking described by the certifying engineer or architect.
 - (2) Tie materials shall be capable of resisting an allowable working load of 3,150 pounds with no more than 2% elongation and shall withstand a 50% overload (4,725 pounds total). Ties shall have a resistance to weather deterioration at least equivalent to that provided by coating of zinc on steel of not less than 0.30 ounces per square foot on each side of the surface coated (0.0005 inches thick), as determined by ASTM Standards Methods of Test for Weight of Coating on Zinc-coated (galvanized) Iron or Steel Articles (ASTM A 90-81). Slit or cut edges of zinc-coated steel strapping are not required to be zinc coated. Ties shall be designed and installed to prevent self disconnection when the ties are slack.
 - (3) Anchor spacing ONLY applies to units with roof pitch of 20 degrees or less. For anything over 20 degrees, it must be designed by a professional engineer or architect.
- (c) Anchors shall be installed:
 - (1) in direction of load.

ANCHOR INSTALLATION

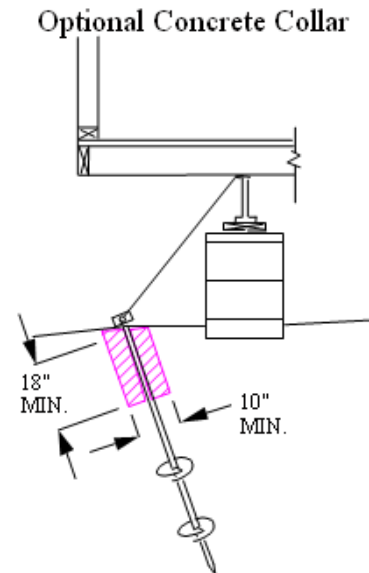
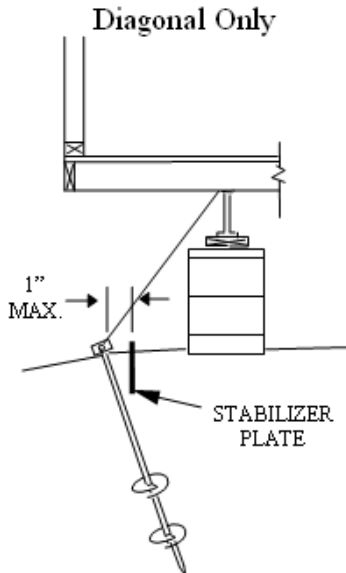
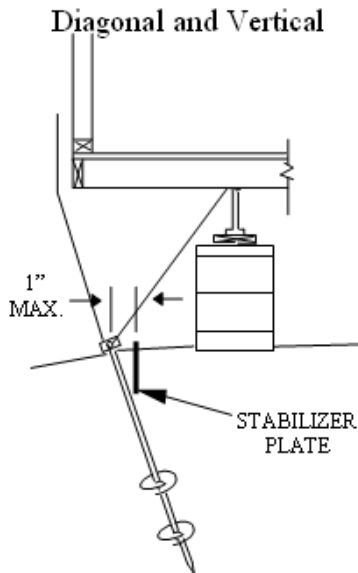
Notes:

- 1) Anchor head must be flush or not to exceed more than 1 inch from the ground at insertion point.
- 2) Anchor head may be inset a maximum of 6 inches from the vertical outer edge of the floor framing to allow for skirting installation.



- (2) against direction of load (vertical and/or angled), and a stabilizer plate must be installed. See the following Placement of Stabilizing Devices.

PLACEMENT OF STABILIZING DEVICES



Notes:

- 1) Stabilizer plate may be replaced with a concrete collar that is at least 18 inches deep and 10 inches in diameter or other approved devices.
- 2) Diagonal tie must depart from the top of the I-Beam as shown.
- 3) The top of the stabilizer plate must be within 1 inch of the anchor shaft.
- 4) Stabilizer plates and other approved devices must be installed in accordance with the product manufacturer's instructions.

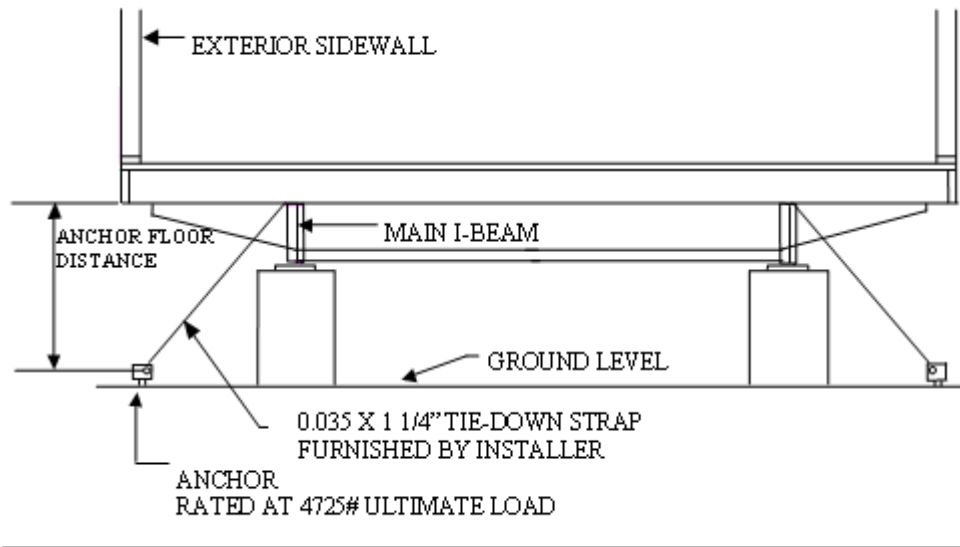
(d) WIND ZONE I Installation:

- (1) Typical anchor layout, single and multi-section units (WIND ZONE I ONLY).

WIND ZONE I – SINGLE/MULTI-SECTION INSTALLATION

(Refer to other figures for depictions of proper anchor and stabilizer device installation.)

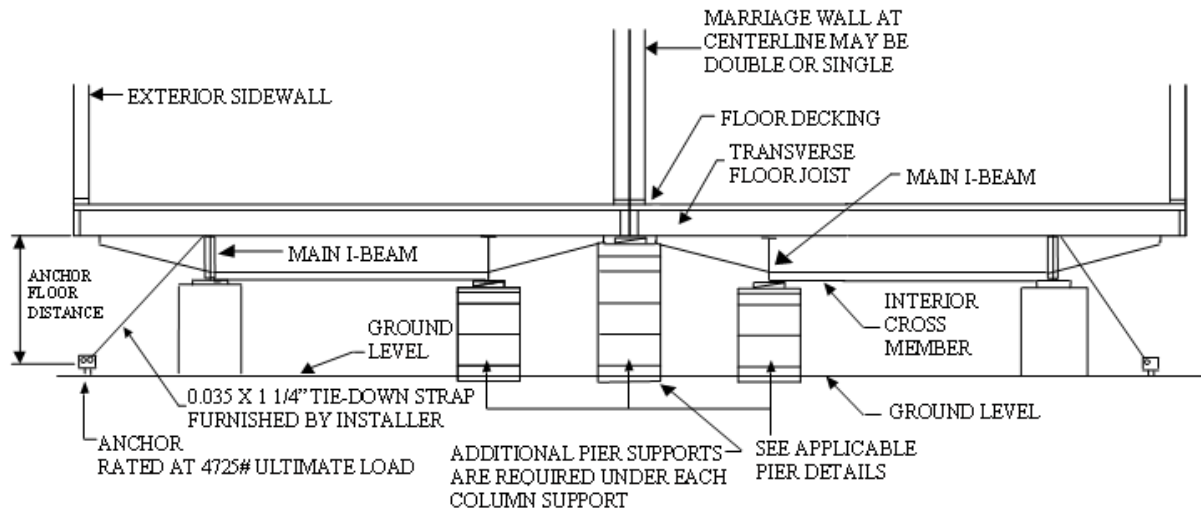
Figure 1: Single Section



Notes:

- 1) Single section units require diagonal ties to be directly opposite each other.
- 2) All existing vertical ties must be connected to a ground anchor.
- 3) Diagonal tie spacing per the table. Vertical distance in this table refers to the distance of the anchor head to the underside of the floor joists as shown above.
- 4) Diagonal tie must depart from the top of the I-Beam as shown.

Figure 2: Multi-Section



Notes:

- 1) Multi-section units require diagonal ties on the outer main I-Beams only.
- 2) Diagonal ties need not be directly opposite each other.
- 3) Diagonal tie spacing per the table. Vertical distance in this table refers to the distance of the anchor head to the underside of the floor joists as shown above.
- 4) Existing vertical ties must be connected to a ground anchor.
- 5) Diagonal tie must depart from the top of the I-Beam as shown.

(2) Maximum spacing for Diagonal Ties for Wind Zone I.

MAXIMUM SPACING FOR DIAGONAL TIES

Minimum Nominal Widths Single/Double Section				
Max. Vertical Distance	12/24 wide	14/28 wide	16/32 wide	18/36 wide
20" to 24"	11 ft	14 ft	15 ft	16 ft
25" to 29"	9 ft	12 ft	14 ft	15 ft
30" to 40"	8 ft	10 ft	12 ft	14 ft
41" to 48"	7 ft	9 ft	11 ft	13 ft
49" to 60" (see note 3)	6 ft	8 ft	10 ft	12 ft
61" to 67" (see note 3)	5 ft	6 ft	8 ft	10 ft
Minimum number of longitudinal ties, each end of each section.	1 at min. 58° angle from vertical	2 at min. 32° angle from vertical	2 at min. 38° angle from vertical	2 at min. 46° angle from vertical

Notes:

- 1) This chart applies to single and multi section homes.
- 2) Anchoring components are rated at 4725 lbs. ultimate load. Anchoring components and equipment shall be installed in accordance with the anchoring component and equipment manufacturer's installation instructions.

- 3) Single section units shall have diagonal ties directly opposite each other along the two main I-beams. Multi section units need diagonal ties on the outer-most main I-beam only. When vertical distance exceeds 48”, connect diagonal tie to opposite beam.
- 4) Ties installed at each end of the home shall be within 24 inches of each end of the applicable I-beam.
- 5) The distance between any two ties may be exceeded to avoid an obstruction, as long as the total number of ties remains the same, and no two anchors shall be within 4 ft of each other.
- 6) Any vertical ties present on homes must be attached to a ground anchor. Both vertical and diagonal ties may be connected to a single double-headed anchor, if the anchor manufacturer’s installation instructions allow for the combined loading.
- 7) The vertical distance is measured from the anchor head to the underside of the floor joists.
- 8) No two anchors shall be within 4 ft of each other.
- 9) Other stabilizing systems registered with the Department may replace longitudinal and/or lateral ties as long as the system manufacturer’s installation instructions are followed.

(3) Minimum Number of Diagonal Ties for Wind Zone I. Table based on 2 feet inset of anchors at each end.

**MINIMUM NUMBER OF DIAGONAL TIES
REQUIRED PER SIDE, PER UNIT LENGTH**

----- o.c. spacing (ft) -----													
unit length (ft)	4	5	6	7	8	9	10	11	12	13	14	15	16
40	10	8	7	6	6	5	5	4	4	4	4	3	3
42	11	9	7	6	6	5	5	5	4	4	4	4	3
44	11	9	8	7	6	5	5	5	4	4	4	4	4
46	12	9	8	7	6	5	5	5	5	4	4	4	4
48	12	10	8	7	7	6	5	5	5	4	4	4	4
50	13	10	9	8	7	6	6	5	5	5	4	4	4
52	13	11	9	8	7	6	6	5	5	5	4	4	4
54	14	11	9	8	7	7	6	6	5	5	5	4	4
56	14	11	10	8	8	7	6	6	5	5	5	4	4
58	15	12	10	9	8	7	6	6	6	5	5	5	4
60	15	12	10	9	8	7	7	6	6	5	5	5	5
62	16	13	11	9	8	7	7	6	6	5	5	5	5
64	16	13	11	10	9	8	7	6	6	6	5	5	5
66	17	13	11	10	9	8	7	7	6	6	5	5	5
68	17	14	12	10	9	8	7	7	6	6	6	5	5

unit length (ft)	4	5	6	7	8	9	10	11	12	13	14	15	16
70	18	14	12	10	9	8	8	7	7	6	6	5	5
72	18	15	12	11	10	9	8	7	7	6	6	6	5
74	19	15	13	11	10	9	8	7	7	6	6	6	5
76	19	15	13	11	10	9	8	8	7	7	6	6	6

Note: If unit length is not listed use next higher tabulated length.

- (4) When auger anchors cannot be inserted into a difficult soil after moistening, such as mixed soil and rock or caliche (heavily weathered limestone) that is not solid rock, cross drive rock anchors may be used in accordance with the values and notes for the table modified as follows:
 - (A) Since the ultimate anchor pull out in the difficult soil will be reduced, the maximum spacing for diagonal ties per side is one half the spacing allowed by the table in paragraph (2) of this subsection which will require adding one additional cross drive rock anchor for each anchor specified for the sides and ends;
 - (B) The rods of the cross drive rock anchors must be fully inserted, have at least 24 inches of the rod lengths embedded in the difficult soil, and be restrained from horizontal movement by a stabilizer device between the rods and the home; and
 - (C) Each cross drive rock anchor is connected to one diagonal tie and is not connected to a vertical tie.
- (5) Where vertical tie locations are not easily discernable, the vertical ties may be connected to the main I-Beam rails and the anchor installed directly below that connection point. The diagonal tie must be connected to the opposite main I-Beam. In no case shall the distance between those ties exceed 5'-4" on-center.

(e) WIND ZONE II Installation:

- (1) In place of the requirements as shown in subsection (d) of this section, units designed for Wind Zone I and built prior to September 1, 1997, and units designed for Wind Zone II and built prior to July 13, 1994, require diagonal ties as set forth in this paragraph when these units are installed in Wind Zone II. See also §1201.256 of the Standards Act. Items not specifically addressed in this section are the same as for Wind Zone I installations.

MAXIMUM SPACING FOR DIAGONAL TIES (WIND ZONE II)
PER SIDE OF THE ASSEMBLED UNIT

Minimum Nominal Widths Single/Double Section				
Max. Vertical Distance	12/24 wide	14/28 wide	16/32 wide	18/36 wide
20" to 24"	7 ft	8 ft	8 ft	8 ft
25" to 29"	6 ft	7 ft	8 ft	8 ft
30" to 40"	5 ft	6 ft	7 ft	8 ft
41" to 48"	4 ft	5 ft	6 ft	7 ft
49" to 60" (see note 2)	4 ft	6 ft	6 ft	6 ft
Minimum number of longitudinal ties, each end of each section.	2 at min. 58° angle from vertical	2 at min. 32° angle from vertical	3 at min. 38° angle from vertical	3 at min. 46° angle from vertical

Notes:

- 1) This chart applies to single and multi section homes.
- 2) Single section units shall have diagonal ties directly opposite each other along the two main I-beams. Multi section units need diagonal ties on the outer-most main I-beam only. When vertical distance exceeds 48", connect diagonal tie to opposite beam.
- 3) Ties installed at each end of the home shall be within 24 inches of each end of the applicable I-beam.
- 4) The distance between any two ties may be exceeded to avoid an obstruction, as long as the total number of ties remains the same, and no two anchors shall be within 4 ft of each other.
- 5) Any vertical ties present on homes must be attached to a ground anchor. Both vertical and diagonal ties may be connected to a single double-headed anchor, if the anchor manufacturer's installation instructions allow for the combined loading.
- 6) The vertical distance is measured from the anchor head to the underside of the floor joists.
- 7) No two anchors shall be within 4 ft of each other.
- 8) Other stabilizing systems registered with the Department may replace longitudinal and/or lateral ties as long as the system manufacturer's installation instructions are followed.

(2) Units built to Wind Zone II on or after July 13, 1994.

(A) Units built to Wind Zone II on or after July 13, 1994, should have either built-in, or provisions for connecting, vertical ties along the sidewall(s) of each unit(s). A diagonal tie must be installed at each vertical tie location (except for designated shearwall tie). Built-in vertical ties shall be connected to anchors. If there are brackets or other provisions for connecting vertical ties, vertical ties shall be added at the brackets or provisions and connected to anchors.

(B) Only factory installed vertical ties may be closer than 4 feet from each other.

- (C) Where tie locations are clearly marked as a shear wall strap, a perimeter pier must be installed at that location. Diagonal tie is not required.
 - (D) Where the vertical tie spacing exceeds 8'-0" on-center (see also note 6 in the table in this paragraph for exception), the anchoring system must be approved by the home manufacturer's installation manual, or designed by a professional engineer or architect licensed in the state of Texas.
 - (E) Where pier heights exceed 36 inches in height, the diagonal strap shall be connected to the opposite I-Beam.
- (3) Multi-section centerline anchoring requirements (Wind Zone II only):
- (A) Centerline anchor ties are required for ALL Wind Zone II installations, regardless of the date the unit was manufactured, when installation occurs on or after the effective date of these rules.
 - (B) Factory installed centerline vertical ties, brackets, buckles or any other connecting devices must be connected to a ground anchor. No additional anchors as described in subparagraph (D) of this paragraph are required.
 - (C) To avoid obstructions and/or piers and footers, the anchor may be offset up to 12 inches perpendicular to the centerline.
 - (D) Where factory preparations do not exist, install anchors and angle iron brackets at each side of mating line openings wider than 48 inches.
 - (i) Where equal spans exist opposite each other (*i.e.*, each section), a double bracket assembly may be used. The maximum opening is per the table in subsection (f)(4) of this section. Total uplift load may not exceed the anchor and/or strap capacity (*i.e.*, 3150 pounds).
 - (ii) The angle iron bracket is minimum 1 ½" x 1 ½" x 11 gauge. The holes for the lag screws are a maximum of 4 inches apart and ¾" from the edge of the bracket.
 - (iii) Lag screws/bolts are minimum 3/8" diameter x 3 inches, full thread. Note: Pre drill pilot holes.
- (4) For openings separated by a wall or post 16 inches or less in width, the opening span is the total of the spans on each side of the wall/post.

(f) Bracket Installation.

- (1) See the table in paragraph (4) of this subsection concerning the maximum centerline wall opening for column uplift brackets.
- (2) Use a single bracket for openings which exist on one section only. Use double bracket where openings are opposite each other on two sections of the home.
- (3) When only one bracket assembly is required, it may be installed on either side of the column/opening stud(s), but no more than 12 inches from the column or opening stud(s).
- (4) When two bracket assemblies are required, they must be installed on each side of the column/opening stud(s), but no more than 12 inches from the column/opening stud(s), and they must be angled away from each other a minimum of 12 inches.

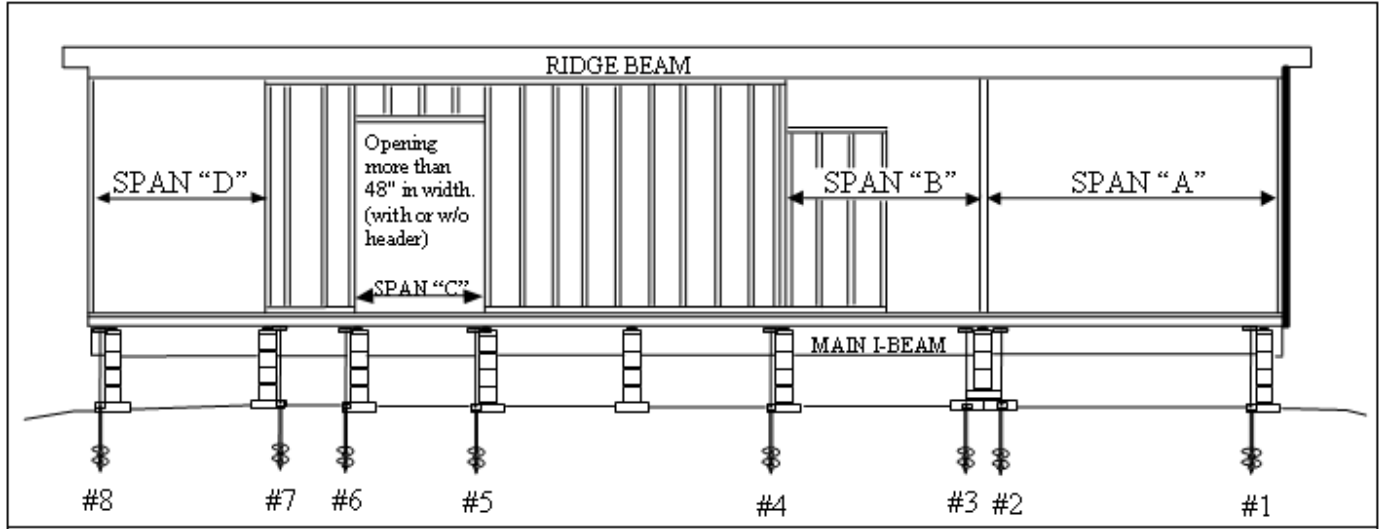
MAXIMUM CENTERLINE WALL OPENING FOR COLUMN UPLIFT BRACKETS

----- Maximum opening based on floor widths -----

	12 Wide (140" max)	14 Wide (164" max.)	16 Wide (186" max.)	18 Wide (210" max.)
One Single Bracket (2-lags) either side of column.	17'-6"	15'-0"	13'-3"	11'-9"
Two Single Brackets (2-lags each), one each side of column.	35'-0"	30'-0"	26'-6"	23'-6"
One Double Bracket (4-lags) <i>either</i> side of column. Spans are on both sections, opposite each other.	31'-9"	27'-2"	23'-11"	21'-2"
*Two Double Brackets (4-lags) either side of column. Spans are on both sections, opposite each other.	40'-0"	40'-0"	40'-0"	40'-0"
* For openings larger than 40'-0", consult a local licensed professional engineer or architect.				

- (5) Example: A double section unit with each section being 14 feet wide;
 - (A) Span "A" is 18'-0", matching span both sections;
 - (B) Span "B" is 14'-8", matching span both sections;
 - (C) Span "C" is 6'-8", matching span both sections; and
 - (D) Span "D" is 13'-4", one side only.

ANCHOR SPAN



Determine type and number of brackets needed at each opening.

<p>Anchor #1: Anchor #2 & #3: Anchor #4: Anchor #5: Anchor #6 & #7:</p>	<p>From the table in §80.24(f)(4), row 3 in the 14 ft. wide column, the maximum span for this condition is 27'-2". Actual span is 18'-0" ==> one double bracket is ok. Since the wall between spans "A" and "B" is less than 16 inches in width the two spans must be added together to determine number and type of brackets. Span "A" (18'-0") + Span "B" (14'-8") = 32'-8" From the table in §80.24(f)(4), row 3 in the 14 ft. wide column, the maximum span for one double bracket is 27'-2". Actual span is 32'-8" ==> two double brackets required. Span "B" is on both sections @ 14'-8". From the table in §80.24(f)(4), row 3 in the 14 ft. wide column, the maximum span for one double bracket is 27'-2" ==> ok Same as anchor # 4, except for 6'-8" span. This span is on one section only. Therefore a single bracket may be used. From the table in §80.24(f)(4), row 1 in the 14 ft. wide column, the maximum span for a single bracket is 15'-0". Actual span is 13'-8" ==> single bracket is ok.</p>
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(6) Longitudinal ties:

- (A) Longitudinal ties are required for ALL wind zone installations, regardless of the date of manufacture, when installation occurs after the effective date of these rules.
- (B) Longitudinal ties are designed to prevent lateral movement along the length of the home.
- (C) When conventional anchors and straps are used; the required number of ties must be installed as appropriate. The strap(s) may be connected or wrapped around front or rear chassis header members, around existing cross members or spring hangers. A strap must be within 3 inches of where the cross member attaches to the main I-beam. Alternatively, brackets to receive the strap(s) may be attached to the bottom flange of the main I-beams. The location of the connection points along the length of the I-beams are not critical, as

long as the number of longitudinal ties required for each end of each home section are installed with their pull in opposite directions. No two anchors shall be within 4 ft of each other. No two ties shall be attached to the same structural member of the home, other than a main longitudinal frame member or a front or rear chassis header member.

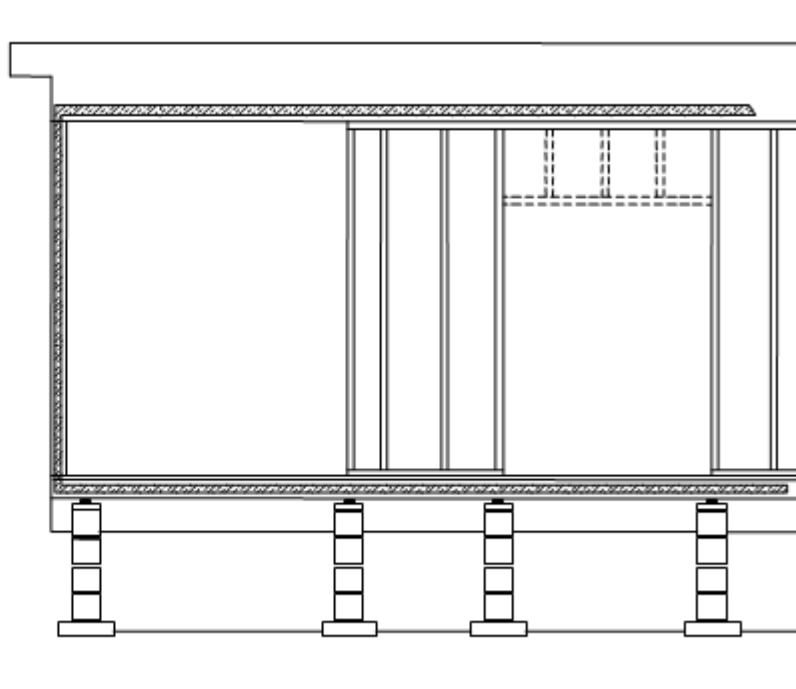
- (D) Anchors require stabilizer plates when the anchor shaft is not in line with strap (plus or minus 10 degrees).

§80.25. Generic Standards for Multi-Section Connections Standards.
(Effective: December 25, 2012)

- (a) Air infiltration and water vapor migration at mating surfaces: Before positioning additional sections, the mating line surfaces along the floor, endwall and ceiling, require material or procedures to limit air infiltration and water vapor migration.
 - (1) Expanding Foam: Foam may be used along surfaces that are accessible after the units have been joined. Where mating line walls line up between sections, non-porous materials must be installed prior to joining the units.
 - (2) Caulking: Caulking may be used along surfaces that are accessible after the units have been joined. Where mating line walls line up between sections, non-porous materials must be installed prior to joining the units.
 - (3) Non-porous gasket installed along the perimeter of all mating lines.
 - (4) Insulation, carpet, carpet pad or other porous materials are not acceptable.

MATING LINE SURFACES

Mating line surfaces are along the floor, up the front and rear endwalls and along the ceiling line.

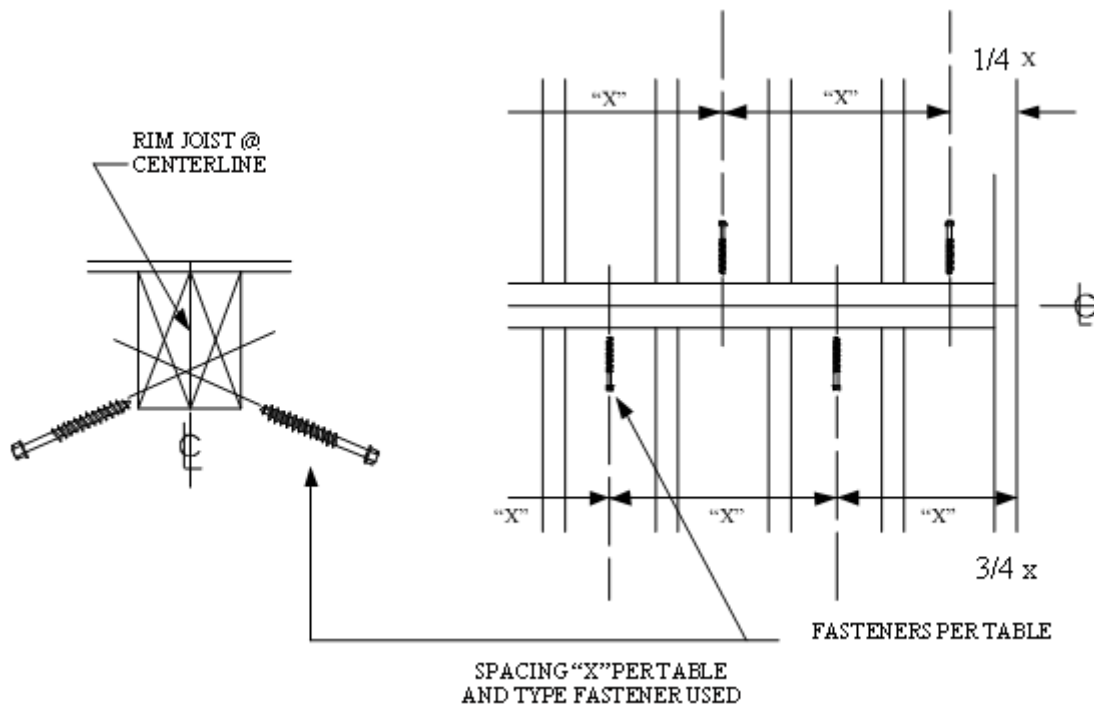


(b) Floor Connections:

- (1) Gaps between floors up to 1-1/2 inches maximum which do not extend the full length of the floor may be filled with lumber, plywood or other suitable shimming materials. Fastener lengths in shimmed areas may need to be increased to provide minimum 1-1/4 inches penetration into opposite floor rim joist.
- (2) Gaps less than 1/2 inch width need not be shimmed.
- (3) The floor assemblies of multi-section units must be fastened together. Fastener options and maximum spacings are listed in the floor connections figure in paragraph (4) of this subsection.
- (4) Any tears or damages to the bottom board due to fastener installation must be repaired.

Wind Zone	min 5/16 lag screw	# 10 wood screw
Wind Zone I	max. 36"	max. 24"
Wind Zone II	max. 24"	max. 12"

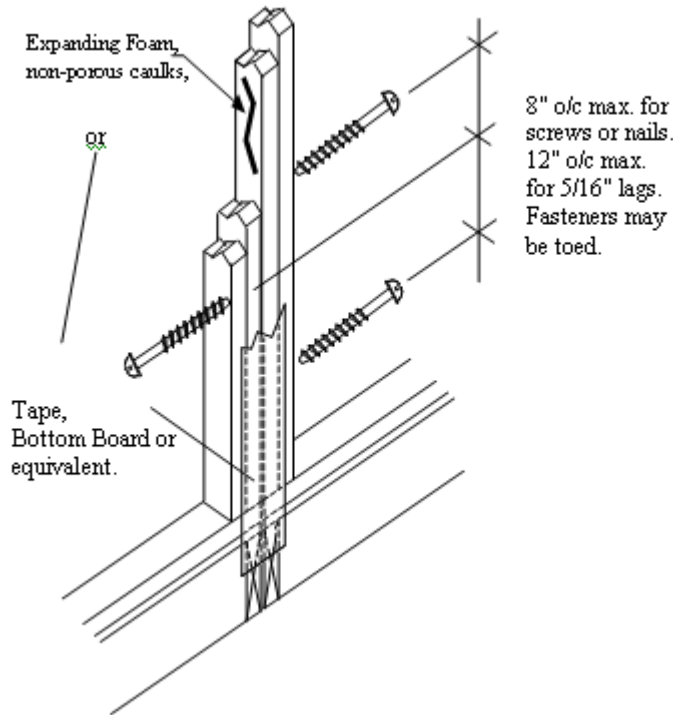
FLOOR CONNECTIONS



(c) Endwall Connections:

- (1) Endwalls must be fastened together at the mating line with minimum #8x4 inch wood screws or 16d nails at maximum 8 inches on-center or 12 inches on-center maximum for 5/16 lags; toed or driven straight; and
- (2) Fastener length may need to be adjusted for gaps and/or toeing, to provide minimum 1-1/2 inch penetration into opposite endwall stud.

ENDWALL CONNECTIONS



(d) Roof Connection: *(Note: Fasteners must not be used to pull the sections together.)*

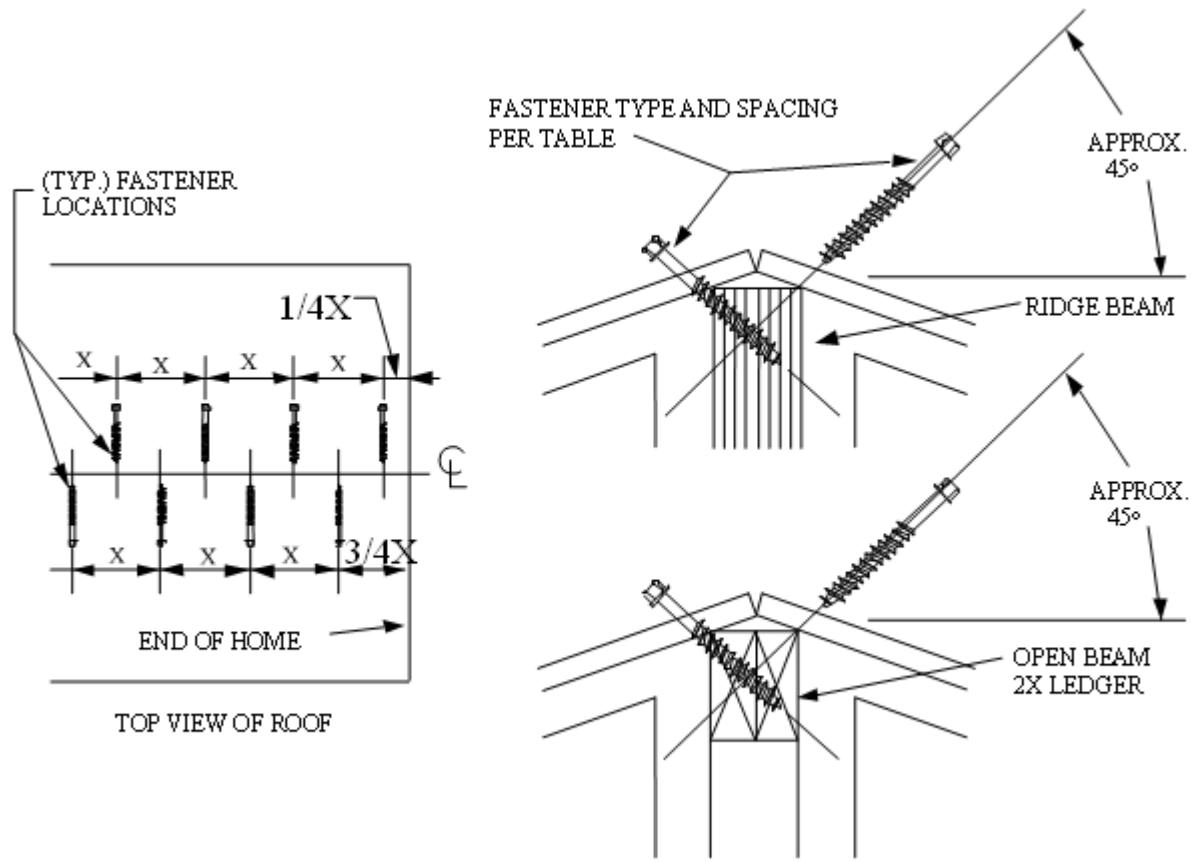
- (1) Roof shall be connected with the fasteners and spacings specified in the figure in paragraph (2) of this subsection.
- (2) Gaps between the roof sections (at ridge beam and/or open beam ledgers) of up to 1-1/2 inches wide maximum which do not extend the full length of the roof must be filled with lumber and/or plywood shims. Gaps up to 1/2 inch need not be shimmed. The fastener length used in the shimmed area may need to be increased to provide a minimum 1-1/4 inch penetration into the adjacent roof structural member.

Roof Connection - Fastener type and spacing:

----- maximum o.c. spacing (in) -----

Wind Zone	3/8 Lag	1/4 Lag	#10 wood screw
Wind Zone I	36"	24"	24"
Wind Zone II	20"	16"	12"

ROOF CONNECTION



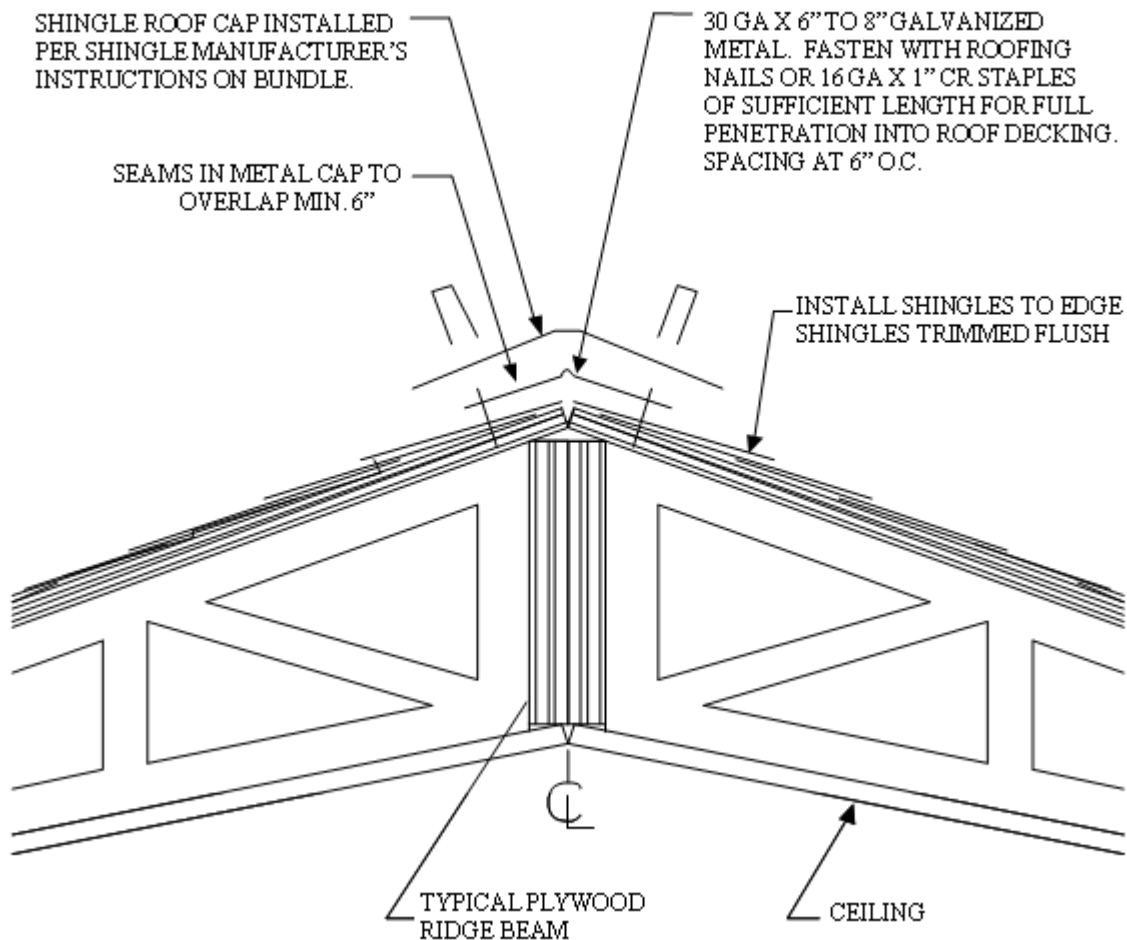
(e) Exterior Roof Close Up:

- (1) Ensure that shingles are installed to edge of roof decking at peak. Follow nailing instructions on the shingle wrapper. Note: Wind Zone II (high wind) installations require additional fasteners.
- (2) Before installing ridge cap shingles, a minimum 6 inch wide piece of 30 gauge galvanized flashing must be installed the length of the roof.
- (3) When flashing is not continuous, lap individual pieces a minimum of 6 inches.
- (4) Fasten flashing into roof sheathing with minimum 16 gauge staples with 1 inch crown or roofing nails of sufficient length to penetrate roof decking.

Maximum fastener spacing is 6 inches on-center each roof section. Place fasteners a minimum of 3/4 inches along edge of flashing.

- (5) Install ridge shingles directly on top of flashing.
- (6) Check and repair as necessary the remainder of roof for any damaged or loose shingles, remove any shipping plastic or netting, wind deflectors, etc. Make sure to seal any fastener holes with roofing cement.

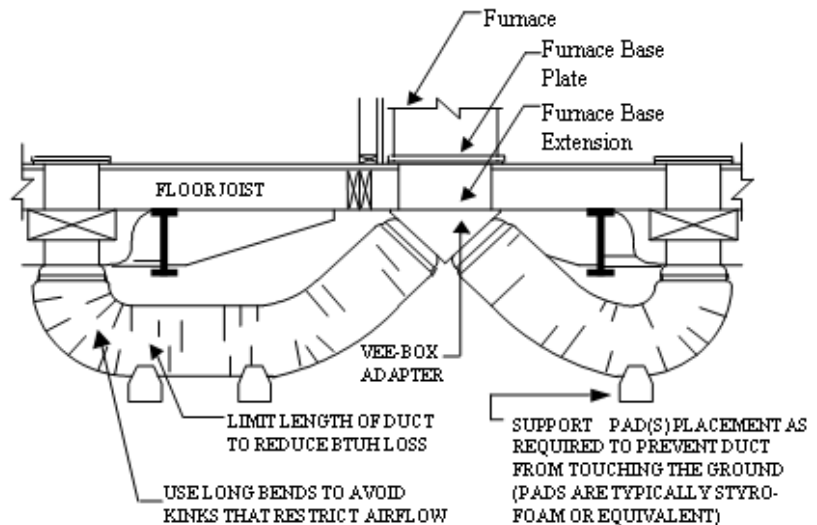
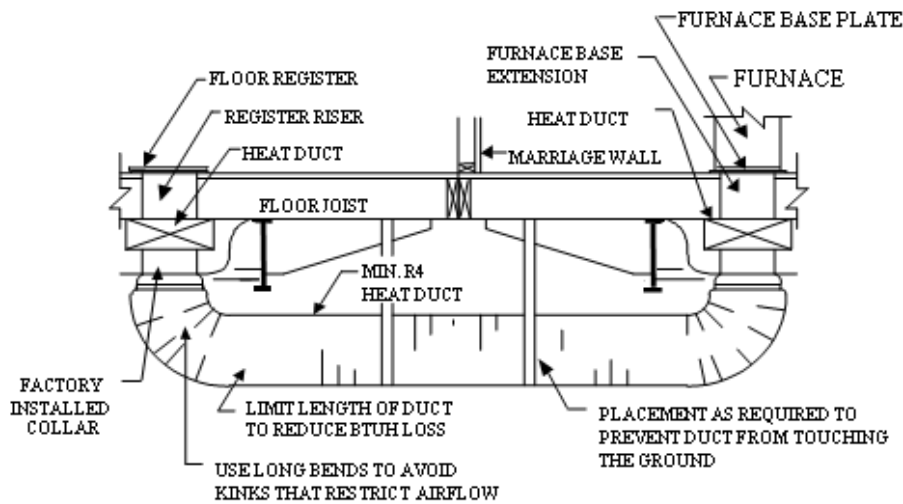
EXTERIOR ROOF CLOSE UP



- (f) Exterior Endwall Close Up: Cut closure material to the shape and size required and secure in place, starting from the bottom up, *i.e.*: bottom starter, vertical or horizontal siding, then roof overhang, soffit and fascia. All closure material should be fitted and sealed as required to protect the structure or interior from the elements.
- (g) HVAC (heat/cooling) Duct Crossover:
 - (1) Crossover duct must be listed for EXTERIOR use.
 - (2) Duct R-value shall be a minimum of R-4.

- (3) The duct must be supported 48 inches on-center (maximum) and must not be allowed to touch the ground. Either strapping (minimum 1 inch wide), to hang the duct from the floor, or non-continuous pads to support it off the ground are acceptable.
- (4) The duct to the collar or plenum connections must be secured with bands or straps designed for such use. Keep duct as straight as possible to avoid kinks or bends that may restrict the airflow. Extra length must be cut off.
- (5) The installer should refer to the manufacturer's instruction for assembling the overhead duct.

HVAC (HEAT/COOLING) DUCT CROSSOVER



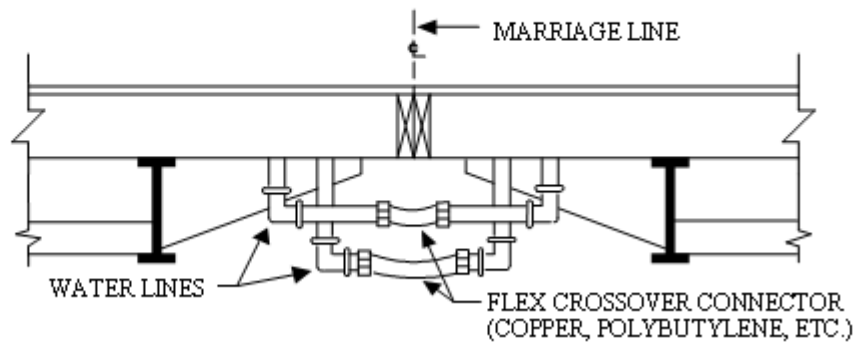
(h) Multi-Section Water Crossover:

- (1) If there is water service to other sections, connect the water supply crossover lines as shown in the applicable detail.

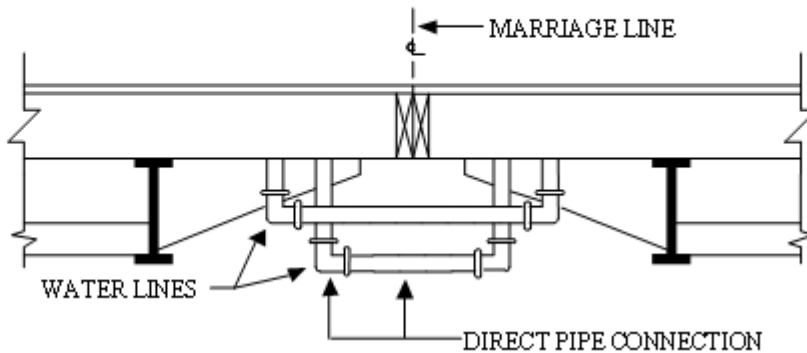
- (2) If the water crossover connection is not within the insulated floor envelopes, wrap the exposed water lines in insulation and secure with a good pressure sensitive tape or nonabrasive strap, or enclose the exposed portion with an insulated box.
- (3) If water piping at the inlet is exposed, a heat tape should be installed to prevent freezing. A heat tape receptacle has been provided near the water inlet. When purchasing a heat tape, it must be listed for manufactured home use, and it must be installed per manufacturer's instructions.

MULTI-SECTION WATER CROSSOVER CONNECTIONS

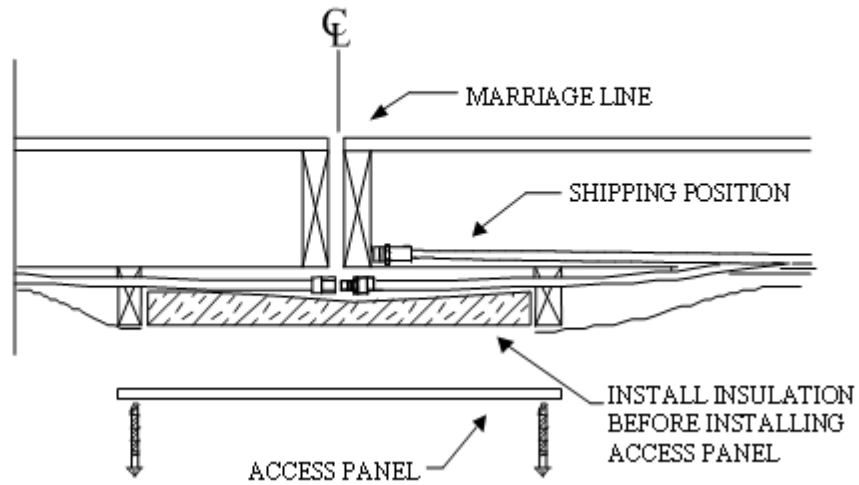
METHOD A



METHOD B

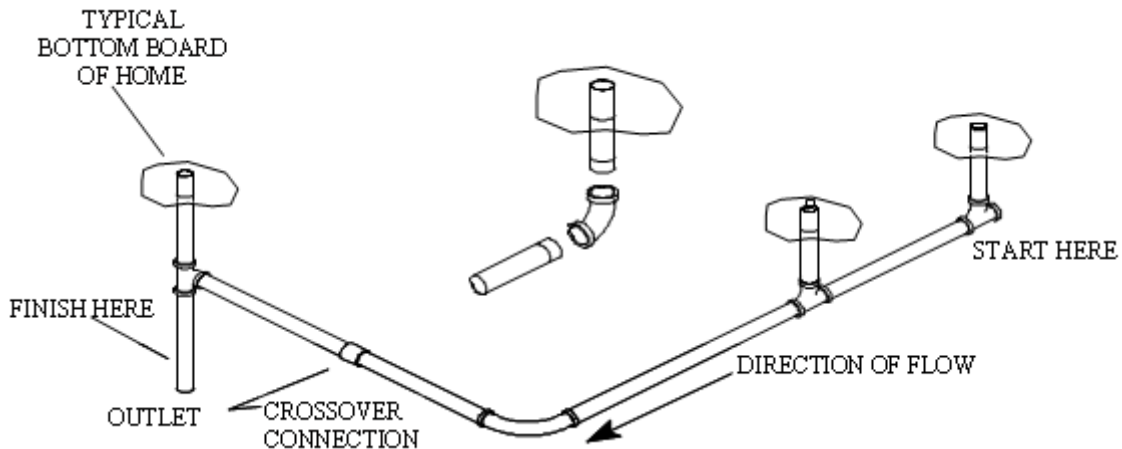


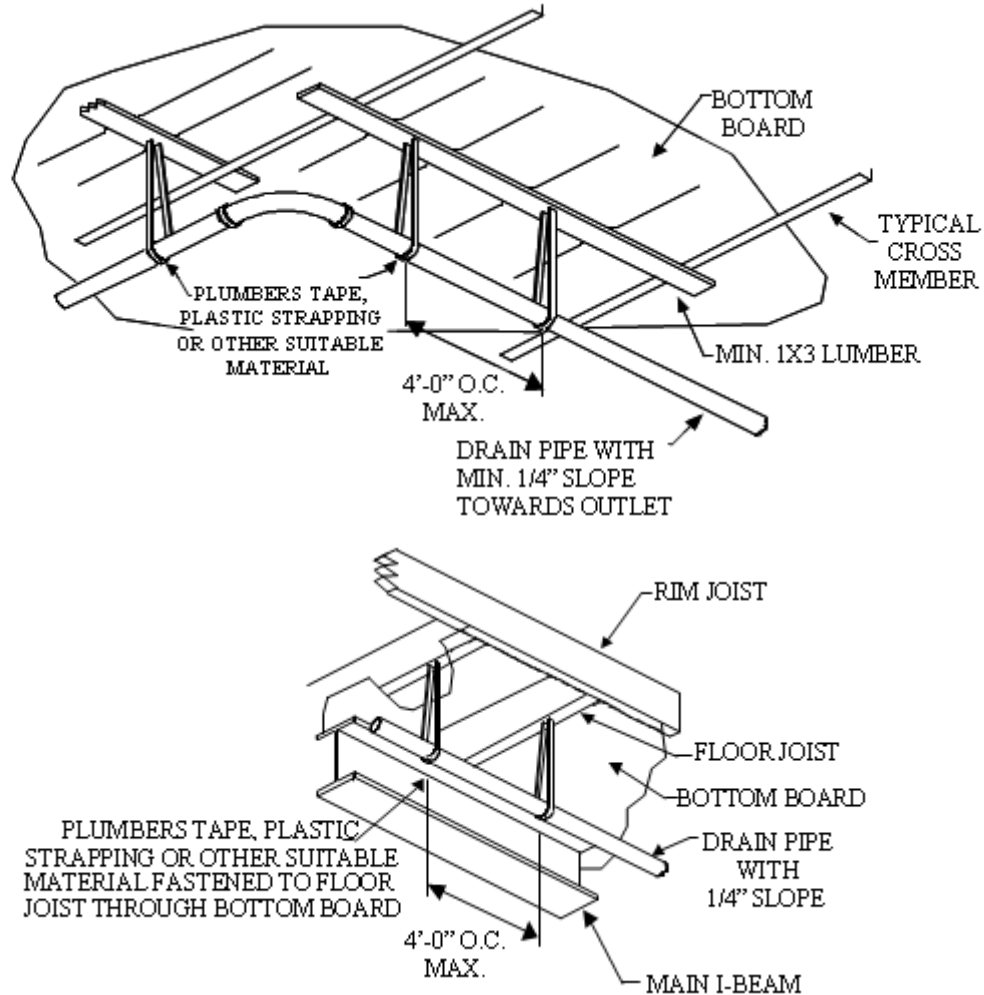
METHOD C



- (i) Drain, Waste and Vent System (DWV):
 - (1) Portions of the DWV system which are below the floor may not have been installed, to prevent damage to the piping during transport. Typically, the DWV layout is designed to terminate at a single connection point to connect to the on-site sewer system. For a used home where on-site DWV connections are not assembled per the manufacturer's instructions, the DWV system must be assembled in accordance with Part 3280 of the FMHCSS.

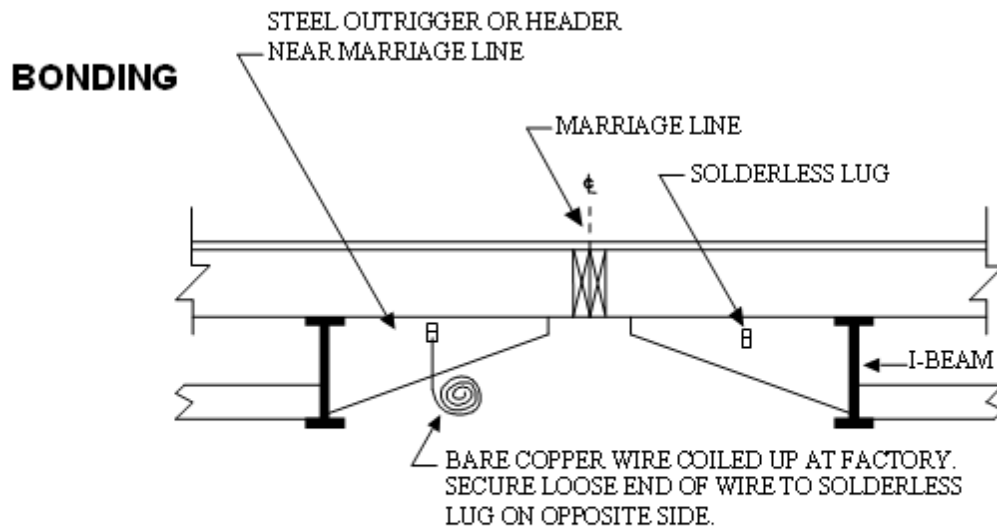
DRAIN, WASTE AND VENT FLOOR PIPING SYSTEM





- (2) The following guidelines apply:
- (A) All portions of the DWV system shall be installed to provide a minimum of 1/8 inch slope per foot for a 3 inch diameter pipe or larger, in the direction of the flow. For all other pipe, a minimum of 1/4 inch is required.
 - (B) Changes in direction from vertical to horizontal, and horizontal to horizontal, shall be made using long sweep elbows and/or tees.
 - (C) All drain piping shall be supported at intervals not to exceed 4 feet on-center. The support may be either blocking or strapping. When strapping is used, it should be nonabrasive.
 - (D) Piping must be assembled with the appropriate cleaners, primers and solvents (note: both ABS and PVC systems are common, but will require adhesives). Be sure to follow the instructions of the product used.

- (E) A cleanout must be installed at the upper (most remote) end of the floor piping system.
- (3) Water testing: At the time of installation the water system must be inspected and tested for leaks after completion at the site (the water heater must be disconnected when using an air-only test).
- (4) Drainage system testing: At the time of installation the drainage system must be inspected and tested for leaks after completion at the site.
- (j) Electrical Connections: Depending on the model and/or manufacturer of the home, electrical crossovers may be located in either the front end and/or rear end of the home. Check along mating line for other labeled access panels.
 - (1) Crossover connections may be one of the following:
 - (A) snap or plug-in type;
 - (B) junction boxes inside floor cavity (note: crossover wiring routed outside the floor cavity must be enclosed in conduit). If the boxes and/or covers are metal, they must be grounded by the use of the ground wire; or
 - (C) pigtail between receptacles/switches between sections (one circuit only and enclosed in a j-box according to the National Electrical Code (NEC)).
 - (2) Chassis Bonding: Each chassis shall be bonded to the adjacent chassis with a solid or stranded, green insulated or bare, number 8 copper conductor. The conductor is connected to the steel chassis with a solderless lug. *Alternate bonding: A 4 inch wide by 30 gauge continuous metal strap may be used as an alternate, when attached to the chassis members with two #8x 3/4 inch self tapping metal screws each end of the strap.*

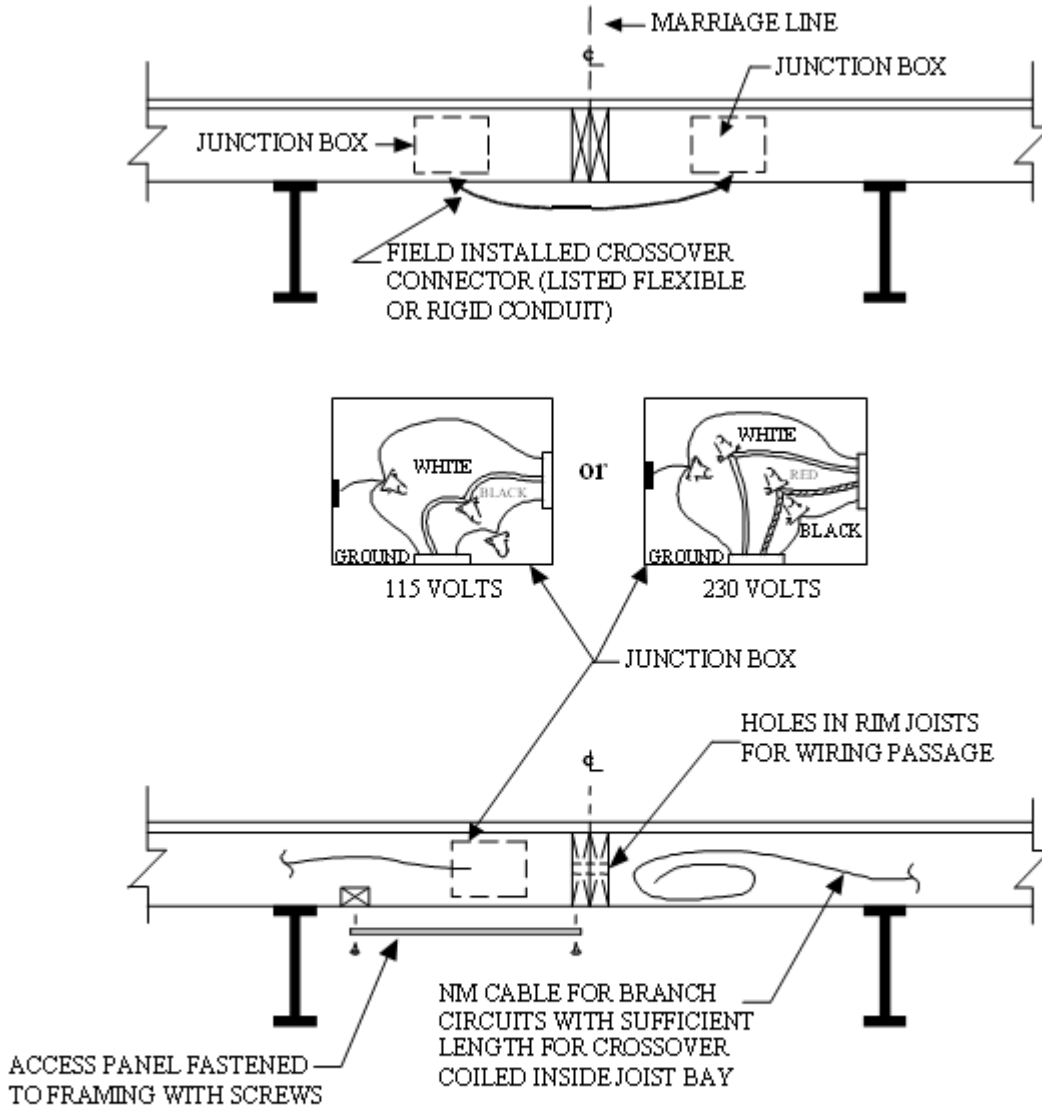


NOTE:

A 4" BONDING STRAP MAY BE USED INSTEAD OF COPPER WIRE BY ATTACHING THE STRAP TO BOTH UNITS WITH 2-#8X3/4" SELF-TAPPING METAL SCREWS ON EACH SIDE.

(3) Electrical Crossover.

ELECTRICAL CROSSOVER

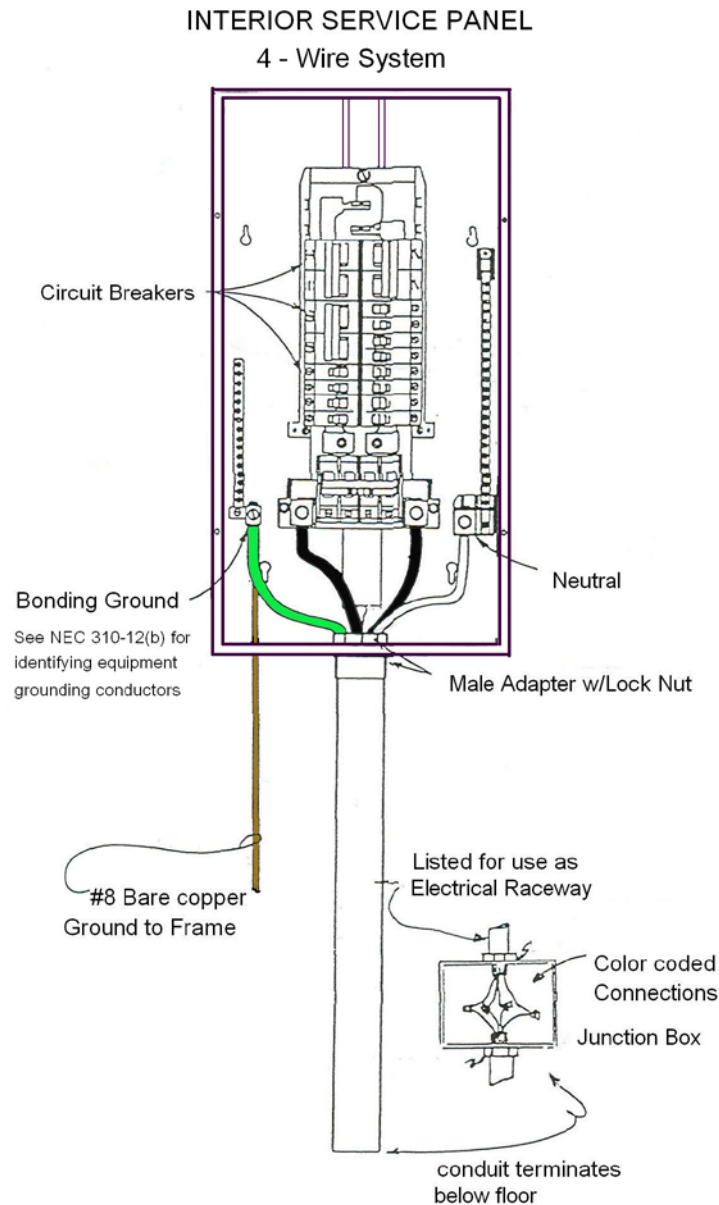


NOTE:
ANY EXPOSED NM CABLE MUST BE PROTECTED BY CONDUIT AND INSTALLED IN ACCORDANCE WITH THE N.E.C.

(4) Shipped loose equipment:

- (A) Electrical equipment such as ceiling fans, chandeliers, exterior lights, etc., which may have been shipped loose, must be installed in accordance with the adopted (NEC). Connect all corresponding color coded or otherwise marked conductors per the applicable sections of the NEC.

- (B) Bonding strap removal: 240 volt appliances (range, dryer, etc.) shall have the bonding strap removed between the ground and the neutral conductors. Cords used to connect those appliances shall be four conductor, four prong.
- (5) Main panel box feeder connection: The main panel box is wired with the grounding system separated from the neutral system (4-wire feeder). The grounding bus in the panel must be connected through a properly sized green colored insulated conductor to the service entrance equipment (meter base) located on or adjacent to the home. A licensed electrician is required to run the feeder from the pole to the main panel box in the home.



MAIN PANEL BOX FEEDER CONDUCTOR SIZES

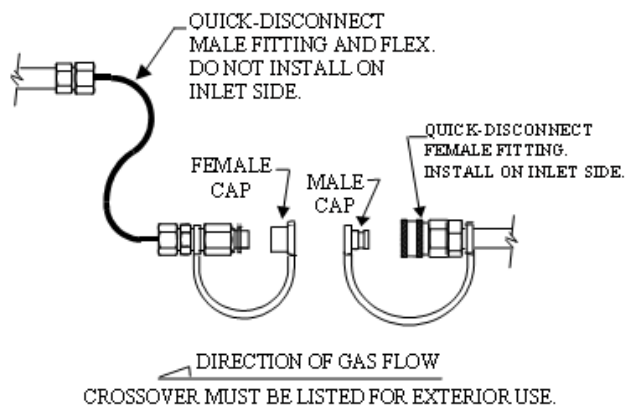
Main Breaker size (amps)	Raceway diameter	Red/Black (power)	White (neutral)	Green (grounding)
50	1	#6	#6	#8
100	1 1/4	#2 or #3	#2 or #3	#6
150	1 1/2	#1/0 or #2/0	#2	#6
200	2	#3/0	#2	#6

(k) Fuel Gas Piping Systems:

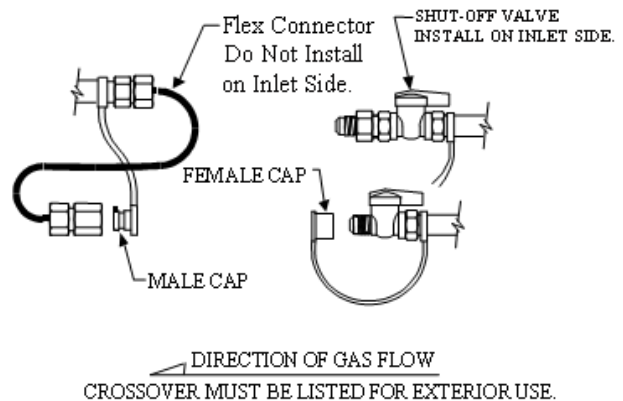
- (1) Crossover Connections: All underfloor fuel gas pipe crossover connections shall be accessible and be made with the connectors supplied by the home manufacturer, or, if not available, with flexible connectors listed for exterior use and a listed quick disconnect (Method A), or a shut-off valve (Method B). When shut-off valve is used, it must be installed on the supply side of the gas piping system. The crossover connector must have a capacity rating (BTUH) of at least the total BTUH's of all appliances it serves.
- (2) Testing: The fuel gas piping system shall be subjected to an air pressure test of no less than 6 ounces and no more than 8 ounces. While the gas piping system is pressurized with air, the appliance and crossover connections shall be tested for leakage with soapy water or bubble solution. This test is required of the person connecting the gas supply to the home, but may also be performed by the gas utility or supply company.
- (3) The gas system must be inspected and tested for leaks after completion at the site.

FUEL GAS PIPE CROSSOVER CONNECTIONS

Method A



Method B



§80.26. Registration of Stabilizing Components and Systems.
(Effective: January 29, 2008)

- (a) Installers shall use only prefabricated or site built stabilizing components and systems which are:
 - (1) registered with the Department,
 - (2) specified by the home manufacturer's DAPIA approved installation instructions, or
 - (3) specified for one or more homes in a particular area by a Texas licensed engineer or architect.
- (b) Before accepting a registration of any prefabricated stabilizing component or system that will be used for more than one home or granting renewal of such, the Department will require the component or system to be certified by an engineer, architect, or independent testing laboratory. The engineer or architect may be licensed in any state. The independent testing laboratory must have at least one engineer or architect licensed in at least one state. The producer or vendor of the component or system must send a request letter to the Department with at least two copies of the certification report. The Department may accept certification reports in electronic formats. The certification report copies must have letter size (8.5 inch by 11 inch) or smaller pages. The producer or vendor must provide written permission to the Department to reproduce the certification report. If the Department accepts the registration of the certification report, the Department shall place a registration stamp on the copies, keep one copy, and return all other stamped copies to the producer or vendor. The registration stamp will include the following information:
 - (1) the title "Texas Department of Housing and Community Affairs" Manufactured Housing Division;
 - (2) the phrase "Registered stabilizing component or system"; and
 - (3) the date of registration.
- (c) The Department will maintain a list of stabilizing components and systems that have been registered with the Department for use in Texas and will post a current copy of the list on the Department's website.
- (d) A report that certifies a stabilizing component or system shall contain, at the minimum, the following:
 - (1) the name, address, phone number, facsimile number, and trademark of the agency issuing the certification report or the name, signature, license number, state where licensed, address, phone number, facsimile number, and seal of the engineer or architect;

- (2) date of certification report;
 - (3) the name, address, phone number, and facsimile number of the vendor or producer of the component or system;
 - (4) drawing or photograph of component or system;
 - (5) a description of the vendor's or producer's method for identifying the component or system;
 - (6) at least a 2 inch by 4 inch blank space for the Department registration stamp on each page or the cover page of a bound document;
 - (7) a unique number or other identification for the certification report;
 - (8) the initial qualifying test report or information about how the report can be obtained;
 - (9) a description of the continuing validation system and the time period of the certification;
 - (10) detailed and specific installation instructions for the component or system, a copy of which that are shipped to each purchaser;
 - (11) a description of the working load capacity for the component or system. If the component is a ground anchor, the anchor shall be certified by a professional engineer, architect or nationally recognized testing laboratory as to its resistance, based on the maximum angle of diagonal tie and/or vertical tie loading and angle of anchor installation, and type of soil in which the anchor is to be installed;
 - (12) a description of all allowable conditions for use of the component or system such as (but not limited to) types of soil, weather exposure, atmospheric environment (rural, industrial, coastal), and characteristics of other associated components; and
 - (13) a statement that the certifying independent testing laboratory, certifying engineer, or certifying architect certifies the component or system to be in conformance with all applicable standards adopted by the Department. This statement shall be on each page or shall be on the cover sheet of a bound document.
- (e) The Department adopts the applicable standards and publications set forth in Chapter 43 of the International Code Council, latest edition of the International Residential Code for materials used to fabricate stabilizing components and systems. The Department adopts the stabilizing component destruction test failure criteria of the FMHCSS (24 CFR, Part 3280) or latest edition of the International Residential Code, Appendix E.

- (f) Applicable reports of the following organizations are acceptable as certification reports: National Evaluation Service, Inc.; International Conference of Building Officials (ICBO) Evaluation Service, Inc.; Southern Building Code Congress International (SBCCI) Public Safety Testing and Evaluation Services, Inc.; Building Officials and Code Administrators International (BOCA) Evaluation Reports, Inc.; the International Code Council (ICC); or a successor of any of these organizations.
- (g) The Department may deny registration if the certification information:
 - (1) is incomplete;
 - (2) does not conform to the rules of the Department;
 - (3) contradicts the qualifying tests; or
 - (4) has contradictory statements.
- (h) Conditions that may cause the Board to issue an administrative order that withdraws registration from a stabilizing component or system may include but are not limited to:
 - (1) the engineer, architect, or independent testing laboratory withdraws the certification;
 - (2) the engineer, architect, or independent testing laboratory improperly certified the component or system;
 - (3) a significant characteristic of a device or system has been changed without a revision of the original certification;
 - (4) the producer distributes installation instructions that are substantively different from those in the certification or original qualifying tests;
 - (5) changes in the law, rules, or standards;
 - (6) the continuing validation system for a component has been changed without a revision of the original certification;
 - (7) information provided by the original certification is obsolete;
 - (8) the Department receives evidence that the component or system often fails to anchor or support the home; or
 - (9) the producer fails to provide test results after the Department directs the producer to test the component or system. The test will be performed by a recognized independent testing laboratory under the observation of a qualified representative or designee of the Department.
- (i) Notice of withdrawal of registration of a component or system must be given to the producer and to all licensed installers, retailers, and manufacturers.

- (j) The Department's registration of a stabilizing component or system is valid for a period of ten (10) years or for the time period of certification, whichever is less. The registration expires at the end of the shorter period.
 - (1) If the time period for certification exceeds the ten (10) year registration period, the producer of the stabilizing component or system may apply for a renewal of the registration. The renewal shall be valid for an additional period:
 - (A) of ten (10) years; or
 - (B) if the time period of certification expires prior to the end of the ten (10) year period, for a lesser period ending with the expiration of the time period of certification.
 - (2) All Department approval letters issued prior to November 3, 1998, remain valid for a period of ten (10) years following the original effective date of this section and expire on November 3, 2008, or upon any previously assigned expiration date if that date is earlier.
- (k) A registration renewal request must be received from the vendor or producer of the component or system at least ninety (90) calendar days prior to the date the certification or registration expires. The request must supply the information necessary for the Department to issue a registration renewal.
- (l) Registered components and systems sold to retailers or installers prior to the expiration of the applicable registration or renewal may be used and installed for a period of not more than ninety (90) calendar days following the date of expiration of their approval, registration, or renewal.
- (m) Advertisements and instructions may not express or imply that the component or system has Department approval.

SUBCHAPTER C. LICENSEES' RESPONSIBILITIES AND REQUIREMENTS

***§80.30. All Licensees' Responsibilities.
(Effective: May 15, 2016)***

- (a) A licensee, other than a salesperson, must maintain all required records at a location that meets the requirements of §1201.103(a-1) of the Standards Act. All records required by this chapter must be maintained in the licensee's files for a period of not less than six (6) years. Unless stated otherwise, a record of any disclosure to be given shall reflect that it was properly completed, executed, and dated.
- (b) A licensee must keep the Department advised in writing on a current basis of any changes in their licensing information and, where required by the Standards Act, give prior written notice.

- (c) If a licensee fails to provide any warranty listed in this subsection of the rules, the time limitations associated with the consumer's written notification do not start until the consumer is provided with such required warranty.
- (d) A license holder is prohibited from publishing or distributing any form of advertising which is false, deceptive, or misleading.
- (e) Any advertisement must comply with applicable federal and state legal requirements, including, but not limited to, the federal Truth in Lending Act and Federal Reserve Regulation Z.
- (f) Any advertisement (including social media) by a retailer, broker, or installer (other than a sign/display advertisement at a licensed location, point of sale literature, or a price tag) must conspicuously disclose the license number of the person who is advertising.
- (g) Any advertisement (including social media) by a salesperson must conspicuously disclose the name and license number of their sponsoring retailer identified on their valid salespersons license.
- (h) Where no consumer protection purposes would be served by requiring the license number to be disclosed, the Board may grant exceptions to subsections (f) and (g) of this section based on the Board's approved format. Exceptions will be posted on the Department's website.
- (i) Any licensee's website shall provide a conspicuously placed link to the Department's website.

§80.31. *Manufacturers' Responsibilities and Requirements.*
(Effective: November 6, 2011)

- (a) A manufacturer shall submit a monthly shipment report to the Department of all manufactured homes produced during the preceding month for shipment to any point in Texas. The report shall contain the following information:
 - (1) the complete HUD label number(s);
 - (2) the complete serial number(s);
 - (3) the license number of the retailer to whom the home is sold and the location to which it is initially shipped; and
 - (4) a designation as to single or multiple sections.
- (b) The manufacturer's monthly shipment report shall be filed with the Department by the 20th day of the month following the earlier of manufacture of the home and/or shipment. If a manufacturer has no sales or shipments to any person in the State of Texas during any month, the report must be filed stating such fact.

- (c) A manufacturer shall use the Manufacturer's Certificate of Origin (MCO) prescribed by the Department set forth on the Department's website for homes sold to retailers in Texas, on the reverse side of which shall be the data plate.
- (d) A manufacturer shall supply to the Department current and revised copies of approved installation manuals as required by §80.20 of this chapter (relating to Requirements for Manufacturer's Designs and Installation Instructions).
- (e) The term of a required warranty does not begin to run until a warranty that complies with the Standards Act is actually delivered.

§80.32. Retailers' Responsibilities and Requirements.
(Effective: January 7, 2018)

- (a) A retailer shall retain as a record of each sale a file for that sale containing a completed Retail Monitoring Checklist on the prescribed form, together with copies of all completed, executed, and signed applicable documents specified therein.
- (b) At the time of signing a contract for the sale of a manufactured home, the retailer must disclose to the purchaser, a notice of the existence of a Dispute Resolution Program through HUD, either on a separate document from the sales contract or it may be incorporated clearly at the top of the sales contract. Disclosure of this requirement should be acknowledged by the consumer.
- (c) A retailer shall timely provide each consumer who acquires a manufactured home by sale or exchange with the applicable warranty or warranties specified in the Standards Act and any warranty regarding the home itself shall specify whether the warranty includes cosmetic items or not and, if it does include them, whether there are any limitations or special requirements, such as a walk-through punch lists, excluded items, or the like.
- (d) For each manufactured home taken into a retailer's inventory, a retailer shall maintain a copy of either a completed and timely submitted application for a statement of ownership to reflect the home as inventory or, once such a statement of ownership has been issued and received, a copy of that statement of ownership.
- (e) For each home altered or rebuilt from salvage a retailer shall retain the documentation required for rebuilding a manufactured home that is declared salvaged.
- (f) A retailer must provide their company name, license number, contact information on any sales agreement, and proof of purchase or confirmation of sale.
- (g) If a retailer relies on a third party, such as a title company or closing attorney, to file with the Department the required forms necessary to enable the Department to issue a Statement of Ownership to a consumer, the retailer must provide an instruction letter to that third party, advising them of their responsibilities to make such filings and the required timeframes therefore. This does not relieve the retailer from responsibility. The retailer must retain with their sale records a copy of that

instruction letter and all documentation provided to such third party to enable them to make such filings. This optional form is available on the Department's website.

- (h) On a new manufactured home and on any used manufactured home where the sale or exchange includes installation, the retailer must specify in the applicable contract or an accompanying written disclosure the intended date by which installation will be complete and a designated person to contact for the current status as to the intended date for completion of installation. For new manufactured homes, the retailer is responsible for ensuring that a licensed installer warrants the proper installation of the home and performs the required site preparation.
- (i) If any goods or services being provided by a retailer in connection with the sale and/or installation of a manufactured home, the retailer must disclose, in writing, the goods and/or services to be provided and a good faith estimate as to when they will be provided.
- (j) If any goods with a retail value of more than \$250 are to be provided in connection with the sale of a manufactured home and they are not specified on the data plate for the home, the retailer must describe them in the retail installment contract, purchase memorandum, or other sale document in sufficient detail to enable a third party to provide them under the responsibility of the retailer's surety bond should the retailer fail to provide them as agreed.
- (k) A retailer accepting a deposit must give the consumer a written statement setting forth:
 - (1) the amount of such deposit;
 - (2) a statement of any requirements to obtain or limitations on any such refund; and
 - (3) the name and business address of the person receiving such deposit.
- (l) A retailer may not represent to a consumer that is purchasing a manufactured home with interim financing that the consumer will qualify for permanent financing if the retailer has any reason to believe that the consumer will not qualify for such permanent financing.
- (m) A retailer may not increase the advertised price at which a manufactured home is to be sold based on the consumer's decision to make the purchase with or without financing provided by or arranged through the retailer.
- (n) A retailer may not request or accept any document that is executed in blank or allow any alteration to a completed document without the consumer's initialing and dating such changes to indicate agreement to them. Where information is not available, a statement of that fact (*e.g.*, TBD – to be determined, not available, N/A, not applicable, or the like) may be entered in the blank. A consumer must be provided with copies of all documents they execute.

- (o) A retailer may not knowingly accept or issue any check or other form of payment appearing on its face to be a *bona fide* payment but known not to represent good funds.
- (p) In order to comply with the provisions of §1201.107(d) of the Standards Act, a retailer or broker must:
 - (1) have a current, in effect surety bond issued in the most recent form promulgated by the Department; and
 - (2) the applicable sales agreement must identify the surety bond that applies to the transaction and contain the following statement: “The above-described surety bond applies to this transaction in the following manner: The bond is issued to the Texas Manufactured Homeowner Consumer Claims Program (the “Claims Program”), the Claims Program described in the Texas Manufactured Housing Standards Act (Tex. Occ. Code, Chapter 1201) and administered by the Department. If the Claims Program makes a payment to a consumer, the Claims Program will seek to recover under the surety bond. The obligation of the Claims Program to compensate a consumer for damages subject to reimbursement by the Claims Program is independent of the Claims Program's right or ability to recover from the above-described surety bond, but recoveries on surety bonds are an important part of the Claims Program's ability to maintain sufficient assets to compensate consumers. There can be no assurance that the Claims Program will have sufficient assets to compensate a consumer for a covered claim. Assuming it has sufficient assets to compensate a consumer for a covered claim, the liability of the Claims Program is limited to actual damages, not to exceed \$35,000.”
- (q) A retailer shall maintain on a current basis a separate file for each salesperson sponsored by that retailer reflecting:
 - (1) that they are licensed in accordance with the Standards Act;
 - (2) the date of the initial licensing class that they attended and a copy of their certificate of completion;
 - (3) evidence of the successful completion of any required continuing education classes that they attended; and
 - (4) a copy of any written notice to the Department that sponsorship was terminated and the effective date thereof.
- (r) At each licensed location a retailer shall display their current license for that location and the current license of each salesperson who works from that location.
- (s) At each licensed location a retailer shall conspicuously display the Consumer Protection Information sign as set forth on the Department's website.
- (t) Auction of Manufactured Housing to Texas Consumers.

- (1) A person selling more than one home to one or more consumers through an auction in a twelve (12) month period must be licensed as a retailer, each individual acting as their agent must be licensed as a salesperson, and each specific location at which an auction is held must be licensed and bonded in accordance with the Standards Act.
- (2) Acting as an auctioneer may be subject to the Texas Auctioneer Act, Occupations Code, Chapter 1802.
- (3) The retailer must notify this Department in writing at least thirty (30) calendar days prior to the auction with such notice to contain the date, time, and physical address and location of a proposed auction or, if they recur on a scheduled basis, of the schedule.
- (u) A person may exercise their right of rescission of contract for sale or exchange of home pursuant to §1201.1521 of the Standards Act within three (3) business days without penalty or charge.
- (v) The written warranty that the used manufactured home is habitable as per §1201.455 of the Standards Act, shall have been timely delivered if given to the homeowner at or prior to possession or at the time the applicable sales agreement is signed.
- (w) The written manufacturer's new home construction warranty per §1201.351 of the Standards Act, shall be timely delivered if given to the homeowner at or prior to the time of initial installation at the consumer's home site.

§80.33. *Installers' Responsibilities and Requirements.*
(Effective: January 7, 2018)

- (a) If the retailer subcontracts installation to another licensed installer, their respective responsibilities are as set forth in the Standards Act.
- (b) For used manufactured homes, the person contracting with the consumer for the installation of the home is the installer and must warrant the proper installation of the home. If the contracting installer subcontracts with an independent licensed installer, then the subcontractor is jointly and severally liable for that portion of the installation that the subcontractor performed.
- (c) A person contracting directly with the consumer for only the transportation of a manufactured home to its site is not deemed by virtue of being the transporter to also be the installer.
- (d) The contracting licensed installer is fully responsible for the complete installation in accordance with all applicable requirements set forth in this chapter even though the installer may subcontract certain installation functions to independent contractors pursuant to §1201.102(b) of the Standards Act. It is unlawful for a subcontractor who is acting as an agent for a licensed installer to advertise and/or offer installation services to any person unless the licensed installer's name and license number appear conspicuously in the advertisement.

- (e) A person contracting for the installation of a manufactured home must specify in the applicable contract or an accompanying written disclosure the intended date by which installation will be complete and a designated person to contact for the current status as to the intended date for completion of installation.
- (f) An installer shall provide the Department with a list of all subcontractors approved to work under the installer's license number.
- (g) For each installation completed, the installer must complete a Notice of Installation and submit the original, signed form with the required fee to the Department no later than seven (7) days after which the installation is completed, but not later than three (3) days for installers with a provisional license. If an installer submits multiple installation reports at one time, a single payment for the combined fees may be submitted.
 - (1) If a contracting installer subcontracts the installation to a licensed installer, the subcontracted installer who performs the installation shall complete the Notice of Installation, and submit the original signed form to the Department no later than seven (7) days after which the installation is completed, or not later than three (3) days for installers with a provisional license. The subcontracted installer may submit the required fee with the Notice of Installation Form.
 - (2) If a contracting installer subcontracts the installation to a licensed installer, and the subcontracted installer does not pay the fee, the contracting installer shall submit a copy of the Notice of Installation, labeled as such, with the required fee to the Department no later than seven (7) days after which the installation is completed, or not later than three (3) days for subcontracted installers with a provisional license.
 - (3) Provisional installers that provide the installation are required to send a copy of the Notice of Installation to the Department's Field Office within three (3) days of the installation to ensure a timely inspection may be conducted.
 - (4) The timely submittal of the Notice of Installation after completion of the installation ensures the Department inspectors may inspect the manufactured home with utilities connected, but before the home is skirted.
- (h) The completed Notice of Installation may, within the time frames specified in subsection (g) of this section be submitted with an application for Statement of Ownership but is not a requirement to obtain a Statement of Ownership. Copies must be labeled as such. The licensed installer who is listed on a Notice of Installation is presumed to be the installer primarily responsible for the installation and the person to whom any warranty orders, notices of inspection, or other communications from the Department regarding the installation shall be directed.
- (i) Electrical, fuel, mechanical, and plumbing system crossover connections for multi-section homes, and completion of drain lines underneath all homes in accordance with the requirements of this chapter and installation of steps or legally compliant

ramps to any exterior door that will be 12 inches or more above ground level are installer responsibilities and cannot be excluded by wording of the installation contract when provided by or installed by the installer. The installation of air conditioning at the home site must be performed by a licensed air conditioning contractor. The installation and ventilation of skirting or other material that encloses the crawl space underneath a manufactured home is an installer responsibility, if it is part of the sales or installation contract.

- (j) A checklist must be maintained in the files. The checklist must consist of the following:
 - (1) the HUD label number or Texas seal number and the serial number;
 - (2) verification of the soil condition(s) at the installation site;
 - (3) if installed on piers or pads, verification of the calculation of pier spacing; and
 - (4) a list of each approved component or device used in the installation.

- (k) Each installer shall maintain the following books and records for each installation:
 - (1) verification that the required site preparation notice for a used home was signed by the consumer and timely delivered to a consumer by the licensee;
 - (2) a copy of each installation warranty provided to a consumer with evidence that the warranty was timely delivered to the consumer;
 - (3) if the used home is to be installed on a site that has evidence of ponding, run-off, or uncompacted soil, a signed form from the consumer, acknowledging the condition and accepting the risks, such form to be as set forth on the Department's website and §1201.255 of the Standards Act;
 - (4) a list of the components used. If reconditioned components are used the identifying numbers must be legible;
 - (5) if installed to manufacturer's instructions, a copy of those instructions, as in effect at the time of installation (one copy on-site is sufficient; a separate copy does not need to be maintained for each installation);
 - (6) if installed to engineer-approved plans (other than manufacturer's instructions or state generic) a copy of the actual plans, showing the Texas engineer's stamp;
 - (7) a copy of any agreement with another party to obtain or provide some or all of the installation services; and
 - (8) a list of all unlicensed individuals who provided installation services under the installer's license, indicating each installation on which they worked.

- (l) An installer shall conspicuously disclose their license number on all advertisements and contracts for installation services.

§80.34. *Brokers' Responsibilities and Requirements.*
(Effective: November 6, 2011)

- (a) For each transaction where a broker is engaged to provide services, a broker shall retain the disclosure statement set forth on the Department's website.
- (b) For each home sold by a consumer in a brokered sale, the broker shall retain a file for that sale with copies of all required warranties and disclosures, other than a habitability, that would have been given if the sale was through a retailer.

§80.35. *Salesperson's Responsibilities and Requirements.*
(Effective: December 30, 2007)

- (a) A salesperson may not act in any capacity beyond the scope of a salesperson unless they are legally authorized to do so.
- (b) A salesperson may not collect any monies in connection with a manufactured home transaction except in the name of the sponsoring retailer or broker.

§80.36. *Retailers' Rebuilding Responsibilities and Requirements.*
(Effective: January 7, 2018)

- (a) Any home that is salvaged as defined in §1201.461 of the Standards Act, may be rebuilt/repared for purposes of issuance of a manufactured Statement of Ownership at the option of the Department after inspection in accordance with Department procedures. Notification in writing to the Department at its Austin headquarters shall be required before rebuilding/repair begins.
- (b) The retailer must:
 - (1) notify the Department in writing ten (10) business days before rebuilding (or monthly for continuous activity) and provide the following, if available:
 - (A) HUD or Texas Seal number;
 - (B) data plate and comfort cooling certificate information (applicable wind and roof load zones, manufacturer's name and address, home model, list of appliance models, home production date, thermal zones, transmission coefficients, furnace certification temperatures, and duct capacity for cooling);
 - (C) copy of salvage declaration report if salvaged by an insurance company;
 - (D) description of damage;

- (E) description of cause of damage (water, wind, impact, fire, etc.); and
 - (F) location of home during rebuilding.
- (2) provide a plan for rebuilding, sealed by a licensed professional engineer, that contains the following:
- (A) drawings and specifications that describe the rebuilding;
 - (B) if more than one home is rebuilt in any one (1) month period, then a quality assurance manual that describes the following:
 - (i) system testing;
 - (ii) inspection process of cavities before concealment; and
 - (iii) record keeping.
 - (C) list of new parts and appliances;
 - (D) list of reused or salvaged parts and appliances; and
 - (E) rebuilder's data plate (if applicable).
- (3) notify the Department when concealed cavities will be exposed for Department inspectors;
- (4) remove damaged material and equipment;
- (5) add new or used materials and equipment;
- (6) repair all defects; and
- (7) repair and test all systems.
- (c) The Department may schedule inspections of the home during the rebuilding process.
- (d) A manufactured home which does not meet the definition of salvage as defined in §1201.461 of the Standards Act, may be refurbished to its original structural configuration so that it is habitable as defined by §1201.453 of the Standards Act.

§80.37. Correction Requirements.
(Effective: April 25, 2010)

- (a) The retailer, installer, or manufacturer shall take immediate corrective action when notification is received from a consumer and the nature of the complaint indicates an imminent safety hazard or serious defect.

- (b) Except as provided in subsection (a) of this section, manufacturers, retailers, and installers shall perform their obligations in accordance with their respective written warranty within a reasonable period of time. A reasonable period of time is deemed to be not more than thirty (30) calendar days following receipt of the consumer's written notification unless there is good cause requiring more time. The consumer's written notification must be given:
 - (1) within the one (1) year manufacturer's and retailer's warranty period for new homes;
 - (2) within two (2) years for the installer's warranty period; and
 - (3) for used homes within sixty-five (65) calendar days after the date of the sale or installation, whichever is later.
- (c) The manufacturer, installer, and retailer shall make available for review by Department personnel, records relating to their respective warranty responsibilities, to assure that warranty work has been accomplished and that warranty work has been done in accordance with design or standards criteria and properly completed.

§80.38. *Right to Advance Copy of Certain Documents.*
(Effective: January 7, 2018)

- (a) A consumer may modify or waive the right to rescind the deadlines for disclosures before the execution of the contract if the consumer determines that the purchase transaction is needed to meet a *bona fide* emergency. To modify or waive the right, the consumer shall give the retailer a dated written statement that describes the emergency, specifically modifies or waives the notice periods, and bears the signature of all the consumers entitled to the disclosures and right of rescission. Printed forms for this purpose are prohibited, except as set forth on the Department's website.
- (b) Printed forms may be used to the rights as provided for in §1201.164 of the Standards Act only if:
 - (1) The basic form set forth on the Department's website is used; and
 - (2) The Director has reviewed and approved the language used to describe the specific declared emergency.

SUBCHAPTER D. LICENSING

§80.40. *Security Requirements.*
(Effective: January 7, 2018)

- (a) For purposes of meeting the security requirements of §1201.105 of the Standards Act, "other security" means a deposit in a state or federally chartered bank or savings and loan association. If other security is posted, the other security must be

maintained in or by a banking institution located in this state subject to a control agreement in the promulgated form set forth on the Department's website. Such deposits are hereinafter referred to as security. If such security is reduced by a claim, the license holder shall, within twenty (20) calendar days, make up the deficit as required by §1201.109(c) of the Standards Act. No advance notice is required by the Department to the license holder, but the Department shall verify the deposit.

- (b) Any other security provided for compliance with §1201.105 of the Standards Act, shall remain in place and subject to a control agreement in favor of the Department for two (2) years after the person ceases doing business as a manufacturer, retailer, broker, or installer, or until such later time as the director may determine that no claims exist against the other security. The Director may consent to the substitution of a bond or a different qualifying deposit for other security provided that in the event a bond is filed to replace the assigned security, the initial effective date of the bond is the same or prior to the date of the assignment of security.
- (c) If a required bond is canceled during the license period, the license shall be automatically suspended on the date bond coverage ceases.
- (d) To be exempt from the additional security as required by §1201.106(b) of the Standards Act, a manufacturer who does not have a manufacturing plant in this state must have a *bona fide* service facility.
 - (1) The manufacturer shall provide the Department with the name, address and phone number of the service facility, conspicuous notice of which shall be provided to each Texas retailer who purchases homes from the manufacturer.
 - (2) The service facility shall be capable of compliance with the provisions of Sub-part I of the Manufactured Housing Improvement Act (latest edition) and capable of providing warranty service within the reasonable time requirements set by the Department in §80.73 of this chapter (relating to Procedures for Handling Consumer Complaints), and shall be subject to periodic review and inspection by Department personnel.
 - (3) If the Department determines that the requirements of paragraph (2) of this subsection have not been met, notice must be sent of that determination and of the requirement of an additional bond amount.
 - (4) Unless additional security is provided as required by the Standards Act, all out of state manufacturers must disclose their in-state service facility on each renewal of their license.
- (e) In order for the Board to direct the Director to stop accepting bonds issued by a surety for reasons outlined in §1201.105(c) of the Standards Act, the Department experiences significant problems if:
 - (1) the surety fails on three (3) or more occasions to make the required reimbursement payment within thirty (30) calendar days from the date of notice from the director that a consumer claim has been paid; or

- (2) is more than sixty (60) calendar days late in making a required reimbursement payment.
- (f) If the director stops accepting bonds issued by a surety for reasons set forth in subsection (e) of this section, all licensees who are bonded by the affected surety will be notified immediately so they can supply the Department with a new valid bond when they renew their license. If a licensee fails to supply the Department with a new valid bond when they renew their license, their license is automatically suspended until the licensee provides a new valid bond.

§80.41. License Requirements.
(Effective: January 7, 2018)

- (a) General License Requirements. In order to apply to obtain a license, the promulgated form of application for such license must be fully completed and executed and submitted to the Department, accompanied by the required fee, required security, and all other required supporting documentation. The Department may request any reasonably related additional information or documentation to clarify or support any application.
 - (1) Additional provisions applicable to salespersons.
 - (A) A salesperson is an agent of their sponsoring retailer or broker. The sponsoring retailer or broker is liable and responsible for the acts or omissions of a salesperson in connection with any activity subject to the Standards Act or this Chapter. It is a violation of the Standards Act and this chapter for a retailer or broker of manufactured housing to employ a salesperson who is not licensed with the Department or permit them to conduct business subject to the Standards Act on their behalf.
 - (B) If a salesperson's sponsoring retailer or broker is no longer licensed, that salesperson's ability to act and a salesperson is automatically terminated until such time as he or she is acting under a duly licensed sponsoring retailer or broker and such sponsorship is on record with the Department. A salesperson shall surrender his or her license to the Department within ten (10) calendar days of termination from his or her sponsoring retailer.
 - (C) A sponsoring retailer or broker shall notify the Department in writing when a salesperson has been terminated or is no longer sponsored by said retailer or broker.
 - (D) A salesperson's sponsoring retailer or broker shall be issued a license card by the Department containing effective date and license number and name and license number of the sponsor. A salesperson shall be required to present a copy of a valid license card upon request.

- (2) Additional provisions applicable to installers.
 - (A) A provisional installer's license shall become a full installer's license as outlined in §1201.104(f) of the Standards Act when the Department inspects a minimum of five (5) manufactured home installations and found not to have any identified installation violations.
 - (B) It is the responsibility of an installer who is still on a provisional status to notify the Department of each installation performed promptly. As used in this section, "promptly" means sufficiently early to enable the home to be inspected prior to any skirting being installed, in any event within three business days following the date of completion of the installation.
 - (C) It is the responsibility of the Department's field office to notify the Department's licensing section when a provisional installer's license is eligible for upgrade to a full installer's license.
- (b) Applicable License Holder Ownership Changes.
 - (1) A license holder shall not change the location of a licensed business unless the license holder first files with the Department:
 - (A) a written notification of the address of the new location;
 - (B) an endorsement to the bond reflecting the change of location; and
 - (C) the original license.
 - (2) The change of location is not effective until all requirements are received by the Department.
 - (3) For a change in ownership of less than fifty percent (50%) of the licensed business entity, no new license is required provided that the existing bond or other security continues in effect. However, the current Articles of Incorporation or Assumed Name Certificate must accompany the request.
 - (4) For a change in ownership of fifty percent (50%) or more, the license holder must file with the Department, along with the appropriate fee and Articles of Incorporation or Assumed Name Certificate:
 - (A) a license addendum by the purchaser providing information as may be required by the Department; and
 - (B) certification by the surety that the bond for the licensed business entity continues in effect after the change in ownership; or

- (C) an application for a new license along with a new bond or other security and proof that the education requirements of §1201.113 of the Standards Act, have been met.

(c) Education.

- (1) The Standards Act requirement for an initial eight (8) hour course of instruction in the law, including instruction in consumer protection regulations; four (4) hour retailer education course; and/or four (4) hour installer education course shall be offered quarterly by the Department. Subject to limitations on Department resources, the Department will make special licensing classes available upon written request.
- (2) Each test to be administered in connection with the course(s) will consist of a representative selection of questions from an approved set of questions approved by the Director. The test(s) will be open-book. A score of 70% correct is required to pass each test.
- (3) For initial licensing of a salesperson, if the salesperson does not attend and successfully complete the initial licensing class provided by the Department within 90 days after the date of licensure, the license will automatically be suspended until the salesperson has attended and successfully completed that class. While the license is in a suspended status the salesperson may not act as a manufactured housing salesperson.
- (4) All related persons added to a retailer's license are required to take the initial eight (8) hour course of instruction in the law, including instruction in consumer protection regulations and the four (4) hour retailer education course prior to being added to the retailer's license.
- (5) All related persons added to an installer's license are required to take the initial eight (8) hour course of instruction in the law, including instruction in consumer protection regulations and the four (4) hour installer education course prior to being added to the installer's license.
- (6) All related persons added to a retailer/installer license or retailer/installer/broker license are required to take the initial eight (8) hour course of instruction in the law, including instruction in consumer protection regulations; the four (4) hour retailer education course; and the four (4) hour installer education course prior to being added to the license.
- (7) All related persons added to a manufacturer's license are required to take the initial eight (8) hour course of instruction in the law, including instruction in consumer protection regulations prior to being added to the manufacturer's license.
- (8) All related persons added to a broker's license are required to take the initial eight (8) hour course of instruction in the law, including instruction in consumer protection regulations prior to being added to the broker's license.

(d) Continuing Education.

- (1) Continuing education program courses must total eight (8) hours and shall include:
 - (A) Continuing education addressing the law and rules with a focus on any revisions to the Code or Rules within the preceding two years.
 - (B) Continuing education addressing the Department's current complaint resolution process.
 - (C) The following additional topics may be covered:
 - (i) installation requirements;
 - (ii) manufactured home financing;
 - (iii) operation of manufactured home parks and communities;
 - (iv) insurance requirements;
 - (v) industry best practices;
 - (vi) business ethics;
 - (vii) topical market statistics or trends; or
 - (viii) other subjects determined by the Department to relate directly to the lawful operation of a business subject to the Code.
- (2) Acceptable evidence that the requirements of §1201.113(b) of the Standards Act have been satisfied by the license holder or their related person on record with the Department, would be a certificate, letter, or similar statement provided by the approved education provider indicating that the education program was timely completed. Such evidence may be submitted by fax, mail, e-mail, or in person. All related persons listed on a license are required to complete the eight (8) hours of continuing education required every two years.
- (3) For license renewal, evidence of any required completion, with reference to license number, must be received by the Department before a license may be renewed.
- (4) Approval of courses and providers. In order to be considered for approval by the Board to provide continuing education courses, including prospective continuing education courses in accordance with paragraph (5) of this subsection, a party wishing to be considered for such approval must submit an application, accompanied by the nonrefundable processing fee, and the following:
 - (A) A narrative overview of each course, describing subject matter to be covered;
 - (B) Brief biographies, including credentials of each instructor demonstrating in depth knowledge of the subject matter to be taught;

- (C) A copy of any course materials to be used. If the course materials are deemed to be proprietary they should be placed in a separate envelope, marked confidential, and accompanied by a written statement as to why they should not be treated as open records. There is no assurance that such materials will ultimately be accorded any exemption from disclosure under the Open Records provisions of the Government Code;
 - (D) A schedule of any fees to be charged for each course;
 - (E) If completion of the continuing education program is limited to any particular group, a description of the limitation;
 - (F) As such information becomes available, an indication as to the locations, times, and dates for offerings; and
 - (G) Such other information as the Department may require.
- (5) Prospective continuing education programs, including all portions of education courses, must be pre-approved by the board prior to the course being held or broadcast.
- (6) Once the Department determines that a request for approval is complete, that request will be placed on the next regularly scheduled meeting of the Board for consideration. The Department will provide the board with a written recommendation on each such request. The staff will advise the applicant of the board's action within ten (10) business days of the date of the board meeting, including a written statement as to any limitations, conditions, or other requirements imposed.
- (A) Approvals shall be for a period not to exceed two years. The Department may, at no cost, attend or send a representative to attend any approved portion of the continuing education program to determine that the courses are being taught in accordance with the terms of approval.
 - (B) Should the two-year approval time for a continuing education provider expire in between regularly scheduled board meetings, the executive director may issue approval to continue providing services until the next board meeting upon receipt of the required renewal application, fee, and necessary documentation of education material.
 - (C) The Department may revoke or suspend approval of a continuing education program if the Department determines that any of the courses are not being taught in accordance with the terms of approval or that any of the courses are not being administered in accordance with the law or these rules. Any action to revoke or suspend such an approval is a contested matter under Chapter 2001, Government Code, and the party against whom revocation or suspension is sought

may make a written request for a hearing before an Administrative Law Judge. If no such hearing is requested within thirty (30) calendar days after receipt of notice from the Department, the Department order of suspension or revocation shall become final.

- (e) License Application and Renewal.
 - (1) Initial Application Processing.
 - (A) It is the policy of the Department to issue the license within seven (7) business days after receipt of all required information and the following conditions have been met:
 - (i) all required forms are properly executed; and
 - (ii) all requirements of applicable statutes and this Chapter have been met.
 - (B) License applications and accompanying documents found to be incomplete or not properly executed shall be returned to the applicant with an explanation of the specific reason and what information is required to complete license.
 - (C) Upon request, the Department will disclose the license number assigned and the effective date for a license that has been approved but not yet delivered to the license holder.
 - (2) License Renewal Requirements. It is the responsibility of a license holder to renew the license prior to its expiration date.
 - (A) In order to prevent the expiration and lapse of a license, a complete application for license renewal must be received by the Department prior to the date on which the current license expires.
 - (B) If an application for license renewal is received by the Department after the date on which the current license expires, the license will not be issued without the required late fees identified in §1201.116(d) and (e) of the Standards Act.
 - (3) Payment of license fees.
 - (A) All required fees must be paid in order to obtain a valid license, including a renewal license, from the Department.
 - (B) Any license issued by the Department is void and of no effect if based upon a check or other form of payment that is later returned for insufficient funds, closed account, or other reason, regardless of whether the Department notifies the applicant of the insufficiency of payment or the invalidity of the license.

- (C) It is the applicant's responsibility to ensure that all licensing fees are paid in valid U.S. funds.
- (4) Fingerprints and Criminal History Check.
 - (A) License applicants must submit a complete and legible set of fingerprints to a vendor approved by the Department of Public Safety, for the purpose of a criminal background check, which will be provided to the Department.
 - (B) The license applicant shall be responsible for the cost.
- (f) License Application or Renewal Denial.
 - (1) In the evaluation of an applicant for a license, the Director shall consider whether the applicant or any related person involved with the applicant has previously:
 - (A) been found in a final order to have participated in one or more violations of the Standards Act that served as grounds for the suspension or revocation of a license;
 - (B) been found to have engaged in activity subject to the Standards Act without possessing the required license;
 - (C) caused the Manufactured Homeowner Consumer Claims Program to incur unreimbursed payments or claims;
 - (D) failed to abide by the terms of a final order or agreed final order, including the payment of any assessed administrative penalties; or
 - (E) had any state license revoked for violations of a law or rule.
 - (2) If any of the preceding factors is present with respect to the applicant or any related person involved with the applicant, the director will further determine:
 - (A) whether all appropriate corrective action has been taken;
 - (B) whether the applicant has adopted policies and procedures or taken other appropriate measures to prevent recurrences; and
 - (C) whether additional conditions or limitations on the license would be appropriate.
 - (3) In determining whether an applicant should be issued a license if that applicant states in his/her application for said license that he/she has a criminal record, which may include a conviction, deferred adjudication, plead guilty, or nolo contendere for any felony or misdemeanor offense, other than a Class C Misdemeanor for traffic violations, within five (5) years preceding

the date of the application, the Director shall consider the factors set out in Texas Occupations Code, §53.022:

- (A) the nature and seriousness of the crime;
 - (B) the relationship of the crime to the intended manufactured housing business activity;
 - (C) the extent to which a license holder might engage in further criminal activity of the same or similar type as that in which the applicant previously had been involved;
 - (D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the functions and responsibilities of the license holder's occupation or industry; and
 - (E) whether the offenses were defined as crimes of moral turpitude by statute or common law, from Class A misdemeanors to first, second, and third degree felonies carrying fines and/or imprisonment or both. Special emphasis shall be given to the crimes of robbery, burglary, theft, embezzlement, sexual assault, and conversion.
- (4) In addition to the factors that may be considered in paragraph (3) of this subsection, the Department, in determining the present fitness of a person who has a criminal record, may consider the following:
- (A) the extended nature of the person's past criminal activity;
 - (B) the age of the person at the time of the commission of the crime;
 - (C) the amount of time that has elapsed since the person's last criminal record;
 - (D) the conduct and work activity of the person prior to and following the criminal record; and
 - (E) evidence of the person's rehabilitation or attempted rehabilitation effort while incarcerated or following release.
- (5) The applicant shall furnish proof in any form, as may be required by the Department, that he/she has maintained a record of steady employment and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases.
- (6) If the Department suspends or revokes a valid license, or denies a person a license or the opportunity to be considered for a license in accordance with this subsection because of the person's prior criminal record and the relationship of the crime to the license, the Department shall:

- (A) notify the person in writing stating reasons for the suspension, revocation, denial, or disqualification; and
 - (B) offer the person the opportunity for a hearing on the record. If the person does not request a hearing on the matter within thirty (30) calendar days from receipt of the Department's decision, the suspension, revocation, or denial becomes final.
- (g) Exemption for Retailer's License Requirement.
- (1) Application for Exemption of Retailer's License Requirement.
 - (A) A person requesting exemption from the Retailer's licensing requirement of §1201.101(b) of the Occupations Code, shall submit the required application outlining the circumstances under which they are requesting exemption from licensure.
 - (B) Applications should identify the HUD label or serial number(s) of the homes being sold under exemption;
 - (C) Applications will be processed within seven (7) business days after receipt of all required information.
 - (2) The circumstances under which this exemption is granted are:
 - (A) One-time sale of up to three (3) manufactured homes in a 12-month period as personal property;
 - (B) Non-profit entity transferring ownership of up to three (3) manufactured homes in a 12-month period;
 - (C) No other manufactured homes have been purchased and resold in the previous twelve (12) months, even with a previous exemption; and/or
 - (D) Other circumstances deemed appropriate by the Executive Director.
 - (3) Letter of Exemption.
 - (A) Once granted, a Letter of Exemption from licensure will be issued by the Executive Director to the applicant.
 - (B) Letter of Exemption is valid only for the manufactured home(s) specified.
 - (C) Letter of Exemption is valid only for twelve (12) months.

SUBCHAPTER E. ENFORCEMENT

§80.70. *Enforcement.*

(Effective: March 25, 2012)

- (a) A licensee shall not obstruct or hinder any inspection, investigation, or enforcement efforts being carried out by the Department.
- (b) Subpoenas or any other order issued by the Director may be served by any person acting on behalf of the Director.

§80.71. *Rules for Hearings.*

(Effective: May 15, 2016)

- (a) Unless otherwise expressly set forth in the Standards Act or this chapter, all hearings shall be held and conducted pursuant to the applicable provisions of Government Code, Chapter 2001.
- (b) Any party to a hearing may request that a record of the hearing be made and transcribed by an independent court reporter, other than an employee of the Department. Such request must be made not later than seven (7) calendar days prior to the hearing. The additional cost and expense of the independent court reporter may be assessed against the party making the request.
- (c) Notice of a hearing shall specify all state and federal laws, rules, and regulations, including but not limited to, if applicable, HUD regulations, that the Department believes are relevant to any issue to be involved in the hearing.
- (d) The Department may serve the notice of hearing on the respondent at his or her last known address as shown by the Department's records.
- (e) If, after receiving notice of a hearing, a party fails to appear in person or by representative on the day and time set for hearing or fails to appear by telephone in accordance with Government Code, Chapter 2001, also known as the Administrative Procedures Act, the hearing may proceed in that party's absence and a proposal for decision may be entered by default, accepting all facts and conclusions of law as deemed admitted.
- (f) If the administrative law judge grants a default but does not issue a default proposal for decision and instead issues a default order dismissing the case and returning the file to the Department for informal disposition on a default basis in accordance with §2001.056 of the Texas Government Code, the Executive Director may issue a final order deeming the allegations in the Notice of Hearing as true.
- (g) Pursuant to the Administrative Procedures Act, each party has the right to file exceptions to the Proposal for Decision and present a brief with respect to the exceptions. All exceptions must be filed with the Department within ten (10) business days of the Proposal for Decision, with replies to be filed ten (10) business days after the filing of exceptions.

- (h) When an administrative hearing is held for any matter in which the Department seeks to take action against a licensee for violating the Standards Act or these rules, whether such action is an action to assess administrative penalties, to require corrective action, to require cessation of improper activities, to suspend or revoke a license, or any combination thereof, the Department shall assess the costs of the proceeding against any party that fails to appear at a duly noticed administrative hearing. The costs assessed shall be the greater of \$100 or the actual costs charged to the Department by the State Office of Administrative Hearings, the Office of the Attorney General, any court reporter, or any other third party providing services in connection with such hearing.
- (i) The Department will seek the recovery of its costs from any party against whom it initiates an action if that action results in the entry of a final order taking any administrative action against that party, including the assessment of administrative penalties, requiring corrective action, requiring cessation of improper activities, suspension or revocation of a license, or any combination thereof.

§80.72. *Sanctions and Penalties.*
(Effective: March 25, 2012)

- (a) In accordance with the provisions of §1201.605 of the Standards Act, the Director may assess and enforce penalties and sanctions against a person who violates any applicable law, rule, regulation, or administrative order of the Department.
- (b) The determination of any penalties or other sanctions to be assessed shall be based on the consideration of statutory factors and whether the person against whom such penalties and/or sanctions are to be assessed has timely and in good faith taken the necessary steps to achieve, to the extent feasible, full compliance with all applicable state and federal laws, rules, and regulations and taken appropriate measures to prevent future violations.
- (c) When a licensee first receives written notification of a claim for warranty service, the licensee must respond promptly to the request. A failure to do so shall constitute a violation of this chapter.
- (d) Immediate corrective action is required if the matter involves an imminent safety hazard.
- (e) If, after reasonable investigation, a licensee disputes whether warranty service is required and the licensee is unable to resolve the matter by agreement with the consumer, the licensee may request that the Department perform an inspection of the home. The running of the time to respond to the request for warranty service will be suspended from the time the request for inspection is received until the Department performs the inspection and issues its findings. When the Department concludes its review it will work with the affected licensee(s) and consumer(s) to agree upon a reasonable time to address its findings. In the event the parties cannot agree on a reasonable time, the Director shall issue a revised order assigning a time for compliance. An agreed or ordered time to respond to a request for warranty service

may be extended by the Director in response to a request setting forth good cause for the extension. Any such request must be made to the Director prior to the expiration of the allotted time for response. Requests may be made by U.S. First Class mail, by FAX, or by e-mail, or, if followed with written confirmation sent U.S. First Class mail, or by telephone.

- (f) Any and all penalties are IN ADDITION to full compliance with the Standards Act and Rules (*i.e.*, full, prompt corrective action, restitution, or whatever else the Standards Act and rules would have required in the first place). Failure to provide such compliance on a timely basis, as specified in the applicable order, will be deemed to be a violation of the order and serve as a basis for pursuing additional administrative action, including the assessing of additional penalties and the pursuit of suspension or revocation of licenses.
- (g) The Department offers, at no charge, alternative dispute resolution as an inexpensive and informal way of attempting to resolve any claim or dispute. Depending on the parties, this may involve informal meetings or non-binding mediation. Alternative dispute resolution is available upon request. In the event that a disputed matter cannot be resolved in this manner, the Department reserves the right to pursue all other lawful means of resolution including, but not limited to, pursuit of administrative remedies.

§80.73. Procedures for Handling Consumer Complaints.
(Effective: January 7, 2018)

- (a) A complaint may be initiated by a consumer or by the Department. Unless the Department determines that it is appropriate to proceed in another manner a copy of the complaint will be provided to each person involved. The letter shall request a written response within ten (10) calendar days unless the Department determines that a longer or shorter period is warranted.
 - (1) If the consumer has not previously notified the manufacturer, retailer or installer, the Department will forward the written notification to the manufacturer, retailer, or installer. This will constitute written notice of a request for warranty service.
 - (2) If the consumer has previously provided written notification to the manufacturer, retailer or installer of the need for warranty service or repairs, but believes such has not been completed in a satisfactory manner, the Department shall perform a home inspection, if required. If a home inspection is performed and violations are found, the Department will assign responsibilities for repair, and notify the manufacturer, retailer, installer, and consumer of their responsibilities to complete such warranty or service repair in accordance with §1201.356(c) of the Standards Act.
- (b) The Department shall make a consumer complaint home inspection upon request.
 - (1) Consumer Request. The consumer may, at any time, request that the Department perform a consumer complaint home inspection. A written

complaint regarding failure to provide warranty work is deemed to be a request for a consumer complaint inspection. No written complaint form is required if a possible imminent safety hazard exists.

- (2) Industry Request. Manufacturer or retailer requests for a consumer complaint home inspection must be signed, shall identify the home by HUD label and serial number(s), and shall provide the necessary information for the Department to contact the consumer and determine the physical location of the home. The manufacturer or retailer may request a consumer complaint home inspection if the manufacturer or retailer:
 - (A) believes that the consumer's complaints are not covered by the respective written warranty, or implied warranties;
 - (B) believes that the warranty service was previously properly provided; or
 - (C) has a dispute as to the respective responsibilities pursuant to the warranties.
- (3) The Department will perform the inspection within thirty (30) calendar days from the date an inspection is requested.
 - (A) The consumer, manufacturer, retailer, and installer, as applicable, shall be notified of the scheduled inspection.
 - (B) The person conducting the inspection shall inspect all matters (relating to the home and/or the installation of the home) set forth in the complaint and any other items raised at the inspection.
 - (C) The person conducting the inspection will issue a report of inspection, completed to reflect the findings of the inspection.
- (c) The retailer, installer, or manufacturer shall take immediate corrective action when notification is received from a consumer and the nature of the complaint indicates an imminent safety hazard or serious defect.
- (d) Except as provided in subsection (c) of this section, manufacturers, retailers, and installers shall perform their obligations in accordance with any assigned order for corrective action pursuant to §1201.356(c) of the Standards Act within a reasonable period of time. A reasonable period of time is deemed to be thirty (30) calendar days following receipt of the order from the Department unless there is good cause requiring more time.
- (e) When service or repairs are completed following any notice or orders from the Department pursuant to §1201.356(a) of the Standards Act, the manufacturer, retailer, and/or installer shall forward to the Department copies of service or work orders reflecting the date the work was completed, or other documentation to establish that the warranty service or repairs have been completed. A consumer is not

required to sign the service or work order. These service or work orders must be received by the Department no later than five (5) calendar days from the expiration of the period of time specified in the warranty order issued by the Department. Corrective action taken is subject to re-inspection.

- (f) If service or repairs cannot be made within the specified time frame, the license holder shall notify the Department in writing prior to the expiration of the specified time on the warranty order. The notice shall list those items which have been, or will be, completed within the time frame and shall show good cause why the remainder of the service or repairs cannot be made within the specified time frame. The license holder shall request an extension for a specific time. Original deadline to complete warranty work may apply if the request for extension is denied. If the Department fails to respond in writing to the request within five (5) business days of the date of receipt of the notice of request for extension, the extension has been granted.
- (g) Once the Department receives the service or work orders confirming that all assigned items have been addressed and the Department has, to the extent deemed necessary or appropriate, inspected the work, a complaint will be closed.
- (h) A complaint may be reopened for good cause upon the approval of the Director or his or her designee(s).
- (i) If a purchaser of a manufactured home for business use has proof that they disclosed to the retailer in writing at the time of purchase that the purchaser intended for a person to be present in the home for regularly scheduled work shifts of not less than eight (8) hours prior to purchasing a manufactured home for business use they may file a complaint with the Department if the manufactured home is not habitable.
 - (1) The complaint must be filed in writing to the Department within sixty (60) days of the later of the date of sale or the date of installation.
 - (2) The retailer is required to make the home habitable if after a Department inspection it is determined to be inhabitable and the proper evidence was submitted demonstrating the intended business use of the manufactured home.

SUBCHAPTER F. MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM

***§80.80. Administration of Claims under the Manufactured Homeowner Consumer Claims Program.
(Effective: January 7, 2018)***

- (a) The Director, before authorizing any party performing warranty work or providing other goods or services that are to be reimbursed from the Manufactured Homeowner Consumer Claims Program (the “Claims Program”) to proceed, will require that an estimate be submitted on the form set forth on the Department's website properly completed and executed.

- (b) Re-assigned warranty work required by the Director to be performed shall, unless extended for good cause or provided otherwise in the order, be performed within thirty (30) days or such other time as the director may by order specify:
 - (1) evidence that re-assigned warranty work was performed shall, unless extended for good cause, be supplied to the Department within ten (10) days of completion; and
 - (2) all warranty work or other work to be reimbursed from the Claims Program, once completed, is subject to being re-inspected.
- (c) An order re-assigning warranty work and designating the party responsible for the re-assigned warranty work as a “consumer” under §1201.358(d) of the Standards Act becomes final if not appealed within thirty (30) days.
- (d) Failure to provide a required estimate in connection with an order to perform re-assigned warranty work, once that order has become final, may serve as grounds for an administrative action against the licensee.
- (e) When a consumer has a covered claim against a licensee and the licensee has not satisfied the claim, the Department shall take appropriate steps to make sure that the claim is proper, meeting all requirements of laws and rules, and that all reasonable steps to satisfy the claim have been exhausted. If the damages arose as a result of a violation of the Texas Deceptive Trade Practice – Consumer Protection Act, the specific violation must be adequately documented. Acceptable documentation would include a court order finding that such a violation had occurred or the establishing of confirmed facts that would specifically constitute such a violation, along with proof that the court order could not be satisfied. The specific violation must relate directly to the manufactured home or the sale transaction regarding the manufactured home.
- (f) Once a payment is made from the Claims Program, the Department shall file a claim under the bond of or deduct the amount paid from other security provided by the party primarily responsible for the unsatisfied claim.

SUBCHAPTER G. STATEMENTS OF OWNERSHIP

§80.90. Issuance of Statements of Ownership.
(Effective: January 7, 2018)

- (a) Application Requirements. In order to be deemed complete, an application for a Statement of Ownership must include, as applicable:
 - (1) A completed and fully executed Application for Statement of Ownership on the Department’s prescribed current form
 - (2) The required fee;

- (3) If the statement of ownership is to reflect the recordation of a lien, other than a tax lien, for which the Department does not have the owner's consent, copies of documentation establishing the creation and existence of each such lien, and an affidavit of fact explaining the circumstances of the lien;
 - (4) When one or more existing liens are to be released, assigned, or foreclosed, appropriate supporting documentation;
 - (5) When an application for Statement of Ownership indicates a change in ownership but no change in lien, supporting documentation that clearly establishes that the lien holder consented to that change; and
 - (6) When a manufactured home is to be designated for use as a dwelling and/or personal property after the home has been designated for business use, salvage, or as real property, evidence of a satisfactory habitability inspection by the Department.
- (b) **Right of Survivorship:** If a right of survivorship election is made, then the Department will issue a new Statement of Ownership to the surviving person(s) upon receipt of a copy of the death certificate of the deceased person(s), a properly executed application for Statement of Ownership, and the applicable fee.
- (c) **Corrections to Statements of Ownership.**
- (1) If a correction is required as a result of a Department error, it will be corrected at no charge.
 - (2) If a correction is requested because of an error made by a party other than the Department, the correction will not be made until the Department receives the following:
 - (A) A complete corrected application for Statement of Ownership, or
 - (B) Documentation deemed appropriate and approved by the Executive Director, pursuant to §1201.207(c) of the Standards Act.
- (d) Upon issuance of a Statement of Ownership, the Department will mail one copy to the owner and one copy to the lienholder. If an additional copy is desired for a third party it should be noted on the application with appropriate mailing information.
- (e) **Exchanging a Document of Title or certificate of attachment for a Statement of Ownership:** The Department will issue a Statement of Ownership, with no change in status, to replace a title or certificate of attachment at no charge upon receipt of the original title or certificate of attachment and the physical location of the home. If a manufactured home title showed that it was personal property, that will be presumed to be its status until and unless a revised Statement of Ownership is applied for and issued. Likewise, if a manufactured home has had a certificate of attachment issued and had title cancelled to real property, that shall be presumed to be its status until and unless a revised Statement of Ownership is applied for and issued.

- (f) Updating of Statements of Ownership on Manufactured Homes Transferred as Real Property.
- (1) When a manufactured home has become real property because the owner completed the conversion process required by the Standards Act, the home may be sold, transferred, or encumbered as real property by the customary means used for real property transactions. As long as the home remains real property at the same location, ownership of the home is confirmed in the same manner as any other real property, rather than by verifying Department records. A new Statement of Ownership does not have to be applied for until and unless:
- (A) the home is moved from the location specified on the statement of ownership;
 - (B) the current owner of the manufactured home wishes to convert it to personal property status;
 - (C) the use of the property is changed to business use or salvaged; or
 - (D) the manufactured home no longer meets the requirements to be classified as real property (such as the home being on property subject to a long term lease which is not assignable to the buyer or transferee).
- (2) To convert a manufactured home from real property to personal property, the owner of the home must submit a completed Application for Statement of Ownership to the Department with supporting documentation as follows:
- (A) If the applicant is not the owner of record with the Department, satisfactory proof of ownership under a complete chain of title. Acceptable evidence would include, but not be limited to, authenticated copies of all intervening transfer documents, a court order confirming ownership, or title insurance policy in such owner's name issued by a title insurance company licensed to do business in Texas.
 - (B) Satisfactory evidence that any liens on the manufactured home have been discharged or that all lienholders have consented to the change.
 - (C) Evidence of either a satisfactory habitability inspection by the Department or an election to convert the status of the home to business use or salvage.
 - (D) For the purposes of subparagraph (B) of this paragraph, the Department may rely on a commitment for title insurance, a title insurance policy, or a lawyer's title opinion to determine that any liens on real property have been released.

- (3) To update the ownership on a manufactured home already elected and perfected as real property, and remaining in the same location as real property, the new owner of the home must submit a completed Application for Statement of Ownership to the Department with supporting documentation as follows:
 - (A) If the applicant is not the owner of record with the Department, satisfactory proof of ownership under a complete chain of title. Acceptable evidence would include, but not be limited to, authenticated copies of all intervening transfer documents, a court order confirming ownership, or title insurance policy in such owner's name issued by a title insurance company licensed to do business in Texas.
 - (B) Satisfactory evidence that any liens on the manufactured home have been discharged or that all lienholders have consented to the change.
 - (C) For the purposes of subparagraph (B) of this paragraph, the Department may rely on a commitment for title insurance, a title insurance policy, or a lawyer's title opinion to determine that any liens on real property have been released.
- (4) When a home is being converted to real property, a copy stamped "filed" by the county must be submitted to the Department as evidence that the requirements of §1201.2055 of the Standards Act have been satisfied and the real property election has been perfected. This must be done within sixty (60) days from the issuance date reflected on the Statement of Ownership.
- (g) When a title company or attorney's office fails to complete the conversion of a manufactured home to real property, the holder or servicer of the loan may apply for a statement of ownership electing real property status after-the-fact, providing that evidence of notice to all parties is sent via certified mail and that proof of such efforts is provided along with an affidavit of fact describing such efforts, pursuant to §1201.2055(i)(3) of the Standards Act.
- (h) Submitting an application for Statement of Ownership pursuant to the abandonment provision in §1201.217 of the Standards Act, should include an affidavit of fact, on the prescribed form, attesting to that all statutory notifications have been made to the appropriate parties, including the tax assessor-collector of the county where the home is located, and evidence that all notification was sent via certified mail.
- (i) A Priority Handling Service may be offered by the Department for an additional fee of \$55, each time an application for statement of ownership is reviewed on a priority basis, whether the application is complete or incomplete. Initial or resubmitted applications submitted with priority handling requested and including the additional fee, will be processed within five working days from the date the application is recognized as received in the Department (applications received after 3:30 p.m. become part of the following day's mail).

- (1) If the application is received complete, a Statement of Ownership will be issued and mailed within the established time.
 - (2) If the application is received incomplete, a Request for Additional Information will be issued and mailed within the established time.
 - (3) Applications requiring habitability or salvage rebuilding inspections are not eligible for the Priority Handling Service.
- (j) When it is deemed appropriate by the executive director, an affidavit of fact may be required as additional documentation to accompany a statement of ownership application.

§80.91. Issuance of a Texas Seal.
(Effective: January 7, 2018)

- (a) Issuance of a Texas Seal requires the submittal of an application for Statement of Ownership, the applicable fee and the fee for each Texas Seal issued.
- (b) A Texas Seal can only be issued to a home meeting the definition of a HUD Code manufactured home or a mobile home.

§80.92. Inventory Finance Liens.
(Effective: March 25, 2012)

- (a) A lien and security interest on manufactured homes in the inventory of a retailer, as well as to any proceeds of the sale of those homes, is perfected by filing an inventory finance security form approved by this Department and in compliance with these sections. The required form is set forth on the Department's website.
- (b) A separate form must be filed for each licensed sales location and must include a summary of homes by label or serial number, that are secured with the form.

§80.93. Recording Tax Liens on Manufactured Homes.
(Effective: November 23, 2014)

- (a) Manually filed tax liens shall be filed with the Department using the form set forth on the Department's website. No other form will be accepted for the manual filing of tax liens. The form must be properly completed.
- (b) Electronically filed tax liens and tax lien releases shall be filed with the Department using the required format as provided in the Tax Lien File Layout set forth on the Department's website. No other format will be accepted for electronic filing of tax liens.
- (c) When releasing a tax lien recorded with the Department via a tax certificate or tax paid receipt, the documentation must demonstrate the tax lien field has been satisfied for the correct home.

- (d) For tax liens recorded after June 18, 2005, but prior to the rules that were effective on January 29, 2006, those tax liens relating to tax years prior to 2001 were disregarded and will not be treated as having been recorded.
- (e) A tax collector may file as a central tax collector under a single taxing entity ID number, in which case the liens recorded or released under that taxing entity ID number will extend to all liens created for tax obligations to the taxing entity for which the filer collects. In order, however, to file as a central collector, the filer must complete and provide to the Department the form set forth on the Department's website. A single filing for multiple taxing entities must reflect the aggregate amount of the tax liabilities to which the filing relates.

§80.94. *Report to County Tax Assessor-Collectors and County Appraisal Districts.*
(Effective: March 25, 2012)

In order to comply with §1201.220 of the Standards Act, which requires the Department to provide a monthly report to each tax assessor-collector and county appraisal district in Texas, the Department will provide the required information by hardcopy or electronically, when possible. Section 1201.009 of the Standards Act, allows the Department, if feasible, to perform any action under this chapter by electronic means.

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What is a Permanent Foundation?

A permanent foundation is a foundation that is installed under a manufactured or modular home that meets or exceeds a certain set of criteria. New manufactured or modular homes (from the factory) are often placed on a permanent foundation. Many existing homes are already on permanent foundations.

Before an FHA loan, VA loan, or conventional loan (Fannie Mae or Freddie Mac) is approved, a **professional engineer must certify** that the home is on a permanent foundation. This is typically called an engineer's foundation certification. Some manufactured homes are already on a permanent foundation, some are not. A [professional inspection](#) from our engineering firm can determine compliancy to meet loan underwriter requirements.

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We are professional engineers that specialize in certifying permanent foundations and take pride in providing this service to our clients. We are a nationwide engineering company and we cater to the Manufactured and Modular Home industry and provide permanent foundation certifications to [individual home owners](#) and also to business such as [real estate agents, and mortgage lenders](#).

Nationwide Permanent Foundation Certifications

We inspect the permanent foundation and the installed components of the manufactured/modular home foundation. Our Professionally Licensed Engineers determine if the foundation is in compliance with the FHA, HUD, VA, and/or Conventional loan requirements, and then an engineering report of permanent foundation compliance is issued by the engineer.

Engineered Permanent Foundation Drawings

Not only do we inspect and provide foundation certifications, but our Professional Engineers can also provide complete foundation drawings, and design a completely [new foundation](#) for any new manufactured home or modular building.

We are a full turnkey engineering firm for manufactured and modular homes; from design drawings, to inspection services, to final certifications.

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From: [Ursula Paddie](#)
To: vistacruiser1@live.com
Subject: Attendance at City Council Meeting
Date: Thursday, October 07, 2021 8:40:00 AM
Attachments: [image001.png](#)
[image003.png](#)
Importance: High

Good Morning Mr. and Mrs. Foster,

I am writing to let you know that you are being placed on the Tuesdays, October 12, 2021 City Council meeting agenda during the Citizens presentations section to present your issue and concerns with the City Council.

The meeting starts at 5:00 p.m.

If you have any questions or will not be able to attend, please do not hesitate to contact me at the phone or email listed below.

Thank you,

Ursula Paddie
Assistant City Secretary
City of Harker Heights | 305 Miller's Crossing | Harker Heights, TX 76548
T: 254-953-5600 | F: 254-953-5605 | upaddie@harkerheights.gov

Vision: Providing public services that empower people to focus on what matters most: their goals, hopes and dreams

CHAPTER 152: MOBILE HOMES AND MOBILE HOME PARKS

Section

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- 152.02 Movement, placement, and replacement of manufactured homes; permit required
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GENERAL PROVISIONS

§ 152.01 DEFINITIONS.

The following definitions shall apply in this chapter unless the context clearly requires a different meaning:

ANCHORING SYSTEM. A combination of ties, anchoring equipment, and anchoring devices that will, when properly designed and installed, resist overturning and lateral movement of the manufactured home from wind forces.

HUD-CODE MANUFACTURED HOME. A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R Section 3282.8(g).

MANUFACTURED HOME LOT. A plot of ground within a manufactured home park designed for the accommodation of one manufactured home.

MANUFACTURED HOME PARK or PARK.

Any plot of ground upon which two or more manufactured homes occupy space for dwelling or sleeping purposes and where a compensation is made for such accommodations, provided that this chapter does not apply to parks established for a recreational vehicle park. A plan for a recreational vehicle park must be submitted as an application for a conditional use permit following procedures outlined in Chapter 155.

MANUFACTURED HOUSING or MANUFACTURED HOME. Manufactured Home or a mobile home and collectively means and refers to both.

MOBILE HOME. A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems.

PERMANENT FOUNDATION. When used in the context of a manufactured home, means a system of supports, including piers, either partially or entirely below grade which is certified by the consumer/mortgagor and the lender/mortgagee in a real estate loan transaction as having permanently affixed the structure to the real estate or which is:

- (1) capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure;
- (2) placed at an adequate width below grade to prevent frost damage;
- (3) constructed of concrete, metal, treated lumber or wood, or grouted masonry;
- (4) designed so that the components of the foundation system cannot be removed from the site and used at any other location;
- (5) designed so that the attached structure resists overturning due to wind pressure by the dead load resisting moment of the structure and foundation. The weight of earth superimposed over footings may be used to calculate the dead load resisting moment. The overturning moment shall not exceed 2/3 of the dead load resisting moment;
- (6) designed to have the structure attached without the towing hitch, axles, brakes, wheels and other parts of the chassis that operate only during transportation; and
- (7) designed in accordance with accepted engineering practice to resist damage due to decay, insects and condensation. A licensed engineer or architect shall stamp and sign each foundation drawing. The foundation drawings shall contain the statement, "This foundation drawing describes a permanent foundation."

PRIVATE LOT. When used in the context of a manufactured home, any lot or parcel of land within the city limits, regardless of zoning or ownership, that is not part of an approved manufactured home park.

SKIRTING. The enclosing of the open space between the underside of a manufactured home and the ground around the entire perimeter of the structure, using a masonry wall or a framework to which panels are attached.

(Ord. 99-37, passed 11-9-99)

§ 152.02 MOVEMENT, PLACEMENT, AND REPLACEMENT OF MANUFACTURED HOMES; PERMIT REQUIRED.

The following procedures will be followed whenever a manufactured home is moved, placed or replaced within the city:

(A) A permit is required prior to the movement of any manufactured home into, out of, or within the city. Prior to issuing the permit, the following will be verified by the Director of Planning and Development:

- (1) That applicant is a party to the action, for example, the home owner, their agent, such as a dealer or commercial mover, or a reposessor.
- (2) If moving into or within the city, the lot on which the home is to be situated will be checked to assure proper zoning. The lot must be a recognized home park (licensed and zoned R-MH) or R-1 zoned with a suffix M (R-1(M)).
- (B) Manufactured home installation, move-out, and replacement permits shall expire 60 days after the date of approval. With the exception of expired replacement permits, the Building Official may reissue an expired permit at one-half the total fees for the original permit provided that not more than ten days have elapsed since the expiration date.
- (C) An applicant who is denied a replacement permit shall have the right to appeal said denial to the City Council by submitting a written request for appeal to the City Manager within five days of said denial.

(Ord. 99-37, passed 11-9-99) Penalty, see § 152.99

§ 152.03 REPLACEMENT OF NON-CONFORMING HOMES.

(A) A manufactured home which is not located in an R-1(M) or R-MH zone may be replaced with a HUD-Code manufactured home if each of the following conditions are met:

- (1) The home to be replaced was in place on December 31, 1999, or was permitted to be placed in that location under paragraph (B) of this section.
- (2) The home to be replaced and the replacement home must be used or occupied as a residential dwelling.
- (3) The home to be replaced must at the time of the replacement have been lawfully in place as a non-conforming use.
- (4) If on a private lot the replacement home must comply with the requirements set forth in § 155.020(G)(1) and (2).
- (5) A replacement permit must be obtained prior to removal of the home to be replaced.
- (6) The replacement home must be a HUD-Code Manufactured Home, manufactured on or after June 15, 1976.

(B) Notwithstanding paragraph (A) of this section, a manufactured home which is not located in an R-1(M) or R-MH zone may be replaced with a HUD-Code Manufactured home if each of the following conditions are met:

- (1) The home to be replaced has been destroyed because of accidental fire, explosion, flood, wind, earthquake, or other calamity or act of God or the public enemy, to the extent of 50% or more of its fair market value.
- (2) The home to be replaced and the replacement home must be used or occupied as a residential dwelling.
- (3) The home to be replaced must at the time of the replacement have been lawfully in place as a non-conforming use.
- (4) If on a private lot the replacement home must comply with the requirements set forth in § 155.020(G)(1) and (2).
- (5) A replacement permit must be obtained prior to removal of the home to be replaced.
- (6) The replacement home must be a HUD-Code Manufactured Home, manufactured on or after June 15, 1976.

(Ord. 99-37, passed 11-9-99) Penalty, see § 152.99

§ 152.04 ONE MANUFACTURED HOME PER LOT.

Normally only one manufactured home will be located on a dedicated lot. Where more than one manufactured home is to be located on a dedicated lot, approval to do so must be obtained by a variance through the Zoning Board of Adjustment.

(Ord. 99-37, passed 11-9-99) Penalty, see § 152.99

SKIRTING AND ANCHORING REQUIREMENTS

§ 152.15 [REPEALED]

§ 152.16 SKIRTING AND ANCHORING REQUIRED.

(A) Except as provided in paragraph (B) of this section, it shall be unlawful for any person to rent, offer for rent, occupy, allow or otherwise maintain a manufactured home upon any private lot, or within any manufactured home park within the city limits, unless said manufactured home is skirted and anchored according to the provisions of this subchapter.

(B) If all applicable regulations have been satisfied except for installation of the required skirting, the Building Official shall issue a temporary permit authorizing occupancy of the home for a period not exceeding the time allowed under § 152.20 for skirting installation. This paragraph shall not apply to any manufactured home which has been installed for longer than the time allowed under § 152.20 for skirting installation on that home.

(Ord. 89-07, passed 5-23-89; Am. Ord. 99-37, passed 11-9-99) Penalty, see § 152.99

§ 152.17 SKIRTING CONSTRUCTION MATERIALS.

Skirting shall consist of a framework of treated weather resistant lumber or steel, which is sufficiently rigid to adequately support a paneling system. The paneling system shall be fastened to the framework and shall extend from the underside of the manufactured home to the ground around the entire perimeter of the manufactured home. All joints shall be sufficiently tight to assure the entire assembly is substantially rodent proof. The paneling material shall consist of a durable material that is substantially decay-resistant, and such material shall be color coordinated with the exterior of the manufactured home. Acceptable materials shall include R-panel sheet metal (minimum 31 gauge), U-panel sheet metal (minimum 31 gauge), fiber cement siding (minimum 5/16"), or similar materials. Non-prefinished materials shall be color coordinated with that of the manufactured home paneling and shall be fastened to the framework with galvanized or other corrosion resistant fasteners. All materials shall be installed in a neat and workmanlike manner. In lieu of the framework/paneling system described above, a skirting system may consist of a veneer of masonry. Such masonry need not be load-bearing or reinforced but shall extend from the underside of the manufactured home to the ground around the entire perimeter of the manufactured home. Such masonry shall consist of brick, stone, ashlars, or CMU block. All bed and head joints are to be mortared, approximately 3/8 inch wide, and tooled concave or rubbed. Masonry courses shall be run level, plumb and true to line. The first course shall be laid upon a level concrete footing that is at least as wide as the wall itself. The wall and all openings in it shall be sufficiently weathertight and rodent-proof. Brick, when used, shall be of a color coordinated with the exterior of the manufactured home. CMU block, when used, shall have the exterior treated with a compatible CMU block filler and shall then be painted or plastered a color coordinated with the exterior of the manufactured home. Adequate protection shall be provided for installations in flood hazard areas in accordance with § 153.21, Chapter 153, Flood Damage Prevention.

(Ord. 89-07, passed 5-23-89; Am. Ord. 97-32, passed 11-25-97) Penalty, see § 152.99

§ 152.18 ADDITIONAL SKIRTING REQUIREMENTS.

(A) Vent openings shall be installed in the skirting walls. They shall be arranged to provide cross-ventilation and shall be covered with corrosion-resistant wire mesh of not less than ¼-inch nor more than ½-inch in any dimension. Vent openings shall have a combined net area of not less than one square foot for each 150 square feet of crawl space.

(B) An access hatch shall be installed to allow access under the manufactured home for maintenance and repairs. The access hatch shall be sufficient in size to allow a person to crawl through. The door of the access hatch shall have sufficient hardware to keep it closed tightly when not in use.

(Ord. 89-07, passed 5-23-89) Penalty, see § 152.99

§ 152.19 ANCHORING REQUIREMENTS.

The anchoring system shall be made and installed according to the Administrative Rules of the Texas Department of Housing and Community Affairs - Texas Administrative Code, Chapter 10 - September 1, 1995, or its successor regulations.

(Ord. 89-07, passed 5-23-89; Am. Ord. 99-37, passed 11-9-99) Penalty, see § 152.99

§ 152.20 TIME LIMITS.

Skirting installation shall be completed within:

(A) 60 days after the date of annexation for manufactured homes installed upon a tract of land which is annexed into the city after December 31, 1999;

(B) 6 months after the issue date of the required manufactured home installation permit for all manufactured homes installed between June 1, 1999, and December 31, 1999; and

(C) 60 days after the issue date of the required manufactured home installation permit for all other manufactured homes.

(Ord. 89-07, passed 5-23-89; Am. Ord. 99-37, passed 11-9-99) Penalty, see § 152.99

§ 152.21 INSPECTION FEES.

(A) Homes fixed within the city on or before December 1, 1997.

(1) An owner of a manufactured home which is located within the city on or before December 1, 1997, but which is not completely skirted on that date must obtain a skirting permit and pay a skirting inspection fee not later than January 31, 1998. However, an owner of more than one such manufactured home who submits an application for multiple permits under this subsection will be charged no more than \$100 in inspection fees for such application.

(2) An owner of a manufactured home which is located within the city on or before December 1, 1997, and which on that date is completely skirted in a manner that does not comply with the skirting requirements of this subchapter, must obtain a skirting permit and pay a skirting inspection fee whenever such skirting is replaced or falls into such disrepair as to constitute a public nuisance, whichever occurs first. However, an owner of more than one such manufactured home who submits one application for multiple permits under this subsection will be charged no more than \$100 in inspection fees for such application.

(3) An owner of a manufactured home which, on December 1, 1997, is both located within the city and in compliance with the skirting requirements of this subchapter will not be required by this subchapter to pay any skirting inspection fees except as required by § 152.21 (B)(2).

(B) Homes moved into or relocated within the city after December 1, 1997.

(1) An owner of a manufactured home which is moved into the city after December 1, 1997, and which is not in compliance with the skirting requirements of this subchapter must obtain a skirting permit and pay a skirting inspection fee at the time that the residential occupancy permit is issued.

(2) An owner of a manufactured home which is moved into or relocated within the city after December 1, 1997, and which is in compliance with the skirting requirements of this subchapter must pay a skirting inspection fee at the time that the residential occupancy permit is issued.

(C) The skirting inspection fee imposed by this subchapter shall be fixed in a fee schedule adopted annually by the City Council.

(Ord. 89-07, passed 5-23-89; Am. Ord. 97-32, passed 11-25-97)

§ 152.22 VIOLATIONS.

Failure to comply with the provisions of this subchapter will result in the filing of charges against the violator in municipal court. These charges will be filed by the Building Official or his designated representative, and may be in the form of a citation issued directly to the violator. Said citation shall, as a minimum, bear the name of the violator, the location and the date of the violation, the specific violation and the signature of the issuing officer. The citation shall show the time and place where the violator must go to enter a plea. In addition to the filing of charges, the city may refuse utility services to any manufactured home in violation of the provisions of this subchapter if said utility services are not already in use or if they shall become discontinued for any reason.

(Ord. 89-07, passed 5-23-89) Penalty, see § 152.99

MOBILE HOME PARKS

§ 152.35 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAMPER. Any type of manufactured structure or recreational vehicle which is not independent as defined in this section.

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, is self-propelled or towable and designed primarily as temporary living quarters for recreational, camping, travel, or seasonal use. It shall be capable of legal registration for use on public highways; have a body of substantial, safe and weatherproof construction, mounted upon a chassis of adequate carrying capacity; and be completely self-contained as a vehicle having all of the basic conveniences of a home including cooking, sleeping, and sanitary facilities. It shall have a minimum, interior height of six feet in the living area with a fixed roof (not a pop-up variety); a gas or electric refrigerator; built-in heater which, if using a combustible fuel, must be vented to the outside; and a toilet with connected discharge into a holding tank(s) so arranged that all liquid waste of any kind flows directly into such holding tank(s) and none ever flows onto the ground.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96; Am. Ord. 99-37, passed 11-9-99)

§ 152.36 MANUFACTURED HOME PARK PLAN.

(A) The following requirements are generally applicable to all parks.

(1) The minimum size of the park will not be less than five acres. This minimum size shall not apply to the following parks zoned for manufactured home park use but not currently active: Woodlawn III (4.34 acres comprised of parcels located on North Mary Jo and Jan Circle and Mary Addition (2.015 acres located on E. Veterans Memorial Blvd. and Edwards Drive).

(2) The park shall be located on a well drained site, free from stagnant pools of water.

(3) Entrances to the mobile home park must be clearly defined and identified by address. Each mobile/manufactured home and/or travel trailer must be clearly identified by three inch lot numbers. This number must be visible from the internal roadway at all times.

(4) Lots shall be clearly defined. Manufactured housing shall be so harbored on each lot that there shall be at least a 35 foot clearance between manufactured homes. In addition, no manufactured home or accessory building shall be located closer than ten feet from any building, roadway, lot line or from any property line bounding the park. Lot size for site built residences in a park shall comply with lot area requirements of R-1 lots. Two parking spaces constructed of asphalt or concrete will be provided for off-street parking for each manufactured home.

(5) All park lots shall abut upon an internal roadway of not less than 36 feet in width which shall have unobstructed access to public street, alley, or highway. All internal roadways shall be well marked in the daytime, and lighted at night.

(6) Walkways, not less than two feet wide, shall be provided from the park lots to the service buildings open to residents of the park; such as, but not limited to, laundry room, pool, game room, sanitation facilities, etc. The walkway shall be hard surfaced, well marked in the daytime, and lighted at night.

(7) All streets and internal roadways within the parks will be a minimum of one inch hot asphalt cement on a four inch base of crushed stone. Any interior roadway not connected to a public street on both ends must have a turn around with a minimum radius of 80 feet.

(8) Recreational vehicles may occupy a park lot for no more than six months. Request for occupancy for any period exceeding six months should be submitted in writing to the Harker Heights Building Official.

(B) The following requirements are applicable to parks which provide space for camper structures.

(1) Prior to renting or leasing space to a camper structure, park owners/managers must obtain a conditional use permit following procedures outlined in Chapter 155, as amended.

(2) Sanitation support facilities, to include flush toilet and bath/showers, must be made available in any park providing space for camper structures. Facilities will be located within 200 feet of the camper structure lot. Separate facilities must be available for men and women. These facilities will be sized based on two flush toilets and two bath/shower units per every ten spaces or increment thereof. Facilities must comply with Americans With Disabilities Act standards. By accepting a license to operate a park, the holder consents to provide the Harker Heights Building Official access to the licensed premises and facilities to conduct an inspection for the purpose of evaluating compliance with this chapter.

(3) A camper structure may be placed on a 2,000 square foot lot. Such lot will contain no accessory use structures and may be occupied by a tenant for no more than 60 days. Requests for occupancy for any period exceeding 60 days shall be submitted in writing to the city Building Official.

(4) Specific design and layout of the separate area and any service facilities to be provided will be submitted to the Planning and Zoning Commission with the request for a conditional use permit.

(C) The physical requirements identified in this chapter do not apply to parks established specifically for recreational vehicles. A plan for a Recreational Vehicle Park must be submitted as an application for a conditional use permit following procedures outlined in Chapter 155.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96; Am. Ord. 96-31, passed 6-11-96; Am. Ord. 99-37, passed 11-9-99)

Penalty, see § 152.99

§ 152.37 LOCATION.

Manufactured Home Parks may be located only in conformity with the zoning ordinance of the city and, in addition to the requirements contained therein, each boundary of the park must be at least 200 feet from any permanent residential building located outside the park, unless separated therefrom by a natural or artificial screening which complies with § 150.36. The provisions of this section shall not apply to parks already existing and operating on March 17, 1971. Such parks shall be treated as a non-conforming use insofar as the requirements of this section are concerned.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96; Am. Ord. 99-37, 11-9-99) Penalty, see § 152.99

§ 152.38 MAINTENANCE.

Every person owning or operating a park shall maintain such park and any facilities, fixtures, and permanent equipment in connection therewith, in a clean and sanitary condition and shall maintain said equipment in a state of good repair.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96) Penalty, see § 152.99

§ 152.39 ADDITIONAL CONSTRUCTION.

Except as permitted by this section or by a license or permit issued by the city, it shall be unlawful for any person operating a park or occupying a manufactured home to construct or authorize construction in such park, or in connection with such manufactured home any additional structure, building or shelter as an accessory with or attached to a manufactured home without a building permit approved by the Building Official. Awnings of canvas or metal, suitably constructed, may be attached to said manufactured homes. Permits for portable prefabricated temporary rooms, for the express purpose of increasing the manufactured home, commonly called "cabana," may be approved by the Building Official if they meet the following requirements:

(A) Strength of materials and structure to meet minimum standards of the city Building Code.

(B) Capable of being dismantled when moved.

- (C) Such rooms shall be completely dismantled and removed from the site at the time the manufactured home to which it is accessory to is moved.
- (D) Finish and appearance to be as near the same as possible to the manufactured home to which it is an accessory and will not exceed the elevation of the main use structure.
- (E) The length must not exceed the length of the manufactured home to which it is accessory to and will not exceed one-half of the square area of the main use structure.
- (F) Only one such structure per manufactured home shall be permitted.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96) Penalty, see § 152.99

§ 152.40 OFFICE BUILDING.

Each park shall be provided with an on-site office in which shall be kept copies of all records pertaining to the management and supervision of the park, as well as all rules and regulations of the park. Such records, rules and regulations will be available for inspection by law enforcement officers, public health officials, and other officials whose duties necessitate acquisition of the information contained therein.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96) Penalty, see § 152.99

§ 152.41 LICENSE REQUIRED.

It shall be unlawful for any person to maintain or operate, within the limits of the city, any park unless such person shall first obtain a license therefor.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96) Penalty, see § 152.99

§ 152.42 LICENSE FEES.

The fee for the park shall be as prescribed by the annual fee schedule published with the city's operating budget.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96)

§ 152.43 APPLICATION.

(A) Application for a park license shall be filed with the city's Planning and Development Department. Applications shall be in writing, signed by the applicant, and shall contain the following:

- (1) The name and address of the applicant.
- (2) The common street address location and legal description of the park.
- (3) A complete plan of the park showing compliance with §§ 152.36 - 152.40 of this chapter.
- (4) Plans and specifications of all buildings and other improvements constructed, or to be constructed within the park.
- (5) Such further information as may be requested by the Planning and Zoning Commission and/or the City Council to enable it to determine if the park will comply with the legal requirements.

(B) The application and all accompanying plans and specifications shall be filed in triplicate. The City Planning and Zoning Commission shall review the application and inspect the proposed plans and specifications. It shall then make a report to the City Council concerning such applicant and include therein the recommendations relative to the issuance of a license. If the park is in compliance with all provisions of this chapter and all other applicable ordinances or statutes, the City Council may approve the application, and in the case of proposed parks, may make such approval contingent upon the completion of the park according to the plans and specifications submitted with the application. The City Manager, at the direction of the City Council, shall issue the license.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96)

§ 152.44 REVOCATION OF LICENSE.

The City Council may revoke any license or permit issued under this chapter in case any of the provisions hereof are violated. However, before said license or permit may be revoked, the City Council must give ten days notice to the holder of said license and hold a hearing thereon. After said license or permit has been revoked, the owner may reapply for a new license following provisions outlined in this section, if the reasons for said revocation have been duly corrected.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96)

§ 152.45 (RESERVED).

§ 152.46 POSTING OF LICENSES.

The license certifications shall be conspicuously posted in the office of the park at all times.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96; Am. Ord. 96-60, passed 1-28-97) Penalty, see § 152.99

§ 152.47 RULES AND REGULATIONS FOR THE PARK.

It shall be the duty of the owner, his agent, representative or manager to prescribe rules and regulations for the management of the park; to make adequate provisions for the enforcement of such rules; and to subscribe to any and all the subsequent rules and regulations which may be adopted for the management of such park. Copies of all such rules and regulations shall be furnished to the City Planning and Development Department. In addition thereto, it shall be the duty of the owner, his agent, representative or manager to comply strictly with the following:

- (A) Request the city perform an inspection of the water and sanitary conveniences at least annually.
- (B) Provide for the collection and removal of garbage and other waste material.
- (C) Prohibit the placing or storage of unsightly material or vehicles of any kind.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96) Penalty, see § 152.99

§ 152.48 FACILITIES AND SERVICES.

(A) *Water supply and sanitary sewer.* All independent manufactured homes must be properly connected to an approved water, sewer, and electrical system. A manufacture home park must include a fire protection system designed to meet commercial development standards.

(B) *Fuel.* Bottled gas and propane equipment shall be installed and maintained as prescribed by the Texas Railroad Commission Liquefied Petroleum Gas Division Rules.

(Ord. 71-3, passed 3-17-71; Am. Ord. 96-25, passed 5-28-96) Penalty, see § 152.99

§ 152.99 PENALTY.

Any person, firm, or corporation violating this chapter or any portion thereof shall, upon conviction, be guilty of a misdemeanor and shall be fined not more than \$2,000, and each day that such violation occurs or continues shall be considered a separate offense and punishable accordingly.

(Ord. 89-07, passed 5-23-89; Am. Ord. 96-25, passed 5-28-96)

GENERAL PROVISIONS**§ 155.001 TITLE**

This chapter shall be known, and may be cited, as either the Zoning Ordinance or the Zoning Code of the City of Harker Heights.

(Ord. 2001-36, passed 11-13-01)

§ 155.002 PURPOSE

The zoning regulations and districts as herein established have been made in accordance with a comprehensive plan for the purpose of promoting health, safety, morals, and the general welfare of the city. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic, or other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

(Ord. 2001-36, passed 11-13-01)

§ 155.003 DEFINITIONS.

For the purpose of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular. The word "building" shall include the word "structure"; the word "lot" includes the word "plot"; and the word "shall" is mandatory and not merely permissive or directory.

ACCESSORY BUILDINGS AND USE. A subordinate building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.

ALL WEATHER SURFACE. An impervious surface cover consisting of asphalt, concrete, or other similar permanent hard surface material sufficient to prevent ruts, mud, dust, loose material, and other nuisances.

ALLEY. Public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

ALTERNATIVE PARKING SURFACE. An all weather surface that can additionally be constructed with decomposed granite or pavers.

APARTMENT. A room or suite of rooms in a multiple dwelling, or in a building in which more than one living unit is established above or on the same floor as non-residential uses, which room or suite is intended or designed for use as a residence by one family and which includes culinary accommodations.

APARTMENT HOUSE. A building or portion thereof used or designed as a residence for three or more families living independently of each other, and doing their own cooking in the building, including apartments and apartment hotels.

BOARDING HOUSE. A building, other than a hotel, where for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided for three or more persons, but not exceeding 20 persons.

BREW PUB. A business required to hold a current, valid brewpub license (BP permit) from the Texas Alcoholic Beverage Commission., provided that a business that only provides tasting or retail sale of alcoholic beverages is not a brewpub.

BUILDING. Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property.

CLINIC. An office or group of offices for one or more physicians, veterinarians, surgeons or dentists, or other professionals, engaged in treating the sick or injured, but not including rooms for the abiding of patients.

COMMERCIAL/LARGE SCALE AGRICULTURE. Any use or product relating to or concerned with agriculture whose primary purpose is intended for either retail or commercial sales production.

COMMON AREAS. Private property owned in common by, and designated for the private use of, the owners or occupants of townhouses in a particular project or subdivision. **COMMON AREAS** uses include, but are not limited to, recreation areas, parks and plazas, ornamental areas open to the general view within the project or subdivision, and building setbacks not otherwise required by ordinance. The **COMMON AREA** does not include public streets, alleys, required building setbacks or utility easements.

DAYCARE CENTER. A facility that provides care for more than 12 children under the age of 14 for less than 24 hours a day. It does not include a group day care or drop-in care center.

DISTRICT. A section or sections of the city for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

DROP-IN CARE CENTER. A child care facility that provides care for children under the age of 14 for part of the day. It does not provide regular care for the same child. It does not include a group day care home or day care center.

DWELLING. Any building or portion thereof which is designed and used exclusively for residential purposes.

DWELLING, MULTIPLE. A building having accommodations for and occupied by more than two families.

DWELLING, SINGLE FAMILY. A building having accommodations for and occupied exclusively by one family.

DWELLING, TWO FAMILY or DUPLEX. A building having accommodations for and occupied exclusively by two families.

EXTERIOR LIGHTING. Exterior lighting shall include, but shall not be limited to, all freestanding lights, ground lights, illuminated signs, lights and other luminaries mounted on the exterior of any building. For the purposes of regulations regarding exterior lighting, interior lighting visible from the exterior shall be treated as exterior lighting.

FAMILY. One or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, or hotel as herein defined.

FILLING STATION or SERVICE STATION. Any building or premises used for the dispensing, sale, or offering for sale at retail of any automobile fuels or oils. When the dispensing, sale, or offering for sale is incidental to the conduct of a public garage, or retail store, the premises are classified as a public garage or retail store.

FRONTAGE. All the property on one side of a street between two intersecting streets (crossing or terminated), measured along the line of the street, or if the street is dead-ended, then all the property abutting on one side between an intersecting street and the dead-end of the street.

GARAGE, PRIVATE. An accessory building or portion of the main use building, designed for or used for the housing of motor driven vehicles which are the property of and for the private use of the occupants of the lot on which the private garage is located. Not more than one of the vehicle may be a commercial vehicle and of not more than one and one-half tons capacity.

GARAGE, PUBLIC. A building or portion thereof, other than a private garage, designed or used for equipping, repairing, hiring, servicing, selling, or storing motor driven vehicles.

GRADE.

- (1) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- (2) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of the walls adjoining the streets.
- (3) For buildings having no walls adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.
- (4) Any wall approximately parallel to and not more than five feet from the street line shall be considered as adjoining the street. Where no sidewalk exists, the grade shall be established by the City Building Inspector.

HEIGHT OF BUILDING. The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or the mean height level between the eaves and ridge for a gable, hip and gambrel roofs.

HOME BASED CHILD CARE FACILITY. Any facility registered or licensed as such by the Department of Protective and Regulatory Services.

HOME OCCUPATION. Any occupation or profession engaged in by the occupants of a dwelling not involving the conduct of a retail business, and not including any occupation conducted in any building on the premises excepting the building which is used by the occupant as his or her private dwelling. **HOME OCCUPATIONS** shall include, in general, personal services such as furnished by an architect, lawyer, musician, artist, and seamstress when performed by the person occupying the building as his or her private dwelling and not including a partnership or the employment of any one not residing in the home.

HOTEL. A building in which lodging or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boarding house, a lodging house, or an apartment which are herein defined.

INDUSTRIALIZED HOUSING.

- (1) **INDUSTRIALIZED HOUSING** is a residential structure that is:
 - (a) Designed for the occupancy of one or more families;
 - (b) Constructed in one or more modules, or constructed using one or more modular components built at a location other than the permanent site; and
 - (c) Designed to be used as a permanent residential structure, when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.
- (2) **INDUSTRIALIZED HOUSING** includes the structure's plumbing, heating, air conditioning, and electrical systems.
- (3) **INDUSTRIALIZED HOUSING** does not include:
 - (a) A residential structure that exceeds three stories or 49 feet in height, as measured from the finished grade elevation at the building entrance to the peak of the roof;
 - (b) Housing constructed of a sectional or panelized system that does not use a modular component; or
 - (c) A ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location, for the purpose of selling and moving the home to another location.

INDUSTRIALIZED BUILDING.

- (1) An **INDUSTRIALIZED BUILDING** is a commercial structure that is:
 - (a) Constructed in one or more modules, or constructed using one or more modular components built at a location other than the commercial site; and
 - (b) Designed to be used as a commercial building, when the module or the modular component is transported to the commercial site and erected or installed.
- (2) An **INDUSTRIALIZED BUILDING** includes the structure's plumbing, heating, air conditioning, and electrical systems.
- (3) An **INDUSTRIALIZED BUILDING** includes a permanent commercial structure, and a commercial structure designed to be transported from one commercial site to another commercial site; but does not include:
 - (a) A commercial structure that exceeds three stories or 49 feet in height, as measured from the finished grade elevation at the building entrance to the peak of the roof; or
 - (b) A commercial building or structure that is:
 1. Installed in a manner other than on a permanent foundation; and
 2. Either:
 - a. Not open to the public; or
 - b. Less than 1,500 square feet in total area, and used other than as a school or a place of religious worship.

LIGHT TRESPASS. The spilling or projecting of illumination beyond the boundary lines of the source property so as to annoy or disturb a person of ordinary sensibilities, or otherwise compromise or endanger the safety or privacy of any person.

LODGING HOUSE. A building or place where lodging is provided (or which is equipped to provide lodging regularly) by prearrangement for definite periods, for compensation, for three or more persons in contradistinction to hotels open to transients.

LODGING HOUSE. A building or place where lodging is provided (or which is equipped to provide lodging regularly) by prearrangement for definite periods, for compensation, for three or more persons in contradistinction to hotels open to transients.

LOT. A parcel of land occupied or intended for occupancy by use permitted in this chapter, including one main building with its accessory buildings, the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place. It is intended that one platted lot have only one owner and that subdivision of any lot must follow appropriate ordinances.

LOT, CORNER. A lot abutting upon two or more streets at their intersection.

LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.

LUMINARY. The complete lighting fixture, including without limitation the lamp, lens, reflector, shield, and support assembly.

MANUFACTURED HOME. The meaning set forth in § 152.01.

MANUFACTURED HOME PARK. The meaning set forth in § 152.01.

NON-COMMERCIAL/SMALL SCALE AGRICULTURE. Any use or product relating to or concerned with agriculture and whose use is accessory to the primary residential use and is intended for the benefit of the individual or individuals who reside on the land and is not intended for either retail or commercial sales production.

NON-CONFORMING USE. Any building or land lawfully occupied by a use at the time of passage of this chapter or amendment thereto, which does not conform after the passage of this chapter or amendment thereto with the use regulations of the district in which it is situated.

PARKING SPACE. An area enclosed or unenclosed containing not less than 160 square feet exclusive of the driveways connecting the space with a street or alley. The **PARKING SPACE** and connecting driveway shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile.

PLANNING AND DEVELOPMENT DIRECTOR. The city official in charge of planning and development.

PLANNING AND ZONING COMMISSION. The appointed body designated as the city's planning and zoning commission.

SCREENING. Landscaping, fencing or other material erected as required by this chapter to provide a visual and/or noise barrier from adjacent properties and streets.

SOURCE PROPERTY. The property on which a device designed to emit light is installed, located or utilized.

STORY. That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it; or if there be no floor above it, then the space between the floor and the ceiling next above it.

STREET. A public thoroughfare which affords the principal means of access to abutting property.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

STRUCTURES. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including, but without limiting the general inclusiveness of the foregoing, advertising signs, billboards, poster boards, and pergolas.

TOURIST COURT (AUTO COURTS, MOTELS, OR MOTOR LODGES). A group of attached, semi-detached, or detached buildings containing individual sleeping or living units, designed for or used temporarily by automobile tourists, or transients, with garage attached or parking space conveniently located to each unit, and offering to the public daily as well as for other longer term rental rates, and maintaining a register of guests and/or their vehicles.

TOWNHOUSE. One of a series of single family dwelling units which are either structurally connected, or which are constructed immediately adjacent to each other without side yards between the dwelling units. The terms **TOWNHOME** and **ROW HOUSE** are similarly defined and may be used interchangeably.

TOWNHOUSE GROUP. Two or more townhouses as an integral part of a townhouse project.

TOWNHOUSE PROJECT. One or more townhouse groups, together with commonly owned structures or areas.

TOWNHOUSE SUBDIVISION. One or more townhouse projects.

TRAILER. A vehicle, other than a pole trailer or semi-trailer, with or without motive power:

- (1) Designed to be drawn by a motor vehicle and to transport persons or property; and
- (2) Constructed so that no part of the vehicle's weight and load rests on the motor vehicle.

UTILITY TRAILER. A trailer which generally features an open-top cargo area (bed) and is used for the hauling of light loads such as personal effects, articles of household furniture, loads of trash and rubbish, and does not exceed 20 feet in length or seven feet in width.

WINERY. A business required to hold a current, valid winery permit (G permit) from the Texas Alcoholic Beverage Commission, provided that a business that only provides tasting or retail sale of alcoholic beverages is not a winery.

YARD. An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a **YARD** for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the horizontal distance between the lot line and the main building shall be used.

YARD, FRONT. A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projection of the usual steps, unenclosed balconies or open porch.

YARD, REAR. A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the **REAR YARD** shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lot the **REAR YARD** shall in all cases be at the opposite end of a lot from the front yard.

YARD, SIDE. A yard between the main building and the side of the lot, and extending from the front lot line to the yard line.

ZONING BOARD OF ADJUSTMENT. A quasi-judicial board appointed by the City Council to hear and decide appeals, and to consider variance requests, and the like.

(Ord. 2001-36, passed 11-13-01; Am. Ord. 2004-06, passed 3-9-04; Am. Ord. 2006-40, passed 10-24-06; Am. Ord. 2010-26, passed 9-14-10; Am. Ord. 2019-14, passed 5-28-19; Am. Ord. 2020-44, passed 9-8-20, effective 10-1-21)

§ 155.004 DISTRICTS.

(A) For the purpose of regulating and restricting the heights and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, the city is hereby divided into zoning districts, of which there shall be 20 classes in number, and which shall be known as:

- (1) R-1 - One-Family Dwelling District;
- (2) R-1(M) - One-Family Manufactured Home Dwelling District;
- (3) R1-R - Rural One-Family Dwelling District;
- (4) R1-A - Single-Family Garden Home Residential District;
- (5) R1-I - Single Family Infill Dwelling District;
- (6) R-2 - Two-Family Dwelling District;
- (7) R2-I - Two-Family Infill Dwelling District;
- (8) R-3 - Multi-Family Dwelling District;
- (9) R-MU - Mixed Use Residential;

- (10) R-MH - Manufactured Home Park District;
- (11) RT-1 - Townhouse-Single Family Dwelling District;
- (12) B-1 - Office District;
- (13) B-2 - Neighborhood Retail Business District;
- (14) B-3 - Local Business District;
- (15) B-4 - Secondary and Highway Business District;
- (16) B-5 - General Business District;
- (17) M-1 - Light Manufacturing District;
- (18) M-2 - Heavy Manufacturing District;
- (19) PD - Planned Development; and
- (20) T - Tavern.

(B) The boundaries of the districts, described above, are shown on a map maintained by the city and which map is designated as the Zoning District Map, except, however, the T Districts shall not be shown on the Zoning District Map but shall be identified only by descriptions either in lot and block numbers or metes and bounds prepared by a registered surveyor registered within the state.

(C) Whenever any street, alley, or other public way is lawfully vacated by the City Council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacated area and shall be subject to all applicable regulations of the extended districts.

(D) All territory hereafter annexed to the city shall be classified as R1-R Rural One-Family Dwelling District, until permanently zoned by the governing body of the city. The Planning and Zoning Commission shall, as soon as practicable after annexation of any territory to the city, institute proceedings on its own motion to give the newly annexed territory permanent zoning, and the procedure to be followed shall be the same as is provided by law for the adoption of original zoning regulations.

(Ord. 2001-36, passed 11-13-01; Am. Ord. 2016-24, passed 10-11-16; Am. Ord. 2017-28, passed 10-10-17)

§ 155.005 CONFORMANCE WITH DISTRICT REGULATIONS REQUIRED.

Except as hereinafter provided:

(A) No building shall be erected, converted, enlarged, reconstructed, or structurally altered, and no building or land shall be used for any purpose, that is not permitted in the district in which the building or land is situated.

(B) No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is situated.

(C) The minimum yards and other open spaces, including lot area per family, required by this chapter for each and every building existing at the time of the passage of this chapter, or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced to an area less than the district requirements of this chapter.

(D) Every building hereafter erected or structurally altered shall be on a lot as herein defined, and in no case shall there be more than one main building on one lot except as otherwise provided in this chapter.

(E) Non-HUD approved manufactured housing shall be prohibited from entering the corporate limits of the city for other than through transportation purposes. Additionally, non-HUD approved manufactured housing built prior to June 15, 1976, shall not be permitted to relocate within the city.

(F) Any building use that has been closed or abandoned for 12 months or more shall not be used thereafter unless it complies with current regulations, standards and requirements.

(G) All lots must meet all applicable requirements of Chapter 154, and shall comply with the area regulations in each respective zoning classification. Variance in setbacks may be given in inches not to exceed one foot by the Building Official if it is determined such variance is in harmony with the general purpose and intent of this chapter and will not impair the public health, safety, comfort, morals, and welfare of the city.

(Ord. 2001-36, passed 11-13-01; Am. Ord. 2006-40, passed 10-24-06; Am. Ord. 2020-07, passed 4-14-20)

§ 155.020 R-1 ONE FAMILY DWELLING DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right:

- (1) Site-built, single-family dwellings and industrialized housing.
- (2) Church or other place of worship.
- (3) Municipal buildings, non-profit libraries or museums, police and fire stations, public utilities (without outside storage yards or electric substations), public parks, playgrounds, municipal golf courses, public recreation facilities, and community buildings.
- (4) Customary home occupations as defined in § 155.003.
- (5) *Accessory structure.*

(a) One small accessory building (not exceeding 144 square feet) per residence customarily incident to the above uses (not involving the conduct of a business) subject to the following requirements:

- 1. Structure must be built upon a moveable foundation;
- 2. Structure cannot exceed 12 feet in height;
- 3. Structure must set behind the rear facade of the main residence building and must be setback five feet from the rear property line and six feet from the side property line; and
- 4. Materials, building design, and construction must comply with the requirements of Ch. 150.

(b) Large accessory buildings customarily incident to the above uses (not involving the conduct of a business) subject to the following requirements:

- 1. Building materials and facade must be consistent with the main residence building materials and facade;
- 2. Large accessory building must be behind the front facade of the main residence;
- 3. The height of the large accessory building cannot exceed that of the main residence building;
- 4. Number, size, setbacks and height requirements based on the size of the lot as follows:

Lot Size	Number of Large Accessory Structures Allowed	Maximum Aggregate Size of All Accessory Structures	Setbacks	Maximum Height
< 10,000 square feet	1	250 square feet	Front: 25 feet Side: 6 feet Rear: 10 feet	15 feet
> 10,000 square feet < .5 acre	1	500 square feet	Front: 25 feet Side: 6 feet Rear: 10 feet	15 feet
> .5 acre < 1 acre	2	1,000 square feet	Front: 25 feet Side: 6 feet Rear: 20 feet	24 feet
> 1 acre	4	1,500 square feet	Front: 25 feet Side: 6 feet Rear: 20 feet	24 feet

(6) Private garage.

(7) Home based child care.

(8) Real estate sales office, or temporary living quarters to provide security during the development of residential subdivisions, but not to exceed two years.

(9) Low impact telecommunication towers.

(10) Public schools.

(B) *Conditional uses.* The following require conditional use permits:

(1) Private schools having a curriculum equal to a public elementary, high school, or institution of higher learning (except home schooling).

(2) Neighborhood association facilities.

(3) Farms, nurseries, truck gardens and greenhouses, provided no sales offices are maintained and no livestock are kept within 250 feet of a residence of any person other than the farm owner.

(4) Accessory dwelling for a relative or servant (not for rent).

(5) Accessory structure as provided by § 155.040.

(C) *Height regulations.* No building shall exceed two and one-half stories or 35 feet in height.

(D) *Front yard, side yard, and rear yard.* As per Table 21-A.

(E) *Intensity of use.* Every lot or tract of land shall have an area of not less than 8,400 square feet and an average overall width of not less than 70 feet and a minimum lot frontage of not less than 45 feet. Except that if a lot or tract should have less area or width than is herein required and its boundary lines along their entire length should touch lands under other ownership on the effective date of this chapter and shall not have changed since the date, such parcel of land may be used for a single family dwelling.

(F) *Additional use, height, and area regulation.* Additional use, height, and area regulations and exceptions are found in § 155.040.

(G) *R-1(M) zoning designation.* R-1(M) is a one family residential lot that also allows manufactured homes. All manufactured housing structures installed after December 31, 1999, must be installed on a permanent foundation, as that term is defined in § 152.01.

(1) In order to be approved, the manufactured home must be found to have design compatibility with other dwellings in the neighborhood.

(2) The following standards apply to any placement of a manufactured home on a lot after December 31, 1999:

(a) Roofing shall be similar in color, material and appearance to the roofing material commonly used on residential dwellings within the community or comparable to the predominant materials used on dwellings within the neighborhood.

Materials shall include asphalt composition, shingle, tile, crushed rock, standing seam metal or similar materials (except all other metal). Roof pitch shall be a minimum of 3/12.

(b) Exterior siding shall be similar in color, material, and appearance to the exterior siding material commonly used on residential dwellings within the community or comparable to predominant materials used on dwellings within the neighborhood. Exterior siding shall be of brick, wood, stucco, plaster, concrete or other material which is finished in a non-glossy and non-reflective manner.

(c) If a garage/carport is constructed, it must be similar in appearance to others in the neighborhood and constructed of like materials as that of the primary home.

(d) Two all-weather surface off street parking spaces meeting the requirements of § 155.061 shall be provided.

(3) Every manufactured home shall be placed so that the entrance or front of the home faces or parallels the principal street frontage, except:

(a) In cases where the lot is one acre or greater and the home is located more than 50 feet from the street; or

(b) Where the lot width is 60 feet or less.

(4) All entrances to a manufactured home shall be provided with permanent steps, porch or similar suitable entry.

(5) The lot must meet all applicable requirements of Chapter 154, and shall comply with the area regulations in (D) of this section. Variance in setbacks may be given in inches not to exceed one foot at the Building Official's discretion.

(H) *Signs* As per Chapter 151.

(I) *Parking.* As per §§ 155.061 through 155.068.

(J) *Storage.* Open storage is prohibited except for materials for the residents' use, such as firewood, gardening materials, and similar materials.

(K) *Landscaping.* All yards shall have vegetative groundcover of sufficient quality and quantity, or other city-approved groundcover, to control dust, erosion and sediment upon final inspections. In addition, a minimum of two six-foot-tall trees, measuring two inches or more in caliper (diameter) when measured 12 inches from

the base of the trunk, and eight three-gallon shrubs, are required in the front yard.

(L) *Industrialized housing.*

(1) Industrialized housing shall be considered real property and must:

(a) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for the county;

(b) Have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;

(c) Comply with city aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings;

(d) Be securely fixed to a permanent foundation; and

(e) Have all local permits and licenses that are applicable to site-built housing.

For purposes of this division, **VALUE** means the taxable **VALUE** of the industrialized housing and lot after installation of the housing.

(2) Any owner or authorized agent who intends to construct, erect, install or move any industrialized housing into the city shall first make application to the Building Official and obtain the required permits. In addition to any other information otherwise required for such permits, the application shall:

(a) Identify each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located, and show the taxable value for each such dwelling, as determined by the most recent certified tax appraisal roll for the county;

(b) Describe the exterior siding, roofing, roof pitch, foundation fascia, and fenestration for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located;

(c) Describe the permanent foundation and method of attachment proposed for the industrialized housing; and

(d) State the anticipated taxable value of the industrialized housing and the lot after installation of the industrialized housing.

(3) A person commits an offense if the person:

(a) Constructs, erects, installs or moves any industrialized housing in the city without first obtaining a permit as required by this section; or

(b) Constructs, erects, installs or moves any industrialized housing into the city unless such industrialized housing complies with this section.

(Ord. 2001-36, passed 11-13-01; Am. Ord. 2002-28, passed 11-12-02; Am. Ord. 2006-40, passed 10-24-06; Am. Ord. 2010-32, passed 10-12-10; Am. Ord. 2011-08, passed 4-19-11)

§ 155.024 R-MU MIXED RESIDENTIAL.

(A) *Permitted uses.* Any use permitted by right in the R-1, R-1(M), and R-2 Districts. In addition, any use permitted by right in the R1-I District, and R2-I District subject to the location requirements for such tracts.

(B) *Conditional uses.* Any conditional use permitted in the R-1 and R-2 Districts.

(C) *Height regulations.* No building shall exceed two and one-half stories or 35 feet.

(D) *Area regulations.* As per corresponding zoning district and as per Table 21-A for corresponding zoning district.

(E) *Intensity of use.* Intensity of use shall be determined with reference to the intensity of use regulations applicable in the zoning district customarily associated with the use. For example, a single family home in this district shall be subject to the intensity of use regulations applicable to the R-1 District, but a duplex in this district shall be subject to the intensity of use regulations applicable to the R-2 District.

(F) *Parking regulations.* As per §§ 155.061 through 155.068.

(G) *Additional use, height, and area regulations.* Additional regulations shall be determined with reference to any additional regulations applicable in the zoning district customarily associated with the use. For example, a single family home in this district shall be subject to the additional regulations applicable to the R-1 District, but a duplex in this district shall be subject to the additional regulations applicable to the R-2 District.

(H) *Signs.* Same as in R-1 District.

(I) *Storage.* Open storage is prohibited, except for materials for the residents' use such as firewood, gardening materials, and similar materials.

(J) *Landscaping.* All yards shall have vegetative groundcover of sufficient quality and quantity, or other city-approved groundcover, to control dust, erosion and sediment upon final inspections. In addition, a minimum of two six-foot-tall trees, measuring two inches or more in caliper (diameter) when measured 12 inches from the base of the trunk, and eight three-gallon shrubs, are required in the front yard.

(K) *Architectural design.* R-2 buildings shall be designed to avoid repetitions of buildings or roof lines, and the same elevation may not be used within any five lot groupings. Primary entrances shall face the public street. Windows shall be provided with trim or recessed, rather than flush with exterior wall treatment.

(Ord. 2001-36, passed 11-13-01; Am. Ord. 2006-40, passed 10-24-06; Am. Ord. 2016-24, passed 10-11-16; Am. Ord. 2017-28, passed 10-10-17)

§ 155.026 R-MH MANUFACTURED HOME PARK DISTRICT.

(A) *Use regulations.* Any building or premises shall be used only for the following purpose: manufactured home park as that term is defined in § 152.01.

(B) *Landscaping.* As per § 155.051. The requirements are the same as those for R-3.

(Ord. 2001-36, passed 11-13-01; Am. Ord. 2006-40, passed 10-24-06)



CITY COUNCIL MEMORANDUM

Z21-24

AGENDA ITEM# VI-1

FROM: THE OFFICE OF THE CITY MANAGER

DATE: OCTOBER 12, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, TO CHANGE ZONING DESIGNATION FROM B-3 (LOCAL BUSINESS DISTRICT) TO B-4 (SECONDARY AND HIGHWAY BUSINESS DISTRICT) ON PROPERTY DESCRIBED AS MEADOW ACRES, BLOCK 006, LOT PT 7, 8, (E 14.5' OF N 130' OF 7 & W 85.5 OF N 130' OF 8), GENERALLY LOCATED AT 808, 810 & 812 S. ANN BLVD., HARKER HEIGHTS, BELL COUNTY, TEXAS; AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

The applicant is requesting a change from the current zoning of B-3 (Local Business District) to B-4 (Secondary and Highway Business District) on property described as Meadow Acres, Block 006, Lot PT 7, 8, (E 14.5' of N 130' of 7 & W 85.5 of N 130' of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas.

According to the Bell County Tax Records, the property consists of approximately 0.2984 acres and has an existing commercial building (4,000 square feet) with an open porch consisting of 500 square feet.

Surrounding Land Uses

Adjacent land uses include:

	Existing Land Use	Future Land Use	Zoning
North	Commercial	Commercial	B-4 Secondary and Highway Business District
South	Retail	Commercial	B-3 Local Business District
East	Retail	Commercial	B-4 Secondary and Highway Business District
West	Vacant	Commercial	B-3 Local Business District

Per the adopted 2007 Comprehensive Plan, the applicant's property is located in an area designated as Commercial. The proposed 2021 Future Land Use Map identifies this area as designated for Community Center (Commercial), which is proposed to include B-1 (Office District) through B-3 (Local Business District) zoning. Staff believes the proposed rezoning with its intended use will not likely have any adverse impact on the neighborhood and would be consistent with the 2007 City of Harker Heights Comprehensive Plan.

Flood Damage Prevention:

No portion of this property lies within the 100 year or 500-year flood hazard areas. Per this rezoning request all development will occur to the south of the adjacent identified special flood hazard area.

Notices:

Staff sent out thirty-four (34) notices to property owners within the 400-foot notification area. As of September 23, 2021, one (1) response was received in favor of the request, and one (1) response was received in opposition of the request. Any additional responses received after the above date will be provided during the meeting.

RECOMMENDATION:

Staff recommended approval to the Planning and Zoning Commission of the request to change the zoning designation from B-3 (Local Business District) to B-4 (Secondary and Highway Business District) on property described as Meadow Acres, Block 006, Lot PT 7, 8, (E 14.5' of N 130' of 7 & W 85.5 of N 130' of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas, based on the following:

1. The proposed use and rezoning is compatible with the current Comprehensive Plan and FLUM.
2. The proposed use and rezoning would not likely have any adverse impact on adjoining uses and zoning districts.
3. The proposed use and rezoning is compatible with existing uses in the neighborhood based on existing zoning.
4. The proposed use and rezoning does not pose an adverse impact to the public health, safety, or general welfare.

ACTION TAKEN BY THE PLANNING AND ZONING COMMISSION:

During the Planning & Zoning Commission meeting held on September 29, 2021, the Planning and Zoning Commission voted (6-1) to recommend disapproval of an ordinance to change the zoning designation from B-3 (Local Business District) to B-4 (Secondary and Highway Business District) on property described as Meadow Acres, Block 006, Lot PT 7, 8, (E 14.5' of N 130' of 7 & W 85.5 of N 130' of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas,, based on the following:

1. The proposed use and rezoning is not compatible with existing uses in the neighborhood due to changes in the neighborhood in recent years.

ACTION BY CITY COUNCIL:

Since the recommendation of the property was not approved by the Planning & Zoning Commission, per §155.212(D) (2) of the City of Harker Heights Code of Ordinances, a zoning district change will require a three-fourths (super-majority) approval vote from the City Council.

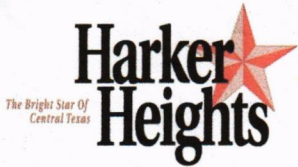
(D) Vote Required

“If such proposed amendment, supplement, or change has not been approved by the Planning and Zoning Commission, the amendment, supplement or change shall not become effective except by a three-fourths approval vote by the City Council.”

1. Motion to APPROVE/DISAPPROVE an Ordinance to change the zoning designation from B-3 (Local Business District) to B-4 (Secondary and Highway Business District) on property described as Meadow Acres, Block 006, Lot PT 7, 8, (E 14.5’ of N 130’ of 7 & W 85.5 of N 130’ of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas, based on the following:
 - The proposed use and rezoning is not compatible with existing uses in the neighborhood due to changes in the neighborhood in recent years.
2. Any other action deemed necessary.

ATTACHMENTS:

1. Application
2. Ordinances
3. Location Map
4. Zoning Map
5. Existing Land Use Map
6. Future Land Use Map
7. Notification Area Map
8. Public Responses



Rezoning Request Application

Requirements - MUST BE COMPLETE OR WILL NOT BE ACCEPTED

This application must be completed and returned to the Planning and Development Department of the City of Harker Heights, Texas along with the following:

1. Pre-Application Meeting Scheduled
2. Payment of \$200.00 to the City of Harker Heights

City of Harker Heights
 Planning & Development
 305 Millers Crossing
 Harker Heights, TX 76548
 Phone: (254) 953-5647

Property Owner(s) Name: Chaudry Rafiuddin **Date:** 09-01-2021
Address: 401 Kodrak Circle Ha
City/State/Zip: Harker Heights TX 76548
Phone: [REDACTED] **E-mail:** [REDACTED]

Legal Description of Property:

Location of Property (Address if available): 810 - 812 S Ann Blvd Harker Heights, TX 76548
Lot: pt 788 **Block:** 006 **Subdivision:** Meadow Acres
Acres: .30 **Property ID:** 126549 **Survey:** _____

For properties not in a recorded subdivision please submit a copy of a current survey showing the property's proposed to be changed, and/or legal field notes.

Proposed Use: ~~B-3 w/ CUP~~ Gaming
Current Zoning Classification: B3 **Proposed Zoning:** ~~B-3 w/ CUP~~ B4
Current Land Use: _____ **Proposed Land Use:** _____

Applicant's Representative (if applicable):

Applicant's Representative: Jessica Tolbert
Pho [REDACTED] **E-Mail:** [REDACTED]

I, being the undersigned applicant of the property herein described, hereby make application for approval of plans submitted and made a part of the application in accordance with the provisions of the City of Harker Heights Ordinances, and hereby certify that the information provided is true and correct to the best of my knowledge and belief.

I, being the undersigned applicant, understand that failure to appear to represent a request shall be deemed a request to withdraw the proposal, or _____ will represent the owner.

Chaudry Rafiuddin
Printed Name of Property Owner

Ch-R-U-din
Signature of Property Owner

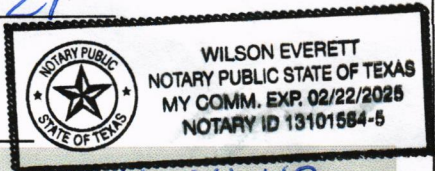
Printed Name of Representative

Signature of Representative

SWORN AND SUBSCRIBED BEFORE ME ON THIS 1 DAY OF September, 2021

Wilson Everett
SIGNATURE OF NOTARY PUBLIC

MY COMMISSION EXPIRES: 2/22/2025



Date Submitted: 9/1/2021
 Received By: WEVERETT

STAFF ONLY -- DO NOT FILL OUT BELOW

Pre-Application Meeting

Receipt #: 01734013

Case #: _____

ORDINANCE NO. _____

AN ORDINANCE GRANTING B-4 (SECONDARY AND HIGHWAY BUSINESS DISTRICT) ON PROPERTY DESCRIBED AS MEADOW ACRES, BLOCK 006, LOT PT 7, 8, (E 14.5' OF N 130' OF 7 & W 85.5 OF N 130' OF 8), GENERALLY LOCATED AT 808, 810 & 812 S. ANN BLVD., HARKER HEIGHTS, BELL COUNTY, TEXAS.

WHEREAS, the City Council ("*Council*") of the City of Harker Heights ("*City*") finds that after due notice and public hearings as required by law, and after consideration of the recommendation of the Planning and Zoning Commission, it is necessary and desirable to amend the Code of Harker Heights ("*Code*") as hereinafter provided; and

WHEREAS, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

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

SECTION 1: The Council officially finds and declares that the facts and recitations set forth in the preamble to this Ordinance are true and correct.

SECTION 2: The hereinafter-described property, as previously zoned B-3 (Local Business District) to B-4 (Secondary and Highway Business District) on property described as Meadow Acres, Block 006, Lot PT 7, 8, (E 14.5' of N 130' of 7 & W 85.5 of N 130' of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas.

SECTION 3: Table VII, Table of Special Ordinances, of the Code is hereby supplemented by adding the following entry:

<u>Ord. No.</u>	<u>Date Passed</u>	<u>Description</u>
2021-	09/14/21	Granting B-4 zoning on property described as Meadow Acres, Block 006, Lot PT 7, 8, (E 14.5' of N 130' of 7 & W 85.5 of N 130' of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas.

SECTION 4: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 5: This Ordinance shall be effective from and after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

PASSED AND APPROVED on October 12, 2021

Spencer H. Smith, Mayor

ATTEST:

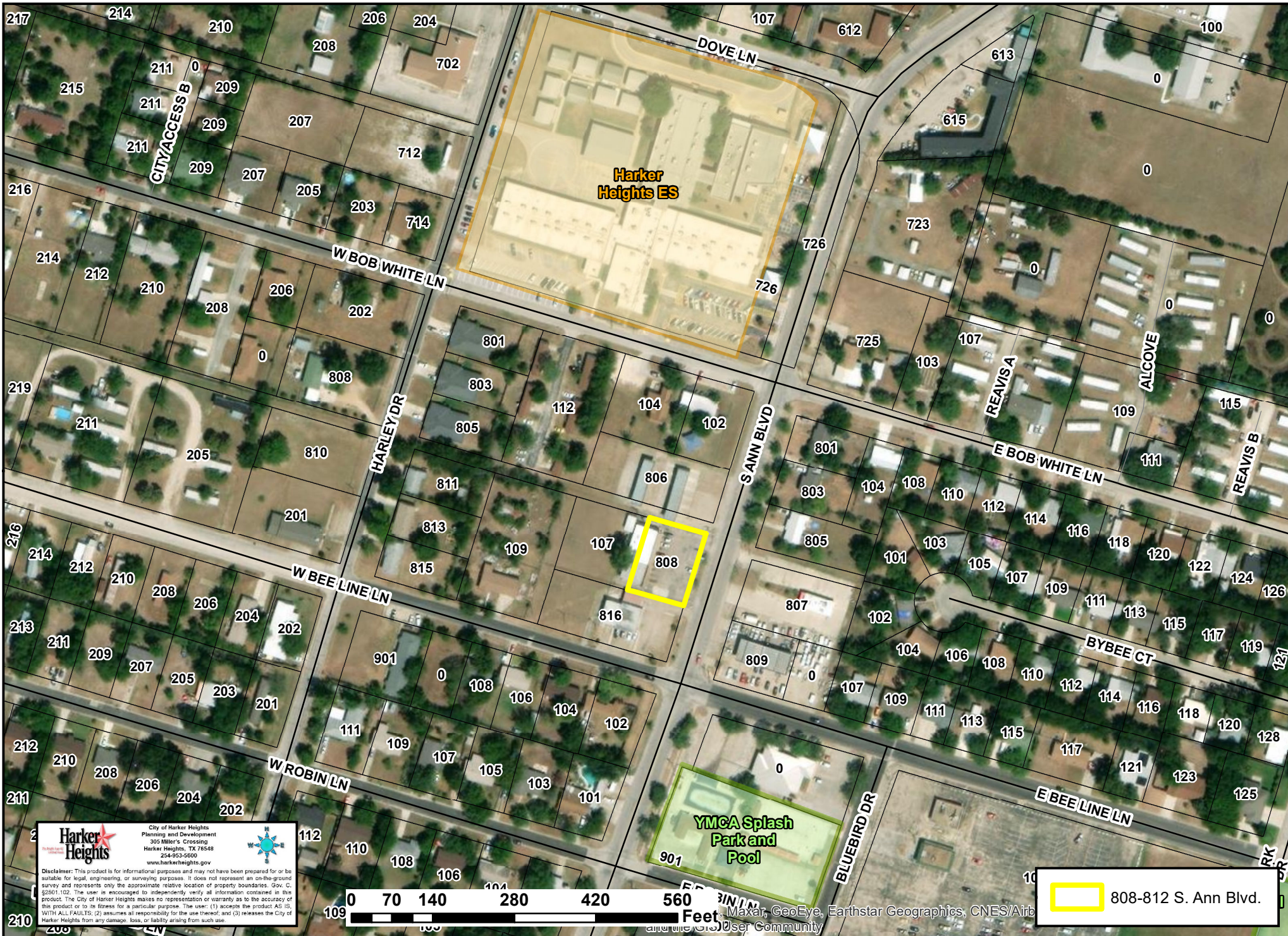
Juliette Helsham, City Secretary

§ 155.031 B-4 SECONDARY AND HIGHWAY BUSINESS DISTRICT.

(A) *Permitted uses.*

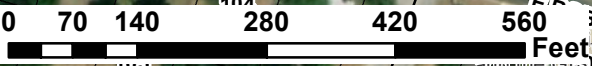
- (1) Any use permitted in the B-3 Local Business District that is permitted by right.
- (2) Automobile parking lots.
- (3) Bakery (wholesale).
- (4) Dance hall and skating rink.
- (5) Frozen food locker plant.
- (6) Garage, public.
- (7) Drive-in theater.
- (8) Bowling alley.
- (9) Tourist court or motel.
- (10) Antique shop.
- (11) Secondhand goods store: (No outside display, repair or storage.)
- (12) Automobile and marine sales and re-pair, provided that:
 - (a) All service must take place in the interior (service bays) of the building. No tents may be used for repair or service, except during times of urgent public necessity as declared by the Mayor or the Planning and Development Director and posted as such at the main entrance to the City Hall.
 - (b) Oil storage facilities and refuse containers shall be screened from the view of travelers along public streets;
 - (c) There shall be no vehicle storage longer than 30 days, or auto sales including vehicles belonging to the owner (except for sales lots);
 - (d) There shall be no dismantling or wrecking on premises;
 - (e) The use shall be operated in accordance with all applicable regulations including licensing from all government agencies that have jurisdiction; and
 - (f) Gasoline storage tanks must be underground.
- (13) Building material or lumber sales (no outside storage without screening).
- (14) Cleaning, pressing and dyeing.
 - (a) No direct exterior exhaust from cleaning plant permitted.
 - (b) Dust must be controlled by either bag or filter and separator or precipitator so as to eliminate the exhausting of dust, odor, fumes or noise outside the plant.
- (15) Florist, garden shop, greenhouse, or nursery (retail).
- (16) Ball park, stadium, athletic field (private).
- (17) Philanthropic institutions (not else-where listed).
- (18) Cabinet, upholstery, woodworking shop.
- (19) Plumbing, electrical, air conditioning service shop (no outside storage without screening).
- (20) Trade or business school.
- (21) Any retail business not included in the Local Business District, provided that such use is not noxious or offensive by reason of vibrations, smoke, light, odor, dust, gas or noise.
- (23) Package liquor store (in wet areas only and subject to TABC regulations). The property, if located outside the commercial zone of Business Hwy 190, must:
 - (a) Be part of a commercial development containing a minimum of 12,000 square feet of leaseable retail floor space (for example, a shopping center or mall); and
 - (b) Be located a minimum of 300 feet, measured from the front door to the establishment, from any R zoned property by the most commonly traveled public roadway.
- (24) Brewpub or winery (in wet areas only and subject to TABC regulations). The property, if located outside the commercial zone of Business Hwy 190 or I-14, must be located a minimum of 300 feet from any R zoned property, measured from the front door of the establishment by the most commonly traveled public roadway. All manufacture, blending, fermentation, processing, and packaging of alcoholic beverages must take place wholly inside a building.


- (B) *Conditional uses.* Any use permitted in a more restricted district that is permitted by a conditional use permit.
 - (C) *Height regulations.* No building shall exceed three and one-half stories or 45 feet in height.
 - (D) *Area regulations.* The same as provided for B-2 District.
 - (E) *Intensity of use.* There are no minimum lot area or lot width requirements.
 - (F) *Parking regulations.* As per §§ 155.061 through 155.068.
 - (G) *Signage.* As per Chapter 151.
 - (H) *Screening requirements.* As per § 155.050.
 - (I) *Building facade.* As per § 155.040.
 - (J) *Landscaping requirements.* As per § 155.051.
- (Ord. 2001-36, passed 11-13-01; Am. Ord. 2019-14, passed 5-28-19)



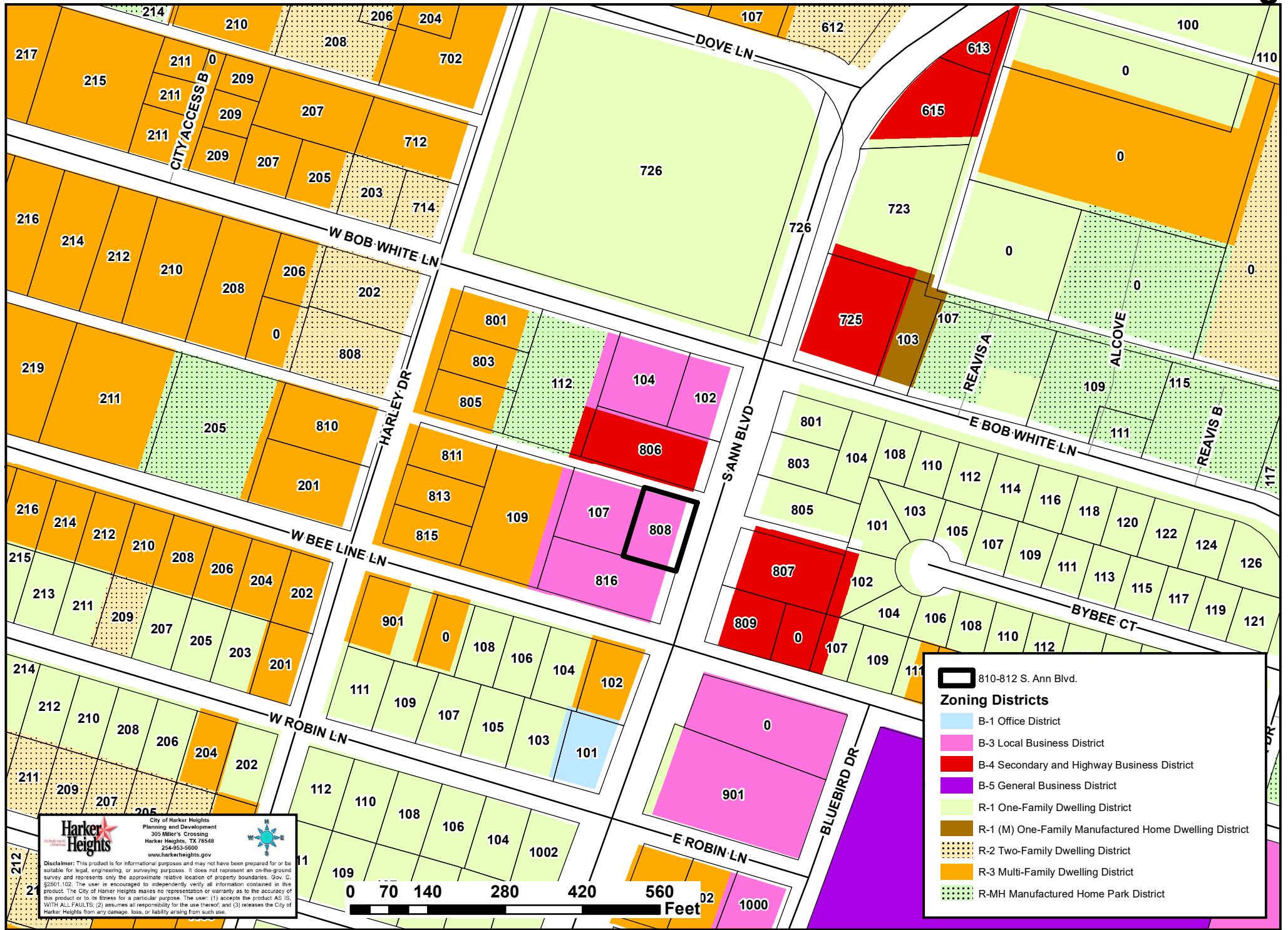
Harker Heights
City of Harker Heights
Planning and Development
300 Miller's Crossing
Harker Heights, TX 78548
254-953-5600
www.harkerheights.gov

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. 20011122. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.



 808-812 S. Ann Blvd.

Maxar, GeoEye, Earthstar Geographics, CNES/Airbus and the GIS User Community



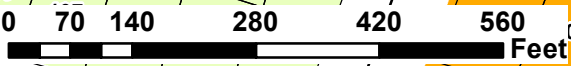
810-812 S. Ann Blvd.

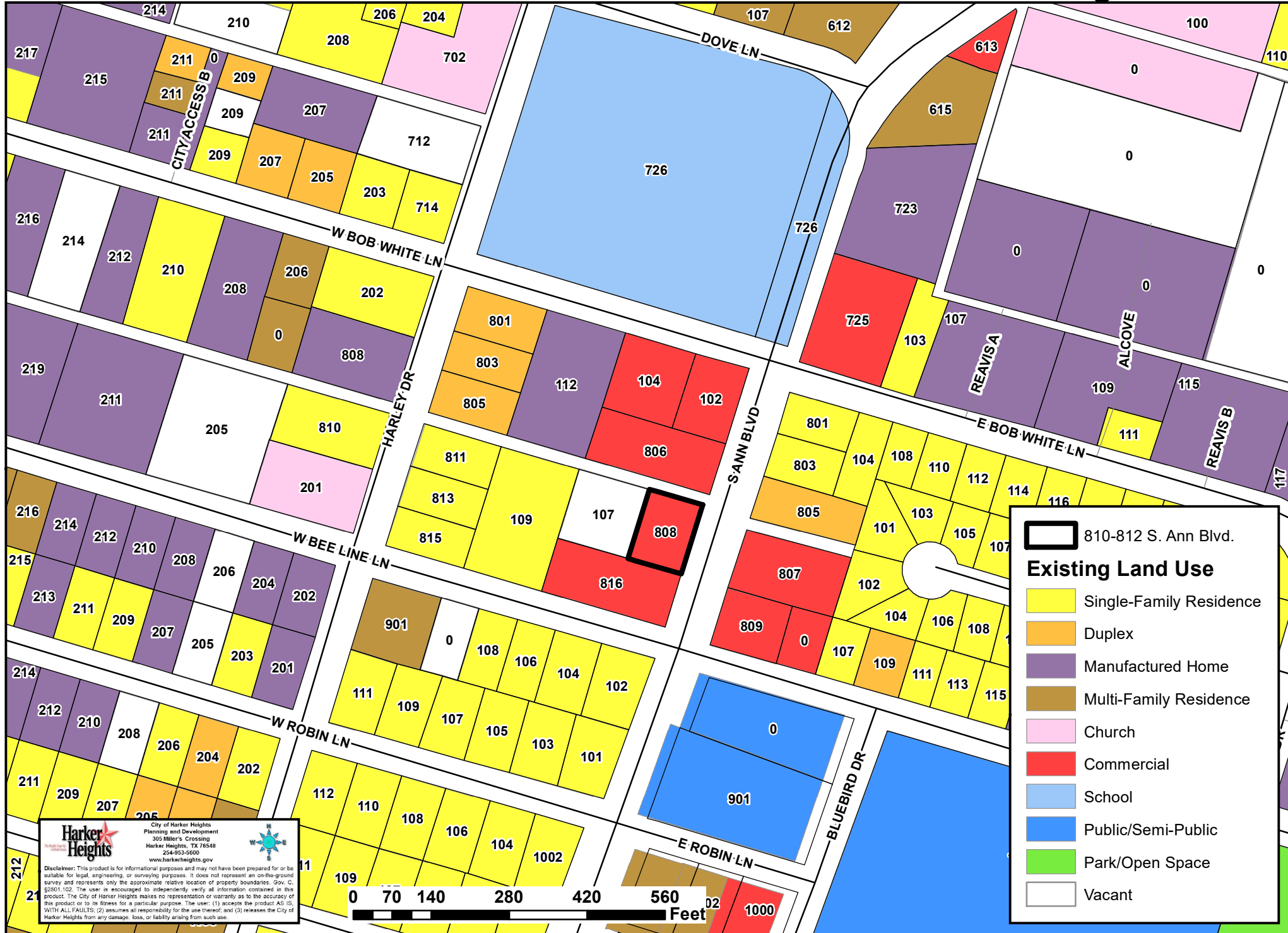
Zoning Districts

- B-1 Office District
- B-3 Local Business District
- B-4 Secondary and Highway Business District
- B-5 General Business District
- R-1 One-Family Dwelling District
- R-1 (M) One-Family Manufactured Home Dwelling District
- R-2 Two-Family Dwelling District
- R-3 Multi-Family Dwelling District
- R-MH Manufactured Home Park District

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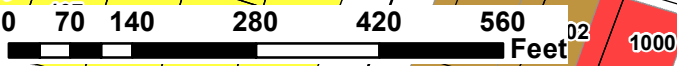
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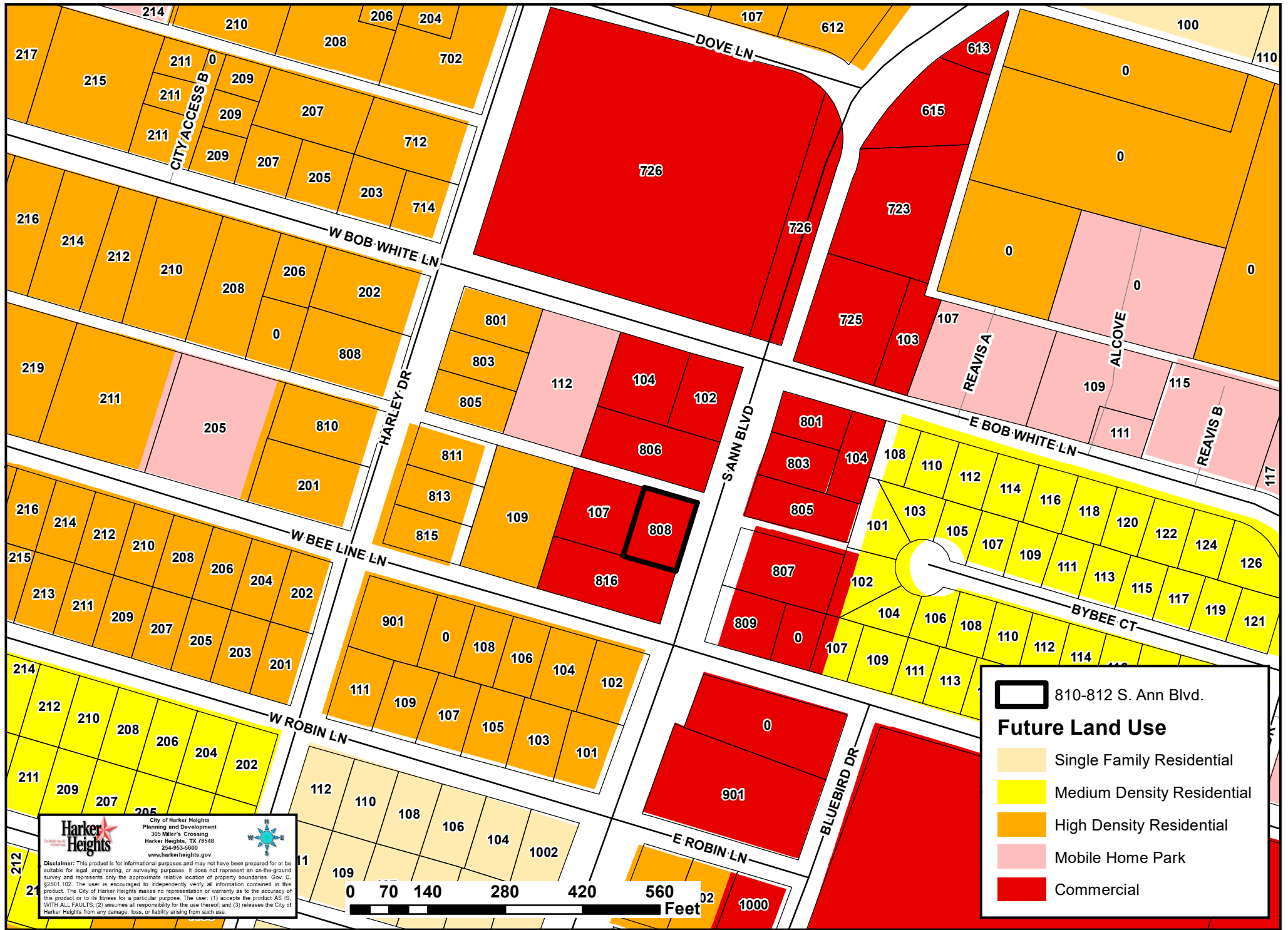
Existing Land Use


- Single-Family Residence
- Duplex
- Manufactured Home
- Multi-Family Residence
- Church
- Commercial
- School
- Public/Semi-Public
- Park/Open Space
- Vacant

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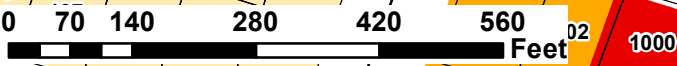
 810-812 S. Ann Blvd.

Future Land Use

-  Single Family Residential
-  Medium Density Residential
-  High Density Residential
-  Mobile Home Park
-  Commercial

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SENT: SEPTEMBER 8, 2021
DUE BACK: SEPTEMBER 21, 2021 5:00 P.M.

RESPONSES RECEIVED AFTER 5:00 P.M. ON SEPTEMBER 21, 2021 WILL BE PROVIDED TO PLANNING & ZONING COMMISSIONERS AND CITY COUNCIL MEMBERS AT THE TIME OF THEIR RESPECTIVE PUBLIC MEETINGS

TO: **City of Harker Heights
Planning & Development Department**

FROM: 105 W. Robin LN
Harker Heights

(Address of Your Property that Could
Be **Impacted** by this Request)

RE: application to consider a change in zoning designation from B-3 (Local Business District) to B-4 (Secondary and Highway Business District) on property described as Meadow Acres, Block 006, Lot PT 7, 8, (E 14.5' of N 130' of 7 & W 85.5 of N 130' of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas (see attached notification map).

- I RECOMMEND APPROVAL OF THE REQUEST
 I RECOMMEND DENIAL OF THE REQUEST

Comments:
to much traffic and or noise

Antonio GRANILLO
Printed Name

Antonio Granillo
Signature

9-13-21
Date

Received
SEP 15 2021
Planning & Development

SENT: SEPTEMBER 8, 2021
DUE BACK: SEPTEMBER 21, 2021 5:00 P.M.

RESPONSES RECEIVED AFTER 5:00 P.M. ON SEPTEMBER 21, 2021 WILL BE PROVIDED TO PLANNING & ZONING COMMISSIONERS AND CITY COUNCIL MEMBERS AT THE TIME OF THEIR RESPECTIVE PUBLIC MEETINGS

Received

SFP 16 2021

Planning & Development

TO: **City of Harker Heights
Planning & Development Department**

FROM: Richard Sherman
104 W. Beehive Lane
Harker Heights, TX 76548
(Address of Your Property that Could Be **Impacted** by this Request)

RE: application to consider a change in zoning designation from B-3 (Local Business District) to B-4 (Secondary and Highway Business District) on property described as Meadow Acres, Block 006, Lot PT 7, 8, (E 14.5' of N 130' of 7 & W 85.5 of N 130' of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas (see attached notification map).

- I RECOMMEND APPROVAL OF THE REQUEST
- I RECOMMEND DENIAL OF THE REQUEST

Comments:

Richard Sherman
Printed Name

Richard Sherman
Signature

09-16-2021
Date



COUNCIL MEMORANDUM

AGENDA ITEM # VI-2

FROM: THE OFFICE OF THE CITY MANAGER

DATE: OCTOBER 12, 2021

CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS, AMENDING §155.003 OF THE HARKER HEIGHTS CODE OF ORDINANCES TO CLARIFY THE DEFINITION OF BOARD OF ADJUSTMENT; AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

The Board of Adjustment (BOA) is established in Section 155.220 of the current City of Harker Heights' Code of Ordinances (Code). Throughout the Code, the BOA is referred to by two different names, the Board of Adjustment, and the Zoning Board of Adjustment. Texas Local Government Code Section 211.008 authorizes a municipality to establish a Board of Adjustment.

ANALYSIS

In order to provide for clarity in the code a change to the definition of Zoning Board of Adjustment in Section 155.003 of the Code is proposed as follows:

§155.003 DEFINITIONS.

...

ZONING BOARD OF ADJUSTMENT OR BOARD OF ADJUSTMENT. A quasi-judicial board appointed by the City Council to hear and decide appeals, and to consider variance requests, and the like.

...

STAFF RECOMMENDATION:

Staff recommends approval of an ordinance of the City of Harker Heights, Texas amending Section §155.003 of the Code to add the term Board of Adjustment as a synonym to the term Zoning Board of Adjustment.

ACTION BY CITY COUNCIL:

1. Motion to APPROVE/DISAPPROVE an ordinance of the City of Harker Heights, Texas, Amending Section 155.003 of the Harker Heights' Code of Ordinances to clarify the definition of Board of Adjustment, based upon staff's recommendation and findings.
2. Any other action desired.

ATTACHMENTS:

1. Ordinances

CHAPTER 155: ZONING CODE

...

§ 155.003 DEFINITIONS.

For the purpose of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular. The word "building" shall include the word "structure"; the word "lot" includes the word "plot"; and the word "shall" is mandatory and not merely permissive or directory.

...

ZONING BOARD OF ADJUSTMENT OR BOARD OF ADJUSTMENT. A quasi-judicial board appointed by the City Council to hear and decide appeals, and to consider variance requests, and the like.

...

ORDINANCE NO. 2021-

AN ORDINANCE AMENDING §155.003 OF THE HARKER HEIGHTS CODE OF ORDINANCES TO CLARIFY THE DEFINITION OF BOARD OF ADJUSTMENT.

WHEREAS, the City Council (“*Council*”) of the City of Harker Heights (“*City*”) finds that it is necessary and desirable to amend the Code of Harker Heights (“*Code*”) as hereinafter provided in order to clarify the definition of Board of Adjustment within §155.003; and

WHEREAS, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

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

SECTION 1: The City Council officially finds and declares that the facts and recitations set forth in the preamble to this ordinance are true and correct.

SECTION 2: Section 155.003 of the Code of Harker Heights is hereby amended to read as follows:

§155.003 DEFINITIONS.

...

ZONING BOARD OF ADJUSTMENT OR BOARD OF ADJUSTMENT. A quasi-judicial board appointed by the City Council to hear and decide appeals, and to consider variance requests, and the like.

...

SECTION 3: This ordinance shall be effective from and after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

PASSED AND APPROVED by the City Council of the City of Harker Heights on Tuesday, September 28, 2021.

Spencer H. Smith, Mayor

ATTEST:

Juliette Helsham, City Secretary

FROM: THE OFFICE OF THE CITY MANAGER

DATE: OCTOBER 12, 2021

DISCUSS AND CONSIDER APPROVING AN APPEAL OF THE FALSE ROBBERY ALARM SERVICE CHARGE FOR DANNY EAST AT 211 EVERGREEN DRIVE, HARKER HEIGHTS, TEXAS, AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

Section 99.08 of the City's Code of Ordinances grants an appeal process for false alarm charges. Appeals to false alarm charges must be made within 14 days of being given notice of a false alarm charge. By Code, the City Manager is the Alarm Administrator and issues the notice of false alarm charge and the City Council is the body that hears any appeals of the charge.

Officer Lonnie Clark with the City of Harker Heights responded to a robbery alarm at the home of Mr. Danny East, 211 Evergreen Drive, Harker Heights, Texas, on August 24, 2021, at 6:52 p.m. No evidence of robbery was found. Accordingly, per §99.06 of the Code of Harker Heights and the City's fee schedule, Mr. East was assessed a false alarm service charge of \$75.00. The City mailed a letter to Mr. East informing him of the fee on September 10, 2021.

On September 17, 2021, the City received a letter from Mr. Dwight Bonds appealing the Service Charge Assessment. On October 7, 2021, staff spoke with Mr. Bonds by telephone to explain the process and notified him of the date and time of his appeal hearing. On Thursday, October 7, 2021, a confirmation notice was sent to Mr. Bonds notifying him of the date and time that his appeal would be heard before the City Council.

Section 99.06 of the Harker Heights Code of Ordinances provides the following provisions about false alarm charges:

(A) If, within any 12-month period occurring after the effective date of this chapter, five false burglar alarm notifications are made from an alarm site, the Alarm Administrator shall assess the alarm user at that alarm site a fee for each subsequent false burglar alarm notification made from the site during the 12-month period.

(B) The Alarm Administrator shall assess an alarm user for each false robbery alarm notification emitted from the alarm site.

(C) If, within any 12-month period occurring after the effective date of this chapter, two false fire alarm notifications are made from an alarm site, the Alarm Administrator shall assess the alarm user at that alarm site a fee for each subsequent false fire alarm notification emitted from the site during the 12-month period.

(D) If, within any 12-month period occurring after the effective date of this chapter, two false emergency medical assistance alarm notifications are made from an alarm site, the Alarm Administrator shall assess the alarm user at that alarm site a fee for each subsequent false emergency medical assistance alarm notification made from the site during the 12-month period.

(E) The Alarm Administrator shall send written notice to the alarm user of any fee assessed under this chapter. The notice shall be hand delivered to the alarm user, or sent by certified mail, return receipt requested, to the alarm user at the alarm user's last known address.

(F) An alarm user shall pay any fee assessed under this chapter within 30 days after the date the fee is assessed.

(G) No fee shall be assessed pursuant to this section, if:

- (1) The alarm notification is cancelled prior to city personnel arriving at the alarm site; or
- (2) The alarm is shown by the alarm user to have been, in the Alarm Administrator's sole determination, justified, or due to a natural or man-made catastrophe or other situation specifically exempted by the Alarm Administrator.

False robbery alarms require a fee to be charged on the first occurrence due to the severity/priority that these calls get. Mr. Bonds' letter states the following:

“This is in response to a letter dated September 10, 2021. I did not deliberately make a False Alarm on August 24, 2021. The letter was addressed to my cousin Danny East. Danny does not live in Harker Heights. He and his wife live in Sharpsburg, GA, which is just outside Atlanta, GA. He stayed with me for approximately three weeks. I believe what happened was I failed to disarm my AO2 alarm a couple of times when I opened my garage or my back door. These were acts of forgetfulness not planned events. Thus, my request to ask for a hearing to explain what happened and possibly dismiss this case. My home/cell phone is 254-952-7101. Your urgent request help will be truly appreciated.

While this certainly may be the case, the Police Department must still respond quickly to the location to ensure that the person cancelling the alarm is not under duress.

The City's letter to citizens/businesses that have false alarms strongly encourages that the alarm system be properly adjusted, operated, inspected, and or serviced to avoid future false alarms, service charges, and possible termination of alarm response.

STAFF RECOMMENDATION:

None.

ACTION BY CITY COUNCIL:

1. Motion to APPROVE/DISAPPROVE the Appeal to dismiss the False Robbery Alarm Service Charge for Danny East at 211 Evergreen Drive, Harker Heights, Texas.
2. Any other action desired.

ATTACHMENTS:

1. False Alarm Service Charge Letter
2. Appeal Letter
3. Letter from City with date and time of appeal to be heard



The City Of Harker Heights
305 Miller's Crossing
Harker Heights, Texas 76548
Phone 254/953-5600
Fax 254/953-5614

September 10, 2021

Danny East
211 Evergreen Drive
Harker Heights, TX 76548

Mayor
Spencer H. Smith

Mayor Protem
Jennifer McCann

City Council
Michael Blomquist
Jackeline Soriano Fountain
Lynda Nash
Sam Halabi

Dear Property Owner:

Officers with the City of Harker Heights responded to a robbery alarm at your address on the following date:

- August 24, 2021 at 6:52PM (Officer Lonnie Clark)

No evidence of a robbery was found. Accordingly, per §99.06 of the Code of Harker Heights and the City's fee schedule you are hereby assessed a false alarm service charge of \$75.00 (\$75/per false robbery alarm activation).

Under §99.08 of the Code you have the right to appeal this service charge assessment by filing a written request for a hearing with the City Secretary within 14 days after this notice was mailed, setting forth the reasons for the appeal. The City Secretary will then set a hearing before the City Council, and you will be notified of the date and time of that hearing so you can appear in person and present your case. If you do not appeal, payment of the service charge is due within 30 days after the date of this letter.

Please note that police and fire responses to alarm notifications may be terminated if your system is determined to be unreliable, or if a false alarm service charge is not paid. Accordingly, we strongly urge you to ensure that your system is properly adjusted, operated, inspected, and serviced in order to avoid future false alarms, service charges, and possible termination of alarm response.

Sincerely,

David Mitchell
City Manager
305 Millers Crossing
Harker Heights, Texas 76548

Enclosure: False Alarm Invoice

STATEMENT



MAIL REMITTANCE TO:
 305 Miller's Crossing
 Harker Heights, Texas 76548

False Alarms

Date
8/31/2021

Danny East
 211 Evergreen Drive
 Harker Heights, TX 76548

Amount Due	Amount Enc.
\$75.00	

Date	Transaction	Amount	Balance	Item	
07/31/2021 08/31/2021	Balance forward INV #04-620.	75.00	0.00 75.00		
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
75.00	0.00	0.00	0.00	0.00	\$75.00

City of Harker Heights

305 Miller's Crossing
Harker Heights, TX 76548

Invoice

Date	Invoice #
8/31/2021	04-620

Bill To
Danny East 211 Evergreen Drive Harker Heights, TX 76548

Description	Amount
False Robbery Alarm (08/24/2021)	75.00
Total	\$75.00

Rcvd. 9/17/2021
by Julie Helsham

254-952-7101

Friday Morning

Sept. 17, 2021

dwrightbonds@outlook.com

David Mitchell
City Manager
Harker Heights, TX

Dear Sirs:

This is in response to a letter dated Sept. 10, 2021
I did not deliberately make a False Alarm
on August 24, 2021. The letter was addressed
to my cousin Danny East. Danny does not
live in Harker Heights. He and his wife
live in Sharpsburg, Ga which is just outside
Atlanta, Ga. He stayed with me for
approximately three weeks. I believe what
happen was I failed to disarm my A03
Alarm a couple of times when I opened
my garage or my front door. These were
acts of forgetfulness, not planned events.
I've my request to ask for a hearing to explain
what happened and possibly dismiss this case.
My home/cell phone is 254-952-7101. Your
Urgent Request Help will be truly appreciated

Truly Yours
Orville Bond

From: [Ursula Paddie](#)
To: dwrightbonds@outlook.com
Subject: False Alarm Appeal
Date: Thursday, October 07, 2021 8:50:00 AM
Attachments: [image001.png](#)
[image003.png](#)
Importance: High

Good Morning Mr. Bonds,

I am writing to let you know that you are being placed on the Tuesdays, October 12, 2021 City Council meeting agenda to discuss your Appeal of the False Alarm charge you received for the alarm at your residence on August 24, 2021.

The meeting will be held at the City of Harker Heights City Hall Council Chambers located at 305 Miller's Crossing, Harker Heights, Texas 76548 and starts at 5:00 p.m.

If you have any questions or will not be able to attend, please do not hesitate to contact me at the phone or email listed below.

Thank you,

Ursula Paddie
Assistant City Secretary
City of Harker Heights | 305 Miller's Crossing | Harker Heights, TX 76548
T: 254-953-5600 | F: 254-953-5605 | upaddie@harkerheights.gov

Vision: Providing public services that empower people to focus on what matters most: their goals, hopes and dreams



COUNCIL MEMORANDUM

AGENDA ITEM # VII-2

FROM: THE OFFICE OF THE CITY MANAGER

DATE: OCTOBER 12, 2021

RECEIVE AND DISCUSS THE REVISED LEAD AND COPPER RULE, AND THE SENATE BILL 3, EMERGENCY PREPAREDNESS PLAN UPDATES.

REVISED LEAD & COPPER RULE:

The purpose of the Lead and Copper Rule (LCR) is to protect public health by minimizing lead and copper levels in drinking water. Lead and copper enter drinking water mainly from corrosion of lead and copper in plumbing materials.

The Environmental Protection Agency (EPA) released revisions to the LCR on January 15, 2021. The revisions require cities and water utilities to take significant action to protect customers from the health risks associated with lead and copper. Key requirements of the revised rule include the following:

- Develop an inventory of all service line material in the City.
- Develop a lead service line replacement plan and a strategy to pay for the work including customers who cannot afford their share of replacement costs.
- Update the compliance sampling plan and protocol.
- The Action Level for copper remains at 1.3 parts per million (ppm)
- The Action Level for lead has been lowered from 15 parts per billion (ppb) to 10 ppb.
- The compliance deadline is June 17, 2024.
- Funding sources are limited.

The City of Harker Heights has been on reduced monitoring, every three years instead of annually, for lead and copper testing because of the historically low levels in the drinking water. Freese and Nichols Engineering has provided a proposal for consulting services to assist the City of Harker Heights achieve compliance to the Revised Lead & Copper Rule by the June 17, 2024 deadline.

SENATE BILL 3-EMERGENCY PREPAREDNESS PLAN:

The 87th Texas Legislature passed Senate Bill 3 on June 8, 2021, which amended various sections of the Texas Code including the Texas Water Code, to include additional provisions for emergency preparedness. Key requirements of the Emergency Preparedness Plan include the following:

- By November 1, 2021: Identify the City's critical water and wastewater facilities and notify electrical providers of the identified critical facilities.
- By March 1, 2022: Submit the City's emergency preparedness plan, as well as a timeline for implementation, to the Texas Commission on Environmental Quality (TCEQ) for approval.
- By July 1, 2022: Start implementing the City's emergency plan.

The City's plan must demonstrate that each treated water pump station and pressure facility in the City's water system can maintain at least 20 psi during a power outage lasting beyond 24 hours. Water utilities have multiple options for meeting the requirements of Senate Bill 3, including backup generators, alternate power sources, redundant interconnectivity between pressure zones and increased levels of water storage.

Freese and Nichols Engineering has provided a proposal for consulting services to assist the City of Harker Heights achieve compliance to the Senate Bill 3-Emergency Preparedness Plan milestones.

RECOMMENDATIONS:

None.

ACTION BY COUNCIL:

None.

ATTACHMENTS:

1. Freese and Nichols Revised Lead & Copper Rule Proposal
2. Freese and Nichols Emergency Preparedness Plan Proposal
3. Freese and Nichols list of current clients for both projects.

September 23, 2021

David Mitchell
City Manager
City of Harker Heights
305 Miller's Crossing
Harker Heights, Texas 76548

Re: Lead and Copper Rule Revision Compliance Program

Dear Mr. Mitchell,

Freese and Nichols, Inc. (FNI) is pleased to submit this proposal for the Lead and Copper Rule Revision Compliance Program.

Project Understanding:

The U.S. Environmental Protection Agency (EPA) released the long-awaited Lead and Copper Rule Revisions (LCRR) on Jan. 15, 2021, setting new standards aimed at removing harmful levels of lead and copper from drinking water. More recently, EPA has delayed the LCRR's effective date to December 16, 2021 and the compliance date to October 16, 2024. This revision will require cities and other water utilities to take significant action to protect customers from the health risks associated with lead and copper and comply with the LCRR. The following phased program is proposed to support the City of Harker Heights (City) in their compliance with the LCRR.

Freese and Nichols, Inc. (FNI) recommends achieving compliance through a phased approach as follows.

- Phase 1 – Initial Risk Screening, Compliance Budgeting and Scheduling
- Phase 2 – Compliance Planning
- Phase 3 – Lead Service Line Inventory Implementation
- Phase 4 – Sample Plan Update and Preliminary Sampling
- Phase 5 – Lead Service Line Replacement Planning and Mitigation

The FNI approach has been developed to be comprehensive, efficient, and economical. A key aspect of this is a shared division of work between the City and FNI. This shared division of work will reduce burden on the City team, make project cost more affordable, and facilitate the City staff's buy-in to the revised LCR program. Critical divisions of work are as follows:

Phase	Task	FNI	City
Phase 1	Initial Screening	Primary Author	Provide requested data and input, review draft recommendations, and approve final deliverable
Phase 2	Compliance Planning	Primary Author	Provide requested data and input, review draft recommendations, and approve final deliverable
Phase 3	Lead Service Line Inventory	Develop Approach, Template, and Instructions; Advisory Support	Implementation
	GIS Analysis	To Be Determined	To Be Determined
	Field Inspections	Advisory Support	Implementation
Phase 4	Sample Plan Update	Primary Author	Provide requested data and input, review draft recommendations, and approve final deliverable
	Preliminary Field Sampling	Advisory Support	Implementation
Phase 5	Lead Service Line Replacement Planning and Mitigation	To Be Determined	To Be Determined

The scope of the Phase 1 services and related fee is proposed below. The goal of Phase 1 is to assess the effort required to comply with the Lead and Copper Rule Revisions (LCRR). The level of effort required for compliance will be related to the probability of lead and copper service lines within the municipality and resources available to the municipality. Resources may include records and information on service line materials, funding and staff availability for required compliance activities. Based on the outcome of Phase 1, FNI will confirm the budget and schedule required for Phases 2, 3 and 4. The level of effort related to Phases 2, 3, and 4 may be prepared as part of a future proposal if and when requested by the City. The necessity and scope of Phase 5 will be determined after preliminary sampling has occurred during Phase 4.

Scope of Work

Phase 1 - Initial Risk Screening, Compliance Budgeting and Scheduling

- A. Project Kickoff and Coordination Meetings:** FNI conduct a kickoff meeting with key project stakeholders to discuss the project approach and data requested. FNI will develop and submit a data request technical memorandum prior to the Kickoff Meeting. FNI will lead up to three (3), virtual, one-hour coordination meetings with the City’s staff to facilitate the gathering of the requested materials for various tasks.

- B. Risk Assessment and Resource Assessment:** FNI will review lead and copper sample results from Drinking Water Watch and current sampling plans to generally assess the proximity to future trigger and action levels. Perform a preliminary desktop analysis of the corrosivity of the City’s largest drinking water source based upon readily available water quality data and corrosivity studies. Determine the availability and quality of information pertaining to service line age and materials to support a lead service line (LSL) inventory. Review a small sample set from the available information to generally assess the quality of the data and the potential

risk of encountering LSLs. Develop a data gap analysis documenting the availability and ease of use of existing data and missing information necessary to comply with the LCRR. Approximate the number of child care facilities and schools that will need to be included in the City’s LCRR outreach, education and sampling program. The results of the assessment will be presented to City Staff at a project coordination meeting.

- C. **Compliance Schedule and Budget Development:** Based on the information gathered above, FNI will develop compliance schedule and planning level budget for inclusion in the City’s upcoming capital improvement program. The budget will include effort for developing the LSL replacement plan, LSL inventory, sampling plan update and public outreach. When necessary, budgets will be provided for corrosion control treatment optimization and LSL replacement programs. Recommendations for funding opportunities including grants, loans and traditional sources, will be identified. The compliance schedule and budget will be presented to City Staff at a project coordination meeting.

- D. **Prepare and Submit Draft LCRR Risk Assessment TM:** FNI will prepare a brief (5-10 pages) technical memorandum summarizing the general degree of risk and resources associated with the City’s LCRR compliance, the compliance budget and schedule, and funding opportunities. FNI will submit the Draft TM for City Staff’s review.

- E. **Finalize LCRR Risk Assessment TM:** FNI will finalize the Risk Assessment technical memorandum based on feedback from City Staff. FNI will submit an electronic copy of the finalized technical memorandum to the City.

Phase 1 Schedule and Fee

- The Draft LCRR Risk Assessment TM will be submitted to the City within four months of receiving the notice to proceed.
- The final draft will be completed within three weeks of receiving the City’s comments.

FNI shall perform the professional services as outlined in the “Scope of Services” for the lump sum of Forty Nine Thousand Two Hundred and Forty Dollars (\$49,240).

Task	Description	Hours	Total Labor Effort	Total Expense Effort	Total Effort
A	Project Kickoff and Coordination Meetings (up to 3)	40	\$6,280	\$406	\$6,686
B	Risk Assessment and Resource Assessment	194	\$27,562	\$1,715	\$29,277
C	Compliance Schedule and Budget Development	23	\$3,527	\$262	\$3,789
D	Prepare and Submit Draft LCRR Risk Assessment TM	41	\$6,327	\$349	\$6,676
E	Finalize and Submit LCRR Risk Assessment TM	18	\$2,660	\$153	\$2,813
Total		316	\$46,356	\$2,884	\$49,240

Phase 2-5 Scope of Work

The scope for Phases 2-5 is also provided for informational purposes, with no fee proposed at this time. The level of effort related to Phases 2 to 5 may be prepared as part of a future proposal if and when requested by the City.

Phase 2 – Compliance Planning

Upon completion of the Phase 1 Initial Risk and Resource Screening and start of the rule

effective date (December 16, 2021), FNI will begin the Compliance Planning Phase, including development of a Lead Service Line Inventory Plan, "Find and Fix" Procedure Planning, and Public Communication Planning.

1. Lead Service Line Inventory Plan - develop a plan that details the approach to developing the LSL inventory:
 - i. Conduct three (3) workshops with the City to discuss practices for the identification of unknown materials.
 - ii. Research City building codes, local regulations, and federal laws that may affect the date at which lead was no longer allowed within the City.
 - iii. Recommend and document a strategy for identifying service line materials.
 1. Provide a sequential, tiered approach in which the inventory is populated starting with known conditions (i.e. existing inventories), then readily available digital data, then historic hardcopy records, and finally field investigations. The approach will include:
 - a. List data required to be considered and available for use as part of the desktop investigation. List the source and location of data and any limitations on accessibility.
 - b. Anticipated, approximate breadth of coverage associated with each resource; for example,
 - i. Percent of City covered by available electronic plats
 - ii. Number, and range of dates of legible tap cards
 - c. Describe key milestone dates that will be pertinent to the evaluation; for example, the date of the local or national lead ban.
 - d. Anticipated level of effort and division of work associated with each tier of the sequential approach.
 - e. Identification of special actions required, such as digitizing hard copy data and outsourcing data entry.
 2. Recommend the percentage of record data to be verified using field inspections.
 - iv. Recommend and document a strategy for prioritizing and performing field investigations.
 1. Provide an approach to prioritizing field investigations based on factors such as year of construction, historic water quality data, socioeconomic factors and at-risk populations (i.e., number of children).
 2. Recommend procedures for incorporating lead service line inspections into ongoing municipal operations, such as meter reading/replacement, main replacement, service shutoffs/restorations and leak detection practices.
 3. Include recommendations for coordinating efforts with other stakeholders, such as the local plumbing inspection, code enforcement and permitting departments.
 - v. Develop a brief standard operating procedure (SOP) for identifying LSLs in the field, including paragraphs on 1) communication with homeowners, 2) field safety, 3) required tools and materials, 4) inspection locations, 5) basic (scrape

and magnetic) testing procedures, 5) LSL indicators, and 6) documentation and reporting.

- vi. Provide a matrix of the advantages and disadvantages of more intensive inspection methods that are available to the City, including CCTV, potholing and electric resistance testing.
 - vii. Discuss a supplemental program for identifying copper lines with lead solder, which is beyond the scope of the EPA-required lead service line inventory but may be necessary to comply with the tiered sampling methodology discussed below (Phase 3) and in the LCRR. The program may have to rely upon homeowner testing of premises plumbing and self-reporting.
 1. Develop a brief SOP for identifying copper service lines with lead solder, including paragraphs on 1) public communication and awareness, 2) testing methods, 3) provision of testing supplies to homeowners, 4) documentation and reporting, 5) program extent (i.e., citywide or targeted) and (when necessary) 6) approach to targeting areas of probable occurrence.
2. “Find and Fix” Procedure Planning
- i. Conduct one workshop with the City to discuss compliance with the “Find and Fix” requirements of the LCRR.
 - ii. Develop an SOP for implementation of the LCRR “Find and Fix” procedure, including a flow chart and paragraphs on 1) internal communication, documentation and reporting of sample results, 2) public communication, 3) additional WQ sampling within the home and neighborhood, 4) tactics for determining lead sources within the home, 5) interim and final mitigation alternatives, 6) target lead concentration goals (i.e., non-detect versus below trigger level versus below action level) and 7) communication with the state agency.
 - iii. Develop a procedure for conducting the replacement of LSLs, copper service lines with lead solder, lead fixtures, or other physical mitigation efforts herein referred to as “replacements.”
 1. Conduct one workshop with the City to:
 - a. Present best practices and lessons learned from cities with mature LSL replacement programs.
 - b. Discuss the merits of voluntary replacement programs, customer assisted programs, city ordinances and other strategies for encouraging LSL replacement participation.
 - c. Discuss approaches to LSL replacement.
 2. Develop an SOP for replacements, including paragraphs on 1) homeowner and utility limits of responsibility, 2) homeowner coordination, 3) timing, 4) funding, 5) documentation of pre-replacement conditions, 6) personnel safety and lead exposure mitigation, 7) post-LSL replacement requirements (communication, flushing and provision of pitcher filters, etc.), 8) considerations for a voluntary replacement program and 9) replacements that are to occur in concert with other capital improvement programs, such as main and meter replacements.

- iv. Develop a plan for informing customers before a full or partial LSL replacement.
 - 1. Develop public notification templates (see public communication below in Phase 2.c.).
 - v. Develop a flushing procedure for customers explaining how to flush the service line and premises plumbing of particulate lead.
 - 1. Develop a public notification template with instructions for flushing (see public communication below in Phase 2, Task 3).
 - vi. Develop a funding strategy for LSL replacement that accommodates customers unable to pay for their portion of the replacement.
 - 1. Recommend a planning-level budget for LSL replacement based on the limited desktop analysis provided in Phase 1, estimated number of LSLs, and national trends for LSL discovery and replacement cost.
 - 2. Assist in identification of potential funding opportunities, including rate revenue, grants and loans for which the water system is eligible. A rate impact analysis can be provided as an additional service.
 - 3. Determine if state or local law allows enterprise revenue rates to be used to pay for customer assistance programs.
3. Public Communication Planning
- i. Provide a brief memorandum that summarizes public communication requirements within the LCRR. Include the recommended method and frequency of communication.
 - ii. Provide updated language to include in the City's annual consumer confidence report (CCR), including directions for accessing the City's LSL inventory.
 - iii. Develop public outreach templates, educational material and brochures as follows. When necessary, public outreach templates will be provided in English and up to two additional languages.
 - 1. A notification and education brochure to be provided to school, child care, midwife and OB-GYN facilities.
 - 2. PowerPoint presentation to support the City's communication with school boards, community open houses and other entities.
 - 3. A template and instructions for homeowners' sampling procedures.
 - 4. Notification of sampling results to all homeowners participating in tap sampling.
 - 5. Communication with local and state health agencies regarding "Find and Fix" activities.
 - 6. Systemwide 24-hour notification of action level exceedance.
 - 7. Additional notification material for systems that have lead or potentially lead service lines:
 - a. Post-LSL replacement flushing requirements for homeowners.
 - b. Annual notification to customers with unknown, galvanized (needing replacement), and lead service line material.
 - c. Notifications for individual exceedances above the trigger and action levels.
 - d. Notification of disruptions to lead or potentially lead service lines.

- e. When appropriate, systemwide notification to customers if the LSL replacement rate is not met.
- 4. Deliverables
 - i. EPA-required LSL Replacement Plan
 - ii. Four SOPs
 - 1. Field identification of LSLs
 - 2. LSL and other types of service replacement
 - 3. "Find and fix" procedures
 - 4. Supplemental identification of copper service lines with lead solder
 - iii. Public Communication Plan including 11 public communication templates, brochures and other materials

Phase 3 - Lead Service Line Inventory Implementation

FNI will support the City's development of the initial LSL inventory based on the LSL Replacement Plan developed as part of Phase 2. Note that development of the LSL inventory will be an iterative process. FNI will support the development of the first iteration, which is that portion able to be developed within twelve (12) months after completion of Phase 2.

1. Develop a template and instructions for populating the LSL inventory. The template will be based in Microsoft Access or Power BI and will include fields and recommended naming conventions for critical attributes such as material, address, year built, date of inspection, inspected by, etc.
2. The City will be responsible for populating the inventory using a combination of desktop analysis and field inspections, as defined in the LSL Replacement Plan (Phase 2). As an additional service, FNI will populate the LSL inventory. **A detailed scope of this additional service is available upon request.**
3. FNI will perform a quality control review of the data populated by the City, including the spot-checking of approximately 3% of data entries.
4. Develop a mobile app or web-based tool to support client's field inventory efforts.
5. Conduct up to six (6) progress meetings to discuss the City's progress in populating the inventory, provide guidance for ongoing desktop and field assessments, and adjust inventory targets as data is made available.

Phase 4 - Sample Plan Update

Upon completion of the Phase 3 LSL Inventory or within twelve (12) months of the Phase 3 kickoff (whichever comes first), FNI will update the City's sampling plan based on best information available regarding known LSL risks and the EPA's tiered sampling structure.

1. Conduct three (3) workshops to discuss and review sample plan update.
2. Compliance Sampling Plan
 - i. Review City's existing LCR sampling plan and sampling sites.
 - ii. Recommend preliminary sampling ahead of compliance deadline.
 - iii. Update the City's existing sampling plan to meet LCRR requirements.
 1. Identify new sites.
 - a. Draft sample sites will be recommended based on the EPA's tiered sampling requirements, historic sample results, water usage, and the City's initial inventory results at the time of the plan development.

- b. One alternative site will be recommended for each draft sample site.
 - c. The City will be responsible for field visits and public outreach to confirm the homeowners' willingness to participate in sampling.
 - 2. Update the frequency of sampling, materials to be provided to homeowners and/or sampling procedures (if conducted by the City), and 90th percentile compliance calculations provided in the City's sample plan.
 - 3. Update water quality parameters that are to be tested as part of the City's "Find and Fix" protocol.
 - 4. Include a template and instructions for homeowners' sampling procedures (effort included above).
- iv. GIS mapping of sample sites will be provided by City/FNI staff.
- v. Coordinate with the state agency for plan approval.
- 3. School and Child care Sampling Plan
 - i. Based on information provided by the City, identify and quantify school and childcare facilities within the City's jurisdiction. Based on preliminary information, FNI anticipates that the number of schools and licensed child care facilities within the City's jurisdiction may be roughly:

City	*Child Care Facilities	Elementary Schools		Secondary Schools	
		Public	Private	Public	Private
Harker Heights	27	4	1	TBD	TBD

*Licensed centers

- ii. Develop plan and schedule for sampling facilities.
 - iii. Provide a template for notification and sampling instructions (effort included above).
 - iv. Provide a basic SOP, including paragraphs on 1) initial outreach to the school board and other stakeholders, 2) communication with individual locations, 3) sampling responsibility, 4) materials to be provided to schools and/or sampling procedures, 5) laboratory coordination, 6) data management and 7) response to elevated concentrations and general recommendations for remedial actions, such as signage, point-of-use filters and fixture removal.
 - v. Provide material and participate in up to two (2) townhall meetings to discuss LCR sampling in schools and child care facilities.
 - vi. The City will be responsible for providing GIS maps of new sampling sites.
 - 4. Deliverables:
 - i. Updated sampling plan
 - ii. SOP for school and child care sampling

Phase 5 – Lead Service Line Replacement Planning and Mitigation

The following services will be provided as determined necessary by the results of earlier phases. A lead service line replacement plan will be developed if lead, galvanized requiring replacement, or "lead status unknown" service lines are identified in the LSL inventory and the City does not anticipate removing them prior to the compliance deadline.

5. Lead Service Line Replacement Plan - develop a plan that includes the following seven items as required by the LCRR:
 - i. Conduct two (2) workshops with the City to discuss practices for the identification of unknown materials.
 - ii. Develop a strategy to determine the composition of lead status unknown service lines in the inventory (developed in Phase 2).
 - iii. Develop a procedure for conducting LSL replacements (developed in Phase 2).
 - iv. Develop a plan for informing customers before a full or partial LSL replacement (developed in Phase 2).
 - v. Determine the LSL replacement goal rate in the event that the lead level exceeds the Lead Trigger Level (10 µg/L)
 1. Provide a template for calculating the number of LSLs to be replaced based on the service line inventory results.
 2. Confirm approach with the state primacy agency.
 - vi. Develop a flushing procedure for customers explaining how to flush the service line and premises plumbing of particulate lead (developed in Phase 2).
 - vii. Develop a strategy for prioritizing LSL replacement that targets known LSLs and considers disadvantaged consumers and populations most sensitive to the effects of lead.
 1. Facilitate two (2) workshops with the City to determine LSL replacement prioritization and funding strategies.
 2. Using available data, identify areas that should be prioritized for field inspections and LSL replacement (when necessary). Priority areas will be identified based on known LSL density, historic water quality data, socioeconomic factors, at-risk populations (i.e., number of children) and water usage.
 3. If data is not readily available, provide recommendations for capturing data (i.e., LMI surveys).
 - viii. Develop a funding strategy for LSL replacement that accommodates customers unable to pay for their portion of the replacement (developed in Phase 2).
6. Deliverables
 - i. EPA-required LSL Replacement Plan

As part of Phase 5, the City may also decide to further mitigate lead exposure risk ahead of the deadline through early implementation of LSL replacement, corrosion control treatment optimization, or a hybrid approach. FNI can support such services as an additional service, including:

- a. Corrosion control studies and optimization, including:
 - i. Desktop studies
 - ii. Benchtop studies
 - iii. Pipe loop studies
 - iv. Pipe scale analysis
- b. Determination of the optimal strategy for addressing elevated lead or copper concentrations: either LSL replacement, corrosion control treatment, or a hybrid approach.
- c. Support of an LSL Replacement Program or CCT implementation.

A detailed scope of the above services is available upon request.

Phase 2-5 Schedule

If and when requested by the City, Phase 2 will be completed within six (6) months of the Phase 2 NTP, which FNI recommends beginning after the final rule is approved by the EPA. Phase 3 will begin immediately after completion of Phase 2 and will include an iterative approach to completion and may extend until the anticipated Compliance Deadline (October 16, 2024). Phase 4 will be completed within three (3) months of Phase 3 NTP, beginning upon completion of the first iteration of the LSL inventory. Phase 5 will be completed as needed, subject to the results of the preliminary LCRR sample results. The LSL Replacement Plan will be completed within three months of the Phase 4 notice to proceed.

RESPONSIBILITIES OF THE CLIENT

Client shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Designate in writing a person to act as Client's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define Client's policies and decisions with respect to FNI's services for the Project.
- B. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to the Project.
- C. Examine all studies, reports, drawings, or other documents prepared by FNI, obtain advice of an attorney, insurance counselor as Client deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.
- D. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as Client may require or FNI may reasonably request with regard to legal issues pertaining to the Project.

DESIGNATED REPRESENTATIVES

FNI and CLIENT designate the following representatives:

CLIENT's Designated Representative

Mark Hyde
305 Millers Crossing
Harker Heights, Texas 76548
Phone: 254-953-5641
E-mail: mhyde@harkerheights.gov

CLIENT's Accounting Representative

Ayesha Lealiiee
305 Millers Crossing
Harker Heights, Texas 76548
Phone: 254-953-5631
E-mail: alealiiee@harkerheights.gov

FNI's Project Manager

Jessica Vassar
10431 Morado Circle, Suite 300
Austin, Texas 78756
Phone: (512) 617-3167
E-mail: JBV@freese.com

FNI's Accounting Representative

Jana Collier
801 Cherry Street, Suite 2800
Ft. Worth, TX 76102
817-735-7354
jvc@freese.com

COMPENSATION

FNI proposes to furnish services as described herein for the lump sum fee of Forty Nine Thousand Two Hundred Forty Dollars (\$49,240.00) If FNI sees the Scope of Services changing so that additional services are needed, FNI will notify the CLIENT before proceeding.

TERMS AND CONDITIONS OF AGREEMENT

We propose to furnish our services as described herein in accordance with Attachment TC, "Terms and Conditions of Agreement".

We appreciate this opportunity to submit this scope for professional services, which is good for 60 days. If additional information or clarification is desired, please do not hesitate to contact us. If you are in agreement with the services described above and wish for us to proceed with this assignment, please sign below and return one copy of the agreement for our files.

Sincerely,

Approved:

FREESE AND NICHOLS, INC.

CITY OF HARKER HEIGHTS

By: SA A. Cole

By: _____

Scott A. Cole
Print Name

Print Name

Title: Vice President

Title: _____

Date: 09/24/2021

Date: _____

TERMS AND CONDITIONS OF AGREEMENT

- 1. **DEFINITIONS:** The term City as used herein refers to the City of Harker Heights. The term FNI as used herein refers to Freese and Nichols, Inc., its employees and agents, and its subcontractors and their employees and agents. As used herein, Services refers to the professional services performed by FNI pursuant to the Agreement.
- 2. **CHANGES:** City, without invalidating the Agreement, may order changes within the general scope of the work required by the Agreement by altering, adding to and/or deducting from the work to be performed. If any change under this clause causes an increase or decrease in FNI's cost of, or the time required for, the performance of any part of the Services, an equitable adjustment will be made by mutual agreement and the Agreement modified in writing accordingly.
- 3. **TERMINATION:** The obligation to provide Services under this Agreement may be terminated by either party upon 10 days' written notice. In the event of termination, FNI will be paid for all Services rendered and reimbursable expenses incurred to the date of termination and, in addition, all reimbursable expenses directly attributable to termination.
- 4. **CONSEQUENTIAL DAMAGES:** In no event shall FNI or its subcontractors be liable in contract, tort, strict liability, warranty, or otherwise for any special, indirect, incidental or consequential damages, such as loss of product, loss of use of the equipment or system, loss of anticipated profits or revenue, non-operation or increased expense of operation or other equipment or systems.
- 5. **INFORMATION FURNISHED BY CITY:** City will assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project. FNI shall have no liability for defects or negligence in the Services attributable to FNI's reliance upon or use of data, design criteria, drawings, specifications or other information furnished by City and City agrees to indemnify and hold FNI harmless from any and all claims and judgments, and all losses, costs and expenses arising therefrom. FNI shall disclose to City, prior to use thereof, defects or omissions in the data, design criteria, drawings, specifications or other information furnished by City to FNI that FNI may reasonably discover in its review and inspection thereof.
- 6. **INSURANCE:** FNI shall provide City with certificates of insurance with the following minimum coverage:

Commercial General Liability		Workers' Compensation
General Aggregate	\$2,000,000	As required by Statute
Automobile Liability (Any Auto)		Professional Liability
CSL	\$1,000,000	\$3,000,000 Annual Aggregate
- 7. **SUBCONTRACTS:** If, for any reason and at any time during the progress of providing Services, City determines that any subcontractor for FNI is incompetent or undesirable, City will notify FNI accordingly and FNI shall take immediate steps for cancellation of such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in the Agreement shall create any contractual relation between any subcontractor and City.
- 8. **OWNERSHIP OF DOCUMENTS:** All drawings, reports, data and other project information developed in the execution of the Services provided under this Agreement shall be the property of City upon payment of FNI's fees for Services. FNI may retain copies for record purposes. City agrees such documents are not intended or represented to be suitable for reuse by City or others. Any reuse by City or by those who obtained said documents from City without written verification or adaptation by FNI, will be at City's sole risk and without liability or legal exposure to FNI, or to FNI's independent associates or consultants, and City shall indemnify and hold harmless FNI and FNI's independent associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle FNI to further reasonable compensation. FNI may reuse all drawings, report data and other project information in the execution of the Services provided under this Agreement in FNI's other activities. Any reuse by FNI will be at FNI's sole risk and without liability or legal exposure to City, and FNI shall indemnify and hold harmless City from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom.
- 9. **POLLUTANTS AND HAZARDOUS WASTES:** It is understood and agreed that FNI has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substance or condition at the site, if any, and its compensation hereunder is in no way commensurate with the potential risk of injury or loss that may be caused by exposures to such substances or conditions. The parties agree that in performing the Services required by this Agreement, FNI does not take possession or control of the subject site, but acts as an invitee in performing the Services, and is not therefore responsible for the existence of any pollutant present on or migrating from the site. Further, FNI shall have no responsibility for any pollutant during clean-up, transportation, storage or disposal

FNI SM
 CITY _____

activities.

- 10. **OPINION OF PROBABLE COSTS:** FNI will furnish an opinion of probable project development cost based on present day cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions and utilitarian considerations of operations and maintenance costs prepared by FNI hereunder will be made on the basis of FNI's experience and qualifications and represent FNI's judgment as an experienced and qualified design professional. It is recognized, however, that FNI does not have control over the cost of labor, material, equipment or services furnished by others or over market conditions or contractors' methods of determining their prices.
- 11. **CONSTRUCTION REPRESENTATION:** If required by the Agreement, FNI will furnish construction representation according to the defined scope for these services. FNI will observe the progress and the quality of work to determine in general if the work is proceeding in accordance with the Contract Documents. In performing these services, FNI will report any observed deficiencies to City, however, it is understood that FNI does not guarantee the Contractor's performance, nor is FNI responsible for the supervision of the Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or the safety precautions and programs incident to the work of the Contractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project. If City designates a Resident Project Representative that is not an employee or agent of FNI, the duties, responsibilities and limitations of authority of such Resident Project Representative will be set forth in writing and made a part of this Agreement before the Construction Phase of the Project begins.
- 12. **GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT:** City agrees to include provisions in the General Conditions of the Construction Contract that require Contractor to include FNI: (1) as an additional insured and in any waiver of subrogation rights with respect to such liability insurance purchased and maintained by Contractor for the Project (except workers' compensation and professional liability policies); and (2) as an indemnified party in the Contractor's indemnification provisions where the Owner is named as an indemnified party.
- 13. **PAYMENT:** Progress payments may be requested by FNI based on the amount of Services completed. Payment for the Services of FNI shall be due and payable upon submission of a statement for Services to CITY and in acceptance of the Services as satisfactory by the City. Statements for Services shall not be submitted more frequently than monthly. Any applicable new taxes imposed upon Services, expenses and charges by any governmental body after the execution of this Agreement will be added to FNI's compensation.

If City fails to make any payment due FNI for services and expenses within 30 days after receipt of FNI's statement for services therefore, the amounts due FNI will be increased at the rate of 1 percent per month from said 30th day, and, in addition, FNI may, after giving 7 days' written notice to City, suspend services under this Agreement until FNI has been paid in full, all amounts due for services, expenses and charges.
- 14. **ARBITRATION:** No arbitration, arising out of or relating to this Agreement, involving one party to this Agreement may include the other party to this Agreement without their approval.
- 15. **SUCCESSORS AND ASSIGNMENTS:** City and FNI each are hereby bound and the partners, successors, executors, administrators and legal representatives of City and FNI are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

Neither City nor FNI shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent FNI from employing such independent associates and consultants as FNI may deem appropriate to assist in the performance of Services hereunder.
- 16. **PURCHASE ORDERS:** If a Purchase Order is used to authorize FNI's Services, only the terms, conditions/instructions typed on the face of the Purchase Order shall apply to this Agreement. Should there be any conflict between the Purchase Order and the terms of this Agreement, then this Agreement shall prevail and shall be determinative of the conflict.

September 21, 2021

David Mitchell
City Manager
City of Harker Heights
305 Miller's Crossing
Harker Heights, Texas 76548

Re: Emergency Preparedness Plan Support Services

Dear Mr. Mitchell,

Freese and Nichols, Inc. (FNI) is pleased to submit this proposal for Emergency Preparedness Plan Support Services.

Project Understanding:

This project Scope of Services is designed to comply with the new legislative requirements for affected water utilities. The 87th Texas Legislature (2021) passed Senate Bill 3, which amended various sections of the Texas Code, including Texas Water Code Chapter 13 (Water Rates and Services), to include additional provisions for emergency preparedness (Section 13.1394 Standards of Emergency Operations). Affected water utilities, including the City of Harker Heights (City), are required to develop/update and implement an emergency preparedness plan that demonstrates the utility's ability to provide emergency operations during an extended power outage at a minimum water pressure of twenty (20) pounds per square inch (psi). The Texas Commission on Environmental Quality (TCEQ) provides water utilities fourteen (14) options, at least one of which must be selected and implemented, to demonstrate the ability to continue operations during an extended power outage. The Basic Services includes consideration of relevant applicable options, which are summarized below. Uncommon options are listed in the Additional Services section, which can be evaluated upon request for an additional fee.

Applicable Emergency Preparedness Options

- Non-Capital Approaches
 - Option 3: A.) negotiate leasing and contracting agreements for emergency power equipment and fuel, or B.) develop mutual aid agreement with other water providers.
 - Option 8: A.) designation of the water system as a critical load facility, or B.) recognition of the water system as having redundant, isolated, or dedicated electrical feeds.
 - Option 10: A.) water is delivered to your distribution system from outside your service area using an emergency interconnect, or B.) water is delivered to your distribution system from outside your service area using a water hauler.
 - Option 13: emergency water demand rules to maintain emergency operations
- System-wide Capital Improvement Approaches
 - Option 9: provide water storage capabilities
 - Option 12: redundant interconnectivity between pressure zones
- Facility Specific Capital Improvements

Option 1: permanently installed automatic starting auxiliary generators

Option 4: use of portable generators capable of serving multiple facilities equipped with quick connect systems.

The schedule to identify critical facilities, emergency preparedness plan submission, and implementation, as defined by TCEQ, is summarized below.

- November 1, 2021: Critical Facilities Notification to electric providers and state agencies
- March 1, 2022: Emergency Preparedness Plan Submission to TCEQ
- July 1, 2022: Emergency Preparedness Plan Implementation

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This scope of services includes effort to support the City in the completion of actions necessary to meet the November 1, 2021, Critical Facilities Notification compliance deadline and the March 1, 2022 Emergency Preparedness Plan compliance deadline. The scope below is intended to help the City achieve compliance and allow for the implementation of capital improvements as appropriate for continued water utility operations during extended power outages. FNI will provide support for the Emergency Preparedness Plan Implementation by July 1, 2022, as an Additional Service, as the actions and level of effort required will not be known until the Emergency Preparedness Plan is developed/updated.

In support of the development of the Emergency Preparedness Plan, FNI will develop a summary report that documents the analyses, results and recommendations for critical water and wastewater facilities. Scope of Services will include the following tasks:

Scope of Services:

Phase 1: Critical Facilities Assessment

- A. Prepare Data Request and Project Kickoff:** FNI will develop and present a Data Request Memorandum to the City to gather updated water distribution system information related to water demands and system operations.
- B. Desired Level of Service Meeting, Data Collection and Review:** FNI will conduct a meeting with City staff to discuss the desired level of service and design criteria for which the analysis will be based upon. FNI will develop the demand scenarios and will verify with City staff prior to conducting subsequent analyses.
- C. Critical Facilities Analysis:** FNI will conduct a desktop analysis of the City's water utility system to determine the level of criticality for each facility based on its ability maintain the desired level of service during extended emergency operations lasting more than 24 hours. FNI will also conduct a manual desktop evaluation for City's wastewater system to identify critical facilities. For compliance purposes, facilities that would result in loss of service to all or part of the served customers due to an extended power outage would be considered to have critical load status. Results of the analysis will provide a ranking of importance for critical facilities and associated loads with respect to water demand supplied and required power needed for operation.
- D. Critical Facilities Compliance Notification:** FNI will prepare documentation for critical water and wastewater facilities to communicate to relevant energy providers, state entities, and local emergency planning committees by November 1, 2021, to comply with the Critical Facilities

Notification compliance requirement.

Phase 2: Emergency Preparedness Plan Development

- A. Emergency Preparedness Workshop:** FNI will present to client emergency preparedness approaches for consideration to demonstrate compliance. FNI will document approaches that are already in place, are viable for further evaluation, and can be removed from consideration.
- B. Emergency Preparedness Options Evaluation:** FNI will conduct an evaluation of the emergency preparedness options, based on input from City Staff from the Emergency Preparedness Workshop. Emergency preparedness options will be evaluated for identified water and wastewater critical facilities. FNI will consider Non-Capital Approaches, System-wide Capital Improvement Approaches, and Facility Specific Capital Improvements. FNI will conduct up to 20 hours of site visits to evaluate energy demand, siting options, required infrastructure upgrades, and other relevant considerations for the installation of auxiliary generators or provision of portable generators at water critical facilities.
- C. Preparation of Technical Memorandum and Emergency Preparedness Plan:** FNI will prepare a Summary Technical Memorandum documenting the approach, findings, recommendations, projected costs and schedules for the development and implementation of the Emergency Preparedness Plan. FNI will prepare a draft Emergency Preparedness Plan using the current applicable TCEQ-provided template in preparation for submission to TCEQ for review and approval. The Plan and Tech Memo will be provided to the City for review and feedback. FNI will meet with City staff to solicit input and receive comments on the Plan and Tech Memo.
- D. City Council Review Meeting:** FNI will prepare a summary presentation to provide City Council for consideration of approval of the Emergency Preparedness Plan. FNI will attend and present to the City Council and answer technical questions.
- E. Submission of Emergency Preparedness Plan to TCEQ, Tech Memo to City:** FNI will finalize the Plan and Tech Memo, incorporating final comments from City Staff. FNI will provide the final Plan final Tech Memo in electronic format. Up to five (5) hard copies will be provided upon request. FNI will provide coordination support for the submission of the Plan to TCEQ by the compliance deadline of March 1, 2022. FNI will provide up to 4 hours of coordination support to respond to and address TCEQ review comments and requests. Additional TCEQ coordination will be provided upon the City's request as an Additional Service.

ADDITIONAL SERVICES

FNI will provide the following services as an Additional Service upon the City's request.

1. Evaluation of uncommon Emergency Preparedness Planning options as defined by the TCEQ Emergency Preparedness Plan Template.
 - Option 2 A.) the reliance on a water provider during an extended power outage to maintain water at 20 psi within your distribution system, or B.) member of TXWARN.
 - Option 3 A.) the negotiation of leasing and contracting agreements for emergency power equipment and fuel, or B.) mutual aid agreement with other water

providers to share emergency power equipment and fuel with other water providers.

- Option 5 the use of on-site electrical generation or distributed generation facilities
 - Option 6 hardening the electric transmission and distribution system serving the water system from strong wind
 - Option 7 for existing facilities, the maintenance of direct engine or right-angle drives
 - Option 11 the ability to provide water through artesian flows
 - Option 14 any other alternative determined by the commission to be acceptable
2. Implementation assistance for selected Emergency Preparedness Planning options by July 1, 2022
 3. Agency coordination assistance in excess of 4 hours
 4. Water facility site visits in excess of 20 hours
 5. Engineering design of selected capital improvements
 6. Funding coordination assistance, including State and Federal loans, grants, and other anticipated federal funding appropriations for water utility infrastructure

PROJECT SCHEDULE AND FEE:

FNI is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services in accordance with the following schedule:

- | | |
|---|--------------------------------|
| 1. Kickoff / Level of Service Meeting | 10 Days from Notice to Proceed |
| 2. Critical Facilities Evaluation | 30 Days from NTP |
| 3. Critical Facilities Notification | November 1, 2021 |
| 4. Tech Memo and Draft EPP | January 2022 |
| 5. Council Presentation | January-February 2022 |
| 6. Submission of Emergency Preparedness Plan to TCEQ | March 1, 2022 |
| 7. EPP Implementation Completion | July 1, 2022 |

FNI shall perform the professional services as outlined in the “Scope of Services” for the lump sum of Forty Nine Thousand Six Hundred and Fifty Dollars (\$49,650).

Phase	Description	Hours	Total Labor Effort	Total Expense Effort	Total Effort
1	Phase 1: Critical Facilities Assessment	63	\$10,456	\$670	\$11,126
2	Phase 2: Emergency Preparedness Plan Development	242	\$36,072	\$2,453	\$38,525
Total		305	\$46,528	\$3,122	\$49,650

RESPONSIBILITIES OF THE CLIENT

Client shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Designate in writing a person to act as Client's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define Client's policies and decisions with respect to FNI's services for the Project.
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DESIGNATED REPRESENTATIVES

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CLIENT's Designated Representative

Mark Hyde
305 Millers Crossing
Harker Heights, Texas 76548
Phone: 254-953-5641
E-mail: mhyde@harkerheights.gov

CLIENT's Accounting Representative

Ayesha Lealiiee
305 Millers Crossing
Harker Heights, Texas 76548
Phone: 254-953-5631
E-mail: alealiiee@harkerheights.gov

FNI's Project Manager

Jessica Vassar
10431 Morado Circle, Suite 300
Austin, Texas 78756
Phone: (512) 617-3167
E-mail: JBV@freese.com

FNI's Accounting Representative

Jana Collier
801 Cherry Street, Suite 2800
Ft. Worth, TX 76102
817-735-7354
jvc@freese.com

COMPENSATION

FNI proposes to furnish services as described herein for the lump sum fee of Forty Nine Thousand Six Hundred Fifty Dollars (\$49,650.00) If FNI sees the Scope of Services changing so that additional services are needed, FNI will notify the CLIENT before proceeding.

TERMS AND CONDITIONS OF AGREEMENT

We propose to furnish our services as described herein in accordance with Attachment TC, "Terms and Conditions of Agreement".

We appreciate this opportunity to submit this scope for professional services, which is good for 60 days. If additional information or clarification is desired, please do not hesitate to contact us. If you are in agreement with the services described above and wish for us to proceed with this assignment, please sign below and return one copy of the agreement for our files.

Sincerely,

Approved:

FRESE AND NICHOLS, INC.

CITY OF HARKER HEIGHTS

By: SA A. Cole

By: _____

Scott A. Cole
Print Name

Print Name

Title: Vice President

Title: _____

Date: 09/21/2021

Date: _____

TERMS AND CONDITIONS OF AGREEMENT

1. **DEFINITIONS:** The term City as used herein refers to the City of Harker Heights. The term FNI as used herein refers to Freese and Nichols, Inc., its employees and agents, and its subcontractors and their employees and agents. As used herein, Services refers to the professional services performed by FNI pursuant to the Agreement.
2. **CHANGES:** City, without invalidating the Agreement, may order changes within the general scope of the work required by the Agreement by altering, adding to and/or deducting from the work to be performed. If any change under this clause causes an increase or decrease in FNI's cost of, or the time required for, the performance of any part of the Services, an equitable adjustment will be made by mutual agreement and the Agreement modified in writing accordingly.
3. **TERMINATION:** The obligation to provide Services under this Agreement may be terminated by either party upon 10 days' written notice. In the event of termination, FNI will be paid for all Services rendered and reimbursable expenses incurred to the date of termination and, in addition, all reimbursable expenses directly attributable to termination.
4. **CONSEQUENTIAL DAMAGES:** In no event shall FNI or its subcontractors be liable in contract, tort, strict liability, warranty, or otherwise for any special, indirect, incidental or consequential damages, such as loss of product, loss of use of the equipment or system, loss of anticipated profits or revenue, non-operation or increased expense of operation or other equipment or systems.
5. **INFORMATION FURNISHED BY CITY:** City will assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project. FNI shall have no liability for defects or negligence in the Services attributable to FNI's reliance upon or use of data, design criteria, drawings, specifications or other information furnished by City and City agrees to indemnify and hold FNI harmless from any and all claims and judgments, and all losses, costs and expenses arising therefrom. FNI shall disclose to City, prior to use thereof, defects or omissions in the data, design criteria, drawings, specifications or other information furnished by City to FNI that FNI may reasonably discover in its review and inspection thereof.
6. **INSURANCE:** FNI shall provide City with certificates of insurance with the following minimum coverage:

Commercial General Liability		Workers' Compensation
General Aggregate	\$2,000,000	As required by Statute
Automobile Liability (Any Auto)		Professional Liability
CSL	\$1,000,000	\$3,000,000 Annual Aggregate
7. **SUBCONTRACTS:** If, for any reason and at any time during the progress of providing Services, City determines that any subcontractor for FNI is incompetent or undesirable, City will notify FNI accordingly and FNI shall take immediate steps for cancellation of such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in the Agreement shall create any contractual relation between any subcontractor and City.
8. **OWNERSHIP OF DOCUMENTS:** All drawings, reports, data and other project information developed in the execution of the Services provided under this Agreement shall be the property of City upon payment of FNI's fees for Services. FNI may retain copies for record purposes. City agrees such documents are not intended or represented to be suitable for reuse by City or others. Any reuse by City or by those who obtained said documents from City without written verification or adaptation by FNI, will be at City's sole risk and without liability or legal exposure to FNI, or to FNI's independent associates or consultants, and City shall indemnify and hold harmless FNI and FNI's independent associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle FNI to further reasonable compensation. FNI may reuse all drawings, report data and other project information in the execution of the Services provided under this Agreement in FNI's other activities. Any reuse by FNI will be at FNI's sole risk and without liability or legal exposure to City, and FNI shall indemnify and hold harmless City from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom.
9. **POLLUTANTS AND HAZARDOUS WASTES:** It is understood and agreed that FNI has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substance or condition at the site, if any, and its compensation hereunder is in no way commensurate with the potential risk of injury or loss that may be caused by exposures to such substances or conditions. The parties agree that in performing the Services required by this Agreement, FNI does not take possession or control of the subject site, but acts as an invitee in performing the Services, and is not therefore responsible for the existence of any pollutant present on or migrating from the site. Further, FNI shall have no responsibility for any pollutant during clean-up, transportation, storage or disposal

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activities.

10. **OPINION OF PROBABLE COSTS:** FNI will furnish an opinion of probable project development cost based on present day cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions and utilitarian considerations of operations and maintenance costs prepared by FNI hereunder will be made on the basis of FNI's experience and qualifications and represent FNI's judgment as an experienced and qualified design professional. It is recognized, however, that FNI does not have control over the cost of labor, material, equipment or services furnished by others or over market conditions or contractors' methods of determining their prices.
11. **CONSTRUCTION REPRESENTATION:** If required by the Agreement, FNI will furnish construction representation according to the defined scope for these services. FNI will observe the progress and the quality of work to determine in general if the work is proceeding in accordance with the Contract Documents. In performing these services, FNI will report any observed deficiencies to City, however, it is understood that FNI does not guarantee the Contractor's performance, nor is FNI responsible for the supervision of the Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or the safety precautions and programs incident to the work of the Contractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project. If City designates a Resident Project Representative that is not an employee or agent of FNI, the duties, responsibilities and limitations of authority of such Resident Project Representative will be set forth in writing and made a part of this Agreement before the Construction Phase of the Project begins.
12. **GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT:** City agrees to include provisions in the General Conditions of the Construction Contract that require Contractor to include FNI: (1) as an additional insured and in any waiver of subrogation rights with respect to such liability insurance purchased and maintained by Contractor for the Project (except workers' compensation and professional liability policies); and (2) as an indemnified party in the Contractor's indemnification provisions where the Owner is named as an indemnified party.
13. **PAYMENT:** Progress payments may be requested by FNI based on the amount of Services completed. Payment for the Services of FNI shall be due and payable upon submission of a statement for Services to CITY and in acceptance of the Services as satisfactory by the City. Statements for Services shall not be submitted more frequently than monthly. Any applicable new taxes imposed upon Services, expenses and charges by any governmental body after the execution of this Agreement will be added to FNI's compensation.

If City fails to make any payment due FNI for services and expenses within 30 days after receipt of FNI's statement for services therefore, the amounts due FNI will be increased at the rate of 1 percent per month from said 30th day, and, in addition, FNI may, after giving 7 days' written notice to City, suspend services under this Agreement until FNI has been paid in full, all amounts due for services, expenses and charges.
14. **ARBITRATION:** No arbitration, arising out of or relating to this Agreement, involving one party to this Agreement may include the other party to this Agreement without their approval.
15. **SUCCESSORS AND ASSIGNMENTS:** City and FNI each are hereby bound and the partners, successors, executors, administrators and legal representatives of City and FNI are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

Neither City nor FNI shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent FNI from employing such independent associates and consultants as FNI may deem appropriate to assist in the performance of Services hereunder.
16. **PURCHASE ORDERS:** If a Purchase Order is used to authorize FNI's Services, only the terms, conditions/instructions typed on the face of the Purchase Order shall apply to this Agreement. Should there be any conflict between the Purchase Order and the terms of this Agreement, then this Agreement shall prevail and shall be determinative of the conflict.

Freese and Nichols Current Client List for the Revised Lead & Copper Rule and the Senate Bill 3 Emergency Preparedness Plan

Revised Lead & Copper Rule Clients:

- City of Houston
- Town of Little Elm
- City of Portland
- City of San Angelo
- City of Galveston
- City of Southlake
- City of Garland
- Fuquay-Varina, NC
- City of White Settlement

Senate Bill 3-Emergency Preparedness Plan Clients:

- Town of Little Elm
- City of Fort Worth
- City of Krum
- City of Portland
- City of Keller
- City of White Settlement
- North Texas Municipal Water District
- City of Celina
- City of North Richland Hills
- City of Haltom City
- City of Burleson
- City of Southlake
- City of Hurst
- City of Aledo
- Canadian River Municipal Water Authority
- City of Garland
- City of San Marcos
- City of Midlothian
- City of Big Spring
- Denton County FWSD #10