



**CITY OF FAIR OAKS RANCH  
AGENDA – CITY COUNCIL REGULAR MEETING**

December 5, 2019 6:30 PM  
City Hall Council Chambers  
7286 Dietz Elkhorn, Fair Oaks Ranch

**I. OPEN MEETING**

- A. Roll Call – Declaration of a Quorum.
- B. Pledge of Allegiance.

**II. CITIZENS and GUEST FORUM / PRESENTATIONS**

To address the Council, please sign the Attendance Roster located on the table at the entrance of the Council Chamber. In accordance with the Open Meetings Act, Council may not discuss or take action on any item which has not been posted on the agenda. Speakers shall limit their comments to five (5) minutes each.

- A. Citizens to be heard.

**III. CONSENT AGENDA**

All of the following items are considered to be routine by the City Council, there will be no separate discussion on these items and will be enacted with one motion. Items may be removed by any Council Member by making such request prior to a motion and vote.

- A. Approval of November 18, 2019 Special City Council Meeting Minutes. Pg. 3
- B. Approval of November 19, 2019 Town Hall Minutes. Pg. 4
- C. Approval of November 21, 2019 Regular City Council Meeting Minutes. Pgs. 5-8
- D. Approval of absence for the January 2, 2020 Council Meeting for Council Members Hartpence, Havard, and Patel. Pg. 9

**IV. CONSIDERATION/DISCUSSION ITEMS**

- A. Consideration and possible action approving the first reading of an ordinance repealing the Fair Oaks Ranch Code of Ordinances Chapter 3 “Building Regulations”, Sec 3.01.014 “Wooden Roofs”, Sec 3.06.004 “Water Heater Pressure Relief Lines”, Sec 3.07.002 “Branch Electrical Circuits, Aluminum Wiring”. Jim Earl, Building Official Pgs. 10-14

**V. REPORTS FROM STAFF/COMMITTEES/COUNCIL**

- A. None

**VI. CONVENE INTO EXECUTIVE SESSION**

Pursuant to Section 551.101 of the Open Meetings Act, Texas Gov’t Code, a quorum of the governing body hereby convenes into closed session:

- A. 551.071 (Consultation with Attorney) - Cause No. 2018-CI-00202; the City of Fair Oaks Ranch, Texas vs Edward I. Hill, Robert E. Heckendorn, Craig M. Luitjen, Roger Fuentes, Wesley A. Pieper, Esther W. Hicks, William A. McDowell, Yolanda D. Ayala, PG Pfeiffer Ranches LLC, Maureen Pfeiffer Stevenson Family Trust.
- B. 551.071 (Consultation with Attorney) - to receive legal advice regarding claims made on behalf of a real property owner against the City's operation of the K-3 Trinity Glen Rose Water Well.
- C. 551.071 (Consultation with Attorney) - to receive legal advice from Special Counsel and the City Attorney regarding the City's ground water rights.

**VII. RECONVENE INTO OPEN SESSION**

Discussion and possible action on items discussed in Executive Session.

**VIII. ADJOURNMENT**

Requests for City topic needing additional information/research; or, potential consideration for a future agenda.

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Signature of Agenda Approval: \_\_\_\_\_



I, Christina Picioccio, City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the city's website [www.fairoaksranchtx.org](http://www.fairoaksranchtx.org), both places being convenient and readily accessible to the general public at all times. Said Notice was posted by 5:00 PM December 2, 2019 and remained so posted continuously for at least 72 hours before said meeting was convened.

The Fair Oaks Ranch City Hall is wheelchair accessible at the side entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary's office at (210) 698-0900. Braille is not available. The City Council reserves the right to convene into Executive Session at any time regarding an issue on the agenda for which it is legally permissible; pursuant to *Texas Government Code* Chapter 551. Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

**CITY OF FAIR OAKS RANCH  
CITY COUNCIL SPECIAL MEETING MINUTES  
November 18, 2019  
7286 Dietz Elkhorn  
Fair Oaks Ranch, TX 78015**

**I. OPEN MEETING**

A. Roll Call – Declaration of a Quorum

Present: Mayor Manitzas and Mayor Pro Tem Elizondo  
Council Members: Havard, Koerner, Maxton, and Patel

Absent: Council Member Hartpence

With a quorum present, the Mayor called the City Council meeting to order at 10:03 AM.

B. The Pledge of Allegiance was led by new city employee, Clayton Hoelscher, Procurement Manager.

**II. CITIZENS and GUEST FORUM / PRESENTATIONS**

A. There were no citizens to be heard.

**III. CONVENE INTO EXECUTIVE SESSION**

City Council convened into Executive Session at 10:05 AM:

A. To receive legal advice from Special Counsel and the City Attorney regarding the City's ground water rights and existing well sites and to deliberate the options for the purchase, exchange, lease or value of same.

*Council Member Koerner left the executive session at 11:30 AM.*

**IV. RECONVENE INTO OPEN SESSION**

Mayor Manitzas reconvened into open session at 11:36 AM; no action was taken.

**V. ADJOURNMENT**

Mayor Manitzas adjourned the meeting at 11:37 AM.

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Garry Manitzas, Mayor

ATTEST:

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Christina Picioccio, City Secretary

**CITY OF FAIR OAKS RANCH  
TOWN HALL MINUTES  
November 19, 2019, 6:30 PM  
Cibolo Creek Community Church  
30395 Ralph Fair Road  
Fair Oaks Ranch, TX 78015**

A Town Hall Meeting regarding the Fair Oaks Ranch Water Utility was held at the Cibolo Creek Community Church on November 19, 2019. At 6:32 PM the Mayor provided the opening statement and introduced the presenters: Tobin Maples, City Manager, Rhonda Jolley, Joe Davis (Special Counsel) and Dan Santee, City Attorney (not present, but possibly arriving later in the meeting).

City Manager Maples spoke regarding the history of the utility, how this situation was discovered and the City's options and possible impacts moving forward. Special Counsel Joe Davis detailed the City's actions to date and the process of condemnation. Special Counsel Rhonda Jolley elaborated on the extensive research required with this process and apologized to citizens regarding the rapid succession of letters sent, explaining that this was inadvertent but due to the criticality of the situation. Citizens were given the opportunity to submit question on paper or to question the panel directly.

The following Council Members were present: Mayor Manitzas, Mayor Pro Tem Elizondo and Council Members: Hartpence, Havard, Koerner, and Maxton. No discussion or action occurred.

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Garry Manitzas, Mayor

ATTEST:

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Christina Picioccio, City Secretary

**CITY OF FAIR OAKS RANCH  
CITY COUNCIL MEETING MINUTES  
November 21, 2019  
7286 Dietz Elkhorn  
Fair Oaks Ranch, TX 78015**

**I. OPEN MEETING**

A. Roll Call – Declaration of a Quorum

Present: Mayor Manitzas and Mayor Pro Tem Elizondo  
Council Members: Hartpence, Havard, Koerner, Maxton, and Patel

With a quorum present, the Mayor called the City Council meeting to order at 6:30 PM.

B. The Pledge of Allegiance was led by Carolyn Knopf, resident and FORHA President.

**II. CITIZENS and GUEST FORUM/PRESENTATIONS**

A. Citizens to be heard:

1. Rich Nichols, resident and prior Chairman of the Home Rule Charter Commission, provided the background regarding the Home Rule Charter Commission's rationale regarding the job description and reporting conditions of the City Secretary's position. He also requested that Council table further discussion on this topic to a later date and to reconsider creating a Charter Review Committee should Council deem that changes to the Charter are necessary.
2. David Deleranko, resident and former Home Rule Charter member, reminded Council that the Charter need only be changed if and when it is necessary and expressed concern regarding the proposed changes. He requested that Council commission a Charter Review Committee.
3. Craig Riha, resident, requested that Council weigh the prior concerns voiced by citizens and to not select Site A as the location for the city's water tower.
4. John Hill, resident, recommended that Site A not be selected as the location for the water tower and that it be placed where there is no development so that future residents will "be able to come in with open eyes", when purchasing their property.
5. Nancy Hill, resident, noted that she has a petition with 396 signatures in opposition of Site A for the water tower.

B. Mayor Manitzas noted that the presentation by Studio S Architekts would be postponed for another meeting.

**III. CONSENT AGENDA**

- A. **Approval of November 7, 2019 Regular City Council Meeting Minutes.**
- B. **Approval of a Resolution approving the 2019 Tax Levy Roll.**
- C. **Approval of changing the December 5, 2019 City Council meeting start time to 6:30 PM to be in compliance with the Home Rule Charter.**

Council Member Patel requested that Item A be pulled out of Consent Agenda for discussion.

The Mayor presented the Items B and C of the Consent Agenda and with no discussion, the Items B & C were approved by unanimous consent.

#### **IV. DISCUSSION/CONSIDERATION ITEMS**

##### **III. A. Approval of November 7, 2019 Regular City Council Meeting Minutes.**

Council Member Patel requested that Item IV G be modified to read "As requested by Rich Nichols (Section IIA1-Citizens to be heard) **and Council Member Patel**, Council was willing..."

MOTION: Made by Council Member Patel, seconded by Mayor Pro Tem Elizondo to approve Consent Agenda Item A as amended.

VOTE: 7-0; Motion Passed

*In consideration of representatives from Frost Bank, the Mayor rearranged the order of Consideration Items.*

##### **D. Consideration and possible action approving a Resolution approving a depository agreement with Frost Bank.**

MOTION: Made by Mayor Pro Tem Elizondo, seconded by Council Member Koerner to approve a resolution designating Frost Bank as the depository for the City of Fair Oaks Ranch's funds.

VOTE: 7-0; Motion Passed

##### **A. Consideration and possible action authorizing the City Manager to sign a Professional Services Agreement for General Engineering Consultant Services (GEC).**

MOTION: Made by Council Member Havard, seconded by Council Member Maxton to approve the City Manager to sign a Professional Services Agreement with Legacy Engineering Group for GEC services.

VOTE: 7-0; Motion Passed.

##### **B. Consideration and possible action on the approval of site location and style of the Elevated Storage Tank**

MOTION: Made by Council Member Koerner, seconded by Council Member Maxton to remove Site A from further design consideration for the elevated storage tank.

VOTE: 7-0; Motion Passed.

MOTION: Made by Mayor Pro Tem Elizondo, seconded by Council Member Havard to remove Site D from the list.

VOTE: 6-1; Motion Passed; Nay: Council Member Patel

MOTION: Made by Council Member Havard, seconded by Council Member Koerner to eliminate sites C and E.

VOTE: 6-1; Motion Passed; Nay: Council Member Hartpence

MOTION: Made by Council Member Koerner, seconded by Council Member Havard to authorize staff to proceed with the design of the elevated storage tank at Site B.

VOTE: 5-2; Motion Passed; Nays: Council Members Hartpence and Patel

MOTION: Made by Council Member Havard, seconded by Council Member Maxton to accept the composite construction for the tank style.

VOTE: 7-0; Motion Passed

The Council Meeting held a brief recess at 8:30 PM and resumed the meeting at 8:34 PM.

**C. Consideration and possible action establishing an Audit Committee and Charter.**

MOTION: Made by Council Member Hartpence, seconded by Council Member Koerner to nominate Mayor Garry Manitzas, Mayor Pro Tem Roy Elizondo, and Council Member Greg Maxton as Audit Committee Members and to approve the Audit Committee Charter.

VOTE: 7-0; Motion Passed

**E. Consideration and possible action approving a Resolution casting votes for candidates for the Board of Directors for Bexar and Comal Appraisal Districts for tax years 2020 and 2021.**

MOTION: Made by Mayor Pro Tem Elizondo, seconded by Council Member Patel to approve a resolution casting the City of Fair Oaks Ranch votes for the Bexar and Comal Appraisal District Board of Directors as follows: Bexar Appraisal District: Jon Fisher (5 votes), Comal Appraisal District: Wade Cleary (2 votes), Dan Krueger (2 votes), John Kuntz (2 votes), Nancy Pappas (2 votes), and John Tyler (2 votes).

VOTE: 7-0; Motion Passed.

**F. Consideration and possible action on cancelling the January 2, 2020 Council Meeting.**

The Mayor confirmed that there will be a quorum for the January 2, 2020 meeting therefore cancellation of the meeting is not necessary. As a presentation regarding the Impact Fee Study will be presented that night, all Council Members who will be absent, are encouraged to attend the CIAC meeting on December 12, 2019.

**G. Consideration and possible action regarding means and methods for scheduling Special Called City Council meetings.**

Council affirmed the current process that staff employs to schedule Special Called City Council meetings: providing Council with multiple choices (based upon a variety of factors) and selecting the date and times that the majority of Council is available.

**V. REPORTS FROM STAFF / COMMITTEES / COUNCIL**

- A. Sarah Buckelew, Director of Finance, provided the quarterly financial and investment reports.
- B. After a review of the Home Rule Charter process by Assistant City Manager, Carole Vanzant, and on the recommendation of former Home Rule Charter members (Citizens to be heard Section) Council directed staff to bring back a process utilizing a Home Rule Charter Review Committee. In addition, Council concluded not to advance a Home Rule Charter amendment election in May 2020.

**VI. CONVENE INTO EXECUTIVE SESSION**

City Council did not convene into Executive Session regarding:

- A. 551.071 (Consultation with Attorney) - Cause No. 2018-CI-00202; the City of Fair Oaks Ranch, Texas vs Edward I. Hill, Robert E. Heckendorn, Craig M. Luitjen, Roger Fuentes, Wesley A. Pieper, Esther W. Hicks, William A. McDowell, Yolanda D. Ayala, PG Pfeiffer Ranches LLC, Maureen Pfeiffer Stevenson Family Trust.
- B. 551.071 (Consultation with Attorney) - to receive legal advice regarding claims made on behalf of a real property owner against the City's operation of the K-3 Trinity Glen Rose Water Well.
- C. 551.071 (Consultation with Attorney) - to receive legal advice from Special Counsel and the City Attorney regarding the City's ground water rights.

**VII. RECONVENE INTO OPEN SESSION**

- A. Not applicable.

**VI. ADJOURNMENT**

Mayor Manitzas adjourned the meeting at 9:18 PM.

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Garry Manitzas, Mayor

ATTEST:

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Christina Picioccio, City Secretary



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**CITY COUNCIL CONSIDERATION ITEM**  
**CITY OF FAIR OAKS RANCH, TEXAS**  
**December 5, 2019, 2019**

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AGENDA TOPIC: Approval of absence for the January 2, 2020 City Council Meeting for Council Members Hartpence, Havard, and Patel.

DATE: December 5, 2019, 2019

DEPARTMENT: City Council

PRESENTED BY: Council Member Patel (Consent Agenda)

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**INTRODUCTION/BACKGROUND:**

Council Members Hartpence, Havard, and Patel are unable to attend the January 2, 2020 City Council meeting due to being out of town.

**POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:**

Section 3.09 of the Home Rule Charter

**LONGTERM FINANCIAL & BUDGETARY IMPACT:**

N/A

**LEGAL ANALYSIS:**

N/A

**RECOMMENDATION/PROPOSED MOTION:**

Consent Agenda.



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## CITY COUNCIL CONSIDERATION ITEM

### CITY OF FAIR OAKS RANCH, TEXAS

December 5, 2019

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AGENDA TOPIC: Consideration and possible action approving the first reading of an Ordinance repealing the Fair Oaks Ranch Code of Ordinances Chapter 3 Building Regulations Section 3.01.014 "Wooden Roofs", Section 3.06.004 "Water Heater Pressure Relief Lines" and Section 3.07.002 "Branch Electrical Circuits; Aluminum Wiring"

DATE: December 5, 2019

DEPARTMENT: Building Codes

PRESENTED BY: Jim Earl, Building Official

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#### **INTRODUCTION/BACKGROUND:**

- 1) The City of Fair Oaks Ranch operates under the 2018 International Codes and the 2017 National Electric Codes.
- 2) A number of local City of Fair Oaks Ranch amendments to the codes have been passed which are more stringent than the Building Codes adopted by the city.
- 3) The passing of H.B. 2439, effective September 1, 2019, precludes the adoption or enforcement of any ordinance which prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code. See applicable section of H.B. 2439 attached as Exhibit A.
- 4) Staff has determined that Chapter 3 Building Regulations Section 3.01.014 "Wooden Roofs", Section 3.06.004 "Water Heater Pressure Relief Lines" and Section 3.07.002 "Branch Electrical Circuits; Aluminum Wiring" are in conflict with H.B. 2439 and should therefore be repealed.

#### **POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:**

While it is Staff's opinion that the city's amendments in question contribute to the health, safety and welfare of its citizens, we are obligated by State mandate to come into compliance with H.B. 2439.

#### **LONGTERM FINANCIAL & BUDGETARY IMPACT:**

No long term financial or budgetary impact is anticipated.

#### **LEGAL ANALYSIS:**

The City Attorney has reviewed H.B. 2439 and opined these three sections are in conflict with the bill. Accordingly, the Fair Oaks Ranch Code of Ordinances warrants an update.

#### **RECOMMENDATION/PROPOSED MOTION:**

I move to approve an Ordinance repealing Sections 3.01.014, 3.06.004, and 3.07.002 of Chapter 3 of the City of Fair Oaks Ranch Code of Ordinances.

**H.B 2439 – Effective September 1, 2019**

Sec. 3000.002. CERTAIN REGULATIONS REGARDING BUILDING PRODUCTS, MATERIALS, OR METHODS PROHIBITED.

(a) Notwithstanding any other law and except as provided by Subsection (d), a governmental entity may not adopt or enforce a rule, charter provision, ordinance, order, building code, or other regulation that:

(1) prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

## **AN ORDINANCE**

### **OF THE CITY OF FAIR OAKS RANCH REPEALING THE FAIR OAKS RANCH CODE OF ORDINANCES CHAPTER 3 "BUILDING REGULATIONS", SEC. 3.01.014 "WOODEN ROOFS", SEC. 3.06.004 "WATER HEATER PRESSURE RELIEF LINES", SEC. 3.07.002 "BRANCH ELECTRICAL CIRCUITS, ALUMINUM WIRING"**

**WHEREAS**, the City has, from time to time, passed amendments to the International Building Code and associated codes in an effort to ensure the health, safety and welfare of its citizens; and,

**WHEREAS**, the passing of House Bill 2439 effective September 1, 2019 precludes regulations that prohibit or limit directly or indirectly the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national Model Code; and,

**WHEREAS**, to ensure compliance as mandated by HB 2439, city staff reviewed Chapter 3 "Building Regulations" and provided recommendations to the Chapter for City Council approval; and,

**WHEREAS**, the City Council of the City of Fair Oaks Ranch deems it necessary to repeal Section 3.01.014 "Wooden Roofs", Section 3.06.004 "Water Heater Pressure Relief Lines" and Section 3.07.002 "Branch Electrical Circuits, Aluminum Wiring" of the City of Fair Oaks Ranch Code of Ordinances Chapter 3 Building Regulations.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:**

**PART 1.** Chapter 3 "Building Regulations" Sec. 3.01.014 "Wooden Roofs"; Sec. 3.06.004 "Water Heater Pressure Relief Lines"; Sec. 3.07.002 "Branch Electrical Circuits, Aluminum Wiring" are hereby repealed as forth in the attached Exhibit A.

**PART 2.** That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

**PART 3.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

**PART 4.** That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

**PART 5.** This ordinance shall take effect immediately from and after its second reading, and passage.

**PART 6.** The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Fair Oaks Ranch under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

**PART 7.** The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

**PASSED and APPROVED on first reading this 5<sup>th</sup> day of December, 2019.**

**PASSED, APPROVED AND ADOPTED on second reading this 2<sup>nd</sup> day of January, 2020.**

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Garry Manitzas, Mayor

ATTEST:

APPROVED AS TO FORM:

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Christina Picioccio, City Secretary

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Denton Navarro Rocha Bernal & Zech, P.C.,  
City Attorney

## Exhibit A

Chapter 3 “Building Regulations”, Sections 3.01.014, 3.06.004 and 3.07.002 are hereby repealed:

### **~~Sec. 3.01.014 — Wooden roofs~~**

~~Any residence or building to be covered with a wooden roof (shingle, shake, etc.) shall first be covered with a minimum 1/2" CDX plywood or material which is equal or better. The purpose of this material is to impede fire. (Ordinance 75.16, sec. 13.5, adopted 8/18/05)~~

### **~~Sec. 3.06.004 — Water heater pressure relief lines~~**

~~All residential water heater temperature and pressure relief lines shall be run full sized in hard copper pipe and terminated outside of the building, and shall not be run in the slab. (Ordinance 75.16, sec. 10.4, adopted 8/18/05; Ordinance 2009-17, sec. A.5, adopted 10/15/09)~~

### **~~Sec. 3.07.002 — Branch electrical circuits; aluminum wiring~~**

~~All branch electrical circuits shall utilize copper wiring of not less than twelve (12) gauge. Aluminum wiring is expressly prohibited in all electrical circuits in all buildings except for the “drop” providing service to the building. (Ordinance 75.16, sec. 11.2, adopted 8/18/05)~~