

**REGULAR MEETING OF THE CITY COMMISSION  
MONDAY, FEBRUARY 11, 2013 @ 5:30 P.M.  
CITY COMMISSION CHAMBERS, 214 S. LOVE STREET**

**Present and answering roll call:** Mayor Drummond, Commissioners Trujillo, Bengé, and Granath.

**Not Present:** Commissioner Gandy and City Attorney McMahan

**Also present:** City Manager Williams, Chief of Police Bryant, City Clerk Hogue, Administrative Assistant Gutierrez, and Finance Director Stephens.

**Call to Order:** The meeting was called to order by Mayor Drummond at 5:30 p.m.

**Invocation:** Commissioner Granath gave the invocation

**Pledge of Allegiance:** Commissioner Granath led the pledge

**Approval of Agenda:** Mayor Drummond asked for a motion to approve the agenda as submitted. Commissioner Trujillo so moved. Commissioner Bengé seconded. Motion was approved.

**Approval of the Regular Minutes of January 28 & Called Minutes February 4, 2013:** Mayor Drummond asked for a motion for approval of the regular minutes of January 28 & Called Minutes of February 4, 2013. Commissioner Trujillo so moved. Commissioner Granath seconded. Mayor Drummond called for a vote. Motion was approved.

**NON-ACTION ITEMS:**

**Discussion of Quarterly Financial Report Format:** Finance Director Stephens prepared a new format for the financial reports for the Commissioners to review and has attached a finance report as an example. Mayor Drummond & Commissioner Trujillo stated it was easy to read. City Manager Williams mentioned a link on our website where the Commissioners could view and print the Commission packet.

**Discussion of Lea County Administrative & Judicial Complex Master Plan Update:** City Manager Williams attended the Lea County Commission meeting on February 7, 2013, an update was provided by the consultants who the County has hired for the Lea County Administrative & Judicial Master Plan. The Courthouse could include the Magistrate Court in the judicial building and could add a total of six judges/courtrooms. A total of 695 surveys were distributed between October 9<sup>th</sup> and November 7<sup>th</sup>, 2012. One survey was distributed to Court Patrons/Jurors and a separate but similar survey was distributed to County and Court employees.

- Jurors are the largest block of visitors to the Courts and represent 38.6% of respondents.
- About 94% of respondents drove to the Courthouse.
- 65% indicated they didn't visit any restaurants at all.
- Of those that did indicate restaurant patronage, 65% indicated they drove to a restaurant outside downtown.
- 53% indicated they didn't use any downtown businesses.
- 81% indicated they have not made any retail purchases in Lovington.
- Of those indicating having made a retail purchase (125 respondents), almost 74% indicated purchases valued at less than \$50.

A site has not been selected for the Judicial Court. The State does not fund for a courthouse. John Graham addressed the Commissioners and would like that they ask the people from Lovington and business owners about their opinion.

**ACTION ITEMS:**

**Consideration of Approval of Resolution 021113-01-Opposing Lesser Prairie Chicken Listing:** Mayor Drummond called for a motion to approve the resolution. Commissioner Granath so moved. Commissioner Trujillo seconded. Motion was approved.

**Consideration of Appointment to SNMEDD Council of Governments City Representative:** Mayor Drummond called for a motion to appoint City Manager Williams as City Representative. Commissioner Trujillo so moved. Commissioner Granath seconded. Motion was approved.

**Consideration of Accounts Payables:** Mayor Drummond called for a motion to approve the Accounts Payables. Commissioner Trujillo so moved. Commissioner Bengé seconded. Motion was approved.

**PUBLIC COMMENT:**

Mayor Drummond called for public comment: None

**CLOSED SESSION:**

At 5:50 p.m., Commissioner Trujillo moved to adjourn Regular Session and convene in Closed Session Pursuant to Section 10-15-1 NMSA 1978, Subsection H-8-Discussion of the purchase, acquisition, or disposal of real property. Commissioner Granath seconded and a roll call vote was taken: Mayor Drummond, aye; Commissioner Trujillo, aye; Commissioner Bengé, aye; and Commissioner Granath, aye.

At 5:55 p.m., Commissioner Trujillo moved to adjourn Closed Session and reconvene in Regular Session stating that matters discussed were limited only to those specified in the motion for closure and no action was taken. Commissioner Bengé seconded and a roll call vote was taken: Mayor Drummond, aye; Commissioner Trujillo, aye; Commissioner Bengé, aye; and Commissioner Granath, aye.

**OTHER:**

City Manager Williams stated:

- Interviews will begin this week for Assistant City Manager.
- Code Enforcer Brock & Fire Chief Lizardo are concentrating on ordinances such as Planning & Zoning, Dangerous Buildings, Nuisances and will be presented to board members of the P&Z on their meeting Wednesday, February 20, 2013.
- The City has received the check from Legendary Services on their closing agreement.

**ADJOURNMENT:**

There being no further business the meeting adjourned at 6:05 p.m.

**APPROVED:**

\_\_\_\_\_  
**DIXIE DRUMMOND, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CAROL ANN HOGUE, CITY CLERK**

CITY OF LOVINGTON  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: February 25, 2013



TYPE:  RESOLUTION  ORDINANCE  PROCLAMATION  INFORMATION  OTHER ACTION

SUBJECT: Discussion of City Debt  
DEPARTMENT: Finance  
SUBMITTED BY: Mashelle Stephens, Finance Director  
DATE SUBMITTED: February 18, 2013

**STAFF SUMMARY:**

At the request of the Commission, the Finance Department has prepared a list of current City debt. The only debt that the City of Lovington currently owes is the financing of the wastewater treatment facility, which is split into two separate loans.

The first loan, from the Clean Water State Revolving Fund was in the amount of \$5,813,966.28, for a 20 year term, with a 2.00% interest rate. The annual payment on this debt is \$355,563.10. At the present time, the City currently owes \$5,081,662.23.

The second loan is through the NMFA. From the documentation, it appears we started payments on 11/1/2008, with principal payments beginning on 5/1/2011. The original loan amount was for \$3,535,000.00, with an interest rate of % 1.750% and the City is still obligated for another 18 years. The present principal balance for this loan is \$3,398,448.00.

**FISCAL IMPACT:**

REVIEWED BY: Mashelle Stephens  
(Finance Director)

Annual payments as reflected in amortization schedules.

**ATTACHMENTS:**

CWSRF Loan Amortization Schedule  
NMFA Aggregate Debt Service Schedule

**RECOMMENDATION:**

Information only.

Mashelle Stephens  
Department Head

[Signature]  
City Manager

## ATTACHMENT C LOAN AMORTIZATION SCHEDULE

CITY OF LOVINGTON

Entity  
Loan Number 1438048  
Amount \$5,813,966.28  
Rate 2.00%  
Term in Years 20

Annual Interest Rate  
Annual Admin. Fee Rate

1.5644%  
0.4356%  
2.0000%

Due Date	Amount of Payment	Paid On Interest	Paid On Principal	Admin. Fee	Loan Balance	For reference: 2% Finance Costs
<del>November 4, 2010</del>	<del>\$355,563.40</del>	<del>\$90,953.69</del>	<del>\$239,283.77</del>	<del>\$25,325.64</del>	<del>\$5,574,682.51</del>	<del>\$116,279.33</del>
<del>November 4, 2011</del>	<del>\$355,563.10</del>	<del>\$87,210.33</del>	<del>\$244,069.45</del>	<del>\$24,283.32</del>	<del>\$5,330,613.06</del>	<del>\$111,493.65</del>
<del>November 4, 2012</del>	<del>\$355,563.10</del>	<del>\$83,392.11</del>	<del>\$248,950.84</del>	<del>\$23,220.15</del>	<del>\$5,081,662.23</del>	<del>\$106,612.26</del>
November 4, 2013	\$355,563.10	\$79,497.52	\$253,929.85	\$22,135.72	\$4,827,732.37	\$101,633.24
November 4, 2014	\$355,563.10	\$75,525.05	\$259,008.45	\$21,029.60	\$4,568,723.92	\$96,554.65
November 4, 2015	\$355,563.10	\$71,473.12	\$264,188.62	\$19,901.36	\$4,304,535.31	\$91,374.48
November 4, 2016	\$355,563.10	\$67,340.15	\$269,472.39	\$18,750.56	\$4,035,062.91	\$86,090.71
November 4, 2017	\$355,563.10	\$63,124.52	\$274,861.84	\$17,576.73	\$3,760,201.08	\$80,701.26
November 4, 2018	\$355,563.10	\$58,824.59	\$280,359.08	\$16,379.44	\$3,479,842.00	\$75,204.02
November 4, 2019	\$355,563.10	\$54,438.65	\$285,966.26	\$15,158.19	\$3,193,875.74	\$69,596.84
November 4, 2020	\$355,563.10	\$49,964.99	\$291,685.58	\$13,912.52	\$2,902,190.16	\$63,877.51
November 4, 2021	\$355,563.10	\$45,401.86	\$297,519.29	\$12,641.94	\$2,604,670.87	\$58,043.80
November 4, 2022	\$355,563.10	\$40,747.47	\$303,469.68	\$11,345.95	\$2,301,201.19	\$52,093.42
November 4, 2023	\$355,563.10	\$35,999.99	\$309,539.07	\$10,024.03	\$1,991,662.11	\$46,024.02
November 4, 2024	\$355,563.10	\$31,157.56	\$315,729.85	\$8,675.68	\$1,675,932.26	\$39,833.24
November 4, 2025	\$355,563.10	\$26,218.28	\$322,044.45	\$7,300.36	\$1,353,887.81	\$33,518.65
November 4, 2026	\$355,563.10	\$21,180.22	\$328,485.34	\$5,897.54	\$1,025,402.47	\$27,077.76
November 4, 2027	\$355,563.10	\$16,041.40	\$335,055.05	\$4,466.65	\$690,347.42	\$20,508.05
November 4, 2028	\$355,563.10	\$10,799.80	\$341,756.15	\$3,007.15	\$348,591.27	\$13,806.95
November 4, 2029	\$355,563.10	\$5,453.36	\$348,591.27	\$1,518.46	\$0.00	\$6,971.83
	\$7,111,261.94	\$1,014,744.66	\$5,813,966.28	\$282,550.99		\$1,297,295.66

DW #2018

NMFA CWRLF Disadvantaged Program  
 Lovington, City of  
 Aggregate Debt Service Schedule

Final

Date	Principal	Market Portion Interest Rate	Combined Periodic Gross Interest	Admin Fee @ 0.25%	NMFA Gross Debt Service	Fiscal Debt Service	Outstanding Debt <sup>1</sup>	Outstanding Debt <sup>2</sup>	Total Parity Debt	Pledged Revenue	NMFA Coverage
<del>11/1/2008</del>			<del>23,541.16</del>	<del>4,050.52</del>	<del>27,591.68</del>	-					
<del>5/1/2009</del>		<del>1.750%</del>	<del>25,681.26</del>	<del>4,418.75</del>	<del>30,100.01</del>	<del>57,691.69</del>	<del>21,698.43</del>	<del>336,269.08</del>	<del>415,650.20</del>	<del>823,964.00</del>	<del>1.98</del>
<del>11/1/2009</del>			<del>25,681.26</del>	<del>4,418.75</del>	<del>30,100.01</del>						
<del>5/1/2010</del>		<del>1.750%</del>	<del>25,681.26</del>	<del>4,418.75</del>	<del>30,100.01</del>	<del>60,200.02</del>	<del>21,698.60</del>	<del>336,272.38</del>	<del>418,171.09</del>	<del>823,964.00</del>	<del>1.97</del>
<del>11/1/2010</del>			<del>25,681.26</del>	<del>4,418.75</del>	<del>30,100.01</del>						
<del>5/1/2011</del>	<del>150,027.00</del>	<del>1.750%</del>	<del>25,681.26</del>	<del>4,418.75</del>	<del>180,127.01</del>	<del>210,227.02</del>	<del>21,698.62</del>	<del>336,284.12</del>	<del>568,209.76</del>	<del>823,964.00</del>	<del>1.45</del>
<del>11/1/2011</del>			<del>24,624.83</del>	<del>4,231.22</del>	<del>28,856.05</del>						
<del>5/1/2012</del>	<del>152,520.00</del>	<del>1.750%</del>	<del>24,624.83</del>	<del>4,231.22</del>	<del>181,376.05</del>	<del>210,232.10</del>	<del>21,698.47</del>	<del>336,295.48</del>	<del>568,226.05</del>	<del>823,964.00</del>	<del>1.45</del>
<del>11/1/2012</del>			<del>23,547.22</del>	<del>4,040.57</del>	<del>27,587.79</del>						
5/1/2013	155,064.00	1.750%	23,547.22	4,040.57	182,651.79	210,239.58	21,698.53	336,308.52	568,246.63	823,964.00	1.45
11/1/2013	-	-	22,448.00	3,846.74	26,294.74	-	-	-	-	-	-
5/1/2014	157,656.00	1.750%	22,448.00	3,846.74	183,950.74	210,245.48	21,698.95	336,320.34	568,264.77	823,964.00	1.45
11/1/2014	-	-	21,326.75	3,649.67	24,976.42	-	-	-	-	-	-
5/1/2015	160,300.00	1.750%	21,326.75	3,649.67	185,276.42	210,252.84	21,698.92	336,332.96	568,284.72	823,964.00	1.45
11/1/2015	-	-	20,183.01	3,449.30	23,632.31	-	-	-	-	-	-
5/1/2016	162,995.00	1.750%	20,183.01	3,449.30	186,627.31	210,259.62	21,698.50	336,346.40	568,304.52	823,964.00	1.45
11/1/2016	-	-	19,016.34	3,245.55	22,261.89	-	-	-	-	-	-
5/1/2017	165,742.00	1.750%	19,016.34	3,245.55	188,003.89	210,265.78	21,698.79	336,359.58	568,324.15	823,964.00	1.45
11/1/2017	-	-	17,826.28	3,038.37	20,864.65	-	-	-	-	-	-
5/1/2018	168,544.00	1.750%	17,826.28	3,038.37	189,408.65	210,273.30	21,697.74	336,373.42	568,344.46	823,964.00	1.45
11/1/2018	-	-	16,612.36	2,827.69	19,440.05	-	-	-	-	-	-
5/1/2019	171,400.00	1.750%	16,612.36	2,827.69	190,840.05	210,280.10	21,700.39	336,386.76	568,367.25	823,964.00	1.45
11/1/2019	-	-	15,374.09	2,613.44	17,987.53	-	-	-	-	-	-
5/1/2020	174,312.00	1.750%	15,374.09	2,613.44	192,299.53	210,287.06	21,698.61	336,401.48	568,387.15	823,964.00	1.45
11/1/2020	-	-	14,111.00	2,395.55	16,506.55	-	-	-	-	-	-
5/1/2021	177,281.00	1.750%	14,111.00	2,395.55	193,787.55	210,294.10	21,698.26	336,415.32	568,407.68	823,964.00	1.45
11/1/2021	-	-	12,822.59	2,173.95	14,996.54	-	-	-	-	-	-
5/1/2022	180,310.00	1.750%	12,822.59	2,173.95	195,306.54	210,303.08	21,698.17	336,430.04	568,431.29	823,964.00	1.45
11/1/2022	-	-	11,508.34	1,948.56	13,456.90	-	-	-	-	-	-
5/1/2023	183,396.00	1.750%	11,508.34	1,948.56	196,852.90	210,309.80	21,699.96	336,445.32	568,455.08	823,964.00	1.45
11/1/2023	-	-	10,167.74	1,719.31	11,887.05	-	-	-	-	-	-
5/1/2024	186,544.00	1.750%	10,167.74	1,719.31	198,431.05	210,318.10	21,696.41	336,460.80	568,475.31	823,964.00	1.45
11/1/2024	-	-	8,800.26	1,486.14	10,286.40	-	-	-	-	-	-
5/1/2025	189,753.00	1.750%	8,800.26	1,486.14	200,039.40	210,325.80	21,701.07	336,476.06	568,502.93	823,964.00	1.45
11/1/2025	-	-	7,405.37	1,248.95	8,654.32	-	-	-	-	-	-
5/1/2026	193,026.00	1.750%	7,405.37	1,248.95	201,680.32	210,334.64	21,698.43	336,491.70	568,524.77	823,964.00	1.45
11/1/2026	-	-	5,982.51	1,007.66	6,990.17	-	-	-	-	-	-
5/1/2027	196,362.00	1.750%	5,982.51	1,007.66	203,352.17	210,342.34	21,699.04	336,508.20	568,549.58	823,964.00	1.45
11/1/2027	-	-	4,531.12	762.21	5,293.33	-	-	-	-	-	-
5/1/2028	199,764.00	1.750%	4,531.12	762.21	205,057.33	210,350.66	21,698.20	336,508.20	568,557.06	823,964.00	1.45
11/1/2028	-	-	3,050.63	512.50	3,563.13	-	-	-	-	-	-
5/1/2029	203,233.00	1.750%	3,050.63	512.50	206,796.13	210,359.26	21,698.26	336,508.20	568,565.72	823,964.00	1.45
11/1/2029	-	-	1,540.46	258.47	1,798.93	-	-	-	-	-	-
5/1/2030	206,771.00	1.750%	1,540.46	258.47	208,569.93	210,368.86	-	-	210,368.86	823,964.00	3.92
11/1/2030	-	-	-	-	-	-	-	-	-	-	-
5/1/2031	-	1.750%	-	-	-	-	-	-	-	823,964.00	-
11/1/2031	-	-	-	-	-	-	-	-	-	-	-
5/1/2032	-	1.750%	-	-	-	-	-	-	-	823,964.00	-
11/1/2032	-	-	-	-	-	-	-	-	-	-	-
5/1/2033	-	1.750%	-	-	-	-	-	-	-	823,964.00	-
11/1/2033	-	-	-	-	-	-	-	-	-	-	-
5/1/2034	-	1.750%	-	-	-	-	-	-	-	823,964.00	-
11/1/2034	-	-	-	-	-	-	-	-	-	-	-
5/1/2035	-	1.750%	-	-	-	-	-	-	-	823,964.00	-
11/1/2035	-	-	-	-	-	-	-	-	-	-	-
5/1/2036	-	1.750%	-	-	-	-	-	-	-	823,964.00	-
11/1/2036	-	-	-	-	-	-	-	-	-	-	-
5/1/2037	-	1.750%	-	-	-	-	-	-	-	823,964.00	-
11/1/2037	-	-	-	-	-	-	-	-	-	-	-
5/1/2038	-	1.750%	-	-	-	-	-	-	-	823,964.00	-
			3,535,000.00	673,705.26	115,055.97	4,323,761.23	4,323,761.23				

1. RUS 1996 Revenue Bonds Matures 6/2038  
 2. CWRLF Matures 5/2029

CITY OF LOVINGTON  
COMMISSION STAFF SUMMARY FORM



MEETING DATE: February 25, 2013

TYPE:  RESOLUTION  ORDINANCE  PROCLAMATION  INFORMATION  OTHER ACTION

SUBJECT: Discussion of Utility Operating Costs  
DEPARTMENT: Water and Wastewater  
SUBMITTED BY: Wyatt Duncan and Miguel De La Cruz  
DATE SUBMITTED: February 18, 2013

**STAFF SUMMARY:**

The City Manager and the Water and Wastewater Department Heads have calculated the costs of utilities operations for the City of Lovington. Details are provided on the accompanying reports.

**FISCAL IMPACT:**

N/A

REVIEWED BY: \_\_\_\_\_

(Finance Director)

**ATTACHMENTS:**

Water Department Operating Costs  
Wastewater Department Operating Costs

**RECOMMENDATION:**

Information only.

\_\_\_\_\_  
Department Head

\_\_\_\_\_  
City Manager

## Water

Average Operating Expenses per year:	\$ 1,336,670.73
Average Annual Gallons per day:	333,462
Average Annual Gallons per year:	121,713,924
Cost to treat every 1,000 gallons:	\$ 10.98
Residential Customers:	3,488
Commercial Customers:	452

### ***Current Water Rates***

#### **Residential**

First 3,000 gallons	\$ 15.91	<i>(1/4 of residential customers have minimal use)</i>
Each additional 1,000 gallons	\$ 1.41	

#### **Commercial**

First 5,000 gallons	\$ 23.92	<i>(3/4 of commercial customers have minimal use)</i>
Each additional 1,000 gallons	\$ 1.45	

## Wastewater

Average Operating Expenses per year:	\$ 635,303.29
Average treated gallons per day:	750,000
Average Treated Gallons per year:	273,750,000
<b>Cost to treat every 1,000 gallons:</b>	<b>\$ 2.32</b>

Residential Customers	3,315
Commercial Customers	383

### ***Current Wastewater Rates***

#### **Residential**

First 3,000 gallons	\$11.48
Each additional 1,000 gallons	\$0.78

#### **Commercial**

First 5,000 gallons	\$17.73
Each additional 1,000 gallons	\$0.78

CITY OF LOVINGTON  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: February 15, 2013



TYPE:  RESOLUTION  ORDINANCE  PROCLAMATION  INFORMATION  OTHER ACTION

SUBJECT: Discussion of Synthetic Intoxicants Ordinance  
DEPARTMENT: Legislative  
SUBMITTED BY: Neil Granath, Commissioner  
DATE SUBMITTED: February 18, 2013

**STAFF SUMMARY:**

Chief Bryant and the City Manager met with the Lea County Community Drug Coalition on February 11 to discuss an ordinance pertaining to the sale of synthetic drugs in Lovington. We were provided a copy of the ordinance that the City of Hobbs recently adopted, which includes the chemicals being used to manufacture these substances.

Commissioner Granath requested this item be added for discussion at this regular commission meeting.

**FISCAL IMPACT:**

Unknown.

REVIEWED BY: *Masha Stephens*  
(Finance Director)

**ATTACHMENTS:**

Copy of City of Hobbs Ordinance 1057 and Ordinance 1042

**RECOMMENDATION:**

Discussion only.

\_\_\_\_\_  
Department Head

*NRW*  
\_\_\_\_\_  
City Manager



**CITY OF HOBBS**  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: December 3, 2012

**SUBJECT:** An Ordinance Adding Chapter 5.50 to the Hobbs Municipal Code Regarding the Sale of Synthetic Intoxicants

**DEPT. OF ORIGIN:** Legal Department  
**DATE SUBMITTED:** November 21, 2012  
**SUBMITTED BY:** Tara M. Wood, Staff Attorney

**Summary:** This ordinance is needed to address the problem of the continued sale of synthetic intoxicants such as spice and bath salts throughout the City. Although there are current criminal penalties in place for the sale of synthetic intoxicants, the criminal penalties do not always deter the sale of synthetic intoxicants due to the tremendous profitability earned from the sale of these products which outweighs the danger of prosecution. The businesses that continue to sale these synthetic intoxicants create a public nuisance in the community by continuing to endanger the health and safety of the public. Therefore, this ordinance is needed to enable the City to regulate businesses that continue to sell illegal synthetic intoxicants in the community by providing an avenue through which their inventory can be seized, they can be forced to close for seven days, or they can lose their business license for a year. The actions taken against businesses that continue to sell illegal synthetic intoxicants under this proposed ordinance will directly impact their profit margin, and as such, they will act as a greater deterrent than the criminal penalties currently in place.

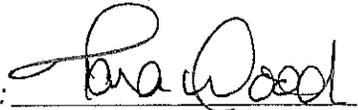
**Fiscal Impact:** The City will have to pay for the cost of testing the samples taken from businesses that continue to sell synthetic intoxicants at a cost of up to \$25,000 a year. However, under this ordinance, the business would be required to reimburse the city for the cost of testing the samples prior to being allowed to reopen. Thus, it is likely that the fiscal impact will be minimal.

Reviewed By:   
Finance Department

**Attachments:**

Ordinance

**Legal Review:**

Approved As To Form:   
City Attorney

**Recommendation:**

The Commission vote to adopt the ordinance.

Approved For Submittal By:



Department Director

  
City Manager

CITY CLERK=S USE ONLY  
COMMISSION ACTION TAKEN

Resolution No. \_\_\_\_\_ Continued To: \_\_\_\_\_  
Ordinance No. \_\_\_\_\_ Referred To: \_\_\_\_\_  
Approved \_\_\_\_\_ Denied \_\_\_\_\_  
Other \_\_\_\_\_ File No. \_\_\_\_\_

CITY OF HOBBS

ORDINANCE NO. 1057

ORDINANCE REGULATING THE DISTRIBUTION AND SALE  
OF THC-LIKE SYNTHETIC SUBSTANCES, COMMONLY CALLED SPICE,  
AND SUBSTITUTED CATHINONES, COMMONLY CALLED BATH SALTS,  
BY BUSINESSES OPERATING WITHIN THE CITY

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS,  
NEW MEXICO that Chapter 5.50 is added to the Hobbs Municipal Code, to read  
as follows:

**Chapter 5.50 SYNTHETIC INTOXICANTS**

**5.50.010 Short Title.**

This chapter may be cited as the "Synthetic Intoxicant Ordinance."

**5.50.020 Purpose and Intent.**

A. A product commonly referred to as "spice" is sold by local businesses. Spice typically appears as a packaged dried plant product or leaves, and is sold at gas stations, liquor stores, convenience stores, smoke shops and other outlets. While Spice sometimes has a label warning against human consumption, that is its intended use. Businesses that sell Spice openly solicit the product by claiming that, when smoked, Spice causes a marijuana-like high. Spice is a green leafy product sprayed with synthetic substances that mimic the effects of marijuana when smoked. Spice is marketed under numerous brand names.

B. The use of substituted cathinones, commonly called “bath salts”, has significantly increased throughout the United States and the United States Drug Enforcement Administration (DEA) used its emergency scheduling authority to temporarily control Mephedrone, Methylenedioxypropylone (MDPV), Methylone, and other chemical compounds found in “bath salts” finding that ingestion of these substances can cause serious injury and death.

C. Spice and bath salts are synthetic intoxicants that endanger the health and safety of the public. While distribution of these products is a violation of both State law and City ordinance, the available penalties do not appear to adequately deter vendors because the profitability from the sale of these products may outweigh the risks associated with prosecution. Manufacturers and vendors of synthetic intoxicants change the names, labeling, or chemical composition of the products to avoid prosecution. Businesses that distribute synthetic intoxicants create a public nuisance in the City as defined by State law and City ordinances.

#### **5.50.030 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Bath salts” means the substances defined by NMSA 1978 § 30-31-6 (C) (20)-(25), the addition of substances by State regulation, including, but not limited to, 16.19.20 NMAC, Section 65 as amended from time to time, and the substances defined as a synthetic stimulant pursuant to Hobbs Municipal Code 9.28.010 A.

“Business” means the premises, whether it be a main business location or an outlet, branch or other location thereof, temporary or otherwise, to which the public is expressly or impliedly invited for the purpose of transacting business. The term “business” includes the sales persons on site.

“Business day” means regular business hours Monday through Sunday. The day the business receives a cease and desist order and notice of violation does not count as a business day. If the business has irregular hours or the hours are not posted, a business day shall be the next twenty-four hour time period after receipt of a cease and desist order and notice of violation.

“Business operator” means the person or persons on site at the business in actual or apparent control of the business during business hours.

“Business registration” means the privilege to register to do business and the registration of a business under Chapter 5.04 of the Hobbs Municipal Code.

“Cease and Desist Order and Notice of Violation” means documentation delivered to the business operator ordering the business closed for inspection and testing.

“Person” means an individual, proprietorship, partnership, corporation, association, or other legal entity.

“Police officer” means a sworn member of the Hobbs Police Department, the Lea County Sheriff’s Office, or the New Mexico State Police.

“Sales person” means any agent or independent contractor of the business employed or engaged to transact business with the public on the premises.

“Spice” means a synthetic cannabinoid as defined by NMSA 1978, § 30-31-6 (2011), substances added to the definition of a synthetic cannabinoid by State regulation, including, but not limited to, 16.19.20 NMAC, Section 65 as amended from time to time, and the substances defined as a synthetic cannabinoid pursuant to Hobbs Municipal Code 9.28.010 A.

“Synthetic intoxicant” means bath salts or spice.

“Transfer of ownership or control of a business” means:

1. The sale, lease, or sublease of the business;
2. The transfer of securities that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**5.50.040 Violation.**

It is a violation of the Synthetic Intoxicant Ordinance for a business to manufacture, stock, sell, distribute, dispense, possess, purchase, advertise for sale, publicly display for sale, give, trade, offer to sell, order, or offer to order a synthetic intoxicant.

**5.50.050 Enforcement.**

A. If a police officer has probable cause to believe a violation has occurred, the police officer shall obtain a sample of the substance believed to be a synthetic intoxicant. The sample shall be tested by methods commonly utilized

site. The transfer of ownership or control of the business does not avoid the process authorized by this paragraph. No inventory, merchandise, personal property, chattel property or other property shall be received by or taken off the business premises during closure unless authorized by a police officer. Upon expiration of the mandatory seven day closure, the business shall not be allowed to transact business until the business owner has reimbursed the City for the costs of testing all samples taken from that business which were determined through laboratory testing to be synthetic intoxicants.

C. If a Business is assessed a second Cease and Desist Order and Notice of Violation within five years of a first Cease and Desist Order and Notice of Violation, the Business shall cease conducting business in the City and will be barred from Business Registration for a period of one year from the date the second Cease and Desist Order and Notice of Violation is assessed. The business owner shall also be required to reimburse the City for the costs of testing all samples taken from that business which were determined through laboratory testing to be synthetic intoxicants. The transfer of ownership or control of the business does not avoid the operation of this paragraph.

D. The City of Hobbs shall have the authority to seek an injunction to compel compliance with the Synthetic Intoxicant Ordinance on grounds that the business is causing irreparable harm to the community by distributing synthetic intoxicants.

E. Any action taken by the City of Hobbs against any person or business pursuant to the Synthetic Intoxicant Ordinance shall not prevent the City from

also pursuing criminal charges against that person or business for any violation of Chapter 9.28 of the Hobbs Municipal Code.

**5.50.060 Appeal.**

A. Upon delivery of a Cease and Desist Order and Notice of Violation, the business has ten days from the day the Cease and Desist Order and Notice of Violation was delivered to appeal to the Lea County District Court.

B. A copy of the appeal must also be submitted to the City Clerk within ten days from the day the Cease and Desist Order and Notice of Violation was delivered.

C. The filing of an appeal will not postpone or delay any actions taken by the City against the business pursuant to Section 5.50.050 of this ordinance.

D. The failure of a business to file an appeal with the Lea County District Court within 10 days from the day the Cease and Desist Order and Notice of Violation was delivered constitutes a waiver of the business's right to appeal and will be considered an implied agreement by the business as to all actions taken by the City of Hobbs pursuant to this ordinance.

PASSED, ADOPTED AND APPROVED this 3<sup>rd</sup> day of December, 2012.

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SAM D. COBB, Mayor

ATTEST:

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JAN FLETCHER, City Clerk

CITY OF HOBBS

ORDINANCE NO. 1042

AN ORDINANCE AMENDING CHAPTER 9.28 OF  
THE HOBBS MUNICIPAL CODE REGARDING  
DRUGS AND DRUG PARAPHERNALIA

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF  
HOBBS, NEW MEXICO that Chapter 9.28 of the Hobbs Municipal Code is  
hereby amended as follows:

9.28.010 Paraphernalia—Use, possession, delivery and advertisement.

A. As used in this section, the following terms shall have the meanings  
respectively ascribed to them by this subsection:

"Controlled substance" means a drug, substance or immediate precursor  
listed in Schedules I through V of the State Controlled Substances Act or  
regulations adopted thereto (Sections 30-31-6 to 30-31-10 N.M.S.A. 1978). A  
copy of the Controlled Substances Act will be kept on file in the office of the City  
Clerk for public inspection or copying upon payment of a reasonable fee.

"Deliver" means the actual, constructive or attempted transfer from one (1)  
person to another of paraphernalia as defined herein.

"Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing  
or not, the seeds thereof and every compound, manufacture, salt, derivative,  
mixture or preparation of the plant or its seeds. Such term does not include the  
mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated  
from marijuana, fiber produced from the stalks, oil or cake made from the seeds  
of the plant, any other compound, manufacture, salt, derivative, mixture or

preparation of the mature stalks, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

"Paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants. It includes, but is not limited to:

1. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants or from which a controlled substance, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants can be derived;
2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;
3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;

4. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;
5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;
7. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;
8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;
9. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;

10. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;
11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants into the human body; and
12. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants into the human body, such as:
  - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls,
  - b. Water pipes,
  - c. Carburetion tubes and devices,
  - d. Smoking and carburetion masks,
  - e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand,
  - f. Miniature cocaine spoons and cocaine vials,
  - g. Chamber pipes,
  - h. Carburetor pipes,

- i. Electric pipes,
- j. Air-driven pipes,
- k. Chilams,
- l. Bongs, and
- m. Ice pipes or chillers.

In determining whether an object is paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal law relating to any controlled substance;
3. The proximity of the object, in time and space, to a direct violation of laws relating to controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;
4. The proximity of the object to controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants;
5. The existence of any residue of controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of laws relating to controlled substances, Salvia divinorum, synthetic cannabinoids, or synthetic stimulants; the innocence of an owner, or of

anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use or designed for use as paraphernalia;

7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community; and
14. Expert testimony concerning its use.

"Paraphernalia" shall not include hypodermic syringes or needles in the possession of a person who is required to give himself or herself injections of medicine prescribed by a physician while the person is under the care of such physician, or in the possession of a licensed physician, dentist, veterinarian, nurse, dealer in surgical and medical instruments and supplies, pharmacist or employee of a hospital, sanitarium or institution where such items are used for medical purposes by licensed medical professionals, or in the possession of an

owner of livestock to be used for administering medical attention to such livestock.

"Salvia divinorum" means an herb belonging to the Lamiaceae family, genus Salvia, species divinorum, all parts of the plant presently classified as Salvia divinorum or Salvinorum A, whether growing or not, the seeds of the plant, an extract from a part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of that plant, its seeds or extracts.

"Synthetic cannabinoids" means any substance, presented under a variety of street names, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which contains any one or more of the following chemicals:

1. 1-[2-(4-(morpholinyl) ethyl)-3-(1-naphthoyl) indole, commonly known as JWH-200.
2. 1-butyl-3-(1-naphthoyl) indole; commonly known as JWH-073.
3. 1-hexyl-3-(1-naphthoyl) indole, commonly known as JWH-019.
4. 1-pentyl-3-(1-naphthoyl) indole, commonly known as JWH-018 and AM-678.
5. 1-pentyl-3-(2-methoxyphenylacetyl) indole, commonly known as JWH-250.
6. cannabicyclohexanol (CP 47, 497 and homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47, 497); and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;

7. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol), commonly known as HU-210;

8. dexanabinol, (6aS, 10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

9. 1-pentyl-3-(4-chloro naphthoyl)indole;

10. (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone; and

11. 5-(1,1-dimethylheptyl)-2-(3-hydroxy cyclohexyl)-phenol.

"Synthetic stimulants" means any substance, presented under a variety of street names, whether described as bath salts, plant food, room odorizer, or any blend thereof, regardless of whether the substance is marketed for the purpose of human consumption, which contains any one or more of the following chemicals:

1. 3,4-methylenedioxymethcathinone, commonly known as methylone;

2. 3,4-methylenedioxypropylone, commonly known as MDPV;

3. 4-methylmethcathinone, commonly known as mephedrone;

4. 4-methoxymethcathinone;

5. 3-fluoromethcathinone;

6. 4-fluoromethcathinone.

B. It is unlawful for any person to use, or to possess with intent to use, paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack,

store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

C. It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

D. It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as paraphernalia.

E. Any person found guilty of violating this section shall be punished by a fine of up to five hundred dollars (\$500.00) or a jail sentence of not more than ninety (90) days, or both such fine and imprisonment.

F. Paraphernalia, as defined herein, shall be subject to summary forfeiture and shall be destroyed as provided by law in the same manner as controlled substances.

#### 9.28.020 Possessing one ounce or less of marijuana.

A. It is unlawful for any person intentionally to possess one (1) ounce or less of marijuana, as defined in Section 9.28.010(A).

B. Any person who violates this section shall be punished by a fine of not less than fifty dollars (50.00) or more than one hundred dollars (\$100.00) and by imprisonment for not more than fifteen (15) days, or both, for the first offense.

C. Any person who violates this section shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), and by imprisonment for not more than ninety (90) days, or both, for the second or subsequent offenses.

9.28.030 Possessing Salvia divinorum.

A. It is unlawful for any person intentionally to possess Salvia divinorum, as defined in Section 9.28.010(A).

B. Any person who violates this section shall be punished by a fine of not less than fifty dollars (50.00) or more than one hundred dollars (\$100.00) and by imprisonment for not more than fifteen (15) days, or both, for the first offense.

C. Any person who violates this section shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), and by imprisonment for not more than ninety (90) days, or both, for the second or subsequent offenses.

9.28.040 Sale of Salvia divinorum.

A. It is unlawful for any person to sell Salvia divinorum, as defined in Section 9.28.010(A).

B. Any person who violates this section shall be punished by a fine of not less than fifty dollars (50.00) or more than one hundred dollars (\$100.00) and by imprisonment for not more than fifteen (15) days, or both, for the first offense.

C. Any person who violates this section shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), and by imprisonment for not more than ninety (90) days, or both, for the second or subsequent offenses.

9.28.050 Possessing Synthetic Cannabinoids

A. It is unlawful for any person to possess synthetic cannabinoids, as defined in Section 9.28.010(A).

B. Any person who violates this section shall be punished by a fine of not less than fifty dollars (50.00) or more than one hundred dollars (\$100.00) and by imprisonment for not more than fifteen (15) days, or both, for the first offense.

C. Any person who violates this section shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), and by imprisonment for not more than ninety (90) days, or both, for the second or subsequent offenses.

9.28.060 Sale of Synthetic Cannabinoids.

A. It is unlawful for any person to sell synthetic cannabinoids, as defined in Section 9.28.010(A).

B. Any person who violates this section shall be punished by a fine of not less than fifty dollars (50.00) or more than one hundred dollars (\$100.00) and by imprisonment for not more than fifteen (15) days, or both, for the first offense.

C. Any person who violates this section shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars

(\$500.00), and by imprisonment for not more than ninety (90) days, or both, for the second or subsequent offenses.

9.28.070 Possessing Synthetic Stimulants

A. It is unlawful for any person to possess synthetic stimulants, as defined in Section 9.28.010(A).

B. Any person who violates this section shall be punished by a fine of not less than fifty dollars (50.00) or more than one hundred dollars (\$100.00) and by imprisonment for not more than fifteen (15) days, or both, for the first offense.

C. Any person who violates this section shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), and by imprisonment for not more than ninety (90) days, or both, for the second or subsequent offenses.

9.28.080 Sale of Synthetic Stimulants

A. It is unlawful for any person to sell synthetic stimulants, as defined in Section 9.28.010(A).

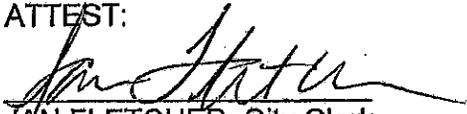
B. Any person who violates this section shall be punished by a fine of not less than fifty dollars (50.00) or more than one hundred dollars (\$100.00) and by imprisonment for not more than fifteen (15) days, or both, for the first offense.

C. Any person who violates this section shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), and by imprisonment for not more than ninety (90) days, or both, for the second or subsequent offenses.

PASSED, ADOPTED AND APPROVED this 4<sup>th</sup> day of April, 2011.

  
GARY DON REAGAN, Mayor

ATTEST:

  
JAN FLETCHER, City Clerk



CITY OF LOVINGTON  
COMMISSION STAFF SUMMARY FORM



MEETING DATE: February 25, 2013

TYPE:  RESOLUTION  ORDINANCE  PROCLAMATION  INFORMATION  OTHER ACTION

SUBJECT: Consider Adoption of Proclamation 022513-01  
DEPARTMENT: Executive  
SUBMITTED BY: James R. Williams, City Manager  
DATE SUBMITTED: February 21, 2013

**STAFF SUMMARY:**

Lovington MainStreet has requested that the City adopt a proclamation to declare June 14-15, 2013 as "Lovington MainStreet's 4th Annual Smokin' On The Plaza State Championship Barbecue Cook-Off and Street Dance".

A copy of this proclamation will be sent to the Governor, along with a proclamation they request she adopt and sign as well.

**FISCAL IMPACT:**

REVIEWED BY: *Mashed Stephen*  
(Finance Director)

Potential increase in GRT revenue as the event is held in Lovington.

**ATTACHMENTS:**

Proclamation 022513-01

**RECOMMENDATION:**

Motion to adopt Proclamation 022513-01

\_\_\_\_\_  
Department Head

*James R. Williams*  
\_\_\_\_\_  
City Manager



## *Proclamation*

**022513-01**

### **Smokin' on the Plaza**

**WHEREAS**, Lovington MainStreet's 4<sup>th</sup> Annual "Smokin' On The Plaza" Barbecue Cook-Off and Street Dance celebrates the unique history, culture, music and cuisine of Lovington and Southeastern New Mexico while bringing positive national recognition to Lovington;

**WHEREAS**, this event will bring together persons throughout the region, State, and beyond, in a celebration of New Mexico's support of its MainStreet program.

**WHEREAS**, the Lovington Chamber of Commerce, Lovington Economic Development Corporation, City of Lovington, County of Lea, Economic Development Corporation of Lea County, and Businesses of the Lovington Plaza have endeavored to Celebrate food, culture and music with the "Smokin' On the Plaza" Barbecue Cook-Off and Street Dance; and

**WHEREAS**, Lovington MainStreet's "Smokin' On The Plaza" Barbecue Cook-Off and Street Dance provides an opportunity for local chefs to compete against regional chefs, and as part of these festivities, this competition is dedicated to the preservation and promotion of barbecue dishes as a culinary art and sport; and

**NOW, THEREFORE**, I, Dixie Drummond, Mayor of Lovington, New Mexico do hereby proclaim June 14-15, 2013 as:

**"Lovington MainStreet's 4<sup>th</sup> Annual Smokin' On The Plaza State Championship Barbecue Cook-Off and Street Dance"**

Throughout the City of Lovington

Attest:

Done at the City Commission Meeting this  
25<sup>th</sup> day of February, 2013

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Carol Ann Hogue  
City Clerk

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Dixie Drummond  
Mayor

CITY OF LOVINGTON  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: February 25, 2013



TYPE:  RESOLUTION  ORDINANCE  PROCLAMATION  INFORMATION  OTHER ACTION

SUBJECT: Consider Approval of HGAC Purchasing Agreement  
DEPARTMENT: Executive  
SUBMITTED BY: James R. Williams, City Manager  
DATE SUBMITTED: February 25, 2013

**STAFF SUMMARY:**

Staff are requesting Commission approval to enter into an agreement with HGAC for the purposes of procuring equipment in a fashion similar to the CES contract we recently entered into. The reason we are requesting permission to enter into this agreement is because not all brands and types of equipment are available through CES.

Membership is free. An administrative or processing fee is added to the quotes we receive, which in turn is paid to HGAC by the contractor. In the event the City believes it can receive better pricing through a traditional bid process, we are free to exercise that option.

**FISCAL IMPACT:**

REVIEWED BY: Marshall Stephens  
(Finance Director)

Potential savings through lower prices and reduction in staff time to prepare documents.

**ATTACHMENTS:**

Copy of HGAC Interlocal Contract for Cooperative Purchasing

**RECOMMENDATION:**

Motion to approve contract.

\_\_\_\_\_  
Department Head

James R. Williams  
City Manager



**INTERLOCAL CONTRACT  
FOR COOPERATIVE PURCHASING**

ILC  
No.: \_\_\_\_\_  
Permanent Number assigned by H-GAC

THIS INTERLOCAL CONTRACT ("Contract"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the Houston-Galveston Area Council, hereinafter referred to as "H-GAC," having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, and \* \_\_\_\_\_, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "End User," having its principal place of business at \* \_\_\_\_\_

**WITNESSETH**

**WHEREAS**, H-GAC is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

**WHEREAS**, pursuant to the Act, H-GAC is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

**WHEREAS**, in reliance on such authority, H-GAC has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

**WHEREAS**, End User has represented that it is an eligible entity under the Act, that its governing body has authorized this Contract on \* \_\_\_\_\_ (Date), and that it desires to contract with H-GAC on the terms set forth below;

**NOW, THEREFORE**, H-GAC and the End User do hereby agree as follows:

**ARTICLE 1: LEGAL AUTHORITY**

The End User represents and warrants to H-GAC that (1) it is eligible to contract with H-GAC under the Act because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state), or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Contract.

**ARTICLE 2: APPLICABLE LAWS**

H-GAC and the End User agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Contract.

**ARTICLE 3: WHOLE AGREEMENT**

This Contract and any attachments, as provided herein, constitute the complete contract between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

**ARTICLE 4: PERFORMANCE PERIOD**

The period of this Contract shall be for the balance of the fiscal year of the End User, which began \* \_\_\_\_\_ and ends \* \_\_\_\_\_. This Contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the End User may make any payment due an H-GAC contractor beyond the fiscal year in which such obligation was incurred under this Contract.

**ARTICLE 5: SCOPE OF SERVICES**

The End User appoints H-GAC its true and lawful purchasing agent for the purchase of certain products and services through the H-GAC Cooperative Purchasing Program. End User will access the Program through [HGACBuy.com](http://HGACBuy.com) and by submission of any duly executed purchase order, in the form prescribed by H-GAC to a contractor having a valid contract with H-GAC. All purchases hereunder shall be in accordance with specifications and contract terms and pricing established by H-GAC. Ownership (title) to products purchased through H-GAC shall transfer directly from the contractor to the End User.

(over)

**ARTICLE 6: PAYMENTS**

H-GAC will confirm each order and issue notice to contractor to proceed. Upon delivery of goods or services purchased, and presentation of a properly documented invoice, the End User shall promptly, and in any case within thirty (30) days, pay H-GAC's contractor the full amount of the invoice. All payments for goods or services will be made from current revenues available to the paying party. In no event shall H-GAC have any financial liability to the End User for any goods or services End User procures from an H-GAC contractor.

**ARTICLE 7: CHANGES AND AMENDMENTS**

This Contract may be amended only by a written amendment executed by both parties, except that any alterations, additions, or deletions to the terms of this Contract which are required by changes in Federal and State law or regulations are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or regulation.

H-GAC reserves the right to make changes in the scope of products and services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

**ARTICLE 8: TERMINATION PROCEDURES**

H-GAC or the End User may cancel this Contract at any time upon thirty (30) days written notice by certified mail to the other party to this Contract. The obligations of the End User, including its obligation to pay H-GACs contractor for all costs incurred under this Contract prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Contract, until performed or discharged by the End User.

**ARTICLE 9: SEVERABILITY**

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

**ARTICLE 10: FORCE MAJEURE**

To the extent that either party to this Contract shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds. Determination of force majeure shall rest solely with H-GAC.

**ARTICLE 11: VENUE**

Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.

**THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:**

\*  
\_\_\_\_\_  
Name of End User (local government, agency, or non-profit corporation)

\*  
\_\_\_\_\_  
Mailing Address

\*  
\_\_\_\_\_  
City State ZIP Code

\*By: \_\_\_\_\_  
Signature of chief elected or appointed official

\*  
\_\_\_\_\_  
Typed Name & Title of Signatory Date

**Houston-Galveston Area Council**  
3555 Timmons Lane, Suite 120, Houston, TX 77027

By: \_\_\_\_\_  
Executive Director

Attest: \_\_\_\_\_  
Manager

Date: \_\_\_\_\_

\*Denotes required fields

### \*Request for Information

To expedite service, please complete the following blanks relevant to your agency's administrative/elective personnel and return the completed form to H-GAC, Cooperative Purchasing Program, P.O. Box 22777, Houston, TX 77227-2777.

Name of End User Agency : \_\_\_\_\_ County Name : \_\_\_\_\_  
(Municipality / County / District / etc.)

Mailing Address : \_\_\_\_\_  
(Street Address/P.O. Box) (City) (State) (ZIP Code)

Main Telephone Number : \_\_\_\_\_ FAX Number: \_\_\_\_\_

Physical Address : \_\_\_\_\_  
(Street Address, if different from mailing address) (City) (State) (ZIP Code)

Web Site Address: \_\_\_\_\_

Authorized Official: \_\_\_\_\_ Title: \_\_\_\_\_  
(City manager / Executive Director / etc.) Ph No.: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ E-Mail Address : \_\_\_\_\_  
(Street Address/P.O. Box)

(City) (State) (ZIP Code)

Official Contact: \_\_\_\_\_ Title: \_\_\_\_\_  
(Purchasing Agent/Auditor etc.) Ph No.: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Fx No.: \_\_\_\_\_  
(Street Address/P.O. Box) Email Address : \_\_\_\_\_

(City) (State) (ZIP Code)

Official Contact: \_\_\_\_\_ Title: \_\_\_\_\_  
(Public Works Director/Police Chief etc.) Ph No.: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Fx No.: \_\_\_\_\_  
(Street Address/P.O. Box) Email Address : \_\_\_\_\_

(City) (State) (ZIP Code)

Official Contact: \_\_\_\_\_ Title: \_\_\_\_\_  
(EMS Director/Fire Chief etc.) Ph No.: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Fx No.: \_\_\_\_\_  
(Street Address/P.O. Box) Email Address : \_\_\_\_\_

(City) (State) (ZIP Code)

CITY OF LOVINGTON  
COMMISSION STAFF SUMMARY FORM



MEETING DATE: February 25, 2013

TYPE:  RESOLUTION  ORDINANCE  PROCLAMATION  INFORMATION  OTHER ACTION

SUBJECT: Consider Temporary Closure of Streets - Relay for Life  
DEPARTMENT: Executive  
SUBMITTED BY: James R. Williams, City Manager  
DATE SUBMITTED: February 18, 2013

**STAFF SUMMARY:**

The Lovington Relay for Life Committee has requested the closure of Central from Love Street to Main Street and Love Street from Central to Washington beginning at 8 a.m. on Friday May 3rd, 2013 through 8 a.m. on Saturday May 4th. In addition, they have requested that Washington be closed from Love Street to Main Street beginning at 5 p.m. on May 3rd and ending at 8 a.m. on May 4th.

The committee has met with the County Manager and I regarding this issue to ascertain additional logistics and responsibilities. We have requested that the notify each impacted business owner two weeks prior to the event and that they obtain at least 8 trash receptacles from Waste Management for this event. In addition, they intend to have security present during this event.

**FISCAL IMPACT:**

REVIEWED BY Marshall Stephens  
(Finance Director)

Impact to local businesses due to parking inaccessibility.

**ATTACHMENTS:**

None

**RECOMMENDATION:**

Motion to approve temporary closure of specified streets.

\_\_\_\_\_  
Department Head

James R. Williams  
City Manager

**CITY OF LOVINGTON**  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: FEBRUARY 25, 2013



TYPE:  RESOLUTION  ORDINANCE  PROCLAMATION  INFORMATION  OTHER ACTION

**SUBJECT:** Consideration of Approval for Replat of Property 119 E. Simpson Dr.

**DEPARTMENT:**

**SUBMITTED BY:** MaryAnn Marquez/Juan Leon

**DATE SUBMITTED:** 2-5-2013

**STAFF SUMMARY:**

MaryAnn Marquez would like to split lot 13 in half giving lot 14 & 12 half. She is selling lot 12 to Juan Leon. Both parties are in agreement on splitting lot 13.

**FISCAL IMPACT:**

**REVIEWED BY:** \_\_\_\_\_

(Finance Director)

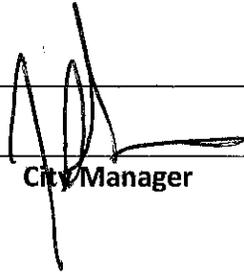
**ATTACHMENTS:**

Site plan review. Site plan illustration.

**RECOMMENDATION:**

Approved by P&Z members

\_\_\_\_\_  
Department Head

  
\_\_\_\_\_  
City Manager

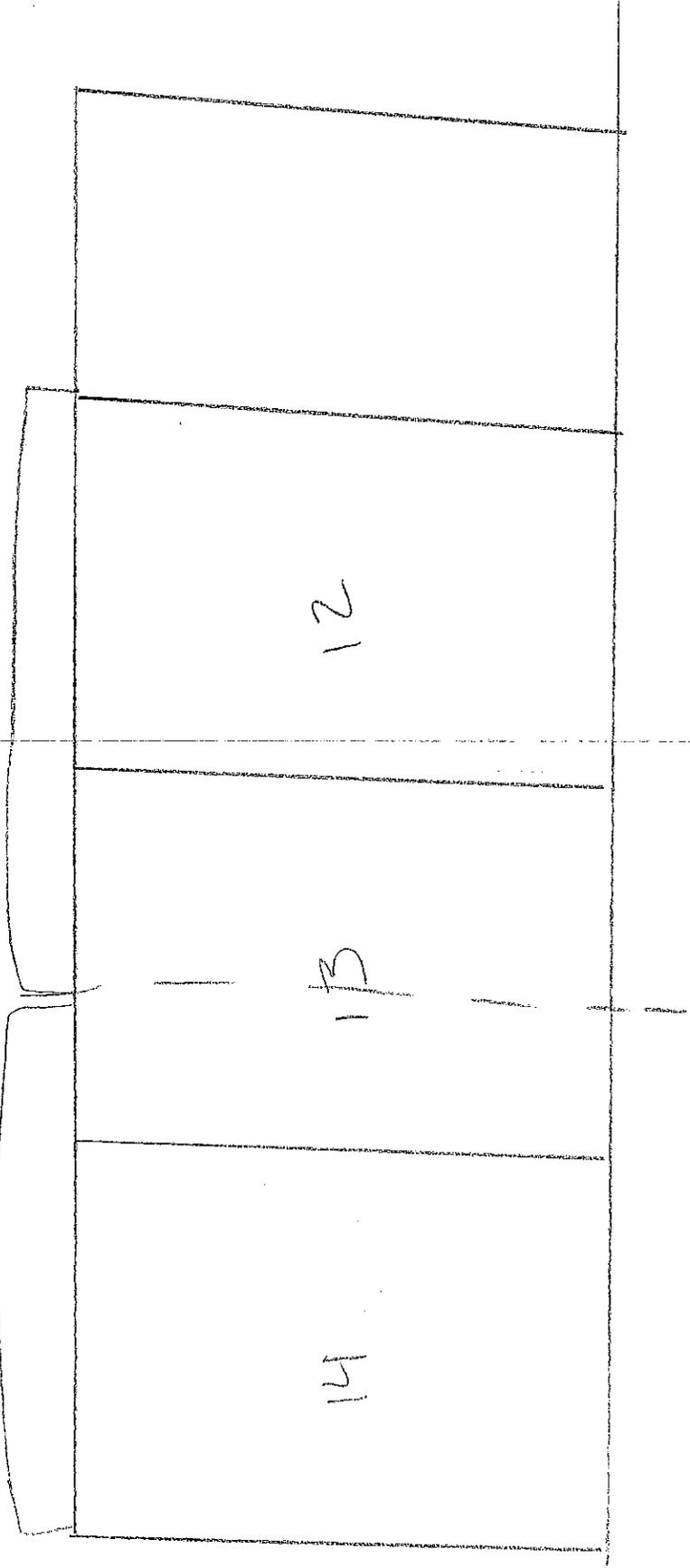
# Site Plan Review Form

Applicants Name: <u>Joan Ayivar Leon</u>			
Applicants Address: <u>119 E Simpson Dr.</u>			
Applicants Phone Number, Fax, Email: <u>575-936-5100</u>			
Brief Description of Project: <u>Replat lots 14, 13, 12</u> <u>to two lots 14, 12 75x100</u>			
Subdivision, Zoning Information: Zone A,B,C,D, Name, Block, Lot, District <u>Zone C, Simpson Sub blk 1, lot 12, <sup>13, 14</sup> 011</u>			
Owner number <u>21835</u>		Parcel Number <u>4000218300001</u>	
Applicants Status: Date Tentative <u>2-5-13</u>		P&Z Date and Time <u>2-20-13 4:30pm</u>	
Officer Recommendations: <u>owner - may Marquez</u>			
Applicants Signature <u>Joan Ayivar Leon</u>	Date <u>2-5-13</u>	Officer Signature <u>Laura B. Bole</u>	Date <u>2-5-13</u>

N/A

14 75x100

12 75x100



SIMPSON

**CITY OF LOVINGTON**  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: FEBRUARY 25, 2013



TYPE:  RESOLUTION  ORDINANCE  PROCLAMATION  INFORMATION  OTHER ACTION

**SUBJECT:** Consideration of Approval of a Cinder Block Fence on 1404 S. Love St

**DEPARTMENT:**

**SUBMITTED BY:** Ruben Gonzalez

**DATE SUBMITTED:** February 4, 2013

**STAFF SUMMARY:**

Ruben is requesting to put up a 10 ft. cinder block fence at 1404 S. Love St. on the South side of the property.

**FISCAL IMPACT:**

**REVIEWED BY:** \_\_\_\_\_

(Finance Director)

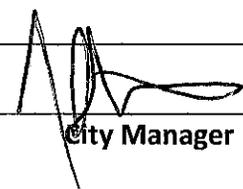
**ATTACHMENTS:**

Site plan review, site illustration

**RECOMMENDATION:**

Allow variance for 10 ft. cinder block fence.

\_\_\_\_\_  
Department Head

  
\_\_\_\_\_  
City Manager

# Site Plan Review Form

Applicants Name: <u>Ruben Gonzales</u>			
Applicants Address:			
Applicants Phone Number, Fax, Email: <u>1205 N 11th St</u> <u>399-4830</u> <u>1401 S Love St - Property to put fence</u>			
Brief Description of Project: <u>10 ft cinderblock fence</u>			
Subdivision, Zoning Information: Zone A,B,C,D, Name, Block, Lot, District <u>Zone C, Llano Add, blll, lot 15, 21</u>			
Owner number <u>20771</u>		Parcel Number <u>4000207710001</u>	
Applicants Status: Date Tentative <u>2-4-13</u>		P&Z Date and Time <u>2-20-13 4:30 pm</u>	
Officer Recommendations: <u>Allow variance for 10ft fence</u>			
Applicants Signature	Date	Officer Signature	Date
<u>Telephoned</u>	<u>2-4-13</u>	<u>[Signature]</u>	<u>2-4-13</u>

**CITY OF LOVINGTON**  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: FEBRUARY 25, 2013



TYPE:  RESOLUTION  ORDINANCE  PROCLAMATION  INFORMATION  OTHER ACTION

**SUBJECT:** Consideration of Review/Approval: Ameri-tech Assignment

**DEPARTMENT:**

**SUBMITTED BY:** Patrick McMahon, City Attorney

**DATE SUBMITTED:** February 21, 2013

**STAFF SUMMARY:**

Consideration of Review/Approval of Ameri-Tech Assignment.

**FISCAL IMPACT:**

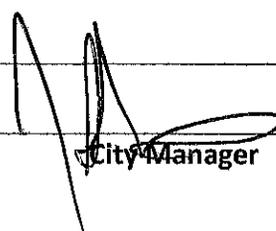
**REVIEWED BY:** \_\_\_\_\_

(Finance Director)

**ATTACHMENTS:**

**RECOMMENDATION:**

\_\_\_\_\_  
Department Head

  
\_\_\_\_\_  
City Manager