AGENDA

CITY COUNCIL SPECIAL MEETING

MARCH 11, 2022 @ 3:00 P.M.

Notice is hereby given; the City Council for the City of Parker will meet on Friday, March 11, 2022, at 3:00 P.M. at the Parker City Hall, 5700 E. Parker Road, Parker, Texas, 75002. The City Council meeting will be open to the public and live streamed.

Pursuant to Texas Government Code § 551.127, notice is given that it is the intent of the City Council that a quorum of the Council will be physically present for the above-referenced meeting at Parker City Hall, 5700 E. Parker Road, Parker Texas. Some council members or City employees may participate in this meeting remotely by means of video conference call in compliance with state law.

CALL TO ORDER – Roll Call and Determination of a Quorum

PLEDGE OF ALLEGIANCE

AMERICAN PLEDGE: 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.

TEXAS PLEDGE: Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

INDIVIDUAL CONSIDERATION ITEMS

- CONSIDERATION, CONDUCT THE SECOND OF TWO READINGS, AND ANY APPROPRIATE ACTION OF ORDINANCE NO. 812 ENACTING A PROPOSED TEMPORARY MORATORIUM ON THE ACCEPTANCE, REVIEW, AND APPROVALS NECESSARY FOR THE SUBDIVISION, SITE PLANNING, DEVELOPMENT, OR CONSTRUCTION WITHIN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION OF THE CITY OF PARKER.

ADJOURN

In addition to any specifically identified Executive Sessions, Council may convene into Executive Session at any point during the open meeting to discuss any item posted on this Agenda. The Open Meetings Act provides specific exceptions that require that a meeting be open. Should Council elect to convene into Executive Session, those exceptions will be specifically identified and announced. Any subsequent action, as a result of this Executive Session, will be taken and recorded in open session.

I certify that this Notice of Meeting was posted on or before March 4, 2022, by 5:00 p.m. at the Parker City Hall, and as a courtesy, this Agenda is also posted to the City of Parker Website at www.parkertexas.us.

Date Notice Removed

Patti Scott Grey
City Secretary

The Parker City Hall is Wheelchair accessible. Sign interpretations or other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Secretary's Office at 972 442 6811.

ORDINANCE NO. 812
(*Temporary Moratorium on Acceptance of Development Applications*)

AN ORDINANCE OF THE CITY OF PARKER, COLLIN COUNTY, TEXAS, ENACTING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, AUTHORIZATION, AND APPROVALS NECESSARY FOR THE SUBDIVISION, SITE PLANNING, DEVELOPMENT, ZONING, AND CONSTRUCTION IN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION, PROVIDING FINDINGS OF FACT, DEFINITIONS, APPLICABILITY, PURPOSE, ENACTMENT, DURATION, EXTENSION, EXCEPTIONS AND EXEMPTIONS, DETERMINATION AND APPEALS; PROVIDING FOR SEVERABILITY, REPEALER, ENFORCEMENT, PROPER NOTICE AND MEETING, AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Parker, Texas (the "City Council"), as a duly-elected legislative body, finds that it is facing significant historic and contemporary land use challenges that existing regulations and infrastructure were not designed to address; and

WHEREAS, the City Council finds that it is in the best interest of the City and its citizens to adopt and enact a moratorium in order to temporarily suspend the acceptance, authorization, and approvals necessary for the subdivision, site planning, development, zoning, and construction on real property in the City Limits and extraterritorial jurisdiction ("ETJ"); and

WHEREAS, the City has developed a Comprehensive Plan for development within the City and desires to protect its ability to regulate development within its jurisdiction; and

WHEREAS, the City has started the process of revisiting the Comprehensive Plan and studying land use and development in the City limits and ETJ, and has issued a Request for Qualifications for a professional land planning firm to provide comprehensive plan and development code services; and

WHEREAS, Texas Local Government Code Section 51.001 provides the City general authority to adopt an Ordinance or police regulations that are for the good government, peace, or order of the City and is necessary for carrying out a power granted by law to the City; and

WHEREAS, Texas Local Government Code Chapters 211, 213, 214, and 217 grant the City certain regulation authority concerning construction, land use, nuisances, structures, and development-related activities; and

WHEREAS, the City seeks to ensure that impending and future development is conducted in a fiscally sustainable and environmentally responsible manner; and

WHEREAS, the City limits and ETJ are comprised of a combination of topographical, ecological, and other features that create significant development challenges; and

PROPOSED

WHEREAS, the City will change drastically is continued growth and development should occur under the City's existing Code of Ordinances and Comprehensive Plan, which no longer adequately address concerns about the effect of responsible development in the City and ETJ; and

WHEREAS, as codified in Texas Water Code Chapter 552, Subchapter A, the Legislature of the State of Texas granted municipalities the authority to own and operate "utility systems," which include water systems designed to provide domestic consumption of water; and

WHEREAS, Texas Water Code Section 552.015 grants Type A general-law municipalities the authority to provide for municipal water supply systems; and

WHERAS, the City has determined that it is necessary to the health, safety, and welfare of the people in the City limits and ETJ to encourage and promote the development and use of the City's water utility and supply systems to serve the water provision needs of the citizens in the City limits and ETJ to prevent failure of water supply within the system; and

WHERAS, the City conducted an analysis to determine the adequacy of the City's current water supply, facilities, and the need beyond the estimated capacity that is expected to result from properties currently in development; and

WHEREAS, upon review of the analysis by the City's Engineer and City Administrator, the City Council has made findings contained herein as **Attachment B** related to the inadequacy of existing essential public facilities in accordance with Section 212.135 of the Texas Local Government Code; and

WHEREAS, the City Council finds that certain essential public water infrastructure, supply, and improvements throughout the City limits and ETJ are inadequate and insufficient to adequately serve new development; and

WHEREAS, relying on the analysis provided by City staff, the outstanding permits issued by the City prior to this moratorium, and the City's impact fee analysis, the City Council makes the following findings:

1. Taking in account all water that has been committed by contract, the City's water facilities are at capacity; and
2. The current water system has bottlenecks that threaten the proper operation of the City's water system; and
3. Based on these bottlenecks and the contractual commitments that will utilize all additional supply of the City's water system, there is currently no additional supply available to commit to development of lots; and
4. This moratorium is reasonably limited to property located in the City limits and ETJ.

WHEREAS, until actions can be taken to increase the water supply of the City of Parker, allowing for additional water service connections to the Parker water service area will only exacerbate the situation; and

Proposed

WHEREAS, the City Council finds that a temporary moratorium on the acceptance, authorization, and approvals necessary for the subdivision, site planning, development, and construction in the City limits and ETJ will prevent the situation from becoming worse, and will allow the City time to address the measures needed to remedy the shortage of supply and to secure funds to pay for such remedial measures; and

WHEREAS, additional evaluation of the existing supply, infrastructure, and development are needed to allow for growth and development within the City limits and ETJ while protecting the health, safety, environment, quality of life, and general welfare of its residents; and

WHEREAS, the City desires to study and evaluate the impact of further development, the need for additional water supply and facilities, appropriate zoning districts and district regulations, appropriate land use and water regulations, and issues that will affect future growth and development of the area within its jurisdiction; and

WHERAS, the City finds this evaluation process will require community input and will take a reasonable amount of time to complete; and

WHEREAS, the City has determined that it is necessary to study and update its development ordinances and procedures in order to clarify and improve its planning policies based on the forthcoming regulations, strengthen the connection between the City's Code of Ordinances and the goals and needs of the City's residents, and to protect the health, safety, environment, quality of life, and general welfare of its residents; and

WHEREAS, in order for the City of have adequate and reasonable time to review, evaluate, and revise the City's development ordinances, and to consider the impact of the ordinances upon future growth, public health and safety, development, the natural environment, and place of architectural and ecological importance and significance within the City limits and ETJ, the City wishes to maintain the *status quo* by implementing a temporary moratorium, during which certain applications for development permits and/or approvals will be suspended; and

WHEREAS, the purpose of prohibiting certain applications for development permits and/or approvals during this period includes, within limitation, preserving the *status quo* during the planning process, eliminating incentives for hurried applications, facilitating thoughtful and consistent planning, avoiding exploitation of the delays inherent in the municipal legislative process, and preventing applications from undermining the effectiveness of the revised rules by applying for permits and/or approvals in order to avoid the application of new, possibly more restrictive, development regulations; and

WHEREAS, in recognition of the importance of development permits and/or approvals to the community, the City desires to implement the moratorium for a stated and fixed time period, and to include a waiver provision in accordance with Texas Local Government Code Chapter 212, Subchapter E; and

Proposed

WHEREAS, all notices and hearings, including a hearing by the Planning & Zoning Commission, have been published and held in accordance with applicable statutes, law, and regulations; and

WHEREAS, based on findings contained herein, information provided by City staff, and the evidence submitted at public hearings, the City Council has determined that existing development ordinances and regulations and other applicable laws are inadequate to prevent existing essential public water facilities from exceeding capacity, thereby being detrimental to the public health, safety, and welfare of the residents of Parker; and

WHEREAS, the City Council finds that the enactment of this Ordinance is directly related to the immediate preservation of the public peace, health, or safety;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKER, COLLIN COUNTY, TEXAS:

Section 1. INCORPORATION OF RECITALS/FINDINGS OF FACT

The recitals contained in the preamble of this ordinance are incorporated into the body of this Ordinance as it set out fully herein as legislative findings of fact.

Section 2. DEFINITIONS

As used in this Ordinance, these terms shall be defined as follows. Terms appearing in this Ordinance but not defined herein shall have the meanings provided in the City's Code of Ordinances, or if not defined therein then the common meanings in accordance with ordinary usage.

A. **"Essential Public Facilities"** means water, sewer/wastewater, or storm drainage facilities or street improvements provided by a municipality or private utility.

B. **"Permit"** means a license, certificate, approval, registration, consent, permit, contract, or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initate, continue, or complete a project for which the permit is sought

C. **"Project"** means an endeavor over which a regulatory agency exerts its jurisdiction and for which one (1) or more permits are required to initiate, continue, or complete the endeavor.

D. **"Property Development"** means the construction, reconstruction, or other alteration or improvement of buildings or the subdivision or replatting of a subdivision of property.

Proposed

Section 3. APPLICABILITY

The City of Parker hereby enacts this Ordinance in order to implement a temporary moratorium on the acceptance and processing of certain applications and issuance of particular permits and other forms of municipal authorizations related to specific construction and land development activities. This temporary moratorium applies to all city zoning district uses within the City limits and ETJ.

Unless a Project falls within an Exception (as provided below), this temporary moratorium applies to all applications for property development permits. Permits that are affected or not affected by the moratorium are attached as **Attachment A.** The applicability of the moratorium to any permit not listed shall be determined based on the purpose of the moratorium and may be added to the list by the City Administrator.

Section 4. PURPOSE

This temporary moratorium is being enacted to maintain the *status quo*, and to:

A. Assess the short-term and long-term Comprehensive Plan;

B. Review the City's policies on the acceptance of applications for municipal Permits for construction or development;

C. Update the City's permitting and planning requirements and processes for utility and transportation infrastructure;

D. Obtain and review public input and expert guidance; and

E. Update the City's water utility infrastructure and supply.

Section 5. ENACTMENT

The City of Parker hereby enacts this Ordinance implementing a temporary moratorium on the City's acceptance, review, approval, and issuance of permits in the City limits and ETJ.

Section 6. DURATION

The initial duration of this temporary moratorium shall be for a period of ninety (90) days after enactment of this Ordinance, or repeal of this Ordinance by the City, whichever is sooner.

Section 7. EXTENSION

If the City determines that the initial period is insufficient for the City to fully complete its study and increase its water supply, this Ordinance may be renewed or extended for an additional period of time necessary to complete the implementation of the changes to the City codes, policies,

Proposed

and processes and the implementation of actions necessary to expand the City's water supply in accordance with the time limits as provided by law upon a majority vote of the City Council.

Section 8. EXCEPTIONS AND EXEMPTIONS

A. **Exceptions.** Any property owner who believes that he or she falls within the below exceptions shall provide notice of the exception at time of application for any permit with the City-approved form. Exceptions are administratively approved or denied. Any exception that is denied may be appealed to the City Council. Exceptions will be determined within the same time period as the administrative completeness check for each Project, or within ten business days, whichever is sooner. If a Grandfathered Development Status Determination Report is required, then the exception can be applied concurrently with the Request but the time frame of the Request shall be controlling.

1. **No Impact Projects.** The temporary moratorium implemented by this Ordinance does not apply to a Project that does not:
   - Impact Water Supply and/or Capacity; and
   - Require land use modifications inconsistent with the updated Comprehensive Plan.

   To make a determination of whether a Project is no impact as listed, an applicant shall apply for an exception to the moratorium.

2. **Ongoing Projects.** The temporary moratorium implemented by this Ordinance does not apply to any Projects that are currently, actively in progress for which valid City permits have been issued and have not expired as of February 25, 2022, such being the fifth business day after the date on which the City published notice of the public hearings to consider this Ordinance. The provisions of this Ordinance do not apply to any completed application or plan for development for a Permit, plat, verification, rezoning, site plan, approved wastewater plan, or new or revised certificate of occupancy for Property Development that were filed prior to February 25, 2022. New Permits applied for as part of a previously approved Project may proceed once an exception is applied for and approved as described herein.

3. **Grandfathered Projects.** The temporary moratorium implemented by this Ordinance shall not apply to Projects that are grandfathered as provided by state law. Property owners asserting grandfathered rights under Texas Local Government Code Chapter 245 must submit an application claiming an exception to this temporary moratorium to the planning department for review in accordance with City policy. Grandfathered status can be approved through an approved Grandfathered Development Status Determination Request. If a Grandfathered Development Status Determination Request has been finalized by staff on or after February 25, 2022, then a new request is not required to meet this exception. New

Proposed

permits applied for as part of a previously vested Project may proceed once an exception is applied for and approved as described herein.

4. **Development Agreement.** Property owners with a negotiated approval granted by the City Council providing for construction standards, platting, wastewater, and development rules pursuant to Texas Local Government Code Chapter 212, Subchapter G may apply for an exception in accordance with City policy. New Permits applied for as part of a Development Agreement Project may proceed once an exception is applied for and approved as described herein.

B. Waivers. Any property owner who does not assert rights under Texas Local Government Code Chapter 245, but who seeks authorization to proceed with the development permitting process during the time of the temporary moratorium can request a waiver. Property owners agreeing to construct certain water infrastructure at property owners' sole expense and who do not require land use modifications in consistent with the updated comprehensive planning, in accordance with Texas Local Government Code Chapter 212, Subchapter E may apply for a waiver in accordance with City policy.

Section 9. DETERMINATIONS AND APPEALS

A. Exceptions. The Public Works Director or his designee shall make all initial determinations regarding the status of all Projects seeking to apply for Permits during this temporary moratorium and recognition of all Exceptions (as provided herein). Exceptions for Projects filed within thirty (30) days of the effective date of this Ordinance may be filed without a corresponding Permit application. Any exception application filed within this period will be decided within (10) business days of receipt. Any exception that is denied may be appealed to City Council or the applicant may apply for a Waiver. An exception may be applied for by lot, Project, plat, or all area covered by a particular Permit or agreement.

B. City Council. City Council shall make a final decision on waivers within 10 days of filing of application.

C. Waivers. The decision to approve an Exemption (as provided for above) shall rest solely with the City Council. Any denial will stand until the moratorium is lifted unless the Project requesting the waiver has a substantial change and reapplies for a waiver.

Section 10. REPEALER

In the case of any conflict between other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance shall control.

Section 11. SEVERABILITY

Proposed

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

Section 12. ENFORCEMENT

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this temporary moratorium is subject to suit for injunctive relief as well as prosecution for criminal violations, and such violation is hereby declared to be a nuisance.

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law and/or equity.

Section 13. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice and public hearings were also provided as required by Texas Government Code Chapter 212, Subchapter E.

Section 14. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

READ & ACKNOWLEDGED on First Reading on the 7th day of March 2022.

READ, PASSED, AND APPROVED ON SECOND READING BY THE CITY COUNCIL OF PARKER, COLLIN COUNTY, TEXAS, THIS 11th DAY OF MARCH 2022.

_____
Lee Pettle, Mayor

ATTEST:

_____
Patti Scott Grey, City Secretary

APPROVED AS TO LEGAL FORM:

_____
Larence M. Lansford, III, City Attorney

Proposed

ATTACHMENT A

PERMITS SUBJECT TO MORATORIUM

- Building Permit Application
- Development Agreement
- Development Agreement Minor Modification/Amendment
- Swimming Pool Permit
- Plan Review Application
- Subdivision Application
- Site Development Application
- Conditional Use Permit
- Variance Application
- Wastewater Application
- Special District Agreement/Amendment
- Accessory Dwelling Unit Permit
- Mobile/Modular Home Permit

PERMITS NOT SUBJECT TO MORATORIUM

- Zoning Amendment/PDD Application
- Contractor Registration Form
- Grandfathered Status Request/Appeal
- City Limits/ETJ Determination Letter
- Street Cut/Driveway Permit
- Operational Permit/Inspection Application
- On Site Sewage Facility Permit Application
- Pre-Development Meeting Form
- Certificate of Appropriateness
- Annexation Application
- Sign Permit
- Master Sign Plan
- License to Encroach
- Exterior Lighting Compliance Review
- Zoning Determination Letter Request
- Building Addition Permit
- Accessory Structure Permit
- Demolition Permit
- Asbestos Compliance Statement
- Pyrotechnics/Fireworks Application
- Certificates of Occupancy Application
- Any Fire Permits

Proposed

ATTACHMENT B

BIRKHOFF, HENDRICKS & CARTER, L.L.P.
PROFESSIONAL ENGINEERS

11910 Greenville Ave., Suite 600 Dallas, Texas 75243 Phone (214) 361-7900 www.bhcllp.com

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JULIAN T. LE, P.E.
COOPER E. REINBOLD, P.E.

March 1, 2022

Mr. Luke Olson
City Administrator
City of Parker
5700 E. Parker Road
Parker, Texas 75002

Re: Water Projections

Dear Mr. Olson:

We have evaluated the City of Parker's water demand projections and have determined that the demand from the City of Parker is at or beyond the supply of 3.5 MGD from NTMWD. This current evaluation has the same results as in previous years. Based on records provided by the City, the City pumped 3.33 MGD in August 2019 and 3.10 MGD in August of 2021. Water demand in the summer months is driven by higher temperatures and the duration between significant rain events. Historically, the hotter the weather and the longer period between rain events drives up water usage.

The current population is estimated to be 5,664 (meter count 2,030 times persons per meter 2.79). Based on the current population and the 2021 maximum daily usage, the 2021 maximum daily demand calculates to be approximately 472 gallons per capita per day (gpcd). The City also has an additional 834 lots currently being developed. Projecting the maximum daily demand including the upcoming residential lots, the maximum daily water demand will be 3,771,752 gallons. This is in excess of the currently contracted supply.

We recommend that no additional lots be approved within the City of Parker's CCN until the NTMWD supply contract can be completed and the Central Pump Station brought online. To complete the pump station will require the connection to the NTMWD 84-inch supply line, which will require approximately 30-60 days to schedule and complete.

We are available at your convenience to discuss our findings and recommendations.

Sincerely,

John W. Birkhoff, P.E.