THE CODE OF ORDINANCES

CITY OF

TEXARKANA, TEXAS

Published in 2015 by Order of the City Council

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OFFICIALS

of the

CITY OF

TEXARKANA, TEXAS

AT THE TIME OF THIS RECODIFICATION

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Mayor

Brad Casteel, Ward 1
Willie J. Ray, Ward 2
Tina Veal-Gooch, Ward 3
Dr. Brian Matthews, Ward 4
Christy P. Paddock, Ward 5
Josh Davis, Ward 6
Councilmembers

John A. Whitson
City Manager

Shirley Jaster
Assistant City Manager

Deborah Jones and Jeffery C. Lewis
City Attorneys

Jennifer Evans
City Secretary

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Texarkana, Texas.

Source materials used in the preparation of the Code were the 1961 Code, as updated by ordinances subsequently adopted by the City Council through September 8, 2014. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1961 Code, as updated by subsequent ordinances included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

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SPECIAL ACTS	SA:1
CHARTER COMPARATIVE TABLE	CHTCT:1
RELATED LAWS COMPARATIVE TABLE	RLCT:1
SPECIAL ACTS COMPARATIVE TABLE	SACT:1
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CODE APPENDIX	CDA:1
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Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly

edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Jim Jenkins, Senior Code Attorney, and Nicole C. Fluitt, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. John Whitson, City Manager, and Ms. Pam Burns, Assistant City Secretary, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

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PART I

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***Editor's note**—Printed herein is the Charter for the City of Texarkana, TX, as adopted by a majority of the qualified voters of the city at an election held April 5, 1960. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, and catchlines has been used. Additions made for clarity are indicated by brackets [ ]. The original arrangement and numbering system has been retained.

State law reference—Adoption, amendment, etc., of Charter by home rule cities, Texas Local Government Code § 9.001 et seq.

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ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND POWERS

Sec. 1. Incorporation.

The inhabitants of the City of Texarkana, Texas, within the corporate limits as now established or as hereafter established, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Texarkana, Texas," hereinafter referred to as the "city."

Sec. 2. Form of government.

The municipal government provided by this Charter shall be known as the "Council-Manager Form of Government." Subject only to the limitations imposed by the state constitution, the state laws and this Charter, all powers of the city shall be vested in and exercised by an elective council, hereinafter referred to as "the council," which shall enact local legislations, adopt budgets, determine policies and appoint the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by the laws of the State of Texas or by ordinance.

State law reference—Form of government in home-rule municipality, Texas Local Government Code § 26.021.

Sec. 3. Powers of the city.

The City of Texarkana shall have and may exercise all the powers granted to cities by the constitution or laws of Texas, including specifically those powers made available to cities of more than 5,000 inhabitants by what is known as the Home Rule Amendment to the Constitution of Texas (article XI, section 5) and the Home Rule Enabling Act (ch. 13, title 28 of the Revised Civil Statutes of the State of Texas, 1925), as now or hereafter amended, all of which are hereby adopted. The city may acquire property within or without its corporate limits for any municipal purpose; may cooperate with the government of Texas or any agency thereof, or with the federal government or any agency thereof, or with the government of any county, city or political subdivision to accomplish any lawful purpose for the advancement of the health, morals, safety, convenience or welfare of the city or its inhabitants; may sell, lease, mortgage, hold, manage and control such property as its interest may require; provided the city shall not sell, convey, lease, mortgage or otherwise alienate any public utility without prior approval by the qualified voters of the city; [and] may exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or the Constitution or laws of Texas. The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or

appropriate to the exercise thereof, the city shall have and may exercise all other powers which under the Constitution and laws of this state, as now or hereafter amended, it would be competent for this Charter to specifically enumerate.

State law reference—General powers of home-rule cities, Texas Local Government Code § 51.071 et seq.

Sec. 4. Streets and public property, generally.

The city shall have exclusive dominion, control and jurisdiction in, upon, over and under the public streets, sidewalks, alleys, highways, public squares and public ways within the corporate limits of the city, and in, upon, over and under all public property of the city. With respect to each and every public street, sidewalk, alley, highway, public square, public park or other public way within the corporate limits of the city, the city shall have the power to establish, maintain, improve, alter, abandon or vacate the same; to regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

The city council, subject to the provisions of this Charter, shall have the power to lay out, establish, open, restore, widen, extend, grade, narrow, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, squares, parks, public places and bridges and shall have exclusive power and control over the same and over such streets, alleys, sidewalks and public places and bridges that now or which shall hereafter exist in said city, and shall have the power to vacate and close them, and to regulate the use thereof, to prevent the construction on or to require the removal from the streets, alleys, highways, public places and sidewalks of said city of obstruction telegraph poles, telephone poles, street railway and other poles carrying electric current or wires, signs, fruit stands, showcases and encroachments of every kind and character upon said streets and sidewalks, provided the same does not interfere with or violate the provisions of any franchise heretofore granted by the City of Texarkana, Texas, or contracts now existing.

Annotation—In construing a provision of the former Charter similar to section 4 as it now reads, the court said: "This general authority was vested by the law in the city, as a municipal corporation, purely as the representative of the public and for the public benefit. The authority to vacate and close streets, as a necessary incident of control and maintenance thereof, was intended to empower the city only to relieve the public from the charge of maintaining a street in case it is no longer used by the public as a street, or is no longer useful and convenient to the public in general. The word 'close' is used in the sense of termination of maintenance and not in the sense of preventing ingress and egress by obstructions. In nowise is such authority intended to comprehend proprietary rights in the land, or exercise of proprietary rights in respect thereto. Streets are not owned by the public, but their uses are public. The city, as a municipal corporation, holds merely the right to the easement in such streets in trust for the public and in respect to the public interests. Therefore the authority of the city to vacate a street may be regarded as attaching at all only in case it is for the benefit of the public that such action be taken. The benefit may be either in relieving the public from the charge of maintaining a street that is no longer used by the public or is no longer useful or convenient to the public, or by laying out a new street in its place which will be more useful and convenient to the public in

general. A street may not in any event be vacated or discontinued for the purpose of devoting it to purely private and inconsistent uses, as without the authority of the municipal corporation, as a trustee, to do." Texas Company v. Texarkana Mach. Shops, 1 S.W. (2d) 928 (1928), holding that an ordinance of the city purporting to vacate a street and relinquish the city's rights therein to the owner of the fee and directing the mayor to execute a quitclaim deed to the owner of the fee did not divest the owners of abutting property of their rights in the street and did not authorize the owner of the fee to obstruct the street and the abutting owners' right of ingress and egress.

State law reference—Authority of city relative to streets and other public property, Texas Transportation Code § 311.001.

Sec. 5. Change of boundaries and annexation of territory.

The city council shall have power, by ordinance, to fix the boundary limits of the City of Texarkana; and to provide for the alteration and extension of said boundary limits, and the annexation of additional territory lying adjacent to the city, with or without the consent of the territory and inhabitants annexed. Upon the introduction of any ordinance annexing additional territory, such ordinance shall be published in the form in which it may be finally passed, in the official newspaper of said city at least one time; and upon the final passage of any such ordinance, the corporate limits of the city shall thereafter include the territory so annexed; and when any additional territory has been so annexed, same shall be a part of the City of Texarkana, Texas, and the property situated therein shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to all the rights and privileges of all citizens, and shall be bound by the acts and ordinances, resolutions and regulations of the city.

(Ord. No. 136-2000, § 3, 5-11-2000)

State law references—Municipal boundaries and annexation generally, Texas Local Government Code § 41.001 et seq.; authority of home-rule municipality to annex area and take other actions regarding boundaries, Texas Local Government Code § 43.021.

Sec. 6. Street development and improvement.

The city shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways and other public ways within the corporate limits of the city by laying out, opening, narrowing, widening, straightening, extending, lighting and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, re-paving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement may be paid partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof, and such assessments may be levied in any amounts

and under any procedure not prohibited by state law; provided, that no assessment shall be made against such land or owners in excess of the enhancement in value of such property occasioned by such improvement.

If improvements be ordered constructed in any part of any area used or occupied by the tracks or facilities of any railway or public utility, then the city council shall have power to assess the whole cost of improvements in such area and the added costs of improvements in areas adjacent thereto made necessary by such use or occupancy against such railway or utility, and shall have power, by ordinance, to provide for the enforcement of such assessment.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways and other public ways within its corporate limits, the city shall have the power and authority to proceed in accordance with chapter 106, page 489, Acts 1927, Fortieth Legislature, First Called Session, and now or hereafter amended, the same being article 1105b of the Revised Civil Statutes of Texas, 1925.

State law reference—Authority of city to develop and improve streets, Vernon's Ann. Civ. St. art. 1175.

Sec. 7. Urban development, redevelopment and renewal.

The city shall have the power to carry out slum clearance, public housing, and urban redevelopment and renewal projects. For these purposes it may acquire land by eminent domain, may contract or cooperate with the state or federal governments or any agency thereof, may invest its funds, and borrow or accept money.

ARTICLE II. THE COUNCIL

Sec. 1. City divided into wards.

The city shall be divided into six wards. The territory included in such wards shall be as heretofore and hereafter established by ordinances of the City of Texarkana, and may be changed from time to time by ordinance as the interests of the city may demand, having regard to the number of persons residing in each ward as shown by the last preceding census or other reliable population estimate and fixing ward boundaries so that each ward shall contain, as nearly as possible, the same number of persons. In the event the limits of the city are extended, annexed territory shall become a part of the ward to which it adjoins until changed by the council; and in the event any annexed tract adjoins two or more wards, the ward line or lines intersecting the city limit line immediately preceding such annexation shall be considered extended so that such annexed territories shall become parts of such adjoining wards until changed by the council.

(Ord. No. 244-83, § 1(a), 9-12-1983)

State law reference—Authority of city council to establish election precincts identified by specific name or number for municipal elections, Texas Election Code §§ 42.061, 42.064.

Sec. 2. Number, selection, term of office and remuneration.

(a) The council shall be composed of seven members, consisting of six ward councilmembers and a mayor. Candidates for mayor shall be voted on by the qualified voters of the city at large. Candidates for ward councilmember shall be voted on only by the qualified voters residing in the ward from which the candidate seeks election. Each ward councilmember and the mayor shall serve for a two-year term, which term shall begin on the first week day in May following the regular city election in which the ward councilmember or mayor was elected. Three ward councilmembers shall be elected on each odd year, and three ward councilmembers and the mayor shall be elected on each even year.

(b) The mayor shall receive remuneration in the amount of $400.00 monthly, and councilmembers shall receive remuneration in the amount of $300.00 monthly.
(Ord. No. 244-83, § 1(a), 9-12-1983; Ord. No. 136-2000, § 2, 5-11-2000)

Sec. 3. Qualifications.

At the time of his election to office each member of the council, including the mayor, shall be a citizen and qualified voter of the State of Texas and the City of Texarkana, shall be a taxpayer in the city, and, except the mayor, a resident of the ward from which he is elected. Each member of the council, including the mayor, shall have resided in the City of Texarkana, Texas, for 12 months next preceding the general or special election in which he is elected; and each councilman shall have resided in the ward from which he is elected for six months next preceding the general or special election in which he is elected. No member of the council, either councilman or the mayor, shall hold any other office or employment under the city government while he is a member of said council, nor shall he hold any paid employment under the city government within two years thereafter. If a member of the council shall cease to reside in the city, or a councilman shall cease to reside in the ward from which he is elected, his office shall be deemed vacant.

Sec. 4. The mayor.

The mayor shall preside at meetings of the council, and shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties. The person holding the office of mayor shall cast a vote in the council only in the event of a tie vote but otherwise shall have all the duties and powers conferred on the mayor by this Charter. The council shall elect a mayor pro tem who shall act as mayor during the absence or disability of the mayor. The mayor pro tem shall be elected from among the councilmen.

Sec. 5. Powers generally.

All powers of the city and the determination of all matters of policy shall be vested in the council.

Sec. 6. Vacancy.

(a) The City Council may, by majority vote of the remaining councilmembers (including the Mayor as a temporary, full-voting member), fill a vacancy in council membership, including the office of Mayor.

(b) The City Council may order a special election to fill a vacancy in council membership.

(c) The City Council may defer filling a vacancy in council membership until the next regular City election.

(d) A person elected to fill a vacancy in council membership shall serve for the remainder of the unexpired term of the vacated office.

(e) If the membership of the City Council is reduced to less than a quorum (that is, less than five councilmembers), the following persons, in the order of succession listed, may appoint additional councilmembers to raise the membership to a quorum: (1) the Mayor; (2) the Mayor Pro Tempore if the office of Mayor is vacant; (3) a unanimous vote of the remaining councilmembers, with the Charter's quorum requirement suspended for such vote, if the offices of both the Mayor and Mayor Pro Tempore are vacant; (4) the Governor, upon the petition of any remaining councilmember or any five registered voters of the City, provided the preceding methods have failed to raise the membership to a quorum.

(f) A person appointed to fill a vacancy in council membership shall serve for the remainder of the unexpired term of office if the remaining term expires immediately following the next regular City election. Otherwise, a person appointed to fill a vacancy shall serve only until a successor is elected.
(Ord. No. 2014-135, § 3, 11-17-2014)

Sec. 7. City secretary.

The city secretary shall be appointed by the city manager subject to the approval of the council. He shall serve as clerk of the council, give notice of its meetings, keep the journal of its proceedings, authenticate by his signature, and record in full in a book kept for the purpose all ordinances and resolutions, and perform such other duties as this Charter may provide or as the city manager may assign him.

Sec. 8. Meetings of the council.

(a) *General.* The city council shall meet at the city hall on the first week day of May following a regular city election. Newly elected members (including the mayor) shall assume the duties of office at that time. Thereafter the council shall meet in a regular meeting at the city hall at least once a month on a day to be set by ordinance or resolution.

(b) *Special.* The council may provide by ordinance or resolution for the time and place of holding any additional meetings, and the manner in which special meetings shall be called. A special meeting shall be called by the city secretary upon written request of the mayor, the city manager, or a majority of the members of the council by written notice thereof mailed to the post office address of the several members of the council at least 24 hours next before such special meeting. Notice of such meeting shall state the subject to be considered, and no subject at such meeting shall be considered unless notice of the subject to be considered has been given according to law. Special meetings may be held without previous notice, provided all members of the council are present, or all members waive such notice in writing.

(c) *Attendance of city manager; meetings public.* The city manager shall attend all meetings of the council and may take part in the discussion of all matters coming before the council but shall have no vote. All meetings of the council and of all boards, commissions and committees thereof shall be open to the public as provided by state law. Any inhabitant of the city shall have a reasonable opportunity to be heard at any meeting of the council on any matter.
(Ord. No. 244-83, § 1(b), 9-12-1983; Ord. No. 136-2000, § 5, 5-11-2000)

Sec. 9. Council rules.

The council shall be the judge of the election and qualifications of its members, and for such purpose shall have the power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts. It shall determine its own rules and order of business and keep a bound record of its proceedings. Five members of the council shall constitute a quorum. The affirmative vote of four of the members shall be necessary to adopt any ordinance or resolution unless otherwise specifically provided in this Charter. The ayes and noes shall be taken upon the passage of all ordinances or resolutions and the vote of each member shall be recorded in the minutes.
(Ord. No. 136-2000, § 6, 5-11-2000)

Sec. 10. Annual audit.

The council shall cause to be prepared an independent audit annually by a certified public accountant covering all of the city's financial affairs as soon after the close of the fiscal year as practicable. A summary of the annual city audit shall be published by the council in the newspaper authorized to publish the city's legal notices.

Sec. 11. Investigative body.

The council shall have the power to inquire into the official conduct of any department, agency, office, officer or employee of the city, and for that purpose shall have the power to administer oaths, subpoena witnesses, [and] compel the production of books, papers, and other evidence material to the inquiry. The council shall provide, by ordinance, penalties for contempt

in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance.

Sec. 12. Code of ordinances.

The council shall have the power to cause all general ordinances of the city to be compiled and printed in code form. The council shall cause all general ordinances to be codified, recodified and reprinted whenever in its discretion such is deemed desirable, or when such codification or recodification is required by law. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the city may be omitted without affecting the validity of such ordinances when they are published as a code.

State law reference—Authority to adopt a civil and criminal code of ordinances, Texas Local Government Code § 53.001.

Sec. 13. Emergency powers of mayor.

Whenever the mayor shall deem it necessary in order to enforce the laws of the city, or to avert danger, or to protect life or property, in case of riot, outbreak, calamity or public disturbance, or when he has reason to fear any serious violation of law or order, outbreak, or any other danger to the City of Texarkana or the inhabitants thereof, he shall summon into service as a special police force, all or as many of the citizens as in his judgment and discretion may be necessary and proper; and such a summons may be made by proclamation or orders addressed to the citizens generally, or those of any ward of the city or subdivision thereof, or such summons may be by personal notification. Such summons shall be made pursuant to a proclamation by the mayor that an emergency exists in the City of Texarkana. During such emergency, the police department of the City of Texarkana, and such special police as have been summoned by the mayor, shall be subject to the orders of the mayor, and shall perform such duties as he may require, and shall have the same power while on duty as the regular police of the City of Texarkana. The mayor shall have authority during the continuance of such emergency to make and enforce such rules, regulations, and orders as are necessary to preserve the public health, safety, and welfare from the threatened danger. During such emergency, such rules, regulations and orders shall have the force and effect of law. The mayor shall have authority in case of riot or other unlawful assemblage, to order and enforce the closing of any theater, picture show, or other place of public amusement or entertainment, ballroom, barroom, or other place of resort, or public room or building, and may order the arrest of any person violating in his presence any of the penal laws of the state, or any ordinance of the city; and he shall perform such other duties and possess and exercise such other power and authority as may be prescribed by law or by ordinance.

Sec. 14. Power to fix compensation of officers and employees.

The council shall fix the compensation to be paid to the city manager; and unless otherwise specifically provided by this Charter, the council shall fix the compensation to be paid all other city officers and employees after first receiving the recommendations of the city manager as to such compensation.

ARTICLE III. CITY MANAGER

Sec. 1. Qualifications.

The city manager shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in or his knowledge of accepted practice in respect to the duties of his office, as hereinafter set forth, provided that any person who is appointed city manager must have had at least two years of experience as a city manager or assistant city manager, or two years of comparable professional engineering or administrative experience within the last five years. At the time of his appointment he need not be a resident of the city or state but during his tenure of office he shall reside within the city, and no person shall be eligible for such appointment who has held any elective office of the city within the two years preceding such appointment.

Sec. 2. Removal.

The council shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members. At least 30 days before such removal shall become effective, the council shall, by a majority vote of its members, adopt a preliminary resolution stating reasons for his removal. The manager may, within ten days after the adoption of a preliminary resolution, reply in writing and may request a public hearing, which shall be held and a final resolution of removal or reinstatement adopted not later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council, by majority vote of its members, may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary accrued to [the] date thereof and his salary for the next calendar month following adoption of the preliminary resolution.

Sec. 3. Council not to interfere with manager.

Neither the council nor any of its members shall direct or order the appointment of any person to, or his removal from, office by the city manager or by any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any members thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any member of the council violating the provisions of this section shall be subject to removal from office in

accordance with the provisions of and under the procedures set forth in Articles 5991-5994 inclusive, Civil Statutes of Texas, as amended from time to time, which are hereby incorporated herein by reference.

Sec. 4. Powers and duties.

The powers and duties of the city manager shall be as follows:

(a) To see that all laws and ordinances are enforced.

(b) Except as otherwise provided by the laws of the State of Texas or the Charter of the City of Texarkana, Texas, to appoint and remove all heads of departments and all subordinate officers and employees of the city.

(c) To exercise control over all departments and subdivisions thereof created by the Charter, or that may hereafter be created by the council, except as herein provided.

(d) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed, and, upon knowledge of any violation thereof, to call the same to the attention of the city attorney, whose duty it shall be to take such steps as may be necessary to enforce the same.

(e) To attend all meetings of the council with the right to take part in the discussion, but having no vote. He shall be entitled to notice of all special meetings.

(f) To recommend to the council for adoption such measures as he may deem necessary or expedient.

(g) To keep the council at all times fully advised as to the financial condition and needs of the city.

(h) [To] prepare the annual budget and submit it to the council and be responsible for its administration after adoption.

(i) To execute deeds when authorized by ordinance duly passed as provided herein, and to make and execute all contracts on behalf of the city when authorized by ordinance or resolution of the council.

(j) To perform such other duties as may be prescribed by this Charter, or by ordinance or resolution of the council.

Sec. 5. Absence of city manager.

To perform his duties during his temporary absence or disability, the city manager shall designate by letter filed with the city secretary a qualified administrative officer of the city. The administrative officer thus designated shall perform the duties of the manager until he shall return or his disability shall cease or until the council, by resolution, designates another officer of the city to perform such duties.

ARTICLE IV. ADMINISTRATIVE ORGANIZATION

Sec. 1. Administrative departments.

General. There are hereby created the following administrative departments:

(1) Finance department.

(2) Police department.

(3) Fire department.

(4) Public works department, and others which may be established by ordinance.

All administrative departments shall be under the control and direction of the city manager. The council may abolish or combine one or more departments created by it, and may assign or transfer duties of any departments of the city from one department to another by ordinance.

State law references—Authority of home rule municipality to provide for police department, Texas Local Government Code § 341.003; authority of home rule municipality to provide for fire department, Texas Local Government Code § 342.011.

Sec. 2. Directors of departments.

At the head of each department there shall be a director who shall be appointed, and who may be removed, by the city manager. Such directors shall have supervision and control over their respective departments, and may serve as chiefs of divisions within their respective departments. Two or more departments may be headed by the same individual, and the city manager may head one or more departments.

ARTICLE V. ELECTIONS

Sec. 1. General election.

The regular election of members of the council to the places on the council occupied by members of the council whose terms are expiring shall be held on the first Saturday in May of each year. In every such election each qualified voter shall vote for not more than one candidate for each council place to be filled. Such election shall be ordered by the council, and in case of its failure to order the same, the mayor of the city shall make such order. In the case of the inability of the council or the mayor to act, the election may be called by the city secretary, and in case of his inability to act, by the county judge of Bowie County, Texas, and in case of his inability to act, by the governor of the State of Texas. The city secretary shall give notice of such election by causing said notice to be published at least 30 days previous to the day of such election in the official newspaper of the city.
(Ord. No. 136-2000, § 7, 5-11-2000)

Sec. 2. Regulation of elections.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the council for the conduct of elections. The council shall appoint the election judges and other election officials and shall provide for the compensation of all election officials in the city elections, and for all other expenses of holding such elections.

Sec. 3. Filing of candidates.

Any qualified person who desires to become a candidate for election to a place on the council shall file with the city secretary at least 30 days prior to the election day an application for his name to appear on the ballot. Such application shall clearly designate the office and the ward if the office be other than for mayor to which the candidate seeks election and shall contain a sworn statement by the candidate that he is fully qualified under the laws of Texas and the provisions of this Charter to hold the office he seeks.

Sec. 4. Canvassing election and declaring results.

The returns of every municipal election shall be delivered forthwith by the election judges to the city secretary. The council shall canvass the returns, investigate the qualifications of the candidates, and declare the official results of the election not later than the first regular meeting following the delivery of the votes to the city secretary. The returns of every municipal election shall be recorded in the minutes of the council by precinct totals. The qualified person receiving the highest number of votes cast for any office shall thereupon be declared by said council elected. The decision of the council as to qualification of candidates shall be conclusive and final for all purposes.

Sec. 5. Notification and qualification of city officers.

It shall be the duty of the city secretary to notify all persons elected or appointed to office of their election or appointment and all the newly elected or appointed officers may enter upon their duties. Any officer elected or appointed must qualify by taking and subscribing his oath of office within 30 days; otherwise the office may be deemed vacant.

Sec. 6. Special elections.

The council may, by ordinance or resolution, call such special elections as are authorized by the state law and this Charter, fix the time and place of holding same, and provide all means for holding such special elections, provided that every special election shall be called and held as nearly as practicable according to the provisions governing general elections.

ARTICLE VI. INITIATIVE, REFERENDUM AND RECALL

Sec. 1. Power of initiative.

The electors shall have power to propose any ordinance (except an ordinance appropriating money or authorizing the levy of taxes), and to adopt or reject the proposed ordinance at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the council by a petition signed by qualified voters of the city equal in number to at least 25 percent of the total number of votes cast at the last preceding regular municipal election for the office for which there were cast the greatest number of votes at such election.

Sec. 2. Power of referendum.

The electors shall have power to approve or reject, at the polls, any ordinance passed by the council or submitted by the council to a vote of the electors, except an ordinance appropriating money, issuing bonds or authorizing the levying of taxes, such power being known as the referendum. Within 20 days after the enactment by the council of any ordinance which is subject to referendum, a petition signed by qualified voters of the city equal in number to at least 25 percent of the total number of votes cast at the last preceding regular municipal election for the office for which there were cast the greatest number of votes at such election may be filed with the city secretary requesting that any such ordinance be either repealed or submitted to a vote of the electors.

Sec. 3. Form of petition; committee of petitioners.

Initiative petition papers shall contain the full text of the proposed ordinance. Referendum petition papers shall contain the full text of the ordinance which they propose to repeal. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer shall sign his name in ink or indelible pencil and shall give after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all the signatures were appended thereto in his presence and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Sec. 4. Filing, examination and certification of petitions.

All papers comprising an initiative or referendum petition shall be assembled and filed with the city secretary as one instrument. Within 20 days after a petition is filed, the city secretary

shall determine whether each paper of the petition bears the required affidavit of the circulator and whether the petition is signed by a sufficient number of qualified voters. After completing his examination of the petition, the city secretary shall certify the result thereof to the council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

Sec. 5. Amendment of petitions.

An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the city secretary, by filing a supplementary petition upon additional papers signed and filed as provided in the case of an original petition. The city secretary shall within five days after such an amendment is filed, examine the amended petition and, if the petition is still insufficient, he shall file his certificate to that effect in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The findings of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Sec. 6. Effect of certification of referendum petition.

When a referendum petition, or amended petition as defined in section 5 of this article, has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors as hereinafter provided.

Sec. 7. Consideration by council.

Whenever the council receives a certified initiative or referendum petition from the city secretary, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on the ordinance within 60 days after the date on which such ordinance was certified to the council by the city secretary. A referred ordinance shall be reconsidered by the council and its final vote upon such reconsideration shall be upon the question: "Shall the ordinance specified in the referendum petition be repealed?"

Sec. 8. Submission to electors.

If the council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the council shall fail to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than 30 days nor more than 60 days from the date the council takes its final vote thereon. If no regular election is to be held within such period the council shall provide for a special election.

Sec. 9. Form of ballot for initiated and referred ordinances.

Ordinances submitted to a vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall be prepared in all cases by the city attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. If a paper ballot is used it shall have below the ballot title the following propositions, one above the other, in the order indicated: "For the Ordinance" and "Against the Ordinance." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for or against the ordinance.

Sec. 10. Results of election; publication.

(a) If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed.

(b) Initiative ordinances adopted and referendum ordinances approved by the electors shall be published, and may be amended or repealed by the council in the same manner as other ordinances.

Sec. 11. Recall of councilmembers; generally.

Any member of the city council may be removed from office by a recall election.

Sec. 12. Recall petitions; committee of petitioners.

Recall petition papers shall contain the name of the member of the council (or names of the members of the council) whose removal is sought, and a clear and concise statement of the grounds for his (or their) removal. There shall appear at the head of each petition the names and addresses of five electors, who, as a committee of the petitioners shall be regarded as responsible for the circulation and filing of the petition. Each signer of any petition paper shall sign his name in ink or indelible pencil and give after his name his place of residence by street and number, or other description sufficient to identify the place, and the date his signature was affixed. No signature to such petition shall remain effective or be counted which was placed thereon more than 45 days prior to the filing of such petition with the city secretary. The signatures to a recall petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof that he, and he only,

personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures were appended thereto in his presence and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Sec. 13. Filing and certification of petitions; recall election generally.

(a) All papers comprising a recall petition shall be assembled and filed with the city secretary as one instrument. Within seven days after a petition is filed, the city secretary shall determine whether each paper bears the names of the five electors who constitute the committee of the petitioners, and the required affidavit of the circulator thereof, and whether the petition is signed by qualified electors of the city equal in number to at least 25 percent of the total number of votes cast at the last preceding regular municipal election for the office for which there were cast the greatest number of votes at such election.

(b) If the city secretary finds the petition insufficient, he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings. A recall petition may be amended at any time within ten days after the notification of insufficiency has been sent by the city secretary, by filing a supplementary petition upon additional papers signed and filed as provided in the case of an original petition. The city secretary shall within five days after such amendment is filed, examine the amended petition, and if the same is still insufficient, he shall file his certificate to that effect in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition, which action shall be without prejudice to the filing of a new petition based upon new and different grounds, but not upon the same grounds. If the city secretary finds the petition sufficient and in compliance with the provisions of this article of the Charter, he shall submit the petition and his certificate of its sufficiency to the council at its next regular meeting and immediately notify the member of the council whose removal is sought of such action.

(c) If the member of the council whose removal is sought does not resign within seven days after such notice the city council shall thereupon order and fix a date for holding a recall election not less than 30 nor more than 60 days after the petition has been presented to the council. If no general election is to be held within this time the council shall provide for a special election.

Sec. 14. Recall election ballots.

Ballots used at recall elections shall conform to the following requirements:

(a) With respect to each person whose removal is sought the question shall be submitted: "Shall (name of person) be Removed From the City Council by Recall?"

(b) Immediately below each such question shall be printed the two following propositions, one above the other in the order indicated) "Yes" [and] "No."

(c) No other question or proposition shall be stated on such ballots.

Sec. 15. Results of recall election.

If a majority of the votes cast at a recall election shall be against the recall of the member of the council named on the ballot, he shall continue in office. If a majority of the votes cast at a recall election be for the recall of the member of the council named on the ballot, he shall be deemed removed from office and the vacancy shall be filled in the manner prescribed in article II, section 6 of this Charter.

Sec. 16. Limitations on recalls.

No petition shall be filed against a member of the council within six months after he takes office, nor against a member of the council who has been subjected to a recall election and not removed thereby until at least six months after such election.

Sec. 17. District judge may order recall election.

Should the city council fail or refuse to order any recall election when all of the requirements for such election shall have been complied with by the petitioning electors in conformity with this article of the Charter, then upon proper application therefor a district judge of Bowie County, Texas, may order such election and effectuate the provisions of this article of the Charter.
(Ord. No. 136-2000, § 8, 5-11-2000)

ARTICLE VII. FINANCE ADMINISTRATION*

Sec. 1. Department established; appointment of director.

There shall be a department of finance, the director of which shall be appointed by the city manager.

Sec. 2. Qualifications of director.

The director of finance shall have knowledge of municipal accounting and taxation and shall have had experience in budgeting and financial control.

Sec. 3. Bond of director.

The director of finance shall provide a bond with such surety and in such amount as the council may require, except that such bond shall be for not less than $10,000.00.

***State law reference**—Power of home-rule city to control and manage its finances, Texas Local Government Code § 101.022.

Sec. 4. General powers and duties of director.

The director of finance shall have charge of the administration of the financial affairs of the city. He shall perform, or supervise and be responsible for the performance of, the following functions:

(a) Compile the estimates of revenues and expenditures for the budget as directed by the city manager;

(b) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;

(c) Submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city;

(d) Prepare at the end of each fiscal year a complete financial statement and report;

(e) Reserved;

(f) Supervise and be responsible for the collection of all taxes, special assessments, license fees and other revenues of the city or for whose collection the city is responsible, and performance of other duties as therein specified;

(g) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds, notes and other securities belonging to or under the control of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;

(h) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government;

(i) Approve all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriated and available funds, no appropriation shall be encumbered and no expenditure shall be made (except for emergencies) as provided for in article VII, section 14; and

(j) Perform the duties hereinafter assigned to the following offices until any or all of such duties have been assigned to some other person or persons:

(1) The division of accounting supervision and control;

(2) The purchasing office.

(Ord. No. 136-2000, §§ 9—11, 5-11-2000)

Sec. 5. Division of accounting supervision and control.

There shall be established in the department of finance, a division of accounting supervision and control. This division shall:

(a) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the city government;

(b) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations become due and payable;

(c) Audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and, with the advice of the city attorney, determine the regularity, legality and correctness of such claims, demands or charges;

(d) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept by the director of finance; and

(e) Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance, require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient.

Sec. 6. Payment of claims.

No claim against the city shall be paid unless it is evidenced by a voucher approved by the head of the department or office for which the indebtedness was incurred; and each director or officer and his surety, if any, shall be liable to the city for all loss or damages sustained by the city by reason of his negligent or corrupt approval of such claim.

Sec. 7. Disbursement of funds.

All checks, vouchers or warrants for the withdrawal of money from the city depository shall be signed by the director of finance, or his deputy, and countersigned by the city manager. In the event the city manager is the director of finance, all checks, vouchers or warrants shall be signed by him and countersigned by the city secretary.

ARTICLE VIII. BUDGET

Sec. 1. Fiscal year.

The fiscal year of the City shall begin on the first day of October and end on the last day of September of each calendar year. The fiscal year established by this Charter shall also constitute the budget and accounting year.
(Ord. No. 2014-135, § 2(1), 11-17-2014)

Sec. 2. Preparation and submission of the annual budget calendar.

The City Manager shall prepare and submit a budget development calendar for the City Council's review and approval. The budget development calendar shall show the key dates of budget preparation including, but not limited to, the dates of budget preparation, proposed budget presentation, public hearing, and adoption by the City Council.
(Ord. No. 2014-135, § 2(2), 11-17-2014)

Sec. 3. Budget.

The budget shall provide a complete financial plan for the fiscal year. It shall include, but not be limited to, the following:

(a) The City Manager's budget message which shall explain the budget, include an outline of the proposed financial objectives of the City for the budget year, and describe in connection therewith the important features of the budget plan;

(b) A statement of all anticipated receipts and all proposed expenditures by department, office, and/or agency of the City displayed in a manner that shows prior year actual values, current year estimates, and budget year estimates and appropriations;

(c) A contingent appropriation not to exceed three percent (3%) of the total general fund expenditure. Expenditures from this fund shall be used only in cases of unforeseen items of expenditures or established emergencies. This fund shall be under the control of the City Manager, and shall be disbursed only by transfer to other departmental appropriations;

(d) An analysis of the tax rate;

(e) A table showing the tax levies and tax collections by years for the past five (5) years;

(f) A description of all bond issues and other debt instruments outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding;

(g) A special funds section that describes fully the status of any existing special fund; and

(h) A list of capital projects which should be undertaken within the budget year and also within the next five (5) succeeding years.

(Ord. No. 2014-135, § 2(3), 11-17-2014)

Sec. 4. Adoption of budget.

The budget shall be finally adopted by the favorable votes of at least a majority of all members of the Council before the end of the current fiscal year.
(Ord. No. 2014-135, § 2(4), 11-17-2014)

Sec. 5. Transfer of appropriations.

The City Manager may at any time transfer any unencumbered appropriated balance or portion thereof between general classifications of expenditures within and/or across any office, department or agency of the City.
(Ord. No. 2014-135, § 2(5), 11-17-2014)

Sec. 6. Budget amendments.

The City Manager may submit requests for budget amendments at any time provided the total city budget remains balanced, that is, total expenditures shall equal total revenues (unassigned fund balance may be designated as a revenue). Budget amendments may be approved in the same manner as the budget is approved.
(Ord. No. 2014-135, § 2(6), 11-17-2014)

ARTICLE IX. TAX ADMINISTRATION

Sec. 1. Reserved.

Editor's note—Ord. No. 136-2000, § 18, adopted May 11, 2000, repealed former art. IX, § 1, in its entirety which pertained the Division of Taxation within the Department of Finance and derived from the Charter of 1960.

Sec. 2. Property tax.

The city council shall have the power within the city annually to levy and collect taxes not to exceed the rate allowed by state law, on all real estate and personal property within the city on the first day of January of the current year not exempt from taxation by the Constitution and laws of Texas. The city council of the City of Texarkana shall have the power by ordinance, in accordance with the laws of the State of Texas, to provide for the rendering and assessing of property for taxation, and for the collection of taxes. A modern plat system of all property within the city may be maintained.

State law references—Authorization for the levy and collection of ad valorem property taxes, Tex. Const., art. XI, § 5; Texas Tax Code § 302.001.

Sec. 3. Occupation tax and licenses.

The council shall have power annually to assess and collect such occupation taxes and licenses as may be authorized by the laws of the State of Texas.

Sec. 4. When tax rate set.

All taxes for the current year shall be set by the council at the time of the adoption of the budget under the provisions of article VIII of this Charter, or at least 30 days prior to the end of each fiscal year.

Sec. 5. When tax due; delinquencies.

All taxes shall be due October first of the year of the levy and shall be delinquent after January 31 next following. All delinquent taxes shall bear interest at the rate of six percent per annum. Provided, however, that any taxpayer shall have the privilege of paying one-half of such taxes assessed against any property in any one year before the first day of December after the same shall have become due, in which event no penalty shall be added, provided the other one-half shall be paid on or before the June 30 next following.

Sec. 6. Reserved.

Editor's note—Ord. No. 136-2000, § 19, adopted May 11, 2000, repealed former section 6 of art. IX in its entirety which pertained to a board of equalization and derived from the Charter of 1960.

ARTICLE X. JUDICIARY

Sec. 1. Corporation court.

There shall be a court for the trial of misdemeanor offenses known as the corporation court of the City of Texarkana, Texas, with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

For cases involving appeals from the corporation court under a former charter provision, see Bennett v. State, 83 Tex. Cr. R. 523, 204 S.W. 333 (1918); Ex Parte Bennett, 85, Tex. Cr. R. 315, 211 S.W. 934 (1919).

State law reference—Municipal courts generally, Texas Government Code § 29.001 et seq. Annotation—For cases involving the jurisdiction of the corporation court under the former charter provisions, see Ex Parte Bennett, 85 Tex. Cr. R. 315, 211 S.W. 934 (1919); Ex Parte Norton, 21 S.W. (2d) 663 (1929).

Sec. 2. City attorney.

(a) The city council shall appoint the city attorney, who must be a competent practicing attorney in the City of Texarkana, Texas. He shall receive for his services such compensation as may be fixed by the council and shall hold his office until his successor is appointed and qualified.

(b) The city attorney shall represent the city in all litigations. He shall be the legal advisor of and attorney and counsel for the city and for all officers and departments thereof.

(c) The city attorney shall have power to appoint such assistants as are provided in the city budget, subject to the approval of the council, at such compensation as fixed by the council. (Ord. No. 136-2000, § 20, 5-11-2000)

Sec. 3. City judge.

There shall be a magistrate of said corporation court known as the city judge who shall be elected at a regular or special meeting held in May of each even year by a majority vote of the council for a term of two years beginning on the first day in June after such election. He shall be a resident of the City of Texarkana, Texas, for at least one year preceding his appointment. His compensation shall be fixed by the council and shall not be decreased during the term for which appointed. He may be removed by the council for incompetency, misconduct or malfeasance, under the terms and procedures provided in article III, section 2, as for the city manager. In the event of failure of the city judge to act for any reason, the mayor shall designate the person to act in the place and stead of the city judge, with such compensation as shall be fixed by the city council.

State law reference—City judge in home-rule cities, Texas Government Code § 29.004.

Sec. 4. Clerk of court.

The clerk of the corporation court shall be appointed by the city judge. He and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto and generally do and perform any and all acts usual and necessary by clerks of courts in issuing processes of said courts and conducting the business thereof.
(Ord. No. 136-2000, § 21, 5-11-2000)

ARTICLE XI. ORDINANCES

Sec. 1. Enacting clause.

The enacting clause of all ordinances shall be: "Be it Ordained by the City Council of the City of Texarkana, Texas."

Sec. 2. Acts of council to be by ordinance.

In addition to such acts of the council as are required by statute or by this Charter to be by ordinance, every act of the council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness, shall be by ordinance except as otherwise specifically provided in this Charter.

Sec. 3. Procedure for adoption; effective date.

Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that no ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective less than ten days from the date of its passage and upon publication as hereafter provided. The city secretary shall give notice of the passage of every ordinance imposing a penalty, fine, imprisonment or forfeiture for a

violation of its provisions by causing a descriptive caption or title of same to be published within ten days after the passage thereof for three successive days in some newspaper of general circulation in the City of Texarkana.

Sec. 4. Recording.

Upon final passage, an ordinance or resolution shall be recorded in an ordinance book approved by the council and shall be authenticated by the signature of the mayor and the city secretary. The city secretary shall note on every ordinance the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance.

ARTICLE XII. BONDS

Sec. 1. Issuance.

The city may issue bonds to pay for any property or public improvement which it may legally acquire or construct, or to refund any outstanding indebtedness. No bonds shall ever be issued to pay current expenses.

Sec. 2. Bond election.

All general obligation bonds of the city shall be authorized by special election called for that exclusive purpose by the council. On the ballot in such bond election there shall be printed concerning the proposed bond issue the purpose, the amount, the maximum rate the bonds shall bear, and that said bonds shall mature serially [and] not to exceed 30 years from their date. The affirmative majority vote of those eligible to vote and voting in a bond election shall authorize the council to issue the proposed bonds.
(Ord. No. 136-2000, § 21, 5-11-2000)

Sec. 3. Bonds; maturity.

Bonds issued under this article XII may be made to mature serially or otherwise and to contain such call provisions as the council may determine, however, the final maturity of any such bond issue shall not be later than 30 years from the date of issue.
(Ord. No. 19-67, § 1, 3-3-1967)

Amendment note—Section 1 of Ord. No. 19-67, adopted March 3, 1967, ordered an election to be held in the City of Texarkana, Texas on April 4, 1967, submitting an amendment to section 3 of article XII of the Charter. Ord. No. 36-67, § 1, adopted April 4, 1967, amended § 2 of said Ord. No. 36-67 ratified and affirmed all other portions of Ord. No. 19-67. By Resolution No. 38-67, passed and approved April 6, 1967, canvassing returns and declaring the result of the election, the amendment to section 3, article XII of the city Charter was declared duly adopted. The effect of the amendment was to revise said section 3, which prior to

amendment read as follows: "All bonds issued shall be serial bonds, the last maturity of which shall not be later than 30 years from date of issue, and shall be callable at the will of the council at any time after five years from date of issue."

Sec. 4. Sinking funds.

(a) *Generally.* A sinking fund for each issue of bonds shall be provided out of which to pay the principal and interest when it matures. The cash and securities to the credit of any sinking fund shall be kept in the city depository and shall be kept separate from the cash and securities of any other city fund. Any officer or employee of the city who shall divert or use the cash and securities of any sinking fund for any purpose other than the purpose for which the sinking fund was created shall be subject to prosecution under the laws of the State of Texas. When an issue of bonds has been retired in full its respective sinking fund shall be abolished and any remaining balance shall be divided pro rata among any remaining sinking funds.

(b) *Investment.* The investment of any cash of any sinking fund shall be made in accordance with state law.
(Ord. No. 136-2000, § 23, 5-11-2000)

ARTICLE XIII. PLANNING

Sec. 1. Planning commission generally.

There shall be a city planning commission which shall consist of seven citizens of the City of Texarkana, Texas, and such other ex-officio members as are provided herein. The members of said commission, except the ex-officio members, shall be appointed by the council for a term of three years. Vacancies will be filled for the unexpired term by the council. The ex-officio members shall include the city manager, the city engineer, the director of planning, and such other ex-officio members as the council shall by ordinance or resolution provide. Ex-officio members shall participate in the work of the commission, but shall not have a vote in its official actions.

The commission shall elect a chairman from among its appointed members. Five of the appointed members shall constitute a quorum.

The council may provide by ordinance for the appointment of subcommittees from the membership of the commission who shall have the power to hold hearings, make recommendations to the commission, and otherwise carry on the work of the commission. In the absence of such provision the commission may authorize and empower such subcommittees. The final action taken by the commission with regard to any matter before it, however, shall be by the commission as a whole.

The commission shall keep minutes of its proceedings, which shall be a public record.
(Ord. No. 136-2000, § 24, 5-11-2000)

Sec. 2. Powers and duties of planning commission.

The city planning commission shall:

(a) Recommend a city plan for the physical development of the city and amendments thereto;

(b) Serve as the zoning commission of the city, and recommend to the council approval or disapproval of proposed changes in the zoning plan;

(c) The planning commission shall adopt regulations governing the platting or subdividing of property within the city or within five miles of the corporate limits of the city, and the owner of every such subdivision shall comply with all of the provisions of articles 974a and 6626, Vernon's Texas Civil Statutes, 1958, as now or hereafter amended. Such regulation may provide for the harmonious development of the city within the subdivided land with other existing or planned streets and ways or for conformance with the master plan or official map, for adequate open spaces, spaces for traffic, utilities, recreation, light and air for the avoidance of congestion of population. Such regulations may include requirements as to the extent to which and the manner in which streets and other ways shall be graded and improved and water, sewer and other utility mains, piping, connections or other facilities shall be installed as a condition precedent to the approval of a subdivision. The commission shall be responsible to and act as an advisory body to the council and shall have and perform such additional duties as may be prescribed by ordinance.

Sec. 3. Planning department; director of planning.

There shall be a city planning department to be headed by the director of planning. The director of planning shall serve as the regular technical adviser of the city planning commission, and shall have such other duties and responsibilities as the council may establish.

Sec. 4. The city plan generally.

The city plan for the physical development of the City of Texarkana, Texas, shall contain the commission's recommendation for the growth, development and beautification of the city. Before recommending to the council a city plan, or any part thereof, or any amendment thereto, the commission shall hold a public hearing thereon after having given notice of such hearing by causing notice thereof to be published one time at least 15 days before such hearings in the official newspaper of the city. A copy of the city plan, or any part thereof, shall be forwarded to the city manager who shall thereupon submit such plan, or part thereof, to the council with his recommendations thereon. The council may adopt the plan or partial plan so submitted as a whole or in parts. If such plan or part thereof should be rejected by the council the city planning commission may modify such plan, or part thereof, and again forward it to the city manager for submission to the council. All amendments to the city plan shall be recommended by the

planning commission and submitted in the same manner as that outlined above to the council for approval, and the council may adopt or reject the same in the same manner as above specified. All recommendations to the council from any city department affecting the city plan must be accompanied by a recommendation from the commission.

Sec. 5. Compliance with city plan.

Upon adoption of the city plan by the council, no subdivision, and no structure, whether constructed by a public utility or otherwise, which is in conflict with the city plan, shall be authorized, and no street, park, public way, ground or space, public building, public structure, or public utility which is in conflict with the city plan shall be authorized, purchased, or constructed by the city until and unless the location, extent and character thereof shall have been submitted to and approved or disapproved by the commission. In case of disapproval, the commission shall communicate its reasons to the council in writing. The council shall have the power to overrule such disapproval and upon such overruling the council or the appropriate persons, city office, department or agency shall have the power to proceed. The failure of the commission to act within 30 days after the date of official submission to the commission shall be deemed approval, unless a longer period be granted by the council or the submitting official. The widening, narrowing, relocating, vacating or change in the use of any street, river or watercourse, or other public way or ground or the sale of any public building or real property shall be subject to similar submission and approval, and failure to approve may be similarly overruled by the council. Provided, that a certificate by the city manager executed under the seal of the city that a public project or improvement is not in conflict with the city plan, or that the location, character and extent of such public project or improvement have been approved by the city planning commission or if such public project or improvement has been disapproved by the city planning commission that the council has overruled such disapproval, shall be conclusive as to such facts. Provided, that the sale of any land or building owned or held by the city, not for public use and not included in the city plan as city land for public use, shall not be subject to the provisions of this section; and provided further, that a certificate by the city manager as to such facts, shall be conclusive as to any purchaser of such land or building from the city.

Sec. 6. Zoning.

All powers granted by ch. 283 of the General and Special Laws of the Fortieth Legislature of the State of Texas, as amended, relating to zoning in cities, are hereby adopted and made a part of this Charter.

ARTICLE XIV. PUBLIC PROPERTY

Sec. 1. Inalienability of control of public property.

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the city is hereby declared to be inalienable by the city, except by

ordinances not in conflict with the provisions of this Charter. No act or omission by the council or any officer or agent of the city shall be construed to grant, renew, extend, or amend, expressly or by estoppel or implication any right, franchise or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this Charter.

ARTICLE XV. FRANCHISES AND PUBLIC UTILITIES*

Sec. 1. Power to grant or amend franchise; maximum term of franchise.

The Council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City, and, with consent of the franchise holder, to amend the same. Provided, however, that no franchise shall be granted for a term of more than twenty-five (25) years.

Sec. 2. Ordinance granting franchise.

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be read at three (3) regular meetings of the Council, and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within ten (10) days following the first reading of the ordinance, the full text thereof shall be published one time in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.

Sec. 3. Transfer of franchise.

No public utility franchise shall be transferred by the holder thereof except with the approval of the Council expressed by ordinance.

Sec. 4. Forfeiture of franchise and regulation of holder thereof.

Every grant, renewal, extension, or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the Council:

(1) To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of such failure, and shall be exercised only after hearing and after such reasonable time has expired.

(2) To impose reasonable regulations to insure safe, efficient and continuous service to the public.

***State law reference**—Grant of franchise by home rule cities, Texas Local Government Code § 282.003.

(3) To require such expansion, extension, enlargement and improvements of plants and facilities as are necessary to provide adequate service to the public.

(4) To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length and terminals of all facilities of such franchise holder in, over and under the streets, alleys, and other public property of the City; and to regulate and control the location, relocation, and removal of such facilities.

(5) To collect from every public utility operating in the City such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling the streets, alleys, bridges, culverts, viaducts, and other public places of the City as represents the increased cost of such operations resulting from the occupancy of such public places by such public utility, and such proportion of the costs of such operations as results from the damage to or disturbance of such public places caused by such public utility; or to compel such public utility to perform, at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.

(6) To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgement of the Council such use shall be in the public interest, provided that in such event a reasonable rental shall be paid such owner of facilities for such use. Provided further, that inability of such public utilities to agree upon rentals for such facilities shall not be an excuse for failure to comply with such requirement by the Council.

(7) a. To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public and the expenses, receipts and profits of all kinds of such franchise holder.

b. To examine and audit at any time during business hours the accounts and other records of any franchise holder.

c. To require reports on the operations of the utility, which shall be in such form and contain such information as the Council shall prescribe.

Sec. 5. Regulation of rates.

The Council shall have full power, to the extent and in the manner authorized by state and federal law, after notice and hearing to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City and of any other person, firm or corporation exercising any public privilege in the City.

Every such utility or person, firm or corporation who shall request an increase in rates, charges or fares, shall have, at the hearing of the Council called to consider such request, the burden of establishing by clear, competent and convincing evidence, the value of its investments properly allocable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service. Such hearing of the Council shall be held not later than thirty (30) days from the date of the filing of a written request for an increase in rates, charges, or fares. If, upon such hearing, the Council is not satisfied with the sufficiency of the evidence so furnished, it shall be entitled to call upon such utility, person, firm, or corporation, for the furnishing of additional evidence at a subsequent date, to which said hearing may be adjourned, which adjourned hearing shall be held not later than thirty (30) days from the date of such original hearing. Upon calling for the furnishing of such additional evidence at such adjourned hearing the Council shall have the right to select and employ, then and later, rate consultants, auditors, and attorneys to conduct investigations, present evidence, advise the Council, and conduct litigation on such requested increase in rates, charges or fares; and said utility, person, firm, or corporation shall reimburse the City for its reasonable and necessary expenses so incurred. Such rate consultants, auditors and attorneys shall be qualified, competent, and of good standing in their professions. The Council shall within one hundred eighty (180) days after the date of said adjourned hearing determine and fix by ordinance the rates, charges, or fares to be charged by the applicant filing such request for an increase in rates, charges, or fares. No such utility, person, firm or corporation shall institute any legal action to contest any rates, charges or fares until the rates, charges or fares have been fixed by the Council in accordance with the procedures herein contained, provided however, the failure of the Council to make determination of rates, charges of [or] fares by ordinance within the one hundred eighty (180) day period herein specified shall be deemed a denial of the application for increase theretofore filed. Any time or times prescribed herein may be extended by resolution of the Council and written agreement of the applicant. Upon failure of the Council to hold any hearings or make determination of rates, charges, or fares by ordinance within the times or extended times as herein provided, the request for increase shall be deemed denied, and no further action shall be prerequisite to institution of legal action by the applicant to contest such rates, charges, or fares as theretofore fixed by the Council.
(Ord. No. 136-2000, § 25, 5-11-2000)

ARTICLE XVI. MUNICIPAL UTILITIES

Sec. 1. Power of city to own and operate utilities.

The City shall have the power to own and operate whatever public utilities the Council may deem wise, provided that before any public utility shall be acquired or constructed to be owned or operated by the City the resident qualified electors shall at an election give a favoring majority vote of those voting in such an election.

Sec. 2. Revenue bonds.

The City shall have the right to issue revenue bonds as is now or may be provided by the statutes and Constitution of the State of Texas.

Sec. 3. Accounts.

Accounts shall be kept for each public utility owned or operated by the City in such manner as to show the true and complete financial results of such city ownership and operation.

Sec. 4. Joint operation.

The City shall have the right jointly to operate any utility system or sewer system with any adjoining City, whether located within Texas or Arkansas.

ARTICLE XVII. GENERAL PROVISIONS

Sec. 1. Effect of Charter on existing law.

All ordinances, resolutions, rules and regulations in force in the City of Texarkana, Texas, on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed by the Council. All taxes, assessments, liens, encumbrances and demands of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established, either under the law in force at the time of the beginning of such proceedings, or under the law after the adoption of this Charter.

Sec. 2. Oath of city officers.

All officers of the City of Texarkana, Texas, shall before entering upon the duties of their respective offices, take and subscribe the official oath prescribed in the Constitution of the State of Texas.

Sec. 3. Public inspection of records.

All public records of every office, department or agency of the City shall be open to inspection by any citizen at all reasonable times, provided that police records and vital statistics records, and any other records closed to the public by law shall not be considered public records for the purpose of this section.

Sec. 4. Written notice of injury or damage.

Before the City of Texarkana, Texas, shall be liable for personal injuries or for property damages of any kind, the person injured or the owner of the property alleged to be damaged, or someone in their behalf, shall give the City Council notice in writing of such injury or

damage within sixty (60) days after the same has been sustained, stating specifically in such notice when, where and how the injury or damage occurred and the extent thereof, giving the name and address of the person or describing generally the property alleged to be damaged, and the names and addresses of any person or persons, if any, witnessing the same, if the names or addresses of any such person or persons are known to person sustaining such injury or damage. No officer or employee of the City shall have authority to waive any of the provisions of this Section as to notice, but the same may be waived only by a resolution of the Council made and passed before the expiration of the period herein provided and evidenced by the Minutes of the Council.

Annotation—For a case relating to the necessity of notice of property damage under a former Charter, see Texarkana v. Roberts, 27 S.W. (2d) 551 (1930).

Sec. 5. City not liable to execution or garnishment.

The property, real and personal, belonging to the City of Texarkana, Texas, shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to said City, in the hands of any person, firm or corporation, be liable to garnishment on account of any debt it may owe, or funds it may have on band due any person, nor shall the City or any of its officers or agents be required to answer to any writ of garnishment on any account whatsoever; nor shall said City be liable to the assignee of any wages of any officer, agent or employee of said City, whether earned or unearned, upon any claim or account whatsoever, and as to the City, such assignment shall be absolutely void.

Sec. 6. City not required to give bond or security in judicial proceedings.

It shall not be necessary in any action, suit or proceedings in which the City shall be a party, for any bond, undertaking, or security, to be executed in behalf of the City; but all actions, suits and proceedings shall be conducted in the same manner as if bond undertaking or security had been given. The City shall have all remedies of appeal provided by law to all courts of this State without bond or security of any kind. For all the purposes of such action, suits, proceedings and appeals, the City shall be liable in the same manner and to the same extent as if the bond, undertaking or security in ordinary cases had been given and executed.

Sec. 7. Remission of fines and penalties.

The City Council shall have the power to remit in whole or in part, on such conditions as it may deem proper, by a vote of five (5) members of the Council, any fine or penalty belonging to the City which may be imposed or incurred under any penal ordinance of the City, or any penalties and/or interest incurred or accrued on delinquent taxes.

Sec. 8. Officers and employees not to be interested in city contracts or act as surety on bonds.

No member of the City Council, or other officer or employee of the City of Texarkana, Texas, shall be directly or indirectly interested in any work, business or contract, the expense,

price or consideration of which is paid from the City Treasury, or by an assessment levied by an ordinance or resolution of the City Council, nor be the surety on the official bond of any officer of the City, or for any person having a contract, work or business with said City, for the performance of which security may be required, except on behalf of the City as an officer or employee. Any wilful violation of this Section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to removal from his office or position. Any violation of this Section with the knowledge, express or implied, of the person or corporation contracting with the City, shall render the contract involved voidable by the Council.

Sec. 9. Relatives of officers not to be appointed or employed.

No person related within the second degree of affinity, or within the third degree of consanguinity, to the members of the City Council or the City Manager, shall be appointed to any office, position or service in the City, but this provision shall not affect officers or employees who were already employed by the City at the time when an officer who may be related within the named degree takes office.

Sec. 10. Residence requirements for officers and employees.

The City Manager appointed under the terms of this Charter shall, upon commencing such employment, be or within 90 days of commencement of such employment shall become, a resident of the City of Texarkana, Texas, and shall remain a resident of the City of Texarkana, Texas, so long as employment continues.
(Ord. No. 244-83, § 1(d), 9-12-1983)

Sec. 11. Effect of Charter and judicial notice thereof.

This Charter shall be deemed a public act, and shall have the force and effect of a general law, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places without further proof.

Sec. 12. Rearrangement and renumbering of Charter.

The Council shall have the power by ordinance to renumber and rearrange all Articles, Sections and Paragraphs of this Charter, or any amendments thereto and to eliminate gender references to the various provisions of the charter and to substitute appropriate terms therefor, as it shall deem appropriate, and upon the passage of any such ordinance a copy thereof, certified by the City Secretary, shall be forwarded to the Secretary of State of the State of Texas for filing.
(Ord. No. 136-2000, § 26, 5-11-2000)

Sec. 13. Construction of Charter.

This Charter shall not be construed as a mere grant of enumerated powers but shall be construed as a general grant of power, and as a limitation of power on the Government of the City of Texarkana, Texas, in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of the State of Texas, which it would be competent for the people of the City of Texarkana, Texas, to grant expressly to the City, shall be construed to be granted to the City by this Charter.

Sec. 14. Separability clause.

If any Section or part of a Section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force or effect of any other Section or part of a Section of this Charter.

Sec. 15. Effective date.

On the first weekday in May following the adoption of this Charter by a majority of the qualified voters voting at said election, the City Council shall file or cause to be filed a copy or copies of this Charter as required by law, and shall enter upon the records of the City an official order declaring the same adopted, and this Charter shall take effect immediately upon such entry.

Sec. 16. Consideration by Council of the necessity for revision of charter.

The City Council shall at intervals not exceed five (5) years examine and consider the necessity to revise this Charter.
(Ord. No. 136-2000, § 27, 5-11-2000)

ARTICLE XVIII. RESERVED*

ARTICLE XIX. CHARTER ELECTION

The Charter Commission finds and declares that it is impractical to segregate each subject treated in this Charter so as to permit a vote of "Yes" or "No" on the same, for the reason that the Charter is so construed that in order to enable it to work and function, it is necessary that it should be adopted as an entirety. For these reasons the Charter Commission directs that said

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***Editor's note—**Ord. No. 136-2000, § 28, adopted May 11, 2000 repealed former Art. XVIII, §§ 1—3 in its entirety. Former Art. XVIII pertained to Interim Government and derived from Ord. No. 244, § 1(a), adopted Sept. 12, 1983 and approved by the electorate on Nov. 8, 1983.

Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Texarkana, Texas, at an election to be held for that purpose on the 5th day of April, 1960.

We, the undersigned members of the Texarkana, Texas, Charter Commission do hereby submit the above and foregoing proposed Charter for the City of Texarkana, Texas, by a majority vote of this Commission, and recommend its submission to the qualified voters of said City as provided by law.

Dated this the 16th day of February, 1960.

/s/_____
Troy A. Womack

/s/_____
Richard Brunazzi

/s/_____
C. B. Graves

/s/_____
N. F. Patterson

/s/_____
John G. Calhoun

/s/_____
John E. Platz, Jr.

/s/_____
Don Green

/s/_____
George Quillin

/s/_____
T. E. Wreyford

/s/_____
Bruce Cunningham

/s/_____
Richard R. Burgdorf

/s/_____
Lynn X. Prud'homme

/s/_____
Emmitt C. Barrow

/s/_____
W. C. Dudney, Jr.

*Dr. James E. Coggin

*Moved from City of Texarkana, Texas, prior to the completion of the work by the Charter Commission.

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Title of Legislation	Date	Section	Section this Charter
Ord. No. 19-67	3-3-1967	1	Art. XII, § 3
Ord. No. 244-83	9-12-1983	1(a)	Art. II, §§ 1, 2
		1(b)	Art. II, § 8
Ord. No. 136-2000	5-11-2000	2	Art. II, § 2
		3	Art. I, § 5
		5	Art. II, § 8
		6	Art. II, § 9
		7	Art. V, § 1
		8	Art. VI, § 17
		9	Art. VII, § 4
		10	Art. VII, § 4
		11	Art. VII, § 4
		20	Art. X, § 2
		21	Art. X, § 4
		-	Art. XII, § 2
		23	Art. XII, § 4
		24	Art. XIII, § 1
		25	Art. XV, § 5
Ord. No. 2014-135	11-17-2014	2(1)	Art. VIII, § 1
		2(2)	Art. VIII, § 2
		2(3)	Art. VIII, § 3
		2(4)	Art. VIII, § 4
		2(5)	Art. VIII, § 5
		2(6)	Art. VIII, § 6
		3	Art. II, § 6

PART II

CODE OF GENERAL ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.
Sec. 1-2. Headings to sections and source notes not part of law.
Sec. 1-3. Rules of construction and definitions.
Sec. 1-4. Altering Code.
Sec. 1-5. Offenses; general penalty; culpable mental state; continuing violations.
Sec. 1-6. Code enforcement officers authorized to issue citations.
Sec. 1-7. Ordinances—Amendments or additions to Code.
Sec. 1-8. Same—Effect of repeal.
Sec. 1-9. Severability of parts of Code.
Sec. 1-10. Provisions considered as continuation of existing ordinances.
Sec. 1-11. Prior offenses, penalties and rights not affected by adoption of Code.
Sec. 1-12. Rates, charges and fees established.
Sec. 1-13. Certain ordinances not affected by adoption of the Code.

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of General Ordinances, City of Texarkana, Texas" and may be so cited. Such Code may also be cited as "Texarkana City Code."
(Code 1961, § 1-1)

State law reference—Authority to adopt a civil and criminal code of ordinances, Texas Local Government Code § 53.001.

Sec. 1-2. Headings to sections and source notes not part of law.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. The history notes appearing in parentheses after each section, the table of contents appearing at the beginning of the Code and each chapter, and the references and editor's notes scattered throughout the Code indicate the source of matter contained in the sections, are not intended to have any legal effect but are merely intended for the convenience of the user of the Code.
(Code 1961, § 1-2)

Sec. 1-3. Rules of construction and definitions.

In the construction of this Code, and of all ordinances and resolutions passed by the city council, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the commission:

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the city council may be fully carried out. In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than another more general provision imposed by the Code or other law, the provision imposing the greater restriction or regulation shall be controlling.

Charter. The term "Charter" means the Charter of the City of Texarkana as printed in part I of this volume.

City. The terms "the city" or "this city" mean the City of Texarkana, in the County of Bowie and State of Texas.

City secretary, chief executive officer, chief of police or other city officers. The terms "city secretary," "chief executive officer," "chief of police" or other city officers or departments shall be construed to mean the city secretary, chief executive officer, chief of police or such other municipal officers or departments, respectively, of the city.

Code. The term "Code" means the "Code of General Ordinances, City of Texarkana, Texas" or the "Texarkana City Code."

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

State law reference—Similar provision, Texas Government Code § 311.014.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows, except that in appropriate cases the terms "or" and "and" are interchangeable:

(1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.

(2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

(3) The term "either . . . or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

Council. Whenever the terms "city council," "council" or "this council" or "the council" are used, they shall mean the city council of the City of Texarkana, Texas.

County. The term "county" or "this county" means the County of Bowie, Texas.

Delegation of authority. Whenever a provision of this Code requires or authorizes an officer or employee of the city to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision specifically provide otherwise.

Gender. A term importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

State law reference—Similar provision, Texas Government Code §§ 311.012, 312.003.

Highway. The term "highway," when used in this Code, shall include any street, alley, highway, avenue or public place or square, bridges, viaducts, tunnels, underpasses, overpasses and causeways in the city, dedicated or devoted to public use.

Joint authority. Terms purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

State law reference—Similar provision, Texas Government Code § 312.004.

Month. The term "month" means a calendar month.

State law reference—Similar provision, Texas Government Code § 312.011(7).

Must. The term "must" is to be construed as being mandatory.

Number. Any term importing the singular number shall include the plural and any word importing the plural number shall include the singular.

State law reference—Similar state law, Vernon's Ann. Civ. St. art. 10.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

State law reference—Similar provision, Texas Government Code § 312.011(8).

Owner. The term "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, or the whole or of a part of such building or land.

Person. The term "person" shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals.

State law reference—Similar provision, Texas Government Code § 311.005(2).

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

State law reference—Similar provision, Texas Government Code § 312.011(11).

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall, may. The term "shall" is mandatory, and the term "may" is permissive.

State law reference—Similar provision, Texas Government Code § 311.016(1), (2).

Sidewalk. The term "sidewalk" means any portion of the street between the curb, or the lateral line of the roadway and the adjacent property line, intended for the use of pedestrians.

Signature or *subscription.* The terms "signature" or "subscription" include a mark when a person cannot write.

State law reference—Similar provision, Texas Government Code § 312.011(14).

State. The terms "the state" or "this state" shall be construed to mean the State of Texas.

Street. The term "street," when used in this Code, shall include any highway, alley, street, avenue or public place or square, bridges, viaducts, underpasses, overpasses, tunnels and causeways in the city, dedicated or devoted to public use.

State law reference—Similar provision, Texas Transportation Code § 541.301(5).

Tense. Terms used in the past or present tense include the future as well as the past and present.

State law reference—Similar provision, Texas Government Code § 312.003(a).

Tex. Admin. Code. The term "Tex. Admin. Code" refers to the Texas Administrative Code.

Tex. [subject] Code. The term "Tex. [subject] Code" identifies a specific subject matter code of legislatively adopted statutes, as classified and numbered by the Texas Legislative Council under authority of Vernon's Ann. Civ. St. art. 5429b-1, predecessor to Texas Government Code § 323.007.

Vernon's Ann. Civ. St. The term "Vernon's Ann. Civ. St." means the latest edition or supplement to Vernon's Annotated Civil Statutes.

V.T.C.A. The term "V.T.C.A." means and refers to the latest edition or supplement of Vernon's Texas Code Annotated.

State law reference—Statutory references, Texas Government Code § 312.008.

Written or *in writing.* The terms "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

State law reference—Similar provision, Texas Government Code § 312.011(17).

Year. The term "year" means a calendar year.

State law reference—Similar provision, Texas Government Code § 312.011(18).

(Code 1961, § 1-3)

Sec. 1-4. Altering Code.

It shall be unlawful for any person in the city to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby, unless so authorized by ordinance or resolution or other official act of the city council. Any person violating this section shall be punished as provided in section 1-5.

Sec. 1-5. Offenses; general penalty; culpable mental state; continuing violations.

(a) The Code or an ordinance creates an offense when:

(1) An act is prohibited, declared to be unlawful, made an offense, or made a misdemeanor;

(2) The doing of an act is required or the failure to do an act is declared to be unlawful, made an offense, or made a misdemeanor; or

(3) The violation of a provision of the Code or an ordinance is declared to be unlawful, or made an offense, or made a misdemeanor.

(b) An offense is a misdemeanor, and if the Code or an ordinance does not state a specific penalty for an offense:

(1) Except as provided by subsection (b)(2) of this section, the offense is punishable by a fine not to exceed $500.00; or

(2) If the offense is a violation of an ordinance that governs fire safety, zoning or public health and sanitation, including dumping of refuse, the offense is punishable by a fine not to exceed $2,000.00.

(c) Each day an offense continues shall constitute a separate offense.

(d) A culpable mental state is not required for the commission of an offense under this Code or an ordinance that is punishable by a fine not exceeding $500.00, unless the provision defining the conduct expressly requires a culpable mental state.

(e) A culpable mental state is required for the commission of an offense under this Code or an ordinance that is punishable by a fine exceeding $500.00. When a culpable mental state is required, a person must have acted recklessly, unless the provision defining the conduct expressly requires a different degree of culpability.

(f) In a prosecution of an offense under this Code or an ordinance, it is not necessary for the complaint to negate or for the state to prove an exception in the Code or an ordinance. The person charged in a complaint may urge an exception as a defense.
(Code 1961, § 1-4; Ord. No. 51-88, § 1, 2-22-1988)

Sec. 1-6. Code enforcement officers authorized to issue citations.

(a) Enforcement of the Code of Ordinances and any and all applicable codes and ordinances within the city and the state shall be the responsibility of the city manager, supervisor of code enforcement, and any designated code enforcement officer, health inspector, chief building official or building inspector, or any licensed peace officer of the city.

(b) Any officer, as designated in this section, shall have the authority to issue citations for any violation in accordance with the Code of Ordinances and any and all other codes or ordinances of the city. If the person being cited is not present, the person designated herein may send the citation to the alleged offender by certified mail, return receipt requested. If a person who receives a citation by personal service or as provided under this subsection fails to appear on the return date of the citation, the court may issue a warrant for the person's arrest for the violation described in the citation.

(c) It shall be unlawful for any person to interfere with any code enforcement officer in the performance of the officer's duties under this section and to enforce the ordinances of the city.
(Code 1961, § 1-5; Ord. No. 065-2010, § 1, 4-26-2010)

Sec. 1-7. Ordinances—Amendments or additions to Code.

All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from

reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the city council.
(Code 1961, § 1-7)

Sec. 1-8. Same—Effect of repeal.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suits, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.
(Code 1961, § 1-9)

Sec. 1-9. Severability of parts of Code.

(a) It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the city council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(b) If any provision of this Code or the application thereof to any person, fact, situation or circumstance is held invalid, the remainder of this Code and the application of such provision to other persons, facts, situations or circumstances shall not be affected thereby.
(Code 1961, § 1-11)

Sec. 1-10. Provisions considered as continuation of existing ordinances.

The provisions appearing in this and the following chapters and sections, so far as they are the same as those of ordinances or resolutions existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

State law reference—Similar provision, Texas Government Code §§ 311.030, 312.007.

Sec. 1-11. Prior offenses, penalties and rights not affected by adoption of Code.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or any penalty of forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

(b) Nothing contained in this chapter shall be construed as abating any action pending under or by virtue of any general ordinance of the city repealed in this chapter, and all general ordinances contained in this Code shall be deemed to be continuing and not a new enactment of the same ordinance. This chapter shall not be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue or as affecting the liability of any person or as waiving any right of the city under any ordinance or section thereof in force at the time of the adoption of this Code.

State law reference—Similar provision, Texas Government Code § 312.011(17).

Sec. 1-12. Rates, charges and fees established.

(a) Unless otherwise provided for, all rates, charges or fees necessary for the administration and enforcement of the provisions of this Code shall be as currently established or as hereafter adopted by motion, resolution or ordinance of the city council, from time to time. Any rates, charges or fees established by the city pursuant to the regulations or requirements established herein may be changed from time to time by the city, and such changes shall both be considered an amendment to this Code.

(b) Whenever any provision of this Code provides that a rate, charge or fee shall be established by the city council, from time to time, and the amount of such rate, charge or fee is not expressed in this Code in any dollar amount, then the amount of such rate, charge or fee shall be the most recent and latest amount established, set or fixed by the city council by ordinance, resolution.

Sec. 1-13. Certain ordinances not affected by adoption of the Code.

(a) Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness;

(3) Any contract or obligation assumed by the city;

(4) Any ordinance or resolution establishing or fixing the salary of any city officer or employee, unless superseded;

(5) Any ordinance or resolution establishing or fixing retirement and pension plans, benefits, personnel policy, civil service rules and regulations, and/or administrative procedures for city officers or employees not otherwise enumerated in this Code;

(6) Any right of franchise granted by the city to any person, firm or corporation;

(7) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, closing, opening, widening, paving, vacating or encumbering, etc., any street, sidewalk, public right-of-way, or public property in the city or owned by the city, including any city council-approved special exceptions to public rights-of-way and agreements incident thereto;

(8) Any ordinance or resolution establishing and prescribing the street grades of any street in the city;

(9) Any appropriation ordinance;

(10) Any ordinance or resolution which, by its own terms, is effective for a stated or limited term;

(11) Any ordinance or resolution providing for local improvements and assessing taxes therefor;

(12) Any ordinance rezoning specific property or amending the zoning map;

(13) Any ordinance or resolution dedicating or accepting any subdivision plat or providing for subdivision regulations;

(14) Any ordinance or resolution describing or altering the boundaries of the city or annexing property to the city;

(15) The ordinances or resolutions of the city not in conflict or inconsistent with the provisions of this Code;

(16) Any ordinance levying or imposing taxes not included in this Code;

(17) Any ordinance or regulation prescribing traffic regulations for specific locations concerning through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not in conflict or inconsistent with this Code;

(18) Any ordinance or resolution of agreement with another political subdivision, special district, or authority;

(19) Pertaining to any specific election, or the calling of regular or special elections, or promulgating the results of such elections;

(20) Any ordinance or resolution establishing or imposing any municipal rates, charges or fees for the city, that are not otherwise enumerated in this Code;

(21) Any ordinance or resolution, or part thereof, which is listed on or transferred to the traffic register as continuing in effect;

(22) Any ordinance or resolution establishing water and sewer rates, customer fees and deposits, penalties, tapping charges, service charges, sewer and industrial pretreatment services, and any other rates, fees or charges pertaining to water and sewer service;

(23) Any ordinance or regulation establishing, prescribing, and/or modifying records management or records retention policies or rules; and

(24) Any other ordinance or resolution, or part thereof, which is not of a general and permanent nature; or which is referred to elsewhere in this Code as continuing in effect.

(b) Nor shall the repeal of any such ordinance or resolution be construed to revive any ordinance, resolution or part thereof that has been repealed or superseded by a subsequent ordinance or resolution which is repealed or superseded by this chapter. All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Chapter 2

ADMINISTRATION

Article I. In General

Sec. 2-1. The state municipal retirement system—Election to participate.
Sec. 2-2. Same—Addition or deletion of departments and employees.
Sec. 2-3. Local registrar of vital statistics; copies of birth, death, stillborn certificates.
Secs. 2-4—2-24. Reserved.

Article II. Library Commission

Sec. 2-25. Created.
Sec. 2-26. Control.
Sec. 2-27. Composition; appointment, qualifications and terms of members.
Sec. 2-28. Compensation of members.
Sec. 2-29. Officers.
Sec. 2-30. Powers and duties generally.
Sec. 2-31. Bonds of employees.
Sec. 2-32. Records and annual report.
Sec. 2-33. Removal of members.
Secs. 2-34—2-54. Reserved.

Article III. Boards, Committees, and Commissions

Division 1. Generally

Secs. 2-55—2-81. Reserved.

Division 2. Building and Standards Commission

Sec. 2-82. Creation; authority.
Sec. 2-83. Membership; terms; qualifications; removal.
Sec. 2-84. Proceedings of the commission.
Sec. 2-85. Notice.
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Sec. 2-87. Civil penalty.
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Sec. 2-89. Judicial review.
Sec. 2-90. Lien; abstract.
Sec. 2-91. Commission decision final.
Sec. 2-92. Penalties for interfering with demolition contracts.

ARTICLE I. IN GENERAL

Sec. 2-1. The state municipal retirement system—Election to participate.

The city council hereby exercises its option and elects to have the city participate in the state municipal retirement system.
(Code 1961, § 2-1; Ord. of 2-2-1948, § 1; Ord. of 5-25-1948, § 1)

Sec. 2-2. Same—Addition or deletion of departments and employees.

The city may, in the future, refuse to add new departments or new employees to the state municipal retirement system, but shall never discontinue as to any participants.
(Code 1961, § 2-3; Ord. of 2-2-1948, § 4; Ord. of 5-25-1948, § 4)

Sec. 2-3. Local registrar of vital statistics; copies of birth, death, stillborn certificates.

(a) *City official as local registrar of vital statistics*. The city council of the city shall appoint a city official to be the local registrar of vital statistics as provided in the state statutes.

(b) *Duties*. The duties of the city official, as local registrar of vital statistics shall be those as provided in the state statutes.

(c) *Copies of certificates; fees*. The local registrar shall, with proper application and identification, supply a certified copy of any birth, death or stillborn certificate, for the making of which the city shall be entitled to a fee as provided by the state statutes.
(Code 1961, § 2-14; Ord. No. 8-69, §§ 1—3, 1-27-1969; Ord. No. 30-70, § 1, 2-23-1970; Ord. No. 269-79, § 1, 9-10-1979; Ord. No. 279-81, § 1, 12-28-1981; Ord. No. 341-05, § 1, 11-28-2005; Ord. No. 2014-045, § 1, 5-27-2014)

State law reference—Local registrar of vital statistics, Texas Health and Safety Code § 191.022.

Secs. 2-4—2-24. Reserved.

ARTICLE II. LIBRARY COMMISSION*

Sec. 2-25. Created.

There is hereby created a commission to administer, operate, control and supervise the public library in the city, to be known as the library commission.
(Code 1961, § 2-28; Ord. of 12-11-1951, § 1)

***State law reference—**Library and archives generally, Texas Government Code § 441.001 et seq.

Sec. 2-26. Control.

The library commission shall be under the control of the city council.
(Code 1961, § 2-29; Ord. of 12-11-1951, § 2)

Sec. 2-27. Composition; appointment, qualifications and terms of members.

(a) The library commission shall consist of five members who are citizens of the state and of the United States known to be interested in public libraries. The mayor shall be an ex officio member of the commission. The members of the commission shall be appointed by the mayor, subject to confirmation by the city council, on or before January 15 of each year.

(b) Commission members shall be appointed as follows: three members shall be appointed each even-numbered year, and two members shall be appointed each odd-numbered year, all appointments to be for the period of two years, except in the case of vacancies, in which event the appointment shall be for such unexpired term.
(Code 1961, § 2-30; Ord. of 12-11-1951, § 1; Ord. No. 183-83, § 1, 7-11-1983)

Sec. 2-28. Compensation of members.

The members of the library commission shall serve without compensation.
(Code 1961, § 2-31; Ord. of 12-11-1951, § 2)

Sec. 2-29. Officers.

The library commission shall, by January 15 of each year, elect one of its members chairperson, one of its members vice-chairperson and either a member or nonmember may be appointed as secretary. Each such officer shall serve in the capacity indicated for one year and until such officer's successor is elected or appointed and qualified.
(Code 1961, § 2-32; Ord. of 12-11-1951, § 3; Ord. No. 183, § 2, 7-11-1983)

Sec. 2-30. Powers and duties generally.

The library commission shall, with the advice and consent of the city council, have the following powers and duties:

(1) To hold a regular meeting once every calendar quarter of the year.

(2) To adopt bylaws for the regulation of the business affairs of the commission and control and management of all programs, facilities and properties under the direction and supervision of the commission.

(3) To cooperate with such local, county, state or national organizations as, in its opinion, may be of service or assistance in the conduct of a complete library system in the city.

(4) To administer the operation, maintenance and development of all public libraries and facilities and equipment now owned or controlled by the city or that may be hereinafter acquired or established by the city, whether within or without the corporate limits of the city.

(5) To equip, operate and supervise and maintain all such library facilities on or in public grounds or buildings within or beyond the city's corporate limits which the city council may, from time to time, provide, acquire, offer, authorize, designate or set apart for such use.

(6) To rent suitable grounds, buildings and facilities for the development of public libraries.

(7) To employ a qualified librarian and such other employees as may, from time to time, be needed in the control, operation and maintenance of library programs, properties and facilities and prescribe and fix their duties, authorities, compensation and qualifications.

(8) To require adequate bonds from any or all employees, except laborers, for the faithful performance of their duties in such amounts as may be fixed by them.

(9) To make recommendations to the city council for capital developments and improvements on library property, grounds and facilities owned or controlled by the city.

(10) To promote close cooperation between and within the cities and all citizens, institutions, agencies and organizations interested in library facilities.

(11) To manage and control all funds regularly appropriated or received from any source for the development and maintenance of public library facilities and activities.

(12) To receive for and in behalf of the city donations, legacies or bequests for the development of its library facilities or the improvement of its library program upon the approval of the city council.

(13) To formulate and adopt rules and regulations for the government of library buildings and library grounds and library activities not inconsistent with the Charter of the city, or the laws of the state or county or with this article.

(14) To set and collect such charge for registration fees as are necessary for the conduct of a public library and special library activities.

(15) On or before June 15 of each year, to prepare and submit to the city manager for review and further submission to the city council for approval an itemized, detailed budget which shall provide an overall sum for the salaries of employees, for the purchase of equipment, for the operation and maintenance expense of the library programs, properties, and facilities and for such other expenses as, in the judgment of the commission, shall be expedient and proper for the ensuing year.

(Code 1961, § 2-33; Ord. of 12-11-1951, § 4; Ord. No. 183-83, §§ 3, 4, 7-11-1983)

Sec. 2-31. Bonds of employees.

All bonds required of employees of the library commission shall be approved by the city council and filed in the office of the city secretary.
(Code 1961, § 2-34; Ord. of 12-11-1951, § 5)

Sec. 2-32. Records and annual report.

The library commission shall keep a full account of all property, money receipts and expenditures from such receipts and a record of all proceedings of the commission. The commission shall, at the end of each fiscal year, file with the city council a complete report of its finances, properties, developments, activities and operations for the year then ending, and make such recommendations to the city council as it or its individual members may deem advisable, looking to the improvement of the library operation.
(Code 1961, § 2-35; Ord. of 12-11-1951, § 7)

Sec. 2-33. Removal of members.

The members of the library commission may be removed, for cause, by the city council after notice and hearing.
(Code 1961, § 2-36; Ord. of 12-11-1951, § 2)

Secs. 2-34—2-54. Reserved.

ARTICLE III. BOARDS, COMMITTEES, AND COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-55—2-81. Reserved.

DIVISION 2. BUILDING AND STANDARDS COMMISSION*

Sec. 2-82. Creation; authority.

There is hereby created the building and standards commission to hear and determine all cases concerning alleged violations or questions arising under ordinances:

(1) For the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including foundation, structural elements, entrances or exits;

***State law references**—Quasi-judicial enforcement of health and safety ordinances, Texas Local Government Code § 54.031 et seq.; authority of governing body of the municipality to appoint building and standards commission to hear and determine cases concerning alleged violations of ordinances, Texas Local Government Code § 54.003.

(2) Relating to dangerously damaged or deteriorated buildings or improvements; or

(3) Relating to conditions caused by accumulations of refuse, vegetation or other matter that creates breeding and living places for insects and rodents.

(Code 1961, § 2-100; Ord. No. 229-90, § 1, 9-10-1990)

Sec. 2-83. Membership; terms; qualifications; removal.

(a) The buildings and standards commission shall consist of five members to be appointed by the city council for terms of two years. No regular member may serve more than two consecutive full terms. There shall also be appointed to the commission four alternate members of the commission who shall serve in the absence of one or more of the regular members when requested to do so by the city manager or designee. The alternate members shall serve for the same term and are subject to removal in the same manner as the regular members.

(b) All regular and alternative members of the commission shall be residents or own and operate businesses within the city.

(c) A vacancy shall be filled for the unexpired term.

(d) The city council may remove a commission member for cause on a written charge. Before a decision regarding removal is made, the city council must hold a public hearing on the matter, if requested by the member subject to the removal action.

(Code 1961, § 2-101; Ord. No. 229-90, § 1, 9-10-1990; Ord. No. 030-2010, § 1, 2-22-2010)

Sec. 2-84. Proceedings of the commission.

(a) All cases to be heard by the commission must be heard by at least four members.

(b) A majority of the entire commission shall adopt rules in accordance with any ordinances adopted pursuant to Texas Local Government Code ch. 54, subch. C (Texas Local Government Code § 54.031 et seq.). The rules shall establish procedures for use in hearings, providing ample opportunity for presentation of evidence and testimony of respondents or person opposing charges brought by the city or its building officials relating to alleged violations of ordinances.

(c) The director of public works or designee, shall present all cases before the commission. The director of public works or designee, may be represented by the city attorney, or the attorney's assistant, in all cases before the commission.

(d) Meetings of the commission shall be held at the call of the chairman and at other times as determined by the commission. All meetings of the commission shall be open to the public. The chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(e) The commission shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or failed to vote. The commission shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the office of the commission as public records.
(Code 1961, § 2-102; Ord. No. 229-90, § 1, 9-10-1990)

Sec. 2-85. Notice.

(a) Notice of all proceedings before the commission must be given:

(1) By personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the county clerk; and

(2) To all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable; or

(3) To the person aggrieved by or challenging the decision of the city employee charged with the responsibility of enforcing an ordinance subject to the commission, by certified mail, return requested.

(b) The notice shall be posted and either personally delivered or mailed on or before the tenth day before the date of the hearing before the commission and must state the date, time and place of the hearing. In addition, the notice must be published in a newspaper of general circulation in the city on one occasion on or before the tenth day before the date fixed for the hearing.

(c) The commission may file notice of a proceeding before a commission panel in the official public records of real property in the county in which the affected property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, a legal description of the affected property, and a description of the proceeding. The filing of the notice is binding on subsequent grantees, lienholders or other transferees of an interest in the property who acquire such interest after the filing of the notice and constitutes notice of the proceeding on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

(d) When the city mails a notice in accordance with this section to a property owner, lienholder or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.
(Code 1961, § 2-103; Ord. No. 229-90, § 1, 9-10-1990)

Sec. 2-86. Authorized actions of the commission.

Following required notice and a public hearing in accordance with chapter 105, article VI of the Land Development Code, the commission may undertake such actions as provided in chapter 105, article VI of the Land Development Code.
(Code 1961, § 2-104; Ord. No. 147-09, § 1(exh. A), 10-26-2009; Ord. No. 108-2010, § 1(exh. A), 7-26-2010; Ord. No. 187-2010, § 3, 11-22-2010)

Sec. 2-87. Civil penalty.

(a) Determination made under section 2-86 is final and binding and constitutes prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the city for final judgment in accordance with the established penalty.

(b) To enforce any civil penalty under this article, the city secretary must file with the district clerk of the county, a certified copy of the order of the commission establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty.
(Code 1961, § 2-105; Ord. No. 229-90, § 1, 9-10-1990)

Sec. 2-88. Vote.

(a) The concurring vote of four members of the commission voting on a matter is necessary to take any action under this Code and any ordinance adopted by the city in accordance with Texas Local Government Code ch. 54, subch. C.

(b) In other actions and decisions of the commission, a majority vote of the quorum present is required.
(Code 1961, § 2-106; Ord. No. 229-90, § 1, 9-10-1990)

Sec. 2-89. Judicial review.

(a) The city or any persons jointly or severally aggrieved by any decision of the commission may present a petition to a district court, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds for the illegality. The petition must be presented to the court within 30 calendar days after the date a copy of the final decision of the commission is personally delivered, mailed by first class mail with certified return receipt requested, or delivered by the United States Postal Service using signature confirmation service,

to all persons to whom notice is required to be sent under section 2-85. The commission shall deliver or mail that copy promptly after the decision becomes final. In addition, a copy shall be published one time in a newspaper of general circulation in the city within ten calendar days after the date of the delivery or mailing of the copy as provided by this subsection, including the street address or legal description of the property, the date of the hearing, a brief statement indicating the results of the order, and instructions stating where a complete copy of the order may be obtained. A copy shall be filed in the office of the city secretary.

(b) On presentation of the petition, the court may allow a writ of certiorari directed to the commission to review the decision of the commission and shall prescribe in the writ the time, which may not be less than ten days within which a return on the writ must be made and served on the realtor or the realtor's attorney.

(c) The commission may not be required to return the original papers acted on by it. It is sufficient for the commission to return certified or sworn copies of the papers or parts of the papers as may be called for by the writ.

(d) The return must concisely set forth other facts as may be pertinent and material to show the grounds for the decision appealed from and shall be verified.

(e) The allowance of the writ does not stay proceedings on the decision appealed from.

(f) The district court's review shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.

(g) Costs may not be allowed against the commission.

(h) If the decision of the commission is affirmed or not substantially reversed but only modified, the district court shall allow to the city all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners as well as all persons found to be in occupation of the property subject to the proceedings before the commission.
(Code 1961, § 2-107; Ord. No. 229-90, § 1, 9-10-1990)

Sec. 2-90. Lien; abstract.

(a) An abstract of judgment shall be issued against all parties found to be the owners of the subject property or in possession of that property.

(b) A lienholder does not have standing to bring a proceeding under section 2-89 on the ground that the lienholder was not notified of the proceedings before the commission or was unaware of the condition of the property, unless the lienholder had first appeared before the commission and entered an appearance in opposition to the proceedings.
(Code 1961, § 2-108; Ord. No. 229-90, § 1, 9-10-1990)

Sec. 2-91. Commission decision final.

If no appeals are taken from the decision of the commission within the required period, the decision of the commission is, in all things, final and binding.
(Code 1961, § 2-109; Ord. No. 229-90, § 1, 9-10-1990)

Sec. 2-92. Penalties for interfering with demolition contracts.

Any person who trespasses on any property that is the subject of a lawful order of the building and standards commission, shall, upon conviction, be guilty of a Class C misdemeanor and shall be punished by a fine not to exceed that amount allowed by state law for such offense.
(Code 1961, § 2-110; Ord. No. 229-90, § 1, 9-10-1990)

Chapter 3

RESERVED

Chapter 4

AIRPORTS*

Article I. In General

Secs. 4-1—4-18. Reserved.

Article II. Airport Authority

Sec. 4-19. Definition.
Sec. 4-20. Created.
Sec. 4-21. Composition; appointment of members; failure to serve term.
Sec. 4-22. Discharge of members.
Sec. 4-23. Organization of joint board; election and term of officers.
Sec. 4-24. Quorum; questions to be decided by majority; chairperson to vote.
Sec. 4-25. Powers generally.
Sec. 4-26. Rules, regulations and bylaws.
Sec. 4-27. Revenues and funds.
Sec. 4-28. Duration; method of termination.
Sec. 4-29. Property subject to jurisdiction of authority.
Sec. 4-30. Conveyance of property to authority by Texarkana, Arkansas.
Sec. 4-31. Acquisition and construction of new land and facilities.
Sec. 4-32. Beneficial interest of each city in airport property.
Sec. 4-33. Expenditures; deficits.
Sec. 4-34. Distribution of property upon termination of authority.
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Article III. Nontenant Rental Car Businesses

Sec. 4-61. Definition.
Sec. 4-62. General.
Sec. 4-63. Regulations; controls; charges and fees; standards; rules and procedures.

***State law references**—Municipal airports generally, Texas Transportation Code § 22.001 et seq.; airport zoning regulations, Texas Local Government Code § 241.001 et seq.

ARTICLE I. IN GENERAL

Secs. 4-1—4-18. Reserved.

ARTICLE II. AIRPORT AUTHORITY

Sec. 4-19. Definition.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authority means the Texarkana Airport Authority created by section 4-20.
(Code 1961, § 3-8; Ord. of 12-27-1956, § 1)

Sec. 4-20. Created.

There is hereby created a joint airport board for the ownership and operation of the city municipal airport, such board to be known as the city airport authority.
(Code 1961, § 3-9; Ord. of 12-27-1956, § 1)

Sec. 4-21. Composition; appointment of members; failure to serve term.

(a) The joint board shall consist of eight members, four of whom shall be residents of Texarkana, Miller County, Arkansas and four of whom shall be residents of Texarkana, Bowie County, Texas. The members of said board that are residents of Arkansas shall be appointed by the mayor of the City of Texarkana, Arkansas, with the approval of the city council of that city. The members of the board that are residents of Texas shall be appointed by the mayor of the city, with the approval of the city council of said city. The mayor of each of the cities, with the approval of the city council, shall appoint one person for a term of three years to replace that resident member whose term has expired.

(b) Should any member of the authority fail to serve their term for any reason, the mayor of the city of which such member is a resident shall appoint a person to fill the unexpired term. The term of office of any board member shall be terminated automatically after their absence from three consecutive regular meetings of the board, and the continuance of their membership on the board shall be subject to their reappointment by the mayor and approval by the city council.
(Code 1961, § 3-10; Ord. of 12-27-1956, § 2; Ord. No. 114-67, § 1, 8-28-1967; Ord. No. 149-72, § 1, 7-24-1972)

Sec. 4-22. Discharge of members.

(a) The mayor of Texarkana, Texas, or the mayor of the City of Texarkana, Arkansas, with the approval of the city council, may terminate or discharge any of its resident members of the city airport authority board with or without cause.

(b) The mayor of the city of which such terminated or discharged member is a resident shall appoint a person to fill the unexpired term.
(Code 1961, § 3-10.1; Ord. No. 44-62, 11-5-1962)

Sec. 4-23. Organization of joint board; election and term of officers.

Immediately upon the members of said board being appointed, they shall meet for the purpose of organizing said board. They shall elect one person from their number to act as chairperson, one person to act as vice-chairperson, and one person as secretary. The chairperson and vice-chairperson shall serve for a term of one year and annually thereafter said members shall elect a chairperson and vice-chairperson from the membership of the board, provided they shall not be residents of the same city.
(Code 1961, § 3-11; Ord. of 12-27-1956, § 3; Ord. No. 149-72, § 2, 7-24-1972)

Sec. 4-24. Quorum; questions to be decided by majority; chairperson to vote.

Five members of this board shall constitute a quorum and the residence of said members shall not be a qualification of the quorum; provided, however, a quorum of the board shall consist of three members appointed from the City of Texarkana, Arkansas and three members appointed from the City of Texarkana, Texas for any meeting during which a matter is voted upon that requires the subsequent approval of the governing bodies of the Cities of Texarkana, Arkansas and Texas. All questions shall be decided upon a majority vote of the members present. The chairperson shall cast a vote on all matters coming before the board.
(Code 1961, § 3-12; Ord. of 12-27-1956, § 3; Ord. No. 149-72, § 3, 7-24-1972; Ord. No. 279-74, § 1, 12-23-1974)

Sec. 4-25. Powers generally.

The authority shall be vested with the authority for the planning, developing, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection and policing of the city municipal airport, except however, that such authority shall be limited as follows:

(1) No contractual obligation shall be entered into by the authority in any amount in excess of the unencumbered monies of the authority realized from the earnings thereof, except upon resolution of the City of Texarkana, Arkansas, and Texarkana, Texas.

(2) The expense of planning, development, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection and policing of the airport in excess of the funds of the authority shall be the responsibility of the municipalities.

(3) No property entrusted to the authority shall be sold, transferred or in any manner encumbered without written consent of the city councils of the cities.

(4) No contract in excess of $200.00 shall be made except in compliance with Arkansas Statutes 1947, article 19-1022 (which is in substantial compliance with the requirements of the city Charter and state laws), which provides that such contracts shall be entered into after advertisement for bids is made by the board of public affairs of the City of Texarkana, Arkansas.

(Code 1961, § 3-13; Ord. of 12-27-1956, § 5)

Sec. 4-26. Rules, regulations and bylaws.

The authority may propose such bylaws and rules governing its functions in the operation of the airport as it deems best; provided, however, that such rules and bylaws shall not be in conflict with the constitution and statutes of the State of Arkansas and the State of Texas, the ordinances of the City of Texarkana, Arkansas, or this Code and other ordinances of the City of Texarkana, Texas. The proposed bylaws and rules must be approved by the city council of both Texarkana, Arkansas and the City of Texarkana, Texas, before the same shall be effective and such councils, by joint action, may amend, alter or repeal any bylaw, rule or regulation.

(Code 1961, § 3-14; Ord. of 12-27-1956, § 4)

Editor's note—Rules and regulations proposed by the airport authority were approved by a resolution of the city council on June 25, 1957. Such rules are not codified herein but a copy thereof is on file in the office of the city secretary.

Sec. 4-27. Revenues and funds.

The authority shall receive and hold all revenues derived from the operation of the airport and shall pay therefrom the expenses of such operation, subject, however, to the limitation of Arkansas state law and Texas state law. The revenues obtained by the authority from the ownership, control or operation of said airport shall be deposited in a special fund in the bank to be designated "The Texarkana Municipal Airport Fund" or "Airport Fund" which revenues shall be appropriated solely to and used by the cities for the purposes authorized by Arkansas state law and Texas state law, including the payment of bonds issued by the cities either jointly or separately and payable as to principal and interest solely from the revenues of the airport as provided under Arkansas state law and Texas state law.

(Code 1961, § 3-15; Ord. of 12-27-1956, §§ 6, 11; Ord. No. 233-71, § 1, 12-6-1971)

Sec. 4-28. Duration; method of termination.

The authority shall continue in operation perpetually, unless it is terminated by one of the following occurrences:

(1) The authority shall cease upon the joint action of the cities to terminate its operation by passing an ordinance to that effect by the city councils of each of the cities.

(2) Either of the cities shall pass an ordinance withdrawing from the joint operation and giving written notice of such action to the other city.

(Code 1961, § 3-16; Ord. of 12-27-1956, § 7)

Sec. 4-29. Property subject to jurisdiction of authority.

(a) The real property subject to the jurisdiction of the authority is situated in Texarkana, Miller County, Arkansas, and designated as follows:

Being part of Section 9, 10, 15 and 16, Twp. 15 S.R. 28 W. Miller County, Arkansas, and described by metes and bounds, as follows: Commencing at the common corner of said sections numbered 9, 10, 15 and 16 thence North 88 deg. 45 min. West (N. 88° 45' W.) 563 feet to a corner on the south-easterly right-of-way line of the Missouri Pacific Railroad, said corner being the point of beginning of said perimeter description: Thence with said right-of-way line North 42 deg. 55 min. East (N 42° 55' E.) 843 feet to a corner; thence South one deg. and no minutes West (S. 1° 00' W.) 100 feet to a corner; thence North 43 deg. no min. East (N. 43° 00' E.) 1085 feet to a corner; thence South 88 deg. 30 min. East (S. 88° 30' E.) 594 feet to a corner; thence South 88 deg. 40 min. East (S. 88° 40' E.) 1310 feet to a corner; thence South 22 deg. 14 min. East (S. 22° 14' E.) 1449 feet to a corner; thence south 22 deg. no min. East (S. 22° 00' E.) 1419 feet to a corner; thence South 88 deg. 30 min. East (S. 88° 30' E.) 203 feet to a corner; thence South one deg. 6 min. West (S. 1° 06' W.) 1322 feet to a corner; thence South 1320 feet to a corner; thence West 660 feet to a corner; thence North 844 feet to a corner; thence South 45 deg. 34 min. West (S. 45° 34' W.) 945 feet to a corner; thence South one deg. and 30 min. West (S. 1° 30' W.) 199 feet to a corner; thence North 88 deg. 10 min. West (N. 88° 10' W.) 1322 3/10 feet to a corner; thence West 579 feet to a corner; thence North 88 deg. 30 min. West (N. 88° 30' W.) 2081 2/10 feet to a corner; thence North one deg. and 30 min. East (N. 1° 30' E.) 459 8/10 feet to a corner; thence North 88 deg. 30 min. West (N. 88° 30' W.) 2229 8/10 feet to a corner on the Southeasterly right-of-way line of said Missouri Pacific Railroad; thence with said right-of-way line North 42 deg. and five min. East (N. 42° 05' E.) 1168 2/10 feet to a corner; thence continuing with said right-of-way line North 42 deg. 12 min. East (N. 42° 12' E.) 1990 feet to a corner; thence continuing with said right-of-way line North 47 deg. 48 min. West (N. 47° 48' W.) 50 feet to a corner; thence continuing with said right-of-way line North 42 deg. 12 min. East (N. 42° 12' E.) 1479 feet to the point of beginning. Containing in all 610 11/100 acres of land, more or less.

The personal property which shall be subject to the jurisdiction of the authority shall be all personal property owned by the City of Texarkana, Arkansas, situated at the above-described real property and/or used in the operation of the airport. A detailed list of all personal property used and useful in the operation of the airport on December 27, 1956, shall be made by the authority and certified copies thereof furnished to the city councils of each of the cities.

(b) All property whether real, personal or mixed, acquired by the authority after December 27, 1956, which is used or useful in the operation of the airport and acquired by the authority shall be within the jurisdiction of the authority.
(Code 1961, § 3-17; Ord. of 12-27-1956, § 8)

Sec. 4-30. Conveyance of property to authority by Texarkana, Arkansas.

All property within the jurisdiction of the authority as set forth in section 4-29 shall, on December 27, 1956, be transferred and conveyed to the authority to be held by the members thereof and their successors in office as trustees for the City of Texarkana, Arkansas, and the City of Texarkana, Texas, subject to the terms of this article and for the purpose of securing to the residents and the general public of the cities an adequate airport. The mayor of the City of Texarkana, Arkansas, is hereby authorized to execute such papers as may be necessary to effect such transfer and shall deliver to the authority such property on December 27, 1956.
(Code 1961, § 3-18; Ord. of 12-27-1956, § 9)

Sec. 4-31. Acquisition and construction of new land and facilities.

It is contemplated by the cities that the land, buildings and all other facilities subject to the jurisdiction of the authority shall be supplemented and improved by the acquisition or construction of new land, buildings and other facilities. All new acquisitions and construction of property subject to the jurisdiction of the authority shall be affected only upon the concurrent agreement of the cities of Texarkana, Arkansas, and the City of Texarkana, Texas, and the cost of such new acquisition and construction shall be borne by the cities on a per capita basis of population as determined by the federal decennial census last made and taken prior to such new acquisition or construction; provided, however, that until the 1960 Decennial Census shall have been taken, such costs shall be borne 60 percent by the City of Texarkana, Texas, and 40 percent by the City of Texarkana, Arkansas.
(Code 1961, § 3-19; Ord. of 12-27-1956, § 9)

Sec. 4-32. Beneficial interest of each city in airport property.

(a) The beneficial interest of each city in and to the airport facilities shall be, from time to time, in proportion to the contributions made by each city of the permanent airport facilities and of costs of new acquisitions and improvements thereto.

(b) The authority shall, upon taking possession of the property, keep accurate, permanent records of the contributions of each of the cities to the property of the authority, reporting the same annually to each city. The City of Texarkana, Arkansas, shall be credited with the sum of $200,000.00 as its initial contribution and its beneficial interest in the trust property shall be in such amount until altered by contributions of the City of Texarkana, Arkansas, and/or, the City of Texarkana, Texas. Such credit shall not relieve the City of Texarkana, Arkansas, from its obligations stated and defined in sections 4-31 and 4-33, but the effect of such credit shall be limited solely to ascertaining the respective interests of the two cities in and to the airport facilities from time to time. Each city's beneficial interest in the trust property shall vary as amounts are expended by the city on permanent property within the jurisdiction of the authority. Each city's beneficial interest in the permanent property owned by the authority from time to time shall be that undivided fractional part of the whole which the city has contributed.
(Code 1961, § 3-20; Ord. of 12-27-1956, § 10)

Sec. 4-33. Expenditures; deficits.

(a) The total expenditures to be made by the authority for any purpose in any calendar year shall be determined by a budget approved by the city councils of each city, on or before December 1 for the following calendar year. If the budget, as proposed, contemplates a deficit, each of the cities, upon approval of the budget, shall assume and pay its proportionate share of the deficit, such share to be determined upon a per capita basis of the citizens of each of the cities as determined by the federal decennial census last made and taken prior to the approval of the budget; provided, however, that, until the 1960 Decennial Census is taken, such deficit shall be borne 60 percent by the City of Texarkana, Texas, and 40 percent by the City of Texarkana, Arkansas. Any deficit shall be paid quarterly in equal installments to the authority. If, during any fiscal year, a deficit is anticipated in excess of the approved budget, the authority shall appear before each of the city councils and ask for approval of the additional deficit, and, if approved, such additional deficit shall be assumed and paid by the cities in the same proportions as above set out. Within 60 days following the end of each fiscal year, the authority shall submit a financial report of the year's operation.

(b) No airport, air navigation facility, airport hazard, real or personal property, nor operating expenses in excess of income, the cost of which is in excess of the sums fixed by the budget heretofore mentioned, may be acquired by the authority without the prior approval of the city councils of each city, and appropriations made and funds transferred to the authority. Any indebtedness or contract made without compliance with this section shall be null and void.

(c) If either of the cities fail for any reason to pay its proportionate share of the approved budget deficit it shall forfeit the voting privilege of the representative having the shortest unexpired term of office until such time as the payment thereof has been made to the authority; provided, that such member may continue to attend all meetings and take part in the deliberations of the authority.
(Code 1961, § 3-21; Ord. of 12-27-1956, § 12)

Sec. 4-34. Distribution of property upon termination of authority.

Upon the termination of the authority as provided in section 4-28(1), the property of the authority shall be distributed as follows:

(1) Upon the payment of all outstanding obligations of the property, the funds of the authority shall be distributed in cash to the two cities in the proportion of their respective contributions theretofore made under the provisions of sections 4-31 and 4-33, including the initial contribution of Texarkana, Arkansas, computed in accordance with section 4-32.

(2) The real and personal property, other than cash funds and bank balances, of the authority shall be sold and liquidated by the authority and the proceeds distributed to the two cities according to their respective beneficial interests therein determined in accordance with section 4-32.

(3) If, upon termination of the authority as provided herein, the indebtedness of the authority is in excess of the funds the authority has on hand at the time of said termination, then in that event, each of the cities shall assume and pay its proportional share of the indebtedness, such share to be in proportion that the number of citizens in each city bears to the total number of citizens in both cities as determined by the federal decennial census last made and taken prior to such termination.

(4) If the authority is terminated in accordance with section 4-28(1), the fair market value of the interest of the city withdrawing from the joint operation of the airport in and to the funds and airport facilities of the authority shall be determined as of the date of such withdrawal. In the first instance, the airport authority, as constituted immediately prior to such withdrawal, shall attempt to agree by concurrence of the majority of its members as to the fair market value of such withdrawing city's interest in the funds and facilities. If such agreement is reached, then the same shall be submitted to the city council of each city and, if approved by the councils, the fair market value of such interest shall be deemed the value so agreed upon. If, however, no agreement is reached in accordance with the above procedure on the fair market value of such interest of the withdrawing city, then the city council of each city shall appoint one appraiser and the two appraisers so appointed shall select a third. The three appraisers so selected shall then, by their majority action, determine the fair market value as of the date of such

withdrawal of the interest of such withdrawing city in and to the funds and facilities of the authority and shall certify the appraisal to each city council and when so certified, such fair market value shall be conclusive on both cities. The withdrawing city shall be entitled to recover and be paid the fair market value of its interest as so ascertained only when the other city ceases to operate the airport facilities as a municipal airport for the benefit of the residents of Texarkana, Arkansas and the City of Texarkana, Texas and the general public travelling by air to and from such municipality. When such facilities cease to be so operated, the airport facilities as they then exist shall be liquidated, sold and converted into cash and, from such proceeds, together with the airport funds then on hand, there shall first be paid to such first withdrawing city the fair market value of its interest as theretofore ascertained and the remainder of the proceeds and funds shall be and remain the sole property of the other city.

(Code 1961, § 3-22; Ord. of 12-27-1956, § 14)

Sec. 4-35. One city not liable for indebtedness of other.

Neither city shall be liable for any present or future indebtedness of the other nor for any bonds heretofore or hereafter issued by such other city.

(Code 1961, § 3-23; Ord. of 12-27-1956, § 15)

Sec. 4-36. Amendment of article.

The powers, duties and obligations of the authority, together with all other provisions of this article, shall be subject to amendment upon concurrent passage by the city council of each of the cities of such amendment as both of them may deem best. In the absence of concurrent legislation by the cities, this article shall remain in full force and effect until terminated as provided herein.

(Code 1961, § 3-24; Ord. of 12-27-1956, § 13)

Secs. 4-37—4-60. Reserved.

ARTICLE III. NONTENANT RENTAL CAR BUSINESSES

Sec. 4-61. Definition.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nontenant rental car business means a rental car business not having one of the rental car concession contracts or leases with the airport authority for the privilege of having offices on the airport from which to conduct rental car business.

(Code 1961, § 3-25; Ord. No. 193-84, § 1, 7-23-1984)

Sec. 4-62. General.

(a) In order to retire airport authority debts incurred for the construction of said facilities; pay for airport operations and maintenance; manage the airport; pay for airport equipment; protect the public; preserve order; provide for the public health, safety and welfare; enhance the welfare of the authority; and govern the airport; it is necessary to fix charges, fees and regulations for those persons and corporations who do not have leases or concession contracts with the airport authority, including nontenant rental car businesses, but who want the privilege of supplying goods, commodities, things, services or facilities at the airport.

(b) In establishing and fixing these charges, fees and regulations, the city council gives due regard to the property and improvements used and the expenses of operation to the airport authority.

(c) The charges and fees established and fixed herein are reasonable compensation from the users to the airport authority for the use of airport facilities and are needed to help defray the cost of airport facilities, including the new addition to the terminal building and roads.

(d) In order to protect the public; to provide for public safety; to preserve the good and peace of the authority and the way of ingress and egress to and from the airport; and in order to enhance the accuracy of the levying and collecting of fees and charges by the authority on nontenant rental car businesses; it is necessary to enact reasonable standards, controls, rules, regulations and procedures for such nontenant rental car businesses.

(e) Rental car businesses constitute a specific class of business operations on airport property.
(Code 1961, § 3-26; Ord. No. 193-84, § 1, 7-23-1984)

Sec. 4-63. Regulations; controls; charges and fees; standards; rules and procedures.

Reasonable regulations, controls, charges, fees, standards, rules and procedures, in consideration of all the aforementioned reasons, purposes and factors for nontenant rental car businesses, are as follows:

(1) A person, persons or corporation desiring access to the city municipal airport—Webb Field for the purpose of conducting rental car business operations, either directly or indirectly, shall first obtain from the airport authority a rental car nontenant business permit prior to conducting any such business on airport property, which permit shall not be unreasonably denied.

(2) Rental car nontenant business permits will be issued annually for a 12-month period within 30 days after the application has been submitted to the airport authority, provided it is approved.

(3) The airport authority may issue a rental car nontenant business permit only upon receipt of a signed and verified application from the rental car business owners containing the following information, agreements and proof:

a. The names, addresses and social security numbers of every person or corporation having an interest in the business;

b. For corporations not traded publicly, the names, addresses and social security numbers of every person having an interest in the business;

c. Proof of comprehensive general liability insurance in the amount of at least $100,000.00/$300,000.00/$100,000.00 covering all business operations, employees and customers;

d. The make, model, color, identification number and motor vehicle registration number of all vehicles to be operated on airport property;

e. Proof of financial responsibility in the form of cash bond or corporate surety bond in the amount of $10,000.00 assuring the faithful performance of all obligations under the business permit and business permit application;

f. A written agreement to pay, for the duration of the permit to the airport authority, ten percent of all gross business receipts per month, payable on the tenth day of each month for the preceding month's receipts;

g. The names, addresses, social security numbers, and job titles of all business employees;

h. A written agreement covenanting to obey and follow all standards and regulations published by the airport authority;

i. Proof of all business and motor vehicle permits required by the United States of America, the States of Arkansas and Texas, Miller and Bowie Counties, or the Cities of Texarkana, Arkansas and the City of Texarkana, Texas;

j. A written agreement to submit written proof to the airport authority of all gross receipts at the time payment is due, including copies of all rental car contracts;

k. A written agreement to authorize the airport authority to audit all business records and accounts at any time upon demand and to make said records and accounts available;

l. A written agreement to furnish to the airport authority at the time of pickup the names and contract numbers of all customers;

m. A written agreement to park only in the parking and pickup area designated for nontenant rental cars;

n. A written agreement to indemnify and hold harmless the airport authority from any and all claims whatsoever arising out of the permittees business operations and proof of insurance for such contractual liability;

o. A written agreement to abide by such additional requirements as the airport authority may levy from time to time.

(4) A nontenant rental car business permit will permit the business to pick up customers at the terminal in a designated and signed van or other motor vehicle.

(5) A nontenant rental car business permit shall not permit a business to have an office or station on airport property, and such action is expressly prohibited.

(6) A nontenant rental car business permit is required in order to advertise a nontenant rental car business on airport property and in order to place a nontenant car business telephone on airport property; however, fees for such advertising and telephones are not included in the permit fees and charges; advertising and telephone fees, charges, and location must be negotiated separately in addition to permit fees and charges; a nontenant rental car business permit shall not advertise on airport property and shall not place a telephone on airport property.

(7) A nontenant rental car business permit will permit the business the exclusive use of six automobile parking places on the front line of the airport parking lot.

(8) A nontenant rental car business permit will permit the business to use the ready automobile parking lot at the airport.

(9) A nontenant rental car business permit will permit the business to use restroom facilities in the lobby area of the airport.

(10) A nontenant rental car business permit may be revoked by the airport authority for cause at a public meeting upon five days' notice. The term "cause" includes, but is not limited to, a breach of any of the agreements herein; a failure to perform any of the agreements herein, including a failure to make timely payments; violation of airport authority standards or regulations; violation of the laws of the federal government or of the laws of any state; and any other act or omission of the permittee adversely affecting airport business operations or posing a danger to the public health, safety or welfare. The term "cause" also includes financial insolvency or instability, moral turpitude and the lack of good character. In the event a permit is revoked, all sums owed the airport authority shall immediately become due and payable, and no fees or charges shall be refundable by the airport authority. A nontenant rental car business permit may, likewise, be denied for similar cause as it could be revoked. In addition, a nontenant rental car business permit may be denied or revoked when, in the opinion of the airport authority, such action is necessary to protect the public health, safety or

welfare, or to preserve the financial welfare of the airport authority. In the event a permit is denied, the applicant shall be given written notice of the reasons and shall have the right to a hearing before the airport authority.

(Code 1961, § 3-27; Ord. No. 193-84, § 1, 7-23-1984)

Chapter 5

RESERVED

Chapter 6

ALARMS*

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Sec. 6-36. Appeal of service fee, denial or revocation of alarm permit.
Sec. 6-37. Confidentiality.

***State law references**—Municipal regulation of burglar alarm systems generally, Texas Local Government Code § 214.191 et seq.; limited municipal regulation of fire detection and alarm device installation, Texas Insurance Code § 6002.001 et seq.

ARTICLE I. IN GENERAL

Sec. 6-1. Purpose.

(a) The purpose of this chapter is to encourage alarm users and alarm companies to properly use and maintain alarm systems and to reduce or eliminate false alarms which may unduly divert law enforcement from responding to criminal activity.

(b) This chapter governs alarm systems intended to summon law enforcement response, requires registration, establishes fees, provides for penalties and violations, and sets conditions for revocation of registration.
(Code 1961, § 3A-1; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-2. Applicability.

This chapter is not applicable to "personal emergency response systems," as that term is defined under Texas Health and Safety Code § 781.001.

Sec. 6-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm administrator means a person designated by the law enforcement authority to administer the alarm ordinance.

Alarm company means the business, by an individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring alarm systems.

Alarm dispatch request means notification by live voice to the law enforcement authority that an alarm system has been activated at a particular alarm site and that response is requested.

Alarm permit or registration means a certificate of authorization issued to the applicant by the alarm administrator authorizing the operation of an alarm system at the alarm site for which the permit is issued.

Alarm site means a single fixed premises or location served by an alarm system. Each residential unit, if served by a separate alarm system in a multitenant building or complex shall be considered a separate alarm site.

Alarm system means a device or series of devices which transmit a signal indicating an alarm condition and intended to summon law enforcement. The term "alarm system" does not include a local alarm or an alarm installed on a vehicle.

Alarm user means any person, firm, partnership, corporation or other legal entity, including employees thereof, who or which owns or is in control of the premises upon which an alarm system is located.

Automatic voice dialer means any device capable of being programmed to send a prerecorded voice message, when activated, to the law enforcement authority.

Cancellation is the process by which an alarm company providing monitoring notifies the law enforcement authority that a false alarm dispatch request has occurred and that there is not an existing situation at the alarm site requiring law enforcement response.

Conversion means the transaction or process by which one alarm company begins monitoring of a previously unmonitored alarm system or an alarm system previously monitored by another alarm company.

Duress alarm means an alarm signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring law enforcement response.

False alarm means an alarm dispatch request when the responding officer finds no evidence of a criminal offense or attempted criminal offense after having completed a timely investigation of the alarm site.

Holdup alarm means an alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

Law enforcement authority means the city police department.

Local alarm means any alarm that is designated to alert only the inhabitants of a premises and which, upon activation, cannot be seen or heard for a distance greater than ten feet from the protected premises.

Monitoring means the process by which an alarm company receives signals from an alarm system and relays an alarm dispatch request for the purpose of summoning law enforcement response to the alarm site.

One plus duress alarm means the manual activation of a silent alarm signal by entering at a keypad a code that adds one to the last digit of the normal arm/disarm code. (Example: normal code—1234; one plus duress code—1235.)

Panic alarm means an alarm signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring law enforcement response.

Permit holder means the individual, corporation, partnership or other legal entity, including employees thereof, to whom an alarm permit is issued.

Person means an individual, corporation, partnership, association, organization or similar entity.

Takeover means the transaction or process by which an alarm user takes over control of an existing alarm system which was previously controlled by another alarm user.

Verify means an attempt, by the alarm company, or its representative, to contact the alarm site by telephonic or other electronic means, whether or not actual contact with a person is made, before requesting law enforcement response, in an attempt to avoid an unnecessary alarm dispatch request.
(Code 1961, § 3A-2; Ord. No. 151-02, § 1, 6-24-2002)

Secs. 6-4—6-24. Reserved.

ARTICLE II. PERMITS

Sec. 6-25. Alarm permit; law enforcement response.

(a) No alarm user shall operate, or cause to be operated, an alarm system at its alarm site without a valid alarm permit issued by the alarm administrator. A separate alarm permit is required for each alarm site.

(b) A response, if any, made by the law enforcement authority to an alarm dispatch request shall be subject to the policies and procedures of the law enforcement authority.

(c) The issuance of an alarm permit authorizing the use of an alarm system is not intended nor shall it create a contract, either express or implied, creating a duty or guarantee of response. Any and all liability and consequential damages resulting from the failure to respond to an alarm dispatch request is hereby disclaimed and governmental immunity, as provided by law, is retained.

(d) The law enforcement authority may respond to an alarm even when the alarm system has no alarm permit on file with the alarm administrator according to the provisions contained herein. After the response, the owner of the alarm system will be given notice of the requirement for an alarm permit. Such notice shall be sent by first class mail through the United States Postal Service to the physical address of the alarm site. The notice shall contain a statement that outlines the requirement for an alarm permit and the procedures for obtaining an alarm permit. The notice shall advise the alarm system owner that the law enforcement authority may respond to any future alarms, and the owner of the alarm system is subject to a fine for violations of this section.

(e) The law enforcement authority may respond to an alarm site where the alarm permit has been revoked. The owner of the alarm system is subject to a fine for violations of this section.

(f) If an alarm site emits multiple false alarms within a 24-hour period, the law enforcement authority is not required to respond when it is apparent that the alarm system is malfunctioning resulting in multiple false alarms.
(Code 1961, § 3A-26; Ord. No. 151-02, § 1, 6-24-2002; Ord. No. 002-08, § 1, 1-28-2008)

Sec. 6-26. Alarm systems in multifamily complexes.

(a) A tenant in a multifamily complex with an alarm system shall obtain an alarm permit from the alarm administrator before operating or causing the operation of an alarm system in the tenant's residential unit.

(b) The owner or property manager of a multifamily complex shall obtain a separate alarm permit for any alarm system operated in offices or common areas of the complex.

(c) If an alarm system installed by an individual tenant in a multifamily complex unit is monitored, the tenant must provide the name, address and phone number of a representative of the owner or property manager who can grant access to the residential unit.

(d) For the purpose of enforcing this chapter against an individual residential unit, the tenant is responsible for false alarms emitted from the alarm system in the tenant's residential unit.

(e) Each residential unit shall be considered an alarm site.
(Code 1961, § 3A-27; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-27. Alarm permit application.

(a) Application for an alarm permit authorizing the operation of an alarm system shall be made by a person having control over the property on which the alarm system is to be installed and operated. Such application shall be made in writing to the alarm administrator on a form designated for that purpose. Each application must include the following information:

(1) The name, mailing address and telephone numbers of the person who will be the permit holder;

(2) Copies of the assumed name registration if the alarm site will be operated under an assumed name; the partnership registration, if any, and the names and addresses of all general partners if the permit holder is to be a partnership; or the corporate charter with the names and addresses of the officers and registered agents or the certificate of authorization from the secretary of state if the permit holder is to be a corporation;

(3) The street address of the property on which the alarm system is to be installed and operated;

(4) The classification of the alarm site as either residential, multifamily or commercial;

(5) The number of alarm systems located at the alarm site and the classification of each of the alarm system as burglary, holdup, duress, panic or other and whether each is audible or silent;

(6) Any business name used for the alarm site;

(7) The type of business conducted at the alarm site;

(8) Any dangerous or special conditions present at the alarm site;

(9) The date of installation, conversion or takeover of the alarm system;

(10) The name, address and phone number of the alarm company performing the alarm system installation, conversion or takeover and responsible for providing repair service to the alarm system;

(11) The name, address and phone number of the alarm company monitoring the alarm system; and

(12) The names, dates of birth, and local telephone numbers of at least three individuals who have agreed to receive notification of an alarm activation at any time; and come to the alarm site within 30 minutes after receiving a request from the law enforcement authority to do so, grant access to the alarm site, and, if necessary, deactivate the alarm system.

(b) The application shall be signed by the applicant for the alarm permit acknowledging that the application has been read, and affirming the correctness and accuracy of the information given on the application.

(c) The applicant shall sign a completed false alarm prevention checklist as provided by the alarm administrator.

(d) The applicant shall sign a statement that the alarm site is in compliance with section 105-5.

(Code 1961, § 3A-28; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-28. Denial or revocation of alarm permit.

(a) The alarm administrator may deny or revoke an alarm permit, as applicable, if it is determined that:

(1) There is a false statement of a material matter in the application for an alarm permit;

(2) The applicant has failed to pay the fee for the alarm permit or alarm permit renewal as required by section 6-29;

(3) The permit holder has violated a provision of this chapter;

(4) The permit holder has failed to pay a service fee assessed under section 6-33 within 30 days of receiving notice to do so; or

(5) More than ten false alarms have been activated at an alarm site during a 12-month alarm permit period.

(b) Within ten days of receipt of an application for an alarm permit, the alarm administrator shall issue an alarm permit or deny the application.

(c) A person commits an offense if the person operates an alarm system during the period in which the alarm permit is revoked.

(d) The alarm administrator shall provide at least 30 days written notice to the permit holder prior to revocation of the alarm permit.

(e) Upon revocation of an alarm permit, the permit holder must wait for a period of six months from the date of revocation before applying for a new alarm permit.
(Code 1961, § 3A-29; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-29. Alarm permit fee and term.

(a) There shall be an annual fee for an alarm permit or alarm permit renewal for an alarm site. No refund of an alarm permit fee or alarm permit renewal fee will be made. The initial alarm permit fee must be submitted to the alarm administrator with the completed application for the alarm permit.

(b) An alarm permit shall expire one year from the date of issuance, and must be renewed annually by submitting an updated application and an alarm permit renewal fee to the alarm administrator. The alarm administrator shall notify each alarm user of the need to renew at least 30 days prior to the expiration of the alarm permit. It is the responsibility of the alarm user to submit an application prior to the alarm permit expiration date. Failure to renew will be classified as use of a nonregistered alarm system. A late fee can be assessed if the renewal is more than 30 days late.

(c) An alarm permit cannot be transferred to another person or alarm site.

(d) No annual fee for an alarm permit or alarm permit renewal will be assessed for an alarm site that houses a federal, state or local government agency.

(e) The permit fees appearing in this section shall be in an amount as established by the city council from time to time and is on file in the city secretary's office and city website.
(Code 1961, § 3A-30; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-30. Duties of the permit holder.

(a) The permit holder shall come or cause a representative to come to the alarm site within 30 minutes after receiving a request from the law enforcement authority to do so, grant access to the alarm site, and, if necessary, deactivate the alarm system.

(b) The permit holder shall maintain the premises and the alarm system in a manner that will minimize or eliminate false alarms. Functional batteries for battery backup systems must be in place at all times to prevent false alarms due to power failure or power surge.

(c) The permit holder shall not manually activate an alarm system for any reason other than an occurrence of an event that the alarm system was intended to report.

(d) The permit holder shall not manually activate a duress alarm or a panic alarm when a life threatening or emergency situation requiring law enforcement response does not exist.

(e) The permit holder shall not manually activate a holdup alarm unless a robbery is in progress.

(f) The permit holder shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than 15 minutes. Additionally, the audible alarm must not make a sound similar to that of a siren or any emergency vehicle or similar to that of a civil defense warning system.

(g) The permit holder shall train all persons who may activate the alarm system in the proper operation of the alarm system.

(h) The permit holder will be responsible for all fees and fines associated with the alarm permit or the operation of the alarm system.

(i) The permit holder shall not use automatic voice dialers.

(j) The permit holder shall keep the alarm permit at the alarm site and shall produce such alarm permit for inspection upon request of the law enforcement authority.

(k) The permit holder shall maintain a set of written operating instructions for each alarm system at the alarm site.

(l) The permit holder shall ensure that the alarm system is repaired within 72 hours of the time of notification by the alarm administrator that an alarm system is malfunctioning or causing potential excessive false alarms. The permit holder may cause the alarm system to be deactivated rather than having it repaired. If deactivated, the alarm system should not be reactivated until it has been repaired.

(m) The permit holder shall file an amendment to the application whenever an individual listed under section 6-27(a)(12) of the application is unable or unwilling to perform the duties as set out therein. The permit holder shall amend the application so that at all times the application on file with the alarm administrator includes at least three individuals who are willing and able to perform the required duties.

(n) The permit holder shall inform the alarm administrator of any change that alters any information listed on the alarm permit application within five business days of the change.
(Code 1961, § 3A-31; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-31. Duties of alarm company.

(a) Upon enactment of this chapter, alarm companies shall use control panels tested for conformance to the Security Industry Association (SIA) control panel standard features for false alarm reduction.

(b) Upon enactment of this chapter, alarm companies shall not program alarm systems so that they are capable of sending one plus duress alarms. Alarm companies may continue to report one plus duress alarms received from alarm systems programmed with one plus duress prior to enactment of this chapter. However, upon enactment of this chapter when a takeover or conversion occurs, an alarm company must remove the one plus duress alarm capability from the alarm system.

(c) Upon enactment of this chapter, alarm companies shall not install a device activating a holdup alarm which is a single nonrecessed button. An alarm company must remove all single action nonrecessed buttons when a takeover or conversion occurs.

(d) An alarm company performing monitoring services shall:

(1) Attempt to verify every alarm signal, except a duress, panic or holdup alarm activation, before requesting law enforcement response to an alarm system signal;

(2) Communicate cancellations to the law enforcement authority immediately upon determination that a false dispatch has occurred;

(3) Communicate any available information (north, south, front, back, floor, etc.) about the location of the alarm; and

(4) Communicate type of alarm activation (silent or audible, interior or perimeter).

(e) An alarm company shall notify the law enforcement authority before performing mechanical or technical testing on a alarm system that may cause a false alarm dispatch.
(Code 1961, § 3A-32; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-32. Alarm company license.

The alarm administrator may file a complaint with the state commission on private security when an alarm company fails to comply with the duties listed in section 6-31.
(Code 1961, § 3A-33; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-33. False alarm service fee.

(a) An alarm user shall pay a false alarm service fee for each false alarm emitted from an alarm site that is in excess of three false alarms within a 12-month alarm permit period. The false alarm fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(b) No false alarm service fee will be assessed during the first 30 days on newly installed alarm systems. False alarms during that period will not be counted in determining when a false alarm service fee will be assessed.

(c) If a false alarm is caused by a highly unusual weather condition, the false alarm will not be counted in determining when a false alarm service fee will be assessed. Highly unusual weather conditions include lightning storms, hurricane type winds in excess of 60 miles per hour, and other meteoric conditions which are not common to the city.

(d) If an alarm site emits multiple false alarms within a 24-hour period and the permit holder can prove, in writing, that the false alarms were caused by a mechanical malfunction of the alarm system, then all multiple false alarms will be counted as one false alarm for the purpose of this section.

(e) No false alarm service fee will be assessed for an alarm site that houses a federal, state or local government agency.
(Code 1961, § 3A-34; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-34. Alarm system requirements.

No person shall install, cause to be installed, or permit to be installed any alarm system unless the requirements of this section are met:

(1) Any local alarm system shall have a 15-minute shutoff and must not make a sound similar to that of a siren or any emergency vehicle or similar to that of a civil defense warning system.

(2) No holdup alarm shall include a money-clip, pressure pad, or similar device which can cause activation inadvertently; and any holdup alarm shall be designated so that it may be activated only by intentional and deliberate human action.

(3) No local alarm shall be activated by a holdup alarm.

(4) No person shall use or permit the use of any telephone device or telephone attachment which automatically selects any telephone line leading into the communication center of the law enforcement authority or any number leading into the offices of the city and then transmits a prerecorded message or signal.

(5) No person shall use or permit the use of any alarm system which gives notification of the activation of an alarm system directly to the law enforcement authority by any means other than live human voice.

(6) All alarm systems shall be equipped with a battery backup system.
(Code 1961, § 3A-35; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-35. Violations.

(a) A person commits an offense if the person violates by commission or omission any provision of this chapter that imposes upon the person a duty or responsibility.

(b) It shall be unlawful and a violation of this chapter for any person to operate a nonregistered alarm system whether said alarm system is revoked or never acquired.

(c) It shall be unlawful and a violation of this chapter for a permit holder to fail to comply with the duties listed in section 6-30.

(d) It shall be unlawful and a violation of this chapter for any alarm company to fail to comply with the duties listed in section 6-31.

(e) The penalty for a violation of the chapter shall be a fine of not less than $100.00 nor more than $500.00.

(f) Each day a violation shall be permitted to exist shall constitute a separate offense.

(g) Proof of a culpable mental state is not required for conviction of an offense or violation under this chapter. It is the intent of the city to dispense with the requirement of any culpable mental state in prosecutions filed hereunder.
(Code 1961, § 3A-36; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-36. Appeal of service fee, denial or revocation of alarm permit.

(a) Any permit holder assessed a service fee under section 6-33 may appeal the decision of the alarm administrator to the chief of police within ten days of receipt of notice of assessment of such fee and in the same manner for other appeals provided for herein.

(b) If the alarm administrator refuses to issue or renew an alarm permit, or revokes an alarm permit, written notice shall be sent to the applicant or permit holder by certified mail, return receipt requested. The notice shall include:

(1) The specific dates on which there have been false alarm dispatches from the alarm system, if revocation is based upon section 6-28(a)(5);

(2) The amount of any service fees assessed under section 6-33 that are due and owing and the date such fees were incurred, if revocation is based upon section 6-28(a)(4);

(3) That the applicant or permit holder may appeal the decision of the alarm administrator to the chief of police by filing with the chief of police a written request for a hearing, setting forth the reasons for the appeal, within ten days after receipt of the notice from the alarm administrator;

(4) That if a request for an appeal hearing is not made within the ten-day period, the action of the alarm administrator is final; and

(5) That the filing of a request for an appeal hearing with the chief of police stays an action of the alarm administrator in revoking an alarm permit until the chief of police makes a final decision.

(c) The chief of police shall set a time and place for the appeal hearing within 20 days of a request. Notice of the appeal hearing shall be served upon the applicant or permit holder by certified mail, return receipt requested. The chief of police shall hear the appeal and consider evidence by any interested person. The formal rules of evidence do not apply at such an appeal hearing. All parties to the hearing shall have the right to present evidence and shall have the right of cross-examination. The chief of police shall make the chief of police decision based upon a preponderance of the evidence within ten days after the appeal hearing. The chief of police shall affirm, reverse or modify the action of the alarm administrator. The decision of the chief of police is final as to administrative remedies with the city.
(Code 1961, § 3A-37; Ord. No. 151-02, § 1, 6-24-2002)

Sec. 6-37. Confidentiality.

To the extent allowed by law, the city shall treat all information on the application for an alarm permit as confidential; provided, however, that nothing in this chapter shall prohibit the use of such information for legitimate purposes relating to the health, safety and well-being of the community and for enforcement of the terms and provisions of this chapter.
(Code 1961, § 3A-38; Ord. No. 151-02, § 1, 6-24-2002)

Chapter 7

RESERVED

Chapter 8

ANIMAL CARE AND CONTROL*

Sec. 8-1. Definitions.
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Sec. 8-17. Wild, wild-hybrid, vicious and prohibited animals.
Sec. 8-18. Dangerous dogs.
Sec. 8-19. Exemptions.
Sec. 8-20. Penalties.

***State law references**—Treatment of animals, Texas Health and Safety Code § 821.001 et seq.; dangerous dogs generally, Texas Health and Safety Code § 822.001 et seq.; Rabies Control Act, Texas Health and Safety Code § 826.001 et seq.

Sec. 8-1. Definitions.

In this chapter, the following words and terms shall have the following meaning, unless the context indicates otherwise, except where the context clearly indicates a different meaning:

Abandon means the dumping, deserting or leaving of any animal on public or private property with the intent of terminating any further responsibility for the animal; or failing to properly redeem any animal impounded or quarantined by the city.

Adoption means the purchase of a dog or cat from the city for pet purposes.

Animal means any living creature, including, but not limited to, dogs, cats, cows, horses, birds, fish, mammals, reptiles, insects, fowls and livestock but specifically excluding human beings.

Animal control officer means the person designated by the city to represent and act for the city to enforce the provisions of this chapter; also known as an animal services officer.

Cat means a domesticated animal that is a member of the felidae (feline) family but does not include a lion, tiger, bobcat, jaguar, panther, leopard, cougar or other wild animal of this family or hybrids.

Common household pets means animals, such as, but not limited to, dogs, cats, domestic birds, ferrets, hamsters, guinea pigs, gerbils and rabbits.

Dangerous dog means a dog that:

(1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own;

(2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person; or

(3) Makes an unprovoked attack on a domestic animal which occurs when the attacking dog is running at large.

Dog means a domesticated animal that is a member of the canidae (canine) family but does not include a wolf, jackal, fox or other wild animal of this family or hybrids.

Domestic birds means birds such as, but not limited to, budgies, canaries, cockatiels, doves, finches, lovebirds, macaws, parakeets and parrots.

Ferret means a domestic member of the family mustilidae, specifically mustela putorius furo.

Fowl means chickens, turkeys, pheasants, quail, geese, ducks, ostriches, emus or similar feathered animals regardless of age, sex or breed.

Guard dog means a dog which has been trained for the purpose of protecting property by a guard dog company which is required to be licensed pursuant to Texas Occupations Code ch. 1702, as amended.

Health officer means a licensed physician appointed by the city to have charge, control and protection of public health.

Hybrid means a product of the mating of two different species of animals regardless of the number of generations born since the original mating.

Licensed veterinarian means a person licensed to practice veterinary medicine.

Livestock means farm animals such as horses, ponies, mules, donkeys, cattle, sheep, goats and swine, regardless of age, sex or breed, and including miniature breeds.

Local rabies control authority means the person designated by the city in accordance with Texas Health and Safety Code § 826.017.

Owner means any person owning, possessing, harboring, feeding, keeping or sheltering any animal.

Person means any individual, firm, partnership, association, corporation or other legal entity.

Prohibited animal. The term "prohibited animal" means:

(1) Any animal not normally born and raised in captivity, including, but not limited to, the following:

a. *Class reptilia.* Family helodermatidae (venomous lizards) and family hydrophiidae (venomous marine snakes); family viperidae (rattlesnakes, copperheads, cottonmouths, pit vipers and true vipers); family elapidae (coral snakes, cobras and mambas); the following listed species of family colubridae-dispholidus typus (boomslang), hyrodynastes gigas (water cobra), boiga (mangrove snake), and thelotornis (African twig snake) only; order phidia, family boidae (racers, boas, water snakes and pythons); order crocodilia (such as crocodiles, alligators, caimans and gavials);

b. *Class aves.* Order falconiforms (such as hawks, eagles, falcons and vultures);

c. *Class mammalia.* Order carnivores:

1. Family felidea (such as lions, tigers, bobcats, jaguars, ocelots, leopards and cougars), except commonly domesticated cats;

2. Family canidae (such as wolves, wolf-dog hybrids, dingos, coyotes, foxes and jackals), and any hybrid of an animal listed in this section except commonly domesticated dogs;

3. Family mustelida (such as weasels, skunks, martens, minks, badgers and otters) except ferrets;
4. Family procyonidae (such as raccoons and coati);
5. Family ursidae (such as bears);
6. Marsupialia (such as kangaroos, opossums, koala bears, wallabys, bandicoots and wombats);
7. Chiroperta (bats);
8. Edentata (such as sloths, anteaters and armadillo);
9. Probosidea (elephants);
10. Primata (such as monkeys, chimpanzees, orangutans and gorillas);
11. Rodentia (such as beavers and porcupines); and
12. Ungulata (such as antelope, deer, bison and camels).

d. *Class amphibi.* Poisonous frogs.

e. *Class insecta.* Poisonous insects.

(2) Does not include livestock, fowl or common household pets.

(3) Animals not listed. An animal control officer may declare any species of animal not listed in this subsection as "prohibited" if the confinement of the animal within the city can be shown to constitute a threat to public health and safety.

Properly fitted with respect to a collar or other neck restraint means one that measures the circumference of a dog's neck plus at least one inch. With respect to a harness, the term "properly fitted with respect to a collar or other neck restraint" means one that is of an adequate size, design and construction as appropriate for the dog's size and weight.

Running at large means any animal not confined or restrained as required by this chapter.

Secure enclosure means a fenced area or structure that is:

(1) Locked;

(2) Capable of preventing the entry of the general public, including children;

(3) Capable of preventing the escape or release of a dog;

(4) Clearly marked as containing a dangerous dog; and

(5) In conformance with the requirements for enclosures established by the animal control officer.

Serious bodily injury means any physical injury that involves a substantial risk of death, disfigurement or impairment of any part of the body, including, but not limited to, a broken bone or a laceration requiring either multiple stitches or cosmetic surgery.

Unprovoked means any action by an animal that is not:

(1) In response to being tormented, abused or assaulted by any person;

(2) In response to pain or injury; or

(3) In protection of itself or its food, kennel, immediate territory or nursing offspring.

Vaccinated means properly injected with an approved rabies vaccine licensed for use in that species by the United States Department of Agriculture (USDA) and administered by a licensed veterinarian.

Vicious animals means any animal that has on three occasions without provocation attacked or bitten any person or other animal.

Wild animals mean any mammal, reptile, or fowl that is wild by nature, which because of habit, mode of life, or natural instincts is incapable of being completely domesticated regardless of the state or duration of captivity.
(Code 1961, § 4-1; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-2. Enforcement.

(a) The city shall designate employees as animal control officers.

(b) Enforcement of this chapter and any state laws regulating animals shall be the primary responsibility of the animal control officers. Police officers employed by the city may also enforce the provisions in this chapter and any state laws regulating animals.

(c) No person shall interfere with any animal control officer or any authorized representative in the performance of their duties.

(d) The provisions of subchapter D, Dangerous Dogs, ch. 822 of the Texas Health and Safety Code, as amended, are incorporated into this chapter and the animal control officers are hereby the animal control authority for purposes of administering and enforcing that subchapter.

(e) The animal control officers and police officers are authorized to:

(1) Impound any animal in violation of this chapter;

(2) Issue citations for any violation of this chapter or applicable state law;

(3) Enter the premises upon which any animal is kept or harbored to demand the exhibition of such animal by the owner or license required for such animal; and

(4) Enter the premises where any animal is kept or harbored in a reportedly cruel or inhumane manner and demand to examine such animal and take possession of such animal when, in the opinion of the officer, it requires humane treatment.

(f) Except when required otherwise by state law, all fees and charges required under this chapter shall be established by the city manager or designee.

(g) It is unlawful for any person to tamper with a live trap or release an animal confined in a live trap.
(Code 1961, § 4-2; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-3. Rabies vaccination and city registration required.

(a) The owner of a dog, cat or ferret shall have the animal vaccinated against rabies by the time the animal is four months of age. The animal must receive a booster within the 12-month interval following the initial vaccination. Every animal must be revaccinated against rabies at a minimum of once every three years with a triennial vaccine or a minimum once each year with an annual vaccine. All rabies vaccinations shall be administered by a licensed veterinarian.

(b) The owner of a dog, cat or ferret four months of age or older shall, register the animal with the city to ensure rapid return to the owner if circumstances warrant. Fees for city registration are established on the city's fee schedule. City registration shall be in conjunction with an animal's rabies schedule, either one year or three years a current rabies vaccination certificate must be submitted upon registration. The rabies vaccination certificate shall include the name and address of the applicant, a description of the animal, and proof of a current rabies vaccination. Upon receipt of a rabies vaccination certificate that meets the criteria of this section and state law, a city registration tag shall be issued, which shall bear an identifying number for the animal and the year of issuance. The license tag shall be securely attached to the collar or harness of the animal and worn at all times.

(c) A person commits an offense, if the person owns, keeps, or harbors a dog, cat or ferret over four months of age without having such animal currently vaccinated against rabies.

(d) A person commits an offense, if the person owns, keeps, or harbors a dog, cat or ferret over four months of age without having such animal currently registered with the city.

(e) A person commits an offense, if the person owns, keeps, or harbors a dog, cat or ferret required to be vaccinated and registered by this section and fails to display on the animal at all times a current rabies vaccination tag and a current city registration tag.

(f) A person commits an offense, if the person owns, keeps, or harbors a dog, cat or ferret and displays on the animal a rabies vaccination tag or a city registration tag issued to another animal.
(Code 1961, § 4-3; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-4. Number of common household pets allowed.

It shall be unlawful for any person to own, keep or harbor at one residential dwelling unit more than five common household pets over four months of age in any combination of species.
(Code 1961, § 4-5; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-5. Confinement of dogs and running at large.

(a) A dog shall at all times be confined within a building or a fenced area that is at least 100 square feet in size per dog over four months of age and of sufficient strength and construction to confine the dog or keep the dog from running at large.

(b) It shall be unlawful for an owner of a dog, to fail to keep the dog from running at large within the city limits.

(c) When a dog is on a leash held by a person capable of controlling the dog or being physically held by a person capable of controlling the dog, a dog shall not be deemed running at large.

(d) A dog confined within an automobile or other vehicle shall not be deemed running at large.

(e) An electronic fence shall not be considered a fence in compliance with this chapter.
(Code 1961, § 4-6; Ord. No. 085-09, § 1, 7-27-2009; Ord. No. 070-2010, § 1, 4-26-2010)

Sec. 8-6. Restraint; tethering or chaining of dogs.

(a) Except as provided in subsection (b) of this section, it shall be unlawful for a person to restrain a dog with a chain or tether unless the person is holding the chain or tether.

(b) The prohibition of subsection (a) of this section does not apply to a temporary restraint:

(1) During a lawful animal event, such as walking on a leash, cleaning a dog pen, veterinary treatment, grooming, training or law enforcement activity; or

(2) That is required to protect the safety or welfare of a person or the dog, if the dog's owner or handler remains with the dog throughout the period of restraint.

(c) A person restraining a dog with a chain or tether shall attach the chain or tether to a properly fitting collar or harness worn by the dog. A person may not wrap a chain or tether directly around a dog's neck. A person may not restrain a dog with a chain or tether that weighs more than one-eighth of the dog's body weight. A chain or tether used to restrain a dog must, by design and placement, be unlikely to become entangled.

(d) A person may not restrain a dog in a manner that does not allow the dog to have access to necessary shelter and water.

(e) A person may not restrain a dog in a manner that allows the dog to move outside the person's property.
(Code 1961, § 4-7; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-7. Guard dogs.

All guard dogs shall be registered annually with the animal control officer prior to use as guard dogs. The city license tag for a guard dog shall be securely attached to the collar or harness on the animal and worn at all times. Guard dogs shall be restrained by a chain or leash not exceeding six feet in length and humanely muzzled when off the premises where used.
(Code 1961, § 4-8; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-8. Impoundment and seizures.

(a) The following animals may be impounded or seized through legal process:

(1) Any animal kept under conditions which can endanger the public or animal health.

(2) Any animal that has rabies or symptoms thereof or that a person could reasonably suspect of having rabies or that bites, scratches or otherwise creates a condition which may have exposed or transmitted the rabies virus to any human being or animal, or that requires observation for rabies as determined by the animal control officer.

(3) Any animal other than a cat running at large. Any cat running at large not displaying current rabies tags and city registration or impoundment pursuant to section 8-16(6).

(4) Any animal treated in a manner determined to be in violation of cruelty to animals, Texas Penal Code §§ 42.09, 42.091, 42.092, as amended or dog fighting, Texas Penal Code § 42.10.

(5) Any animal reasonably suspected of having inflicted bodily harm on any human being or animal that poses a threat to public safety or constitutes a public nuisance.

(6) Any prohibited animal.

(b) The city shall select and establish facilities for the impoundment, quarantine, maintenance and destruction of animals.

(c) Reasonable effort shall be made by the animal control officer to contact the owner of any animal impounded which is wearing a current rabies vaccination tag or a current city license tag.
(Code 1961, § 4-9; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-9. Redemption of animal.

(a) The owner may redeem an impounded animal upon payment of all applicable impoundment fees, handling fees, and any veterinarian bills or other cost incurred by the city for the impoundment, care and welfare of the animal and upon proof of compliance with the vaccination/registration requirements of this chapter. Any animal being held under quarantine or observation for rabies shall not be redeemed until released from quarantine.

(b) Impounded animals shall be held for three days after the date of impoundment except any animal wearing a current rabies vaccination tag or a current city license tag shall be impounded for seven days. If the owner of an impounded animal does not redeem it within the period of impoundment, disposition will be in accordance with this chapter.
(Code 1961, § 4-10; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-10. Disposition of animals.

(a) Except as provided herein, any animal not redeemed within section 8-9 time periods, after impoundment or release from quarantine, shall become the property of the impoundment facility and shall be placed for adoption, transferred to a bona fide animal rescue organization or humanely destroyed.

(b) Disposition of animals impounded on the grounds of cruel or inhumane treatment shall be determined by a court of competent jurisdiction.

(c) Any nursing baby animal impounded without the mother or where the mother cannot or refuses to provide care for the baby may be immediately destroyed to prevent further suffering.

(d) Any impounded animal that appears to be suffering from extreme injury or illness may be immediately destroyed to prevent further suffering.

(e) Any owner who no longer wishes responsibility for an animal may sign a written waiver surrendering all rights to the animal to the city and allowing for the disposition of said animal to be at the discretion of the city. The owner of such animal shall be charged a fee for this service.
(Code 1961, § 4-11; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-11. Animal quarantine.

(a) Any animal that has rabies or symptoms which could reasonably indicate rabies or that bites, scratches or otherwise creates a condition which may expose or transmit the rabies virus to a human being shall be quarantined immediately. Upon notification, the owner shall submit the animal to a state-approved veterinarian quarantine facility for quarantine at the owner's expense. Quarantine shall be for a minimum of ten days beginning on the date the incident occurred or longer as the animal control officer may deem necessary. Animal quarantine shall be in accordance with any applicable rules and regulations adopted by the state department of state health services.

(b) Quarantine shall be subject to the following conditions:

(1) The quarantined animal showing clinical signs of rabies shall be immediately destroyed and the head or brain submitted to the nearest state department of health services laboratory for testing.

(2) The animal placed in quarantine shall not be released without prior notification to and written approval from the animal control officer.

(3) Home quarantine at the residence of the owner, if approved by the animal control officer, must satisfy the following conditions:

a. Secure facilities are available and approved by the animal control officer.

b. The animal is currently vaccinated against rabies.

c. A licensed veterinarian or local rabies control authority must observe the animal on the first and last days of the quarantine period.

d. The owner of the animal shall notify the animal control officer if the animal escapes, becomes or appears to become sick, or dies; and, in case of death of the animal while under quarantine, shall immediately surrender the dead animal to the animal control officer for diagnostic purposes.

e. The animal was not running at large at the time of the incident.

f. The animal is isolated from all other animals and human beings, other than a designated responsible adult who owns the animal.

(c) A person who knows of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid shall report the incident or animal to the animal control officer. The report shall include the name and address of the victim and owner of the animal, and any other information relating to the incident or animal.

(d) The owner shall submit for quarantine an animal that:

(1) Is reported rabid or to have exposed an individual to rabies;

(2) The owner knows or suspects is rabid or has exposed an individual to rabies; or

(3) Has bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being.

(e) When submitted for quarantine, the owner shall provide the name, address and any other relevant information about the animal.

(f) The owner of a quarantined animal shall pay all reasonable costs of the quarantine and disposition of the animal, including charges for shipment of animal tissues, if required, to the state department of health services laboratory for testing.

(g) An animal that has been quarantined may be released by the animal control officer after a licensed veterinarian or local rabies control authority determines that the quarantined animal does not show clinical signs of rabies and under the following conditions:

(1) At the end of the observation period upon proof of vaccination prior to release from quarantine.

(2) When all applicable fees have been paid.

(3) If the animal is not being held for legal proceedings.

(4) If appropriate city license registration has been obtained.

(h) It shall be unlawful for any person to interrupt the observation period or otherwise interfere with quarantine.

(i) It shall be unlawful for any person to destroy or remove from the city any animal that has bitten a person or other animal or that has been placed under quarantine, except when necessary to protect the life of any person or other animal or otherwise approved by the animal control officer.

(j) The carcass of a dead animal exposed to rabies or suspected of having been rabid, shall, upon demand, be surrendered to the animal control officer.

(k) Wild animals shall not be placed in quarantine. Wild animals shall be humanely destroyed in such a manner that the brain is not mutilated. The brain will then be submitted to a state department of health laboratory for testing.

(l) No person shall fail or refuse to surrender an animal for quarantine or for destruction when ordered by the animal control officer.
(Code 1961, § 4-13; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-12. Livestock and fowl.

(a) It shall be unlawful for any person to own, keep or harbor any livestock or fowl within the city limits except on property defined as a farm or ranch pursuant to the city's zoning ordinance and in numbers and under the conditions as set out in this section.

(b) It shall be unlawful for any person to keep any swine within the city limits.

(c) The following per acre limits apply to the keeping of livestock or fowl in any combination of species:

(1) One adult horse, mule, donkey or other animal of like kind or cow per acre;

(2) Three adult goats, sheep, llamas, alpacas, ostriches or emus per acre; and

(3) Ten adult rabbits, chickens, turkeys, pheasants, quail, geese or ducks per acre.

(d) It shall be unlawful for any person to keep more livestock or fowl on any premises than as set out in subsection (c) of this section.

(e) Any barn, stable, shed or similar enclosure used to house livestock or fowl shall be located at a distance of not less than 100 feet from a main dwelling on any adjoining tract of land.

(f) Livestock pens, stables, corrals or enclosures and fences shall be capable of preventing the entry of the general public and capable of preventing the escape of the livestock or fowl or allowing the livestock or fowl to run at large.

(g) It shall be unlawful for an owner of livestock or fowl, to fail to keep the livestock or fowl from running at large within the city limits.
(Code 1961, § 4-14; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-13. Sanitary requirements.

(a) The owner or person who has custody or control of any animal shall comply with the following standards:

(1) All manure and other animal waste shall be removed from pens, corrals, cages, yards or other enclosures at least twice a week to an approved disposal site;

(2) Food shall be placed in impervious containers on impervious surfaces;

(3) Refuse on the premises shall be removed and disposed of by means approved by the animal control officer;

(4) Watering troughs or tanks shall be equipped with adequate facility for draining the overflow so as to prevent breeding of flies, mosquitoes or other insects;

(5) No putrescible material shall be allowed to accumulate on the premises, and all such materials used to feed which is unconsumed shall be removed and disposed of by sanitary means.

(b) It shall be unlawful for any person to fail to comply with the sanitary requirements as set out in subsection (a) of this section.
(Code 1961, § 4-15; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-14. Animal care.

(a) The owner or person who has custody or control of any animal, including livestock, shall provide:

(1) Sufficient nutritious and wholesome food, served to the animal in clean containers, to maintain the animal in good health;

(2) Clean and wholesome water, served to the animal in a clean container, such water to be available to the animal at all times;

(3) Adequate shelter and protection from the weather at all times; and

(4) Veterinarian care as needed to prevent suffering.

(b) It shall be unlawful for any person to fail to comply with the animal care requirements as set out in subsection (a) of this section.

(c) It shall be unlawful for an owner or other person having custody or control of any animal to abandon such animal.

(d) No person other than a licensed veterinarian shall crop a dog's ears.

(e) The operator of any motor vehicle which strikes or injures a domesticated animal shall immediately report such incident to the animal control officer and the police.

(f) It shall be unlawful for any person to beat, starve, or overwork or to otherwise abuse any animal.

(g) It shall be unlawful for a person to confine an animal in a parked or standing vehicle or enclosed trailer in such a way as to endanger the animal's health, safety, or welfare. It is presumed that an animal's health, safety, or welfare is endangered when the animal is confined in a parked or standing vehicle or enclosed trailer for a period of five or more minutes when the ambient outside air temperature measures at or above 80 degrees Fahrenheit or below 25 degrees Fahrenheit.

(h) The animal control officer, city police officer or city firefighter may take reasonable measures under the circumstances to remove an animal from a vehicle or trailer if said city official reasonably believes that an emergency exists to preserve the animal's health, safety or welfare.
(Code 1961, § 4-16; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-15. Animal nuisances.

The following shall be considered a public nuisance and shall be unlawful:

(1) The keeping of an animal, including livestock, in such a manner as to endanger the public health by the accumulation of animal waste which causes foul and offensive odors considered to be a hazard to other animals or human beings.

(2) To permit or allow an animal to defecate upon private or public property other than the property of the owner of said animal; and to fail to remove and dispose of in a sanitary manner any feces left by such animal.

(3) Property not kept free from carrion or other putrescible material.

(4) The keeping of bees in such a manner as to deny the lawful use of adjacent property or endanger the health and safety of others.

(5) The keeping of any animal which causes loud and frequent or long-continued barking, howling or other noise that disturbs the peace and quiet of any person of ordinary sensibilities.

(6) Persistent laxness in cat supervision so that their running at large results in an unreasonable disturbance to a person or damages to property.

(7) The feeding of a feral or stray cat on any public property.
(Code 1961, § 4-17; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-16. Sale of animals.

It shall be unlawful for any person to sell, trade, barter, lease, rent, give away or otherwise convey ownership, or display for any purpose, any live animal, on any parking lot, right-of-way, roadside, garage sale, flea market, festival or other area generally accessed by the public within the city limits; except that any nonprofit animal welfare group, animal rescue group, humane society, or the city may conduct adoptions of animals as approved by the city.
(Code 1961, § 4-18; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-17. Wild, wild-hybrid, vicious and prohibited animals.

It shall be unlawful to own, possess, keep or harbor any wild, wild-hybrid, vicious or prohibited animal within the city.
(Code 1961, § 4-19; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-18. Dangerous dogs.

(a) *Nuisance declared.* It is hereby declared to be a public nuisance that an owner harbors, keeps or maintains a dangerous dog in the city unless the owner complies with the requirements of this section and state statutes regulating dangerous dogs.

(b) *Requirements for owner of dangerous dog.*

(1) Not later than the 13th day after a person learns that the person is the owner of a dangerous dog, the person shall:

a. Register the dangerous dog with the animal control officer;

b. Provide animal control with two colored pictures of the dog;

c. Have the animal spayed or neutered;

d. Have the dog micro-chipped;

e. Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure;

f. In accordance with the Texas Health and Safety Code title 10, Health and Safety of Animals ch. 822, Regulation of Animals, section 822.042, if the dangerous dog has attacked a person and caused bodily injury, the owner is required to obtain liability insurance coverage or show financial responsibility in an amount of at least $100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person;

g. Place a muzzle on the dog at all times while the animal is outside of its secure enclosure.

(2) For purposes of this section, a person learns that the person is the owner of a dangerous dog when:

a. The owner knows of an attack described in the definition of "dangerous dog;"

b. The owner is informed by the animal control officer that the dog is a dangerous dog; or

c. The owner receives notice that the municipal court has found that the dog is dangerous.

(3) If a person reports an incident described in the definition of "dangerous dog," the animal control officer may investigate the incident. After receiving sworn statements of any witnesses, the animal control supervisor shall determine whether the dog is a dangerous dog and shall notify the owner of that determination.

(4) The owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the animal control officer to the municipal court. The owner shall confine the dog during the pendency of an appeal in a manner satisfactory to the animal control officer; including surrendering the dog to be held by the city. The determination of the animal control officer is final if the owner does not timely appeal.

(5) The animal control officer shall provide written notice of the date, time and location of the hearing to the owner of the dangerous dog and to any complainant, either in person or by certified mail, return receipt requested. At the hearing, all interested persons shall be given the opportunity to be heard.

(c) *Registration.*

(1) The animal control officer shall annually register a dangerous dog if the owner:

a. Presents:

1. Proof of liability insurance or financial responsibility in an amount of at least $100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person;

2. Proof of current rabies vaccination of the dangerous dog.

3. Proof of a secure enclosure in which the dangerous dog will be kept.

b. Pays an annual registration fee established by resolution of the city council from time to time and on file in the city secretary's office or city website.

c. Provides two color identification photographs of at least three inches by three inches of each dangerous dog with one photograph showing the frontal view and the other photograph showing the side view of each dog.

d. Provides the name, general description, including sex, weight, color, predominate breed, height and length and any other discernible features of the dangerous dog.

(2) The animal control officer shall provide to the owner registering a dangerous dog a registration tag which shall be placed and maintained on the dog's collar at all times.

(3) If the owner of a dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of sale or move, shall notify the animal control authority for the area in which the new address is located. If the dangerous dog has been sold or given away, the former owner shall provide the animal control officer with the name, address and telephone number of the new owner. If the new owner resides in the city or if the animal is kept in the city, the animal control officer shall notify the new owner in person or by certified mail, return receipt requested, that a determination has been made that the dog is dangerous and provide the new owner with a copy of the requirements for the owner of a dangerous dog. It shall be unlawful for the new owner to fail to comply with such requirements.

(4) The owner of a registered dangerous dog shall immediately notify the animal control officer if the dangerous dog is running at large, has bitten or attacked a human being or another animal, has died, or has been sold or given away.

(d) *Attack by dangerous dog.*

(1) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on a person or another animal outside the dog's enclosure and causes bodily injury to a person or another animal.

(2) An offense under this subsection is a Class C misdemeanor.

(3) If a person is found guilty of an offense under this section, the court which hears the case may order the dangerous animal destroyed by a licensed veterinarian or a person authorized by state law.

(e) *Violations.* A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with any requirements for ownership of a dangerous dog. An offense under this subsection is a Class C misdemeanor. If the owner of any dog determined to be dangerous under this section fails or refuses to comply with the requirements of this section, the dog shall be seized by the animal control officer and humanely destroyed.

(f) *Defense.*

(1) It is a defense to prosecution under subsection (d) or (e) of this section that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or a person employed by the state or political subdivision of the state to deal with stray animals, and has temporary ownership, custody and control of the dangerous dog in connection with that position.

(2) It is a defense to prosecution under subsection (d) or (e) of this section that the person is an employee of the institutional division of the state department of criminal justice or a law enforcement agency and trains or uses dogs for law enforcement or correction purposes.

(3) It is a defense to prosecution under subsection (d) or (e) of this section that the person is a dog trainer or an employee of a guard dog company under the Private Security Act, Texas Occupations Code ch. 1702, as amended.

(g) *Rehabilitation of dangerous dogs.* If a dog is deemed dangerous as defined herein and the dog is seized or voluntarily surrendered to the custody of the animal services unit, a bona fide rescue or animal welfare organization may apply to rescue the animal for training/rehabilitation. The city may release the dog for training/rehabilitation and subsequent adoption by a new owner under the following conditions:

(1) Upon receiving two written opinions from two independent professional dog trainers/handlers who have evaluated the dogs and declared that they are a viable candidate for rehabilitation.

(2) A written agreement with the rescue or animal welfare organization stating that the dogs will be placed with a new owner outside of Miller County, Arkansas or Bowie County, Texas.

(3) If the dog is rehabilitated and placed in a new home, the new owner must sign an adoption agreement to maintain the dog indefinitely outside of Bowie County, Texas or Miller County, Arkansas or return the dog to the rescue or animal welfare organization. The rescue or animal welfare organization shall furnish the city a copy of the adoption agreement.

(Code 1961, § 4-20; Ord. No. 085-09, § 1, 7-27-2009; Ord. No. 070-2010, § 1, 4-26-2010)

Sec. 8-19. Exemptions.

This chapter does not apply to a peace officer, or person employed by the state or a political subdivision of the state, or other governmental agency that trains or uses dogs for law enforcement or correction purposes.

(Code 1961, § 4-21; Ord. No. 085-09, § 1, 7-27-2009)

Sec. 8-20. Penalties.

Any person violating any provision of this chapter shall be deemed guilty of a Class C misdemeanor and, upon conviction thereof, shall be punished by a fine set in accordance with state law.

(Code 1961, § 4-22; Ord. No. 085-09, § 1, 7-27-2009)

Chapter 9

RESERVED

Chapter 10

CIVIL SERVICE FOR FIREFIGHTERS AND POLICE OFFICERS*

Article I. In General

Sec. 10-1. Definitions.
Sec. 10-2. System established.
Secs. 10-3—10-22. Reserved.

Article II. Firefighter's and Police Officer's Civil Service Commission

Sec. 10-23. Established.
Sec. 10-24. Powers and duties generally.
Secs. 10-25—10-51. Reserved.

Article III. Classification Plan

Sec. 10-52. Established and adopted; power to amend.
Sec. 10-53. Class specifications generally.
Sec. 10-54. Interpretation of specifications.
Sec. 10-55. Allocation of positions to classes generally.
Sec. 10-56. Allocation of new positions or reallocation of existing positions.
Sec. 10-57. Protest of allocation.
Sec. 10-58. Status of incumbent when position reallocated.

***Editor's note—**The firefighter's and police officer's civil service commission adopted rules for the regulation of the classified service on April 26, 1948, which rules were approved by the city council by resolution dated May 25, 1948, and amended by resolution of the council on July 22, 1958. Neither these rules nor the resolutions approving and amending them were deemed of sufficient general interest to warrant inclusion in this Code, but they were saved from repeal by the adopting ordinance and are on file in the office of the city secretary.

State law reference—Civil service for city firefighters and police officers, Texas Local Government Code § 143.001 et seq.

ARTICLE I. IN GENERAL

Sec. 10-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Allocate means the act of assigning each position to its proper class.

Chief executive means the officer of the city having the final authority to make the appointment to the position to be filled.

Civil service law means Texas Local Government Code § 143.001 et seq., and any subsequent amendments thereto.

Class means a position or group of positions that involve similar duties and responsibilities and require similar qualifications and which is properly designated by one title indicative of the nature of the work.

Classification plan means and consists of the following:

(1) A grouping into classes of positions which are of approximately equal difficulty and responsibility.

(2) Class titles, descriptive of the work of the class, which will identify each class.

(3) Written class specifications for each class of positions containing a description of the nature of work and of the relative responsibility of the positions in the class, illustrative examples of work performed in the class, requirements in terms of knowledge, skills and abilities necessary for performance of the work and a statement of experience and training desirable for recruitment into the class.

Classified service means the members of the fire department and the police department, as defined under "fireman" and "policeman" below, provided, that the chief or head of the fire department and the chief or head of the police department shall not be included in the classified service.

Commission means the firefighter's and police officer's civil service commission of the city.

Department head means the chief or head of the fire department or the chief or head of the police department.

Director means the director of the firefighter's and police officer's civil service designated by the firefighter's and police officer's civil service commission to act in the capacity of secretary to the commission and director of civil service.

Fireman or *firefighter* means a member of a fire department who was appointed in substantial compliance with this chapter or who is entitled to civil service status under Texas Local Government Code §§ 143.005 or 143.084. The term "fireman" or "firefighter":

(1) Applies only to an employee of a fire department whose position requires substantial knowledge of firefighting and who has met the requirements for certification by the Texas Commission on Fire Protection under ch. 419, Texas Government Code, including an employee who performs:

a. Fire suppression;

b. Fire prevention;

c. Fire training;

d. Fire safety education;

e. Fire maintenance;

f. Fire communications;

g. Fire medical emergency technology;

h. Fire photography;

i. Fire administration; or

j. Fire arson investigation.

(2) Does not apply to a secretary, clerk, budget analyst, custodial engineer or other administrative employee.

Policeman or *police officer* means any member of the police department who draws compensation for their service as a member of the department and who engages in the actual enforcement of laws and maintenance of public order.

Position means a group of current duties and responsibilities, assigned or delegated by competent authority, requiring the services of an employee.

Vacancy means a position, duly created, which is not occupied and for the filling of which a valid requisition has been received by the director.
(Code 1961, § 6-1; Ord. of 2-24-1948, §§ 1—8; Ord. of 5-25-1948, § 1; Ord. No. 347-86, § 1, 12-30-1986)

Sec. 10-2. System established.

In accordance with the civil service law, which has been adopted by the qualified voters of the city, there is hereby established a civil service system for firefighters and police officers.
(Code 1961, § 6-2; Ord. of 2-24-1948, § 9)

Editor's note—The civil service law was adopted by the people on December 31, 1947.

Secs. 10-3—10-22. Reserved.

ARTICLE II. FIREFIGHTER'S AND POLICE OFFICER'S CIVIL SERVICE COMMISSION

Sec. 10-23. Established.

There is hereby established a firefighter's and police officer's civil service commission. The appointment of commissioners, composition of commission, qualifications, compensation, terms of members, removal and procedures governing meetings shall be determined in accordance with the civil service law of the state.
(Code 1961, § 6-18; Ord. of 2-24-1948, § 9; Ord. No. 347-86, § 3, 12-30-1986)

Sec. 10-24. Powers and duties generally.

The powers and duties of the commission shall be those granted by the state under civil service law. If civil service law so provides, the commission shall have the power to promulgate rules and regulations for the proper conduct of its business, provided that no rules or regulations shall be made which are contrary to the provisions of the civil service law.
(Code 1961, § 6-26; Ord. of 2-24-1948, § 17; Ord. No. 347-86, § 5, 12-30-1986)

Secs. 10-25—10-51. Reserved.

ARTICLE III. CLASSIFICATION PLAN*

Sec. 10-52. Established and adopted; power to amend.

The city council hereby establishes and adopts the classification plan recommended by the commission, which plan is on file in the office of the commission, and in the office of the city secretary as the official classification plan of all positions in the classified service of the city. The city council reserves to itself the sole right to designate new classes of positions or combine, divide, alter or abolish existing classes, subject only to the provisions of the civil service law and this chapter.
(Code 1961, § 6-35; Ord. of 5-25-1948, § 2)

Sec. 10-53. Class specifications generally.

The director shall cause to be maintained in the offices of the commission in loose-leaf or other suitable form, accurate, complete and up-to-date specifications for every class of positions in the classified service. These specifications shall include:

(1) The title of the class.

***State law reference—**Classification of firefighters and police officers generally, Texas Local Government Code § 143.021 et seq.

(2) A statement of the duties performed and the responsibilities exercised by each class of positions.

(3) Examples of tasks performed by employees holding positions within the class.

(4) The minimum and desirable qualifications required of an incumbent for the satisfactory performance of such duties and tasks and the exercise of such responsibilities.

(Code 1961, § 6-36; Ord. of 5-25-1948, § 3)

Sec. 10-54. Interpretation of specifications.

The specifications for the various classes of positions are hereby declared to have the following force and effect:

(1) The specifications are descriptive only and are not restrictive. They are intended to indicate the kinds of positions that should be allocated to the respective classes as determined by their duties, responsibilities and qualification requirements. The use of a particular expression or restriction as to duties, qualification requirements or other attributes shall not be held to exclude others not mentioned, if such others are similar as to kind and quality.

(2) Titles, as far as possible, are intended to be suggestive of the kind of work performed by the incumbent of the position and indicative of the rank.

(3) The duties statement shall be construed as a general description of the kind of work performed by the incumbent of a position that is properly allocated to the class and not as describing or limiting what the duties of any position shall be.

(4) The examples of work shall be construed as typical tasks only, illustrative of the duties as outlined by the general statement. These examples are not intended to be complete or exclusive and the fact that the actual tasks performed by the incumbent of a position do not appear thereon shall not be taken to mean that the position is necessarily excluded from the class, provided that the tasks constituting the main work or employment are duly covered by the general statement of the duties.

(Code 1961, § 6-37; Ord. of 5-25-1948, § 4)

Sec. 10-55. Allocation of positions to classes generally.

The director shall allocate each position in the classified service to its appropriate class in the classification plan. Such allocation shall be based on the duties and responsibilities of the present incumbents of such positions and shall be entered on the official roster cards maintained by the commission. The title of the class shall forthwith become the title of such individual positions and shall be used in requests to the commission for the certification of eligibles and in reports made to the commission as provided by the rules and regulations of the commission.

(Code 1961, § 6-38; Ord. of 5-25-1948, § 5)

Sec. 10-56. Allocation of new positions or reallocation of existing positions.

Whenever a new position should be established or the duties of an existing position are so changed that, in effect, the old position, as described in the class specifications for the class to which it was originally allocated, no longer exists and in its place there is created a position which should be allocated to a different class, the commission shall set forth a full statement of the circumstances and a description of the duties as changed or as set up. Upon the recommendation of the commission, after a full investigation of the actual and proposed duties, responsibilities and qualification requirements, the city council may allocate or reallocate the position to its appropriate class in accordance with the classification plan then in effect. If necessary, a new class shall be established to provide for the new position.
(Code 1961, § 6-39; Ord. of 5-25-1948, § 6)

Sec. 10-57. Protest of allocation.

If any employee believes that their position has been improperly allocated, they may protest by presenting their reason therefor. The claim shall be investigated by the city council for its decision which shall be final.
(Code 1961, § 6-40; Ord. of 5-25-1948, § 7)

Sec. 10-58. Status of incumbent when position reallocated.

If a position at any time is reallocated to a different class to correct an error in the original allocation, the incumbent shall continue in the position without tests or other proofs of fitness. If a position is reallocated to another class on account of changed duties and responsibilities, the incumbent may, upon written recommendation of the department head, the passing of a noncompetitive examination given by the director and approval of the commission, continue in the position. This shall not obtain in the event an employee is actually transferred to another position involving substantially different or higher qualifications but only in those cases where new duties and responsibilities have been added or absorbed by the incumbent in addition to the employee regularly assigned work.
(Code 1961, § 6-41; Ord. of 5-25-1948, § 8)

Chapter 11

RESERVED

Chapter 12

ELECTIONS*

Sec. 12-1. City wards—Designated and defined by ordinance.
Sec. 12-2. City election precincts—Designated and described by ordinance.
Sec. 12-3. City polling places designated.
Sec. 12-4. City wards and precincts—For territory annexed in the future.
Sec. 12-5. Same—Map to be kept.

***State law reference—**Election Code, Texas Elections Code § 1.001 et seq.

Sec. 12-1. City wards—Designated and defined by ordinance.

(a) The wards of the city shall be designated and defined by ordinance of the city. The city secretary shall at all times keep a correct and complete description and an official map on file, with any recent annexations and deannexations.

(b) The wards of the city shall be numbered as follows and shall remain in effect until changed by ordinance of the city:

(1) Ward 1.

(2) Ward 2.

(3) Ward 3.

(4) Ward 4.

(5) Ward 5.

(6) Ward 6.

(Code 1961, § 7-1; Ord. No. 28-92, § 2, 1-27-1992; Ord. No. 220-02, § 1, 9-23-2002; Ord. No. 037-2012, § 1, 3-26-2012)

Sec. 12-2. City election precincts—Designated and described by ordinance.

(a) The election precincts of the city shall be designated and defined by ordinance of the city. The city secretary shall at all times keep a correct and complete description and an official map on file, with any recent annexations and deannexations.

(b) The election precincts of the city shall be numbered as follows and shall remain in effect until changed by ordinance of the city:

(1) Election Precinct 1 (Ward 1).

(2) Election Precinct 2 (Ward 2).

(3) Election Precinct 3 (Ward 3).

(4) Election Precinct 4 (Ward 4).

(5) Election Precinct 5 (Ward 5).

(6) Election Precinct 6 (Ward 6).

(Code 1961, § 7-2; Ord. No. 28-92, § 2, 1-27-1992; Ord. No. 220-02, § 1, 9-23-2002; Ord. No. 037-2012, § 1, 3-26-2012; Ord. No. 048-2012, § 1, 4-9-2012; Ord. No. 2015-001, § 1, 1-26-2015)

Sec. 12-3. City polling places designated.

Each of the City election precincts, as established in section 12-2 of the Code of Ordinances of the City of Texarkana, shall be designated to one (1) polling place as follows:

(1) The polling place for Election Precinct 1 (Ward 1) shall be the Liberty-Eylau C. K. Bender Elementary School located at 2300 Buchanan Road.

(2) The polling place for Election Precinct 2 (Ward 2) shall be the Theron Jones Early Literacy Center located at 2600 West 15th Street.

(3) The polling place for Election Precinct 3 (Ward 3) shall be the Texas City Hall Municipal Building located at 220 Texas Boulevard.

(4) The polling place for Election Precinct 4 (Ward 4) shall be Texarkana College located at 2500 N. Robison Road.

(5) The polling place for Election Precinct 5 (Ward 5) shall be the Pleasant Grove High School located at 5406 McKnight Road.

(6) The polling place for Election Precinct 6 (Ward 6) shall be the Pleasant Grove Middle School located at 5605 Cooks Lane.

(Code 1961, § 7-3; Ord. No. 28-92, § 2, 1-27-1992; Ord. No. 437-93, § 1, 12-13-1993; Ord. No. 220-02, § 1, 9-23-2002; Ord. No. 010-2010, § 1, 1-25-2010; Ord. No. 036-2011, § 1, 2-28-2011; Ord. No. 023-2012, § 1, 2-27-2012; Ord. No. 037-2012, § 1, 3-26-2012; Ord. No. 048-2012, § 1, 4-9-2012; Ord. No. 2015-001, § 2, 1-26-2015)

Sec. 12-4. City wards and precincts—For territory annexed in the future.

All ordinances for annexation of additional territory to the city may provide therein the designation of the respective ward and precinct to which the annexed territory shall attach. If no designation of ward lines and precinct lines are provided in said annexation ordinance, the wards and precincts shall be extended as provided in article II, section 1 of the Charter of the city until changed by the city council by ordinance.

(Code 1961, § 7-4; Ord. No. 28-92, § 2, 1-27-1992)

Sec. 12-5. Same—Map to be kept.

The city secretary shall keep in the city secretary's office a map of the city, showing the division of the ward boundaries and the precinct boundaries, which map shall be kept up to date as revisions, city limit extensions and annexations are made, for the information of the city officials and the public generally.

(Code 1961, § 7-5; Ord. No. 28-92, § 2, 1-27-1992)

Chapter 13

RESERVED

Chapter 14

EMERGENCY MANAGEMENT*

Sec. 14-1. Emergency management director—Office created.
Sec. 14-2. Same—Powers and duties.
Sec. 14-3. City-county cooperation.
Sec. 14-4. Enumerated powers of director.
Sec. 14-5. Operational emergency management organization.
Sec. 14-6. Simulation of emergency management warning by unauthorized person.
Sec. 14-7. Emergency management regulations to take precedence.
Sec. 14-8. Provisions not to conflict with certain laws, regulations.
Sec. 14-9. Liability of city and its agents.
Sec. 14-10. Approval of expenditures by city council.
Sec. 14-11. Obstructing, impersonating emergency management worker; violating emergency management regulations; penalty.
Sec. 14-12. Oath for members of emergency management organization.

***State law references**—Texas Disaster Act of 1975, Texas Government Code § 418.001 et seq.; local emergency management, Texas Government Code § 418.101 et seq.

Sec. 14-1. Emergency management director—Office created.

(a) There exists the office of emergency management director, which shall be held by the mayor in accordance with state law.

(b) An emergency management coordinator may be appointed by and serve at the pleasure of the director.

(c) The director shall be responsible for conducting a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in section 14-4. The director may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.
(Code 1961, § 5A-1; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-2. Same—Powers and duties.

The powers and duties of the director shall include an ongoing survey of actual or potential major hazards which threaten life and property within the city, and an ongoing program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur. As part of the director's responsibility in hazard mitigation, the director shall supervise the development of an emergency management plan for the city and shall recommend that plan for adoption by the city council along with any and all mutual aid plans and agreements which are deemed essential for the implementation of such emergency management plan. The powers of the director shall include the authority to declare a state of disaster, but such action may be subject to confirmation by the city council at its next meeting. The duties of the director shall also include the causing of a survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein, as well as a continuing study of the need for amendments and improvements in the emergency management plan.
(Code 1961, § 5A-2; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-3. City-county cooperation.

The mayor is hereby authorized to join with the county judge of the county and the mayors of the other cities in said county in the formation of an emergency management council for the county and shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a countywide program of emergency management insofar as said program may affect the city.
(Code 1961, § 5A-3; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-4. Enumerated powers of director.

The duties and responsibilities of the emergency management director shall include the following:

(1) The direction and control of the actual disaster operations of the city emergency management organization as well as the training of emergency management personnel.

(2) The determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.

(3) The maintenance of necessary liaison with other municipal, county, district, state, regional, federal or other emergency management organizations.

(4) The marshaling, after declaration of a disaster as provided for above, of all necessary personnel, equipment or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.

(5) The issuance of all necessary proclamations as to the existence of a disaster and the immediate operational effectiveness of the city emergency management plan.

(6) The issuance of reasonable rules, regulations or directives which are necessary for the protection of life and property of the city. Such rules and regulations shall be filed in the office of the city secretary and shall receive widespread publicity unless publicity would be of aid and comfort to the enemy.

(7) The supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which said city is located and with other municipalities within the county, for the countywide coordination of emergency management efforts.

(8) The supervision of and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.

(9) The authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.

(Code 1961, § 5A-4; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-5. Operational emergency management organization.

The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as all organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan. Such plan shall set forth the form of the organization, establish and

designate divisions and functions, assign tasks, duties and powers, and designate officers and employees to carry out the provisions of this article. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the state division of emergency management of the state and of the federal government.
(Code 1961, § 5A-5; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-6. Simulation of emergency management warning by unauthorized person.

Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this article and shall be subject to the penalties imposed by this article.
(Code 1961, § 5A-6; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-7. Emergency management regulations to take precedence.

At all times when the orders, rules and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.
(Code 1961, § 5A-7; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-8. Provisions not to conflict with certain laws, regulations.

This article shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule or regulation.
(Code 1961, § 5A-8; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-9. Liability of city and its agents.

This article is an exercise by the city of its governmental functions for the protection of the public peace, health and safety and neither the city, the agents and representatives of said city, nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license or privilege, or otherwise permits the city to inspect, designate and use the whole or any part of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack shall, together with the persons successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.
(Code 1961, § 5A-9; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-10. Approval of expenditures by city council.

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the city council.
(Code 1961, § 5A-10; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-11. Obstructing, impersonating emergency management worker; violating emergency management regulations; penalty.

It shall be unlawful for any person willfully to obstruct, hinder or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this article, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this article. It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the emergency management organization of the city, unless authority to do so has been granted to such person by the proper officials. Convictions for violations of the provisions of this article shall be punishable by a fine not to exceed $200.00.
(Code 1961, § 5A-11; Ord. No. 213-85, § 1, 6-24-1985)

Sec. 14-12. Oath for members of emergency management organization.

Each employee or any individual that is assigned a function or responsibility shall solemnly swear or affirm to support and defend the constitution of the United States, laws of the state and the ordinances of the city.
(Code 1961, § 5A-12; Ord. No. 213-85, § 1, 6-24-1985)

Chapter 15

RESERVED

Chapter 16

FAIR HOUSING*

Sec. 16-1. Short title.
Sec. 16-2. Declaration of policy.
Sec. 16-3. Definitions.
Sec. 16-4. Discrimination in sale or rental of housing.
Sec. 16-5. Discrimination in the financing of housing.
Sec. 16-6. Discrimination in the provision of brokerage services.
Sec. 16-7. Defenses to prosecution.
Sec. 16-8. Exemption for elderly.
Sec. 16-9. Fair housing administrator.
Sec. 16-10. Complaints.
Sec. 16-11. Investigation.
Sec. 16-12. Additional remedies.
Sec. 16-13. Unlawful intimidation.
Sec. 16-14. Education and public information.
Sec. 16-15. Penalty.

***State law reference**—Texas Fair Housing Act, Texas Property Code § 301.001 et seq.

Sec. 16-1. Short title.

This chapter may be cited as the "Texarkana, Texas, Fair Housing Ordinance."
(Code 1961, § 12B-1; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-2. Declaration of policy.

It is the policy of the city, through fair, orderly and lawful procedures, to promote the opportunity for each person to obtain housing without regard to race, color, sex, religion or national origin. This policy is grounded upon a recognition of the right of every person to have access to adequate housing of the person's own choice, and the denial of this right because of race, color, sex, religion or national origin is detrimental to the health, safety and welfare of the inhabitants of the city and constitutes an unjust deprivation of rights which is within the power and proper responsibility of government to prevent.
(Code 1961, § 12B-2; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-3. Definitions.

In this chapter, unless the context requires a different definition, the following terms, phrases, words and their derivations shall have the meanings given herein:

Actor means a person identified in an informal complaint as having committed an offense under this chapter or whose criminal responsibility is in issue in a criminal action.

Administrator means the individual serving as the fair housing administrator and includes the assistants, agents or employees designated by the administrator.

Defense means a defense as defined by the Texas Penal Code.

Disability means a mental or physical impairment that substantially limits at least one major life activity, a record of the impairment, or being regarded as having the impairment. The term "disability" does not include current illegal use or addiction to any drug or illegal or federally controlled substance and does not apply to an individual because of an individual's sexual orientation or because that individual is a transvestite.

Discriminatory housing practice means an act that is unlawful under sections 16-4, 16-5 or 16-6.

Dwelling means any building, structure or portion thereof which is occupied as or designed or intended for occupancy as a residence by one or more families, or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Family includes a single individual.

Family status or *familial status* means:

(1) The status resulting from one or more persons who are under the age of 18 years being domiciled with an individual who is either:

a. The parent of the persons under age 18;

b. The legal custodian of the persons under age 18; or

c. The designee (with written authorization) of the parent or legal guardian or custodian of the persons under age 18;

(2) The status resulting from being pregnant; or

(3) The status of being in the process of securing legal custody of any person who is under the age of 18.

Housing accommodation means premises that are occupied or designed or intended for occupancy by a family as a residence.

Intentional means the culpable mental state as defined by the Texas Penal Code.

Knowing means the culpable mental state as defined by the Texas Penal Code.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, receivers, and fiduciaries and any other organization or entity of whatever character.

To rent includes to lease, to sublease, to let and otherwise to grant in any other manner for a consideration the right to occupy premises not owned by the occupant.
(Code 1961, § 12B-3; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-4. Discrimination in sale or rental of housing.

It shall be unlawful for any person knowingly or intentionally:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status or national origin.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status or national origin.

(3) To make, print or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, disability, familial status or national origin, or an intention to make any such preference, limitation or discrimination.

(4) To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) For profit, or with the hope or expectation of profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry of a person of a particular race, color, religion, sex, disability, familial status or national origin.

(Code 1961, § 12B-4; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-5. Discrimination in the financing of housing.

(a) A person whose business includes engaging in residential real estate-related transactions may not discriminate against another in making a real estate-related transaction available or in the terms or conditions of a real estate-related transaction because of race, color, religion, sex, disability, familial status or national origin.

(b) In this section, the term "residential real estate-related transaction" means:

(1) The making or purchasing of loans or the provision of other financial assistance:

a. To purchase, construct, improve, repair or maintain a dwelling; or

b. To secure residential real estate.

(2) The selling, brokering or appraising of residential real property.

(Code 1961, § 12B-5; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-6. Discrimination in the provision of brokerage services.

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership or participation, on account of race, color, religion, sex, disability, familial status or national origin.

(Code 1961, § 12B-6; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-7. Defenses to prosecution.

(a) It is a defense to prosecution under sections 16-4, 16-5, and 16-6 that the housing accommodation is:

(1) A single-family dwelling owned by the actor; however, this defense is not available if the actor:

a. Owns an interest or title in more than three single-family dwellings (whether or not located inside the city) at the time the offense is committed; or

b. Owns any interest in, or there is owned or reserved on the person's behalf, under any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three single-family houses at any one time.

(2) Sold or rented without the use of:

a. The services or facilities of a real estate agent, broker or salesperson licensed under ch. 1101, Texas Occupations Code, or of an employee or agent of a licensed broker, agent or salesperson in connection with the sale or rental involved in the offense; or

b. The publication, posting or mailing of a notice, statement or advertisement prohibited by Texas Property Code § 301.022.

(3) Occupied or intended for occupancy by fewer than five families living independently of each other, and the actor is the owner of the accommodation and occupies part of the accommodation as the owner's residence. However, this defense is not available if the offense involves a sale of all or part of the accommodation; or

(4) Owned, controlled, or managed by a private organization and, incidental to the primary purpose of the organization, the organization rents the accommodation only to its own members. However, this defense is not available if:

a. The organization owns, controls or manages the housing accommodation for a commercial purpose; or

b. The offense involves a sale of the housing accommodation.

(b) It is a defense to prosecution under sections 16-4, 16-5, and 16-6 that the housing accommodation is owned, controlled or managed by:

(1) A religious organization or by a nonprofit organization that is affiliated with a religious organization and the organization sells or rents the accommodation only to individuals with the same religion as the organization. However, this defense is not available if:

a. The offense involves a discrimination other than on the basis of religion; or

b. The organization owns, controls or manages the housing accommodation for a commercial purpose.

(2) A nonprofit religious, educational, civic or service organization or by a person who rents the accommodation to individuals, a predominant number of whom are associated with the same nonprofit religious, education, civic or service organization, and the organization or person rents the housing accommodation only to individuals with the same sex. However, this defense is not available if the offense involved a discrimination other than on the basis of sex or involves a sale of the housing accommodation.

(c) The defense in subsection (a)(1) of this section applies only to one sale or rental in a 24-month period if the owner was not the most recent resident of the house at the time of the sale or rental.
(Code 1961, § 12B-7; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-8. Exemption for elderly.

The provisions of this chapter relating to familial status do not apply to housing:

(1) That is specifically designed and operated to assist elderly individuals under a federal or state program;

(2) Intended for, and solely occupied by, individuals 62 years of age or older; or

(3) Intended and operated for occupancy by at least one individual 55 years of age or older for each unit as determined by commission rules.

Sec. 16-9. Fair housing administrator.

The city manager shall appoint a person to serve as the fair housing administrator (hereinafter referred to as "administrator"). The administrator shall implement and enforce this chapter and may establish such rules and regulations as the administrator determines are necessary to perform the duties of that office. The administrator is encouraged to cooperate with the Secretary of Housing and Urban Development and the Attorney General of the United States in the enforcement of the Fair Housing Act, 42 USC 3601 et seq., and may assist the said secretary or attorney general in any way consistent with the policy of this chapter. The administrator may delegate the administrator's authority to investigate and conciliate complaints to other persons under the administrator's direction. The city manager shall provide the administrator with such administrative assistance as is necessary to enforce the provisions of this chapter.
(Code 1961, § 12B-8; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-10. Complaints.

(a) Except as otherwise stated in subsections (b) and (c) of this section, only the person who claims to have been injured by a discriminatory housing practice or who believes the person will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (such person hereinafter to be referred to as "person aggrieved") may file a complaint with the administrator. Such complaint shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The administrator shall prepare complaint forms and furnish them without charge to any person aggrieved upon request.

(b) If, at any time, the administrator shall receive or discover credible evidence and shall have probable cause to believe that any person has committed or is committing a discriminatory housing practice as to which no complaint has been filed, the administrator may prepare and file a complaint upon the administrator's own initiative and in the administrator's own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.

(c) The administrator shall receive and accept notification and referral complaints from the United States Attorney General and the Secretary of Housing and Urban Development or their lawful agents pursuant to the provisions of the Fair Housing Act of 1967, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to subsection (a) of this section.

(d) All complaints shall be filed within 60 days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the administrator shall provide notice of the complaint by furnishing a copy of such complaint to the person named therein who allegedly committed or was threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within 15 days of receipt of the written complaint.

(e) All complaints and answers shall be in writing and subscribed and sworn to before a person authorized to administer oaths.
(Code 1961, § 12B-9; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-11. Investigation.

(a) Upon the filing or referral of a complaint as herein provided, the administrator shall cause to be made a prompt and full investigation of the matter stated in the complaint. During or after the investigation, but subsequent to the mailing of the notice of the complaint, the administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal efforts to effect conciliation involving voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this chapter. Nothing said or done in the course of such informal efforts may be made public by the administrator, by the complainant or by any other party to the proceedings without the written consent of all persons concerned.

(b) Upon completion of the investigation and informal efforts at conciliation by the administrator, but within 30 days of the filing of the complaint with the administrator if the efforts of the administrator to secure voluntary compliance have been unsuccessful, and if the administrator has made a determination that a discriminatory housing practice has apparently occurred within the territorial limits of the city, the administrator shall refer the administrator's entire file on the case to the city attorney, with a recommendation that such violation be prosecuted in the municipal court of the city. The city attorney shall, within 30 days after such

referral, make a determination as to whether to proceed with prosecution of such complaint in the municipal court. If the city attorney determines to prosecute, the attorney shall institute a criminal complaint and cause same to be prosecuted to conclusion in the municipal court.

(c) If the administrator determines that there is not probable cause to believe that a particular alleged or suspected discriminatory housing practice has been committed, the administrator shall take no further action with respect to that alleged or suspected offense. If a conciliation agreement is executed under this section, a party to the agreement may not be prosecuted in municipal court for an offense specified in the agreement unless the administrator determines that the agreement has been violated and notifies the city attorney in writing of the violation. If, after the city attorney has caused a complaint to be filed in the municipal court charging an actor with a discriminatory housing practice, a conciliation agreement is executed before commencement of trial on the offense, the city attorney shall cause prosecution to cease and a motion to be submitted to the court for dismissal of the complaint.
(Code 1961, § 12B-10; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-12. Additional remedies.

The procedures prescribed by this chapter do not constitute an administrative prerequisite to any other action or remedy available under other law. The remedy provided herein is cumulative in its legal effect and is not in lieu of any other legal remedy which the person aggrieved may pursue.
(Code 1961, § 12B-11; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-13. Unlawful intimidation.

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because they have complied with the provisions of this chapter, because they have exercised their rights under this chapter, or enjoyed the benefits of this chapter, or because they have made a charge, testified or assisted in any manner in any investigation or in any proceeding hereunder or have made any report to the administrator.
(Code 1961, § 12B-12; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-14. Education and public information.

The administrator may conduct educational public information activities that are designed to promote the policy of this chapter.
(Code 1961, § 12B-13; Ord. No. 25-80, § 1, 1-28-1980)

Sec. 16-15. Penalty.

Any person, as described herein, violating any provision of this chapter shall be guilty of a misdemeanor, and, upon conviction, shall be fined a sum not to exceed $200.00 for each

violation. Each day that a specific violation continues after passage of 75 days from the date of filing of the initial complaint with the administrator shall constitute a separate and distinct offense.

(Code 1961, § 12B-14; Ord. No. 25-80, § 1, 1-28-1980)

Chapter 17

RESERVED

Chapter 18

FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES*

Article I. In General

Sec. 18-1. Office of fire marshal created.
Sec. 18-2. Appointment of fire marshal.
Sec. 18-3. Arrests by fire chief.
Sec. 18-4. International Fire Code—2006 edition adopted.
Sec. 18-5. Same—Amendments, modifications and deletions.
Sec. 18-6. Filling and discharging tank vehicles.
Sec. 18-7. Permit fees not required.
Sec. 18-8. Inspections and issuance of certificates and license under fire prevention code.
Sec. 18-9. Interference with firefighters or fire apparatus.
Sec. 18-10. Penalties.
Sec. 18-11. Tampering with alarm system.
Sec. 18-12. Fire escapes—Unauthorized use.
Sec. 18-13. Same—Interference with or damaging.
Sec. 18-14. Outdoor burning.
Sec. 18-15. Burning of garbage, petroleum products and vehicles prohibited.
Sec. 18-16. Fires in streets, etc., prohibited.
Sec. 18-17. Starting fire in hotel, roominghouse, etc.
Sec. 18-18. Report of fire at hotel, roominghouse, etc.
Sec. 18-19. Reward for information leading to conviction of arsonists.
Secs. 18-20—18-41. Reserved.

Article II. Fire Lanes

Sec. 18-42. Fire lanes—Designated.
Sec. 18-43. Same—Size and distance requirements near buildings.
Sec. 18-44. Same—Markings.
Sec. 18-45. Same—Responsibility of maintaining clear.
Sec. 18-46. Fire lanes—Unauthorized blocking by nonemergency vehicles.
Secs. 18-47—18-65. Reserved.

Article III. Key Lock Boxes and Emergency Access Systems

Sec. 18-66. Key lock box security systems.
Sec. 18-67. Gated property access.
Secs. 18-68—18-92. Reserved.

Article IV. Burn Ban

Sec. 18-93. Burn ban authorized.

***State law reference—**Fire safety generally, Texas Health and Safety Code § 791.001 et seq.

ARTICLE I. IN GENERAL

Sec. 18-1. Office of fire marshal created.

The office of fire marshal for the city is hereby created.
(Code 1961, § 9-1; Ord. of 1-15-1915, § 1)

Sec. 18-2. Appointment of fire marshal.

The fire marshal shall be appointed by the chief manager of the city.
(Code 1961, § 9-2; Ord. of 1-15-1915, § 1)

Sec. 18-3. Arrests by fire chief.

The fire chief shall have like powers with the chief of police to make arrests of persons violating any provision of this Code or other ordinance of the city or penal law of the state, and it shall be the fire chiefs duty to arrest any person who shall interfere with the fire department or any member thereof in the discharge of their duties as such, or whom they shall detect in the act of committing any violation of this Code or other ordinance of the city at or near any fire, provided the making of such arrest will not interfere with the fire chiefs regular duties as fire chief.
(Code 1961, § 9-3; Civil Code 1909, Art. 19, § 5)

Sec. 18-4. International Fire Code—2006 edition adopted.

There is hereby adopted by the city for the purpose of regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices; and from conditions hazardous to life and property in the occupancy of buildings and premises, that certain fire code known as the International Fire Code, 2006 edition, save and except such portions as are hereinafter amended, modified or deleted by this chapter, said Code being incorporated herein as if fully set out herein; the provisions thereof shall be controlling in the safeguarding of life and property from fire and related hazards for all property contained within the corporate limits of the city.
(Code 1961, § 9-4; Ord. of 5-26-1953, §§ 1, 2; Ord. No. 57-67, § 1, 5-8-1967; Ord. No. 222-71, § 1, 11-22-1971; Ord. No. 167-74, § 1, 7-8-1974; Ord. No. 277-74, § 1, 12-9-1974; Ord. No. 33-81, § 2, 3-9-1981; Ord. No. 106-88, § 1, 4-25-1988; Ord. No. 362-91, § 1, 12-9-1991; Ord. No. 010-06, § 1, 1-9-2006; Ord. No. 162-08, § 1, 8-25-2008)

Sec. 18-5. Same—Amendments, modifications and deletions.

The following amendments, modifications and deletions to and from the International Fire Code adopted by section 18-4, are hereby made and adopted, such amendments, modifications, and deletions being set forth herein with reference to and prefaced by the section number or chapter number of the International Fire Code:

Section 101.1 Title of the said International Fire Code adopted by section 18-4 herein is hereby amended by inserting "City of Texarkana, Texas" where the name of jurisdiction is indicated to be inserted.

Section 102.6 Referenced codes and standards of the said International Fire Code adopted by section 18-4 herein is hereby amended to add the following sentence: "All references to codes and standards in Chapter 45 shall be interpreted to be a reference to the most recent edition of the code or standard."

Section 105.6 Required operational permits of the said International Fire Code adopted by section 18-4 herein is hereby amended as follows: In paragraphs 105.6.1 through 105.6.46, the words "An operational permit is required" are replaced in each paragraph by the words "At the discretion of the fire code official, an operational permit may be required . . . ".

Section 105.7 Required construction permits of the said International Fire Code adopted by section 18-4 herein is hereby amended as follows: In paragraphs 105.7.1 through 105.7.13, the words "A construction permit is required" are replaced in each paragraph by the words "At the discretion of the fire code official, a construction permit may be required . . . ".

Section 108 Board of Appeal of the said International Fire Code adopted by section 18-4 herein is hereby amended to read in its entirety as follows:

"108.1 General. The board known as the Building and Standards Commission, as appointed and established by Chapter 2, Article VII of the Code of Ordinances, as amended, shall serve as the board to which appeals may be taken from decisions of the fire code official related to the International Fire Code, and terms of office, quorums, records, and procedural rules and powers of the said commission shall be as set forth in said Article VII, as amended. All references elsewhere in this said International Fire Code to the "Board of Appeals" or "Board" shall be construed to mean the Building and Standards Commission.

"108.2 Application for appeal. Any person directly affected by a decision of the fire code official or a notice or order issued under the code shall have the right to appeal to the Building and Standards Commission, provided that a written application for appeal is filed within 20 days after the day the decision, notice, or order was served by the fire code official. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equivalent method of protection or safety is proposed. The commission shall have no authority to waive requirements of this Code."

Section 109.3 Violation penalties of the said International Fire Code adopted by section 18-4 herein is hereby amended to read as follows: "Violations of this Code shall be governed by Section 18-10 of the Code of Ordinances of the City of Texarkana, Texas."

Section 111.4 Failure to comply of the said International Fire Code adopted by section 18-4 herein is hereby amended by deleting all words after the word "fine" and substituting the words "as specified in Section 18-10 of the Code of Ordinances of the City of Texarkana, Texas."

Section 307 Open Burning and Recreational Fires of the said International Fire Code adopted by section 18-4 herein is hereby deleted in its entirety.

Section 404.2 Where Required of the said International Fire Code adopted by section 18-4 herein is hereby amended by amending the first sentence to read as follows: "An approved fire safety and evacuation plan shall be prepared and maintained for the following occupancies and buildings when required by the fire code official."

Section 503 Fire Apparatus Access Road of the said International Fire Code adopted by section 18-4 herein is hereby deleted in its entirety.

Section 505 Premises Identification of the said International Fire Code adopted by section 18-4 herein is hereby deleted in its entirety.

Section 506 Key Boxes of the said International Fire Code adopted by section 18-4 herein is hereby deleted in its entirety.

Section 907.3 Where Required—Retroactive in Existing Buildings and Structures of the said International Fire Code adopted by section 18-4 herein, is hereby amended by deleting in all subsections all requirements regarding the retroactive installation of fire alarm systems in existing buildings.

Section 1007 Accessible Means of Egress of the said International Fire Code adopted by section 18-4 herein is hereby deleted in its entirety.

Section 3301.1 Scope of the said International Fire Code adopted by section 18-4 herein, is hereby amended to add the following sentences: "The provisions of this Code and Section 15-13.1 of the Code of Ordinances of the City of Texarkana, Texas, shall govern the possession, manufacture, storage, handling, sale and use of explosive materials, fireworks, and small arms ammunition. In the event of a conflict between the International Fire Code and Section 15-13.1 of the Code of Ordinances of the City of Texarkana, Texas, the more stringent provisions shall apply."

Geographic Limits Sections 3204.3.1.1, 3404.2.9.5.1, 3406.2.4.4 and 3804.2 of the said International Fire Code adopted by section 18-4 herein are hereby amended where geographic limits are required to be inserted to specify where certain practices are prohibited, all references to geographic area in these sections shall be to the fire limits as specified in Section 5-6 of the Code of Ordinances of the City of Texarkana, Texas.

ICC Electrical Code of the said International Fire Code adopted by section 18-4 herein is hereby amended by deleting all references to the said ICC Electrical Code and is modified where applicable by referencing the "National Electrical Code" as adopted by the City.

Appendices of the said International Fire Code adopted by section 18-4 herein are hereby amended by deleting all appendices, including A, B, C, D, E, F, and G.

(Code 1961, § 9-4.01; Ord. No. 361-91, § 1, 12-9-1991; Ord. No. 120-92, § 1, 4-28-1992; Ord. No. 010-06, § 2, 1-9-2006; Ord. No. 162-08, § 2, 8-25-2008)

Sec. 18-6. Filling and discharging tank vehicles.

(a) It shall be unlawful for any person to sell, deliver or purchase Class I liquids from a tank truck or portable tank within the limits of the city.

(b) Nothing contained herein shall prohibit the delivery of Class I liquids from a tank truck to heavy equipment such as tractors, concrete mixers, trench diggers and air compressors when the equipment is in service, but not while the motor of such equipment is running.

(c) And provided further that this section shall not be construed so as to prohibit the delivery of Class I liquids to dealers in kind or industries as provided in this Code.

(Code 1961, § 9-4.1; Ord. No. 159-71, § 1, 8-23-1971; Ord. No. 222-71, § 1, 11-22-1971)

Sec. 18-7. Permit fees not required.

No fees shall be collected for any permit required or authorized by any section or provision of the Fire Prevention Code adopted by section 18-4.

(Code 1961, § 9-5; Ord. of 9-11-1956, § 1; Ord. No. 57-67, § 2, 5-8-1967)

Sec. 18-8. Inspections and issuance of certificates and license under fire prevention code.

The fire marshal and such assistants as may be designated and appointed by the chief executive officer of the city shall be responsible for the inspection and the issuance of certificates of inspection or licenses as required by the fire prevention code, and shall make such inspections each year, as often as they deem necessary, for the continued enforcement of the fire prevention code in the city.

(Code 1961, § 9-6; Ord. of 9-11-1956, § 2)

Sec. 18-9. Interference with firefighters or fire apparatus.

It shall be unlawful for any person to obstruct, detain or interfere with, any member of the fire department while they are on duty or with any fire apparatus.

(Code 1961, § 9-8; Penal Code 1909, art. 44, § 1)

Sec. 18-10. Penalties.

In addition to any other remedies provided for in the codes adopted by this chapter, any person, firm or corporation violating any of the provisions of the codes adopted by this chapter shall be guilty of a misdemeanor and, upon conviction in the municipal court, shall be punished by a fine of not more than $2,000.00 for each offense; each day that a violation of the provisions of the fire code exists shall constitute a separate offense.
(Code 1961, § 9-8.3; Ord. No. 7-81, § 1, 1-12-1981; Ord. No. 293-82, § 2, 12-13-1982; Ord. No. 106-88, § 5, 4-25-1988)

Sec. 18-11. Tampering with alarm system.

It shall be unlawful for any person to tamper with the fire alarm system or any fire alarm box in the city in any manner whatsoever.
(Code 1961, § 9-9; Ord. of 10-13-1936, § 1)

Sec. 18-12. Fire escapes—Unauthorized use.

If shall be unlawful for any person to use any fire escape on any building at any time, except for the purpose of repairing the same or in case of a fire.
(Code 1961, § 9-11; Ord. of 7-26-2002, § 1)

Sec. 18-13. Same—Interference with or damaging.

It shall be unlawful for any person to in any way meddle with, interfere with or damage or injure, any fire escape on any building within the corporation limits of the city.
(Code 1961, § 9-12; Ord. of 7-26-2002, § 1)

Sec. 18-14. Outdoor burning.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bonfire means a large outdoor fire utilized for recreational or ceremonial purposes.

Chimney means a single opening, moveable, outdoor fireplace design with a stack or chimney to draft air into a fire and smoke to be drawn out the top of the stack.

Extinguished means the absence of any visible flames, glowing coals, heat or smoke.

Fire pit means a place or structure designed and approved for the burning of combustible material that does not have a flue, chimney or duct and the combustion gases are emitted directly into the atmosphere.

Open burning means a fire or smoldering combustible material which is not contained completely within an approved container, but shall not include charcoal, gas or electric grills and smokers.

Outdoor fireplace means an enclosed and permanently affixed outdoor fire receptacle which incorporates a permanently affixed chimney or flue and is constructed of brick, rock or other masonry material.

Portable outdoor fireplace means a movable container that is commercially manufactured and designed with a chamber to hold an outdoor fire, used for heat or light, but not for cooking. A portable outdoor fireplace must be equipped with a screen capable of preventing burning embers from escaping.

Recreational fire means a fire for the purpose of cooking, obtaining warmth, or viewing for pleasure.

Responsible party means the property owner or occupant that causes or allows a recreational fire to be ignited or maintained on their property.

(b) *Prohibition of open burning.* No person may cause, suffer, allow or permit any open burning within the city limits, except as allowed for recreational fires and firefighter training as specified in this chapter.

(c) *Exception for recreational fires; generally.* Recreational fires in an approved container are allowed. Any person may burn acceptable fuels in an approved container for the purpose of cooking, viewing for pleasure, or obtaining warmth, on property owned or occupied by such person. Fires must meet the requirements as listed in this section. No permit is required for such fires. Recreational fires are not allowed at any time a burn ban is in effect in accordance with section 18-93. Recreational fires are not allowed within the fire limits of the city.

(d) *Recreational fires; approved containers.*

(1) Approved containers for recreational fires are chimneys, fire pits, outdoor fireplaces, and portable outdoor fireplaces.

(2) Chimneys and portable outdoor fireplaces must be commercially manufactured for that specific purpose. Outdoor fireplaces and fire pits may be commercially manufactured or site built.

(3) Approved containers must have enclosed sides made from bricks, concrete blocks, heavy gauge metal or other suitable noncombustible material.

(4) Approved containers must have a spark arrestor mesh screen to contain sparks. Screens shall be of expanded metal (or equivalent noncombustible material) with openings no larger than one-half inch.

(5) Width of approved containers must not exceed three feet at its widest point.

(6) Walls of approved containers cannot exceed two feet in height measured from the floor of the fire area to the top of the wall, excluding any chimney.

(7) Approved containers must be set upon or built into the bare ground or a noncombustible material such as brick, stone or concrete.

(e) *Recreational fires; fuels.* Acceptable fuels are clean, dry, seasoned firewood; charcoal; or commercially manufactured compressed fire logs. The following listed items are not acceptable fuels and shall not be burned:

(1) Commercial or domestic waste, trash or garbage.

(2) Leaves, pine needles or grass clippings.

(3) Lumber (treated or untreated), construction debris.

(4) Yard debris, unless it meets the definition of firewood or kindling.

(5) Flammable or combustible liquids.

(6) Electrical insulation, plastics, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.

(f) *Recreational fires; responsible party responsibilities.* The responsible party shall:

(1) Remain in charge of the fire or keep a competent adult in charge of the fire.

(2) Ensure flame height is maintained at three feet or less.

(3) Ensure that the fire does not create a risk of fire or damage to persons or property.

(4) Ensure that the fire does not create a nuisance that is offensive to any other person.

(5) Have a means of extinguishing the fire on hand at all times while the fire is burning.

(6) Ensure the fire is extinguished, leaving only cold ashes, before supervision of the fire ends.

(g) *Recreational fires; acceptable locations.*

(1) For approved containers other than fire pits, a minimum clearance of at least ten feet shall be maintained from buildings, property lines, trees, overhead power lines, combustible fences, combustible decks, or any combustible material.

(2) Fire pits shall have a minimum clearance of at least 25 feet from buildings, property lines, trees, overhead power lines, combustible fences, combustible decks or any combustible material.

(3) Recreational fires shall not be located over a natural gas line or under overhead utility lines.

(h) *Recreational fires; fire department authority.* The fire chief or designated representative, shall have authority to enter private property where a recreational fire is burning to ensure the safety of said fire, to investigate a reported nuisance, or to ensure compliance with this section. The fire department representative shall have authority to extinguish or to have extinguished said fire if the fire is creating a danger, is creating a nuisance, or is in violation of this section.

(i) *Exception for bonfires; generally.* At the discretion of the fire chief or designated representative, bonfires may be allowed. Bonfires must meet the "General Requirements for Allowable Outdoor Burning" as specified in Texas Commission on Environmental Quality (TCEQ) regulations in the Tex. Admin. Code ch. 30, section 111.219, except that burning shall be allowed outside the time limits specified therein. Bonfires are not allowed within the fire limits of the city.

(j) *Bonfires; permit required.*

(1) A permit shall be required prior to allowing a bonfire.

(2) Before issuing a permit, the fire chief or designee shall inspect the proposed bonfire site and ensure compliance with applicable rules.

(3) Any permit issued under this section shall specify the approved location, the acceptable fuels, the date and time approved, and any special conditions applicable to this bonfire.

(4) The responsible party receiving the permit shall ensure the permit is available on the scene of the bonfire for the duration of the event.

(5) The fire chief or designee, at their discretion, may require standby fire services prior to issuing a bonfire permit.

(k) *Bonfires; responsible party responsibilities.* The responsible party shall:

(1) Remain in charge of the fire or keep a competent adult in charge of the fire.

(2) Ensure that the fire does not create a risk of fire or damage to persons or property.

(3) Ensure that the fire does not create a nuisance that is offensive to any other person.

(4) Have a means of extinguishing the fire on hand at all times while the fire is burning.

(5) Ensure the fire is extinguished, leaving only cold ashes, before supervision of the fire ends.

(l) *Bonfires; fuels.* Acceptable fuels are clean, dry, seasoned firewood; logs, limbs, pallets, lumber (not treated lumber), or other wood products. Small quantities of flammable or combustible liquids approved by the fire chief or designee, may be used for igniting the fire. The following listed items are not acceptable fuels and shall not be burned:

(1) Commercial or domestic waste, trash or garbage.

(2) Treated lumber, construction debris.

(3) Flammable or combustible liquids (except as specified for ignition).

(4) Electrical insulation, plastics, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber.

(m) *Exception for firefighter training; generally.* Open burning may be conducted for firefighter training. Burning for firefighter training must be conducted in accordance with Texas Commission on Environmental Quality (TCEQ) regulations in the Tex. Admin. Code ch. 30, section 111.205 "Exception for Fire Training".

(n) *Penalty for violation.* Any person violating any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction, in the municipal court of the city, shall be fined not more than $500.00. Each day of any such violation shall be deemed to be a separate offense.
(Code 1961, § 9-13; Ord. No. 226-08, § 1, 10-27-2008)

Sec. 18-15. Burning of garbage, petroleum products and vehicles prohibited.

The burning of garbage in any form, or petroleum products, or automobiles or other motor vehicles or any part thereof for wrecking or salvage purposes, in or on any lot or other premises within the city is hereby prohibited.
(Code 1961, § 9-17; Ord. of 8-25-1953, § 5)

Sec. 18-16. Fires in streets, etc., prohibited.

It shall be unlawful for any person to light or have lighted any fire in any street, alley, thoroughfare or public property.
(Code 1961, § 9-18; Ord. of 8-25-1953, § 6)

Sec. 18-17. Starting fire in hotel, roominghouse, etc.

(a) Any person who, as a guest or occupant of any hotel, roominghouse, tourist court or other place renting rooms for the accommodation of the public, shall, by smoking or attempting to light or smoke cigars, cigarettes, pipes or tobacco in any manner in which lighters or matches are employed, or in the disposition of lighted matches, cigars or cigarettes or live embers of any smoking material in a careless, reckless or negligent manner, whether willfully or negligently, sets fire to any mattress, bedding, furniture, curtains, drapes or household fittings shall be guilty of a misdemeanor.

(b) It shall be the duty of every person who shall, directly as owner or as operator, manager or agent for another, keep or be concerned in keeping any hotel, roominghouse, tourist court or place renting rooms for the accommodation of the public, to post a copy of this section plainly printed with the heading in not less than 14-point type and the body of the section in not less than ten-point type, in each sleeping room of all hotels, roominghouses, tourist courts or other places renting rooms, for the accommodation of the public.
(Code 1961, § 9-19; Ord. of 3-22-1955, §§ 1, 2)

Sec. 18-18. Report of fire at hotel, roominghouse, etc.

It shall be the duty of every person who, directly as owner or as operator, manager or agent for another, keeps or is concerned in keeping any hotel, roominghouse, tourist court or place renting rooms for the accommodation of the public, upon the discovery of fire burning any part of such establishment or the furniture or household fittings of any type therein, to forthwith and without delay transmit an alarm of fire to the fire department, reporting the location of such establishment, by telephone, by use of the city fire alarm system or any other practicable means.
(Code 1961, § 9-20; Ord. of 3-22-1955, § 3)

Sec. 18-19. Reward for information leading to conviction of arsonists.

The mayor is hereby authorized and empowered to offer a standing reward of $250.00 for any information leading to the arrest and conviction of any person for the offense of arson within the corporate limits of the city. Such reward shall be paid to the person procuring the evidence in securing the convictions out of the general fund of the city.
(Code 1961, § 9-21; Ord. of 7-28-1953, §§ 1, 2)

Secs. 18-20—18-41. Reserved.

ARTICLE II. FIRE LANES

Sec. 18-42. Fire lanes—Designated.

Fire lanes shall be designated by the building official, fire official, or their designees, where the parking of motor vehicles or other obstructions are likely to interfere with the ingress and egress of the fire department vehicles for the protection of lives and property when required by this chapter for all occupancies, other than one- or two-family residences, as defined by the Standard Building Code.
(Code 1961, § 9-22; Ord. No. 266-84, § 1, 10-8-1984; Ord. No. 14-86, § 1, 1-13-1986; Ord. No. 141-2000, § 1, 5-8-2000)

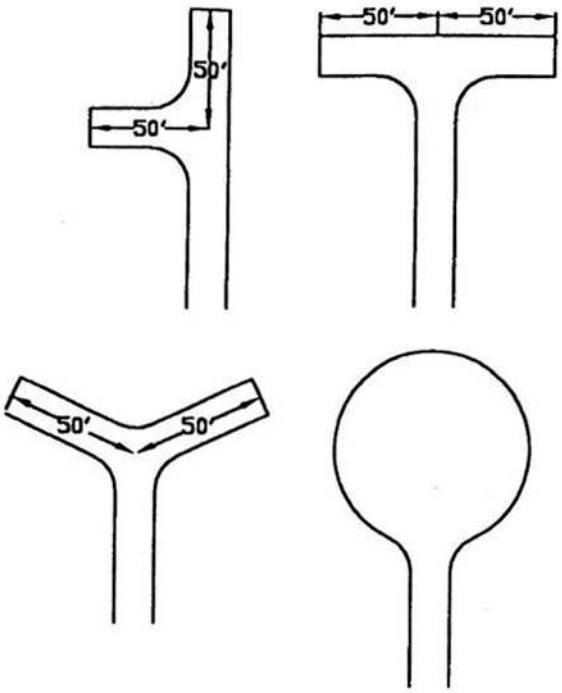
Sec. 18-43. Same—Size and distance requirements near buildings.

(a) All parts of the buildings defined in section 18-42 shall be within 150 feet of a public street or designated fire lane. Where it is not possible for all parts of a building to be within 150 feet of a designated fire lane or public street because the length or width of the building exceeds 300 feet, the building shall have a designated fire lane or public street as closely adjacent as possible to the sides of the building.

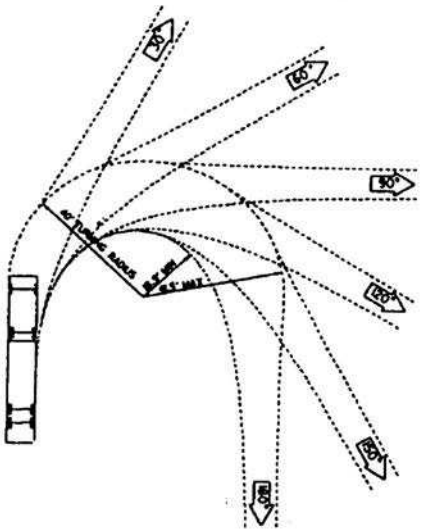
(b) Fire lanes required by this article shall have a width of at least 20 feet and an overhead clearance of at least 13½ feet. Fire lanes will be allowed to have a dead end not exceeding 150 feet. Dead ends in excess of 150 feet shall be provided with a turnaround as shown in the illustration below or other turnaround provision deemed acceptable by the fire official. Acceptable alternatives for a fire lane turnaround include the following:

(1) Minimum roadway width—20 feet.

(2) All curve radii to conform to WB-40 template as specified in this section.



(c) For large sites where fire lanes will be required, a graphical depiction of each radius turn along said fire lane must be provided in addition to site plans for review. The graphical depiction of each radius must demonstrate that provision is made for the minimum turning radii of an AASHTO WB-40 vehicle through said radius without significantly infringing on areas outside of the fire lane. A sample graphical depiction that should be overlaid across the site plan for this demonstration is as follows:



(d) Designated fire lanes must have concrete, asphalt, or gravel surface and be substantial enough to support fire department apparatus and must remain structurally unaffected by bad weather. The design engineer or architect shall issue a certificate to certify the above.

(e) The fire official may, by administrative approval, accept alternatives to the specific requirements of this article so long as, in the fire official's opinion, the alternative plan allows for adequate access by fire apparatus to the building in question.
(Code 1961, § 9-23; Ord. No. 266-84, § 1, 10-8-1984; Ord. No. 14-86, § 1, 1-13-1986; Ord. No. 141-2000, § 1, 5-8-2000)

Sec. 18-44. Same—Markings.

Such fire lanes shall be designated by the following markings:

(1) Such fire lanes on a paved surface shall be clearly marked on the pavement with an exterior red paint forming a perimeter line at least six inches wide. Where there is a curb, the entire curb shall be painted with red exterior paint. Printed legends, "No Parking Fire Lane," shall be painted on the curb with white lettering four or more inches high. Legends on the curb shall appear at 50-foot intervals (minimum) or metal signs on posts may be placed bearing the aforementioned legend and near such a fire lane.

(2) The owner or manager of a premises as defined in section 18-45, with existing fire lanes surrounding buildings required to have a fire lane under this article, with fire lane markings which do not comply with the specifications mandated by this article, shall have until the effective date of the ordinance from which this article is derived, to meet

the requirements of this article. This article will have no effect on existing structures in which a building permit has been issued prior to the effective date of the ordinance from which this article is derived.

(3) The owner or manager of any building required to have a fire lane under this or any preceding article shall ensure that the required markings are maintained in such a manner that the lettering and color are clearly visible.

(4) Any fire lane that is appropriately marked in accordance with this article shall be enforceable, regardless of whether said fire lane is required by these sections.

(Code 1961, § 9-24; Ord. No. 266-84, § 1, 10-8-1984; Ord. No. 14-86, § 1, 1-13-1986; Ord. No. 141-2000, § 1, 5-8-2000)

Sec. 18-45. Same—Responsibility of maintaining clear.

For the purpose of this article, the term "premises" shall be deemed to be the property or parking area immediately surrounding the building where the fire lane is located. It shall be the joint and several duty of the owner and manager of the premises to maintain the fire lane markings and to keep the lanes free of obstruction. No person may mark, post or otherwise identify a nonfire lane private vehicular passageway:

(1) As a fire lane; or

(2) In such a manner as tends to create confusion as to whether the passageway is a fire lane.

(Code 1961, § 9-25; Ord. No. 266-84, § 1, 10-8-1984; Ord. No. 14-86, § 1, 1-13-1986; Ord. No. 141-2000, § 1, 5-8-2000)

Sec. 18-46. Fire lanes—Unauthorized blocking by nonemergency vehicles.

No person may park or leave standing any attended or unattended nonemergency vehicle in a fire lane. An unauthorized vehicle on a fire lane is subject to removal by the owner or manager of the premises, with the expense of removal and storage to be borne by the registered owner of the vehicle. The operator or owner of said vehicle will be subject to citation to municipal court by a police officer, the fire marshal or a deputy fire marshal. It shall be a defense to prosecution under this section that a vehicle was parked or left standing in a fire lane because it was being utilized to transport a person during a medical emergency.

(Code 1961, § 9-26; Ord. No. 266-84, § 1, 10-8-1984; Ord. No. 14-86, § 1, 1-13-1986; Ord. No. 141-2000, § 1, 5-8-2000; Ord. No. 300-01, § 1, 11-26-2001)

Secs. 18-47—18-65. Reserved.

ARTICLE III. KEY LOCK BOXES AND EMERGENCY ACCESS SYSTEMS

Sec. 18-66. Key lock box security systems.

(a) The owner or occupant of any commercial structure constructed in the city after the effective date of the ordinance from which this article is derived shall install on such structure a key lock box security system. Also, the owner or occupant of any noncommercial structure converted to commercial use in the city after the effective date of the ordinance from which this article is derived shall install on such structure a key lock box security system. The key lock box security system shall be of a type approved by the fire official and shall be installed in a location and in a manner approved by the fire official. Approval by the fire official of the type of key lock box installed and the location and manner of installation shall be obtained before and shall be a condition of the issuance of a final certificate of occupancy for the structure.

Exception 1: A building owner or occupant may choose to "opt out" of the key lock box security system requirement if all of the following conditions are met:

a. The primary occupancy classification of the building under the currently adopted building code is Group B (Business) or Group M (Mercantile) as determined by the building official.

b. The building is 5,000 square feet or less in size and is one story.

c. The building is not equipped with a fire sprinkler system.

d. The building is not equipped with a fire alarm system.

e. There are no unusual security features that, in the opinion of the fire official, would restrict the fire department's ability to make forcible entry.

If the owner or occupant of a building meeting all of these requirements chooses to "opt out" of the key lock box security requirement, the owner or occupant must provide the fire official with a letter of understanding from the insurer of the subject premises, directed to the fire official, acknowledging its understanding that the fire department is not authorized to obtain access to the premises during an emergency by way of a lock box key and that damages resulting from forced emergency entry may occur. In addition, the owner or occupant of the subject premises shall deliver to the fire official a statement that the owner or occupant chooses not to install a key lock box security system on the building. The statement shall include an agreement, in the form and substance authorized by the fire official, holding the city and the city fire department free, harmless and indemnified from any claim for damage resulting from forced emergency entry or delayed access.

Exception 2: The requirement for a key lock box system may be waived by the fire official if both of the following conditions are met:

a. The primary occupancy classification of the building under the currently adopted building code is Group U (Utility and Miscellaneous) as determined by the building official.

b. The size of the building, use of the building, or other unusual circumstances renders the lock box ineffective for its intended purpose, as determined by the fire official.

To accept a waiver of this requirement, the owner or occupant of the subject premises shall deliver to the fire official a statement that the owner or occupant chooses to accept the waiver of the requirement to install a key lock box security system on the building. The statement shall include an agreement, in the form and substance authorized by the fire official, holding the city and the city fire department free, harmless and indemnified from any claim for damage resulting from forced emergency entry or delayed access.

(b) The owner or occupant of any commercial structure existing on the effective date of the ordinance from which this article is derived may voluntarily participate in the key lock box security system. Upon notice to the fire official of the intent to participate in the key lock box security system, the participating owner or occupant of such structure shall install a key lock box of a type approved by the fire official in a location and in a manner approved by the fire official.

(c) The owner or occupant of a commercial structure to which the provisions of this article apply shall maintain in such key lock box at all times a key for each locked point of entry or exit, whether on the interior or exterior of the structure; for each locked mechanical room; for each locked elevator room; for each fire alarm or sprinkler system control room; and for any other areas as directed by the fire official. Each such key shall be labeled in a way that will enable the fire official to determine which lock it operates.

(d) The owner or occupant of any commercial structure to which this article applies shall immediately notify the fire official and provide a replacement key for the key lock box if, for any reason, the condition of a lock requires that its key be replaced.
(Code 1961, § 9-28; Ord. No. 142-2000, § 1, 6-12-2000; Ord. No. 324-2000, § 1, 11-13-2000; Ord. No. 071-06, § 1, 2-27-2006; Ord. No. 062-08, § 1, 3-24-2008)

Sec. 18-67. Gated property access.

(a) The owner or occupant of any apartment complex, storage facility, residential community or other development having gated access that may impair fire department emergency access, as determined by the fire official, shall install a keyed access system of a type approved by the fire official.

(b) If the gate list is electrically operated, the gate activation mechanism shall be equipped with a key switch which:

(1) Is compatible with the fire department lock box system;

(2) Shall cause the gate to open fully and remain open for the fire apparatus access until the key switch is returned to the "off" position; and

(3) Will enable the fire department master key to be removed with the switch in the "on" position.

If the gate is not electrically operated, it shall be secured in such a manner that fire department access is possible using the fire department lock box system.

(c) The owner or occupant of any such gated structure or property to which this article applies and which was constructed after the effective date of the ordinance from which this article is derived shall comply with its provisions prior to and as a condition of the issuance of a final certificate of occupancy for the structure. The owner or occupant of any such gated structure or property to which this article applies and which was existing at the time of the effective date of the ordinance from which this article is derived, shall have six months from the effective date of the ordinance from which this article is derived to comply with its provisions.
(Code 1961, § 9-29; Ord. No. 142-2000, § 1, 6-12-2000)

Secs. 18-68—18-92. Reserved.

ARTICLE IV. BURN BAN

Sec. 18-93. Burn ban authorized.

The fire chief, in the fire chiefs sole discretion, may declare a burn ban for the city. Notwithstanding any provision in this chapter to the contrary, while a burn ban declared under this section is in effect it shall be unlawful for any person to conduct any outdoor burning of any kind.
(Code 1961, § 9-40; Ord. No. 023-06, § 1, 1-23-2006)

Chapter 19

RESERVED

Chapter 20

FOOD AND FOOD ESTABLISHMENTS*

Article I. In General

Sec. 20-1. Sale of meat and fish prohibited.
Sec. 20-2. Inspection and condemnation of fruits and vegetables.
Sec. 20-3. Definitions.
Secs. 20-4—20-57. Reserved.

Article II. Food Service and Retail Food Store Sanitation

Sec. 20-58. Rules on food service sanitation.
Sec. 20-59. Mobile food units; additional requirements.
Sec. 20-60. Permits, licenses or certificates.
Sec. 20-61. Inspections.
Sec. 20-62. Examination and condemnation of food.
Sec. 20-63. Review of construction and remodeling plans.
Sec. 20-64. Procedure for suspected infection.
Sec. 20-65. Compliance with city codes upon reopening a previously closed food establishment.
Sec. 20-66. Penalties.
Sec. 20-67. Injunctions.

***State law references**—Municipal regulatory authority concerning food service employees not preempted by state regulation, Texas Health and Safety Code § 438.037; municipality which is a member of the public health district not prohibited from regulating or administering permit system concerning food service establishments, Texas Health and Safety Code § 437.004(d).

ARTICLE I. IN GENERAL

Sec. 20-1. Sale of meat and fish prohibited.

It shall be unlawful for any person to hawk, peddle, sell or barter any meat or fish from any mobile unit, including wagons, carts, booths, counters or stands parked or set up in, on or upon any right-of-way, gutter, sidewalk or alley in the city.
(Code 1961, § 10-1; Ord. of 2-11-1947, § 1; Ord. No. 223-85, § 2, 7-8-1985; Ord. No. 80-89, § 1, 3-13-1989)

Sec. 20-2. Inspection and condemnation of fruits and vegetables.

All fruits and vegetables bought and sold at wholesale shall be regularly inspected by the food inspector and the inspector shall have the power and authority to condemn any and all fruits and vegetables which are unfit for human consumption or which have been misrepresented as to grade, quality or condition.
(Code 1961, § 10-2; Ord. of 9-13-1932, § 8)

Sec. 20-3. Definitions.

For the purposes of this chapter, the following words shall have the meanings herein ascribed to them, except where the context clearly indicates a different meaning:

Commissary means a catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged or stored.

Potentially hazardous food means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term "potentially hazardous food" does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.5 or below or a water activity (Aw) value of 0.85 or less.

Regulatory authority means the state and/or local enforcement authority having jurisdiction over the food service establishment, or those determined by the commissioner of health as having jurisdiction.

Retail food establishment means any establishment, vehicle or section of an establishment where prepackaged or uncooked food and food products are offered to the consumer. The term "retail food establishment" includes delicatessens, meat markets and seafood establishments that offer prepared food in bulk quantities only. The term "retail food establishment" does not include roadside markets that offer only fruits and vegetables for sale; food service establish-

ments; farmer's markets; or food and beverage vending machines as defined in the Vending of Food and Beverages, 1978, Department of Health, Educational and Welfare Publication No. (FDA) 78-2091.
(Code 1961, § 10-3; Ord. No. 223-85, § 3, 7-8-1985; Ord. No. 66-92, § 1, 3-9-1992)

Secs. 20-4—20-57. Reserved.

ARTICLE II. FOOD SERVICE AND RETAIL FOOD STORE SANITATION

Sec. 20-58. Rules on food service sanitation.

The city council hereby adopts the state department of health, bureau of food and drug safety "Texas Food Establishment Rules, 25 TAC §§ 229.161—229.171, 229.173—229.175," three certified copies of which shall be kept on file in the office of the city secretary. The words "regulatory authority," used in said rules, shall be understood to refer to the Texarkana-Bowie County Family Health Center.
(Code 1961, § 10-62; Ord. No. 218-80, § 1, 7-28-1980; Ord. No. 80-89, § 2, 3-13-1989; Ord. No. 128-89, § 1, 5-8-1989; Ord. No. 66-92, § 2, 3-9-1992; Ord. No. 92-92, § 1, 3-24-1992; Ord. No. 468-99, § 1, 12-13-1999)

Sec. 20-59. Mobile food units; additional requirements.

The following guidelines are applicable to mobile food units operated within the city and are in addition to guidelines required by the "Texas Food Establishment Rules, 25 TAC § 229.169 Mobile Food Establishments."

(1) *Mobile food units.* The following additional guidelines shall apply:

a. The owner or driver of a mobile food unit shall provide a valid driver's license to the Texarkana-Bowie County Health Center at any time upon request.

b. Mobile food units shall return to their commissary daily for servicing and cleaning.

c. Mobile food units shall have their business name and permit number affixed to both the driver and passenger sides of the vehicle in three-inch letters.

d. Mobile food units shall have their menu affixed to both the driver and passenger sides of the vehicle.

e. Mobile food units shall provide to the Texarkana-Bowie County Health Center by the first day of the month an itinerary of locations for each month.

f. Mobile food units shall not sell, distribute or offer for sale food that has been prepared in a private home.

(2) *Mobile ice cream units.* In addition to the guidelines in subsection (1) of this section, the following shall apply to mobile ice cream units:

a. Mobile ice cream units must be equipped with safety stickers that state: Watch for Children and/or Stop for Children in five-inch letters on both the driver and passenger sides of the vehicle.

b. Mobile ice cream units must be equipped with safety features, including mirrors, four-way hazard lights, and at least one permanently affixed amber light on top of the vehicle.

c. Mobile ice cream units shall not sell, distribute or offer for sale, any products or services within two city blocks or 600 feet, whichever is greater, of the grounds of any public, private, parochial, elementary or secondary school between the hours of 2:30 p.m. and 4:30 p.m. on days when school is in session.

(3) *General service pushcarts.* In addition to the guidelines in subsection (1) of this section, the following shall apply to general service pushcarts:

a. General service pushcarts shall be equipped with a propane tank properly anchored in an upright position to the outside of the cart.

b. General service pushcarts shall be equipped with a five-pound or larger multipurpose dry chemical fire extinguisher.

c. Cooking in the form of grilling, baking or frying shall not be allowed on a general service pushcart; however, reheating of cooked foods by boiling or steaming shall be allowed.

d. General service pushcarts shall be equipped with a mechanical oven or refrigeration system to maintain proper food temperature.

e. General service pushcarts shall be equipped with a thermometer conspicuously located in each hot or cold food storage unit.

(Code 1961, § 10-62.1; Ord. No. 31-04, § 1, 2-23-2004)

Sec. 20-60. Permits, licenses or certificates.

(a) *General.* No person shall operate a food service establishment and/or retail food store who does not have a valid permit, license or certificate issued to a person by the regulatory authority. Only a person who complies with the requirements of these rules shall be entitled to receive or retain such a permit, license or certificate. Permits, licenses or certificates are not transferable. A valid permit, license or certificate shall be posted in every food service establishment and/or retail food store.

(b) *Issuance of a permit, license or certificate.*

(1) Any person desiring to operate a food service establishment and/or retail food store shall make written application for a permit, license or certificate on forms provided by

the regulatory authority. Such applications shall include the name and address of each applicant, the location and type of the proposed food service establishment and/or retail food store and the signature of each applicant.

(2) Prior to approval of an application for a permit, license or certificate, the regulatory authority shall inspect the proposed food service establishment and/or retail food store to determine compliance with the requirements of these rules.

(3) The regulatory authority shall issue a permit, license or certificate to the applicant if its inspection reveals that the proposed food service establishment and/or retail food store complies with the requirements of these rules. Fees (nonrefundable) to be charged for a permit, license or certificate shall be in amounts as established by the city council from time to time, and are on file in the city secretary's office or city website. Except for fees for a temporary or seasonal permit, license or certificate, which shall be due and payable upon application therefor, the fees for a permit, license or certificate provided herein shall be due and payable on October 1 of each year and shall be prorated for the remainder of any year in which a new business is started after said date.

(5) The fee to obtain a printed copy of the "Texas Food Establishment Rules:" shall be in an amount as established by the city council from time to time, and is on file in the city secretary's office or city website.

(6) 25 TAC § 229.163(b) of the rules adopted under section 20-58 is amended to require that the person in charge, as that term is defined in 25 TAC § 162(59), demonstrate the knowledge required under those rules by compliance with the rules, by being a certified food protection manager who has shown proficiency of required information through passing a test that is part of a food protection management program accredited by the state department of health according to 25 TAC § 229.172, and by responding correctly to the inspector's questions as they relate to the specific food operation.

a. The permit holder of every food establishment shall ensure that at least one person in charge at each location, who is responsible for supervising food preparation and service, has a valid food protection management training certificate issued by the state department of health as proof of successful completion of a state department of health accredited food protection management training program as defined in 25 TAC § 229.172.

b. The permit holder shall make food protection manager certificates available for immediate inspection upon request by the regulatory authority.

c. The permit holder of a new food establishment, an existing food establishment that has changed ownership, or a food establishment whose certified food protection manager has transferred or resigned shall have 30 days to comply with the requirements of this section.

d. The permit holder of an existing food establishment shall notify the health department within 48 hours of the termination or transfer of a certified food protection manager. The permit holder shall have 30 days from the effective date of the termination or transfer to comply with the requirements of this section.

e. The following food establishments are exempt from the requirements of this section: temporary food establishments; food establishments that sell or distribute only prepackaged foods or uncut produce; and food establishments that serve only fountain drinks, coffee, alcoholic beverages, popcorn and/or snow cones.

f. A permit holder is in compliance with the provisions of this section if there is one certified food protection manager employed in a supervisory capacity for several food establishments located in the same building and under the same ownership and management.

(c) *Suspension of permit, license or certificate.*

(1) The regulatory authority may, without warning, notice or hearing, suspend any permit, license, or certificate to operate a food service establishment and/or retail food store if the holder of the permit, license or certificate does not comply with the requirements of these rules, or if the operation of the establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by subsection (c)(2) of this section. When a permit, license or certificate is suspended, food service operation shall immediately cease. Whenever a permit, license or certificate is suspended, the holder of the permit, license or certificate shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.

(2) Whenever a permit, license or certificate is suspended, the holder of the permit, license or certificate, or the person in charge, shall be notified in writing that the permit, license or certificate is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit, license or certificate within ten days from the day of receipt of said notice. If no written request for a hearing is filed within ten days, the suspension is sustained by operation of law. The regulatory authority may end the suspension at any time if the reasons for the suspension are abated and no longer exist.

(d) *Revocation of permit, license or certificate.* The regulatory authority may, after providing opportunity for a hearing, revoke a permit, license or certificate for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit, license or certificate, or the person in charge, in writing of the reason for which the permit, license or certificate is subject to revocation and that the permit, license or certificate shall be revoked at the end of the ten days following service of such notice

unless a written request for a hearing is filed with the regulatory authority by the holder of the permit, license or certificate within ten days of receipt of such notice. If no request for a hearing is filed within the ten-day period, the revocation of the permit, license or certificate becomes final by operation of law.

(e) *Service of notices.* A notice provided for in this article is properly served when it is delivered to the holder of the permit, license or certificate or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit, license or certificate. A copy of the notice shall be filed in the records of the regulatory authority.

(f) *Hearings.* The hearings provided for in these rules shall be conducted by the health authority at the time and place designated by it. Based upon the recorded evidence of such hearing, the health authority shall make a final decision and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit, license or certificate by the health authority.

(g) *Application after revocation.* Whenever a revocation of a permit, license or certificate has become final, the holder of the revoked permit, license or certificate may make written application for a new permit, license or certificate.
(Code 1961, § 10-63; Ord. No. 218-80, § 1, 7-28-1980; Ord. No. 223-85, § 5, 7-8-1985; Ord. No. 41-86, § 1, 1-27-1986; Ord. No. 66-92, § 3, 3-9-1992; Ord. No. 468-99, § 2, 12-13-1999; Ord. No. 281-2000, § 1, 10-9-2000; Ord. No. 331-04, § 2, 2-23-2004; Ord. No. 004-09, § 1, 1-26-2009)

Sec. 20-61. Inspections.

Inspection of a food establishment shall be governed by the Texas Food Establishment Rules, 25 Tex. Admin. Code §§ 229.161—229.171, 229.173—229.175 (1998) and as thereafter amended.
(Code 1961, § 10-65; Ord. No. 218-80, § 1, 7-28-1980; Ord. No. 66-92, § 4, 3-9-1992; Ord. No. 281-2000, § 2, 10-9-2000)

Sec. 20-62. Examination and condemnation of food.

Food may be examined or sampled by the agents of the regulatory authority as often as necessary for the enforcement of this article. The regulatory authority may, upon written notice to the owner or person in charge specifying with particularity the reasons therefor, place a hold order on any food which it believes to be in violation of subsection (a) of Rule .003 of the Rules on Food Service Sanitation or any other provision of this article and those rules. The regulatory authority shall tag, label or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served or moved from the establishment. The regulatory authority shall permit storage of the food under conditions specified in the hold order unless storage is not possible without risk to the public health in which case immediate destruction

shall be ordered and accomplished. The hold order shall state that a request for a hearing may be filed within ten days after said order is issued and that if no hearing is requested, the food shall be destroyed. A hearing shall be held by the regulatory authority if so requested and on the basis of evidence produced at such a hearing, the hold order may be vacated or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this article and rules.
(Code 1961, § 10-66; Ord. No. 218-80, § 1, 7-28-1980)

Sec. 20-63. Review of construction and remodeling plans.

(a) *Submission of plans.* Whenever a food service establishment and/or retail food store is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment and/or retail food store, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the regulatory authority for review and approval before construction, remodeling or conversion is to begin. Admission of said plans and specifications to the regulatory authority is in addition to building code requirements of the city. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of these rules. No food service establishment and/or retail food store shall be constructed, remodeled or converted except in accordance with plans and specifications approved by the regulatory authority.

(b) *Preoperational inspection.* Whenever plans and specifications are required by subsection (a) of this section to be submitted to the regulatory authority, the regulatory authority shall inspect the food service establishment and/or retail food store prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of these rules. Such inspection shall be a prerequisite to the issuance of a certificate of occupancy by the building inspector of the city.
(Code 1961, § 10-67; Ord. No. 218-80, § 1, 7-28-1980; Ord. No. 66-92, § 5, 3-9-1992)

Sec. 20-64. Procedure for suspected infection.

When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food handling service, it may secure morbidity history of the suspected employment or make any other investigation as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

(1) The immediate exclusion of the employee from all food service establishments and/or retail food store;

(2) The immediate closing of the food service establishment and/or retail food store concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;

(3) The restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease; and/or

(4) Adequate medical and laboratory examination of the employee, of other employees, and of the employee or of their bodily discharges.

(Code 1961, § 10-68; Ord. No. 218-80, § 1, 7-28-1980; Ord. No. 66-92, § 6, 3-9-1992)

Sec. 20-65. Compliance with city codes upon reopening a previously closed food establishment.

If a food establishment and/or retail food store shall cease operating because of change of management, ownership or lessee, or for any other reasons, the building and equipment installed therein shall be made to conform to the requirements of this article and current city building, plumbing and electrical codes before reopening.

(Code 1961, § 10-68.1; Ord. No. 75-84, § 1, 3-12-1984; Ord. No. 66-92, § 7, 3-9-1992)

Sec. 20-66. Penalties.

Any person, firm or corporation who shall violate any of the provisions of this article and rules shall be guilty of a misdemeanor and, upon conviction thereof in the municipal court, shall be punished by a fine not to exceed $2,000.00. Each day upon which such violation occurs shall constitute a separate offense.

(Code 1961, § 10-69; Ord. No. 218-80, § 1, 7-28-1980; Ord. No. 80-89, § 3, 3-13-1989; Ord. No. 66-92, § 8, 3-9-1992)

Sec. 20-67. Injunctions.

The regulatory authority or the city may seek to enjoin the violation of these rules or any other appropriate remedy.

(Code 1961, § 10-70; Ord. No. 218-80, § 1, 7-28-1980)

Chapter 21

RESERVED

Chapter 22

LITTER, VEGETATION AND SOLID WASTE*

Article I. In General

Sec. 22-1. Definitions.
Sec. 22-2. Administration.
Sec. 22-3. Litter and other unsightly items.
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Sec. 22-5. Litter and waste on construction sites.
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Article II. Junked Motor Vehicles

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Sec. 22-45. Disposal of junk vehicles.
Sec. 22-46. Inapplicability of procedures adopted under this article.
Sec. 22-47. Application.

***State law references**—Local regulation of sanitation, Texas Health and Safety Code § 342.001 et seq.; Solid Waste Disposal Act, Texas Health and Safety Code § 361.001 et seq.; Comprehensive Municipal Solid Waste Management, Resource Recovery and Conservation Act, Texas Health and Safety Code § 363.001 et seq.

ARTICLE I. IN GENERAL

Sec. 22-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved construction site container is a trailer or metal container of sufficient size to hold all construction waste at the site, and capable of being covered with a lid or tarp material at the end of each day. Potentially hazardous liquids shall be placed in a leakproof container and disposed of in accordance with all applicable laws.

Approved green waste bag, as approved by the city water utilities compost facility, means a nonplastic biodegradable bag with a typical capacity of 33 gallons.

Approved green waste container or can means a can of galvanized iron, noncorrosive metal or plastic, rodent and flyproof, durable and leakproof, of the type commonly sold as garbage cans of a suitable gauge, weight and construction to ensure durability, with suitable handles on the can and lid and a capacity of not more than 50 gallons or 50 pounds when full.

Approved recyclable material means paper, cans, metal, cardboard/paperboard and plastics without food contamination, but does not include plastic bags, paint, cleaners, solvents, light bulbs, hazardous waste, batteries or styrofoam.

Approved residential recycling container means a 65-gallon polycart container as provided by the city's waste disposal provider.

Approved roll-off recycling container means a container made of metal, of sufficient size to hold all recyclable materials at a site, sufficiently labeled "Recycle Only" and capable of being covered with a lid or tarp material at the end of each day.

Approved waste container means a 96-gallon polycart container as provided by the city's waste disposal provider.

Code enforcement official means any person authorized by the city to enforce city ordinances.

Garbage includes rubbish, kitchen, household, market or store wastes, ashes, paper and paper food containers.

Greenwaste means grass or weed clippings, leaves, plant clippings, sticks and limbs not over four inches in diameter.

Industrial waste is all of the solid residue or waste resulting from manufacturing, commercial or industrial operations or processes.

Litter means any garbage, refuse, rubbish and all other waste material which creates a potential danger to public health, safety and welfare if not deposited in an authorized receptacle.

Refuse means all solid waste (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals not more than 25 pounds, and solid market waste.

Rubbish means all solid waste consisting of combustible and noncombustible waste, including, but not limited to, paper, wrappings, cigarettes, cardboard and tin cans.

Vegetation means any plant life.

Weeds includes grasses or similar vegetation.
(Code 1961, § 11-1; Ord. No. 038-2010, § 1(exh. A), 2-22-2010; Ord. No. 194-2010, § 1, 12-13-2010)

Sec. 22-2. Administration.

(a) The administration of this chapter is delegated to the city manager and/or designee.

(b) In order to provide efficient and economical waste collection services, the city will contract with one contractor for such services within the city limits. All waste collection services shall be performed pursuant to the terms and conditions of a contract specifically executed between the city and contractor.

(c) It shall be unlawful for any person, corporation, or other business entity to provide or perform waste collection services in a manner that infringes upon the exclusive rights granted to the contractor to collect industrial waste inside the city limits, including all industrial waste from compactors and front-end load containers as specified by the city's contract for waste disposal services.

(d) It shall be unlawful for any person, corporation, or other business entity to provide or perform waste collection services in a manner that infringes upon the exclusive rights granted to the contractor to collect residential waste inside the city limits as specified by the city's contract for waste disposal services.
(Code 1961, § 11-2; Ord. No. 038-2010, § 1(exh. A), 2-22-2010; Ord. No. 194-2010, § 1, 12-13-2010)

Sec. 22-3. Litter and other unsightly items.

It is unlawful for any property owner or person in control of property inside the city to cause, allow or to maintain litter on the property, including, but not limited to:

(1) Furniture, appliances, sculptures, ornaments or items left outside that were not originally intended for outdoor use, items intended for outdoor use that are now broken, or other matter that creates breeding and living places for insects and rodents.

(2) Containers intended for chemicals, which have not been recently used.

(3) Any boat that is not in a useable condition.

(4) Any trailer that is not in a useable condition.

(5) Parts typically associated with trucks, cars, motorcycles, boats, farm equipment, construction equipment or other vehicle.

(6) Storage containers of any type used for personal items, inventory or other storage exceeding 72 hours, except for approved containers.

(7) Any material or item that could provide nesting, harborage or feeding for vermin or pest, or that could negatively affect the city's stormwater system.

(8) The accumulation of materials that emit any gases, noxious fumes or odors that may become a nuisance or a source of endangerment to the health, safety and welfare of surrounding property or people in the area.

(9) Other conditions deemed by the city to be unsanitary or detrimental to the health, safety, or welfare of the public.

(Code 1961, § 11-3; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-4. Accumulation of offensive matter.

It shall be unlawful for any person to cause or allow any animal, vegetable or mineral matter, or any residue thereof which is offensive, unsanitary or injurious to public health as determined by city health officials.

(Code 1961, § 11-4; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-5. Litter and waste on construction sites.

Property owners and any person working for the property owner, or person in control of the property, must use approved containers for any debris associated with construction, remodeling, building material and workmen's litter. All debris from construction, building or any related activity shall be properly placed in the approved construction site container at the end of each day to prevent the debris from being blown or otherwise scattered on the construction site or adjacent property. All liquids, food waste, and bio-waste shall be packaged separately in a manner that prevents leaks and disposed of in accordance with all applicable laws. Approved construction site container is defined herein in section 22-1.

(Code 1961, § 11-5; Ord. No. 038-2010, § 1(exh. A), 2-22-2010; Ord. No. 194-2010, § 1, 12-13-2010)

Sec. 22-6. Accumulation of industrial, construction or other nonrecyclable waste.

Except as provided by this chapter, no person who owns or is in control of property in the city shall cause or allow the accumulation of industrial, construction or other nonrecyclable waste on the property. Any such waste accumulated in a container must be in an approved container situated for regularly scheduled pickup in accordance with the city's contract for waste disposal services.

(Code 1961, § 11-6; Ord. No. 038-2010, § 1(exh. A), 2-22-2010; Ord. No. 194-2010, § 1, 12-13-2010)

Sec. 22-7. Dumping.

It shall be unlawful for any person to dump or deposit any brush, leaves, garbage, litter, trash, waste matter, or refuse of any kind on any street, gutter, sidewalk, parkway, driveway, alley, public property or property belonging to another person anywhere within the city limits.
(Code 1961, § 11-7; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-8. Litter from trucks.

It shall be unlawful to operate any truck or other vehicle within the city which allows any of the contents of the truck or vehicle to be blown or deposited on any street, alley or other public or private property.
(Code 1961, § 11-8; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-9. Vegetation.

(a) Any property owner or person in control of property must maintain all vegetation on the property in accordance with the provisions of this chapter. When property is not maintained in accordance with this section, the condition shall be deemed a nuisance and a danger to public safety.

(b) All premises and exterior property within the city shall be maintained free from weeds and nonornamental grasses in excess of 12 inches, including rights-of-way areas between property lines and a defined paved surface under the control of a governmental entity. Where an alley or right-of-way exists that has not been paved, maintenance responsibility shall be considered to be to the centerline of the alley.

(c) All noxious weeds are prohibited.

(d) All vegetation on any premises and exterior property within the city shall be maintained so that the vegetation does not grow into or hang lower than 14 feet over a street or alleyway. Vegetation must be maintained so that it does not grow into or hang lower than seven feet above a sidewalk.

(e) It shall be the duty of the property owner or person in control of the property to cut or trim the vegetation so that it is in compliance with this section. It is unlawful for any person to leave any form of vegetation on the city right-of-way, in a public place, or on the property of another after they have cut or trimmed such growth.

(f) Grass clippings, leaves, weed cuttings and other small-sized yard waste shall be put in an approved greenwaste bag or an approved greenwaste container or can. Large sticks and limbs shall be cut into four-foot lengths, bundled together in bundles not over 40 pounds, and the bundle must be tied.
(Code 1961, § 11-9; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-10. Disposal of dead animals.

City animal services will only remove dead animals from private property if the property owner requests animal services to pick up the animal and the animal has been placed in a plastic bag and set at the curb for collection.
(Code 1961, § 11-10; Ord. No. 038-2010, § 1(exh. A), 2-22-2010; Ord. No. 194-2010, § 1, 12-13-2010)

Sec. 22-11. Burning, dumping and burying of litter or waste.

It is unlawful to burn, dump, bury or dispose of litter or waste of any kind within the city limits by any other means except as authorized by the city.
(Code 1961, § 11-11; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-12. Requirement to keep approved waste containers.

(a) Every property owner or person in control of any property in the city where people reside, board or lodge, where food is prepared or served, or any private residence, shall keep and maintain at all times an approved waste container as defined in this chapter or as provided by the city's waste disposal provider.

(b) The lids or covers of all containers shall be kept closed so that flies and other insects may not have access to the contents. The lids or covers shall only be opened while the containers are being filled or emptied.

(c) No receptacles, other than containers of the specifications and sizes approved by this chapter or as specified in the city's contract for waste disposal shall be used by any resident or business for the accommodation of garbage, trash or other waste material, except that waste may be placed in a plastic bag and placed at curbside during the Christmas holiday.

(d) Grass clippings, leaves, weed cuttings and other small-sized yard waste shall be put in an approved greenwaste container/can, or an approved greenwaste bag, which is a nonplastic biodegradable bag with a 50-gallon capacity or smaller.

(e) The city's contract for waste disposal includes provisions for approved waste containers and recycling containers to be provided. Recyclable material includes paper, cans, cardboard/paperboard, and plastics but does not include plastic bags or styrofoam. Persons are prohibited from disrupting the waste disposal process or the recycling program by:

(1) Placing any form of nonrecyclable waste material in a container designated solely for recyclable material;

(2) Placing waste in bags or other nonapproved containers in conflict with the city's contract for waste disposal services, except for plastic bags as authorized only during the Christmas holiday;

(3) Intentionally damaging the waste container or recycling container;

(4) Removing the waste container or recycling container from the premises where it is placed; or

(5) Using the waste container or recycling container for any purpose other than its intended purpose.

(Code 1961, § 11-12; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-13. Placement of waste and recycling containers.

All persons are required to store the waste containers and recycling containers in a location away from the curb/street and near the residence, business or premises. Persons may only place containers at the curb or allow containers to remain at the curb/street on the night before or the day of waste/recycling pickup.

(Code 1961, § 11-13; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-14. Enforcement.

(a) The provisions of this chapter may be enforced by a city peace officer or a code enforcement official.

(b) It is a violation of this chapter to interfere with a peace officer or a code enforcement official enforcing the provisions of this chapter.

(Code 1961, § 11-14; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-15. Offense.

A person is guilty of a misdemeanor and is subject to a fine upon conviction in municipal court if the person:

(1) Litters as defined in this chapter;

(2) Causes or allows the accumulation of garbage, refuse, offensive matter, brush or waste;

(3) Dumps any item as prohibited by this chapter;

(4) Disrupts the city's waste disposal process or recycling program by any of the means stated in this chapter;

(5) Places waste in bags or other nonapproved containers in conflict with the city's contract for waste disposal services except for plastic bags as authorized only during the Christmas holiday;

(6) Fails to store both the waste container and recycling container away from the curb/street, except as allowed in section 22-13 for waste/recycling pickup;

(7) Fails to maintain property in accordance with the provisions of this chapter; or

(8) Violates any other provision of this chapter.

(Code 1961, § 11-15; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-16. Abatement.

(a) When property is not maintained in accordance with all provisions of this chapter, the property shall be deemed a nuisance and a danger to public safety. The city reserves the right to abate any nuisance as described in this chapter at the cost of the property owner or person in control of the property if the property owner or person in control of the property fails to comply with this chapter after being given notice of the violation. Ten days after the property owner or person in control of the property has been given notice of the violation and fails to remedy the situation, the city may:

(1) Remove any litter, garbage, waste, refuse, rubbish or vegetation from the property at the property owner's expense;

(2) Pay for removal of any litter, garbage, waste, refuse, rubbish or vegetation from the property and charge the expenses to the property owner;

(3) Do the work or make any improvements required at the owner's expense; or

(4) Pay to have the work done or improvements made and charge the expenses to the property owner.

(b) If the property has weeds in excess of 48 inches in height it is a danger to the health, life or safety of the public and is hereby declared a nuisance. The city reserves the right to immediately abate the nuisance at the expense of the property owner or person in control of the property without giving notice to the property owner or the person in control of the property. (Code 1961, § 11-16; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Sec. 22-17. Notice to property owner.

The city may give written notice of a violation to a property owner prior to issuance of a citation and/or prior to abatement of the nuisance (see section 22-16, abatement). The notice must be given:

(1) Personally to the owner by written citation;

(2) By letter addressed to the owner at the owner's post office address; or

(3) If personal service cannot be obtained or the owner's post office address is unknown the notice may be given by:

a. Posting the notice on or near the front door of each building on the property to which the violation relates; or

b. Posting the notice on a placard attached to a stake driven into the ground on the property where the violation exists if the property contains no buildings.

(Code 1961, § 11-18; Ord. No. 038-2010, § 1(exh. A), 2-22-2010)

Secs. 22-18—22-37. Reserved.

ARTICLE II. JUNKED MOTOR VEHICLES*

Sec. 22-38. Definitions.

For the purposes of this article, the following terms shall have the meanings herein described, except where the context clearly indicates a different meaning:

Antique vehicle means a passenger car or truck that is at least 25 years old.

Demolisher means any person whose business is to convert a motor vehicle into processed scrap or scrap metal or otherwise wreck or dismantle a motor vehicle.

Inoperable means a vehicle that is in such condition at the time of inspection, that it is no longer usable for the purpose for which it was manufactured, regardless of the potential for repair or restoration. If the vehicle is wrecked, dismantled or partially dismantled, it is presumed to be inoperable.

Junked vehicle means a vehicle that is self-propelled or was manufactured to be self-propelled, or any part thereof, in ordinary public view, which remains inoperable for a continuous period of ten days.

Motor vehicle collector means a person who:

(1) Owns one or more antique or special interest vehicles; and

(2) Acquires, collects or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historical interest.

Ordinary public view means a vehicle or any part thereof or the tarp or cover thereon is visible at any time of the year from any public right-of-way, or adjacent land or the first floor level of a building thereon, which is owned or occupied by a person other than the property owner or occupant of the property on which the vehicle is located or parked.

Person means any individual, firm, partnership, association, corporation, company or organization of any kind.

Special interest vehicle means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historical interest, is being preserved by a hobbyist.
(Code 1961, § 13-131; Ord. No. 036-08, § 1(exh. A), 2-25-2008)

***State law reference**—Abatement of junked vehicle declared to be a public nuisance, Texas Transportation Code § 683.071 et seq.

Sec. 22-39. Junked vehicle declared to be a public nuisance.

A junked vehicle, including a part of a junked vehicle, that is visible from a public place or public right-of-way:

(1) Is detrimental to the safety and welfare of the public;

(2) Tends to reduce the value of private property;

(3) Invites vandalism;

(4) Creates a fire hazard;

(5) Is an attractive nuisance creating a hazard to the health and safety of minors;

(6) Produces urban blight adverse to the maintenance and continuing development of municipalities; and

(7) Is a public nuisance.

(Code 1961, § 13-132; Ord. No. 036-08, § 1(exh. A), 2-25-2008)

Sec. 22-40. Offense; actions of municipal court.

(a) A person commits an offense if the person maintains a public nuisance as described by section 22-39 of this section, or fails to comply with an order following public hearing as provided in section 22-43 herein.

(b) An offense under this section is a misdemeanor, subject to prosecution in the municipal court of the city and is punishable by a fine not to exceed $200.00.

(c) The municipal court shall have the authority to have a person convicted of the offense described in subsection (a) of this section to abate and remove the nuisance, or to issue any other orders necessary to enforce the provisions of this article.

(Code 1961, § 13-133; Ord. No. 036-08, § 1(exh. A), 2-25-2008)

Sec. 22-41. Authority to enforce.

Code inspectors of the city may enter upon private property for the purposes specified in this article to examine vehicles or parts thereof, obtain information as to the identity of vehicles, and to remove, or cause the removal of, a vehicle or parts thereof declared to be a nuisance pursuant to this article.

(Code 1961, § 13-134; Ord. No. 036-08, § 1(exh. A), 2-25-2008)

Sec. 22-42. Notice.

(a) Whenever any public nuisance as provided in section 22-39 exists in the city in violation hereof, the persons authorized by section 22-41 to administer this article shall personally deliver written notice, send by certified mail with a five-day return requested, or delivery by the United States Postal Service with signature confirmation service to:

(1) The last known registered owner of the nuisance;

(2) Each lienholder of record of the nuisance; and

(3) The owner or occupant of:

a. The property on which the nuisance is located; or

b. If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(b) Such notice shall state:

(1) The nature of the public nuisance;

(2) That the nuisance must be abated and removed not later than the tenth day after the date on which the notice was mailed; and

(3) That any request for a hearing must be made before the ten-day period expires.

(c) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered.

(d) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

(e) The relocation of a junked vehicle that is a public nuisance under section 22-39 to another location in the city after notice has been given in accordance with this section shall have no affect on the city's ability to continue to remove and destroy the vehicle if the junked vehicle constitutes a public nuisance at the new location.
(Code 1961, § 13-135; Ord. No. 036-08, § 1(exh. A), 2-25-2008)

Sec. 22-43. Hearing prior to abatement of nuisance by city.

When timely requested in accordance with this article, a hearing shall be conducted prior to the removal of the vehicle or part thereof as a public nuisance. The hearing shall be held not earlier than the 11th day after the date of the service of notice. The hearing provided for herein shall be conducted by the municipal court judge. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. Following such hearing, and if the information is available at the location of the nuisance, an order requiring removal of the nuisance shall include the vehicle's description, vehicle identification number and license plate number. Failure to comply with any order issued as a result of a hearing shall constitute an offense in accordance with section 22-40.
(Code 1961, § 13-136; Ord. No. 036-08, § 1(exh. A), 2-25-2008)

Sec. 22-44. Removal with permission.

If within ten days after receipt of notice as provided in section 22-42 hereof, the owner or occupant of the premises on which a nuisance is located shall give written permission to an

authorized representative of the city as provided in section 22-41 hereof for removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this article.
(Code 1961, § 13-137; Ord. No. 036-08, § 1(exh. A), 2-25-2008)

Sec. 22-45. Disposal of junk vehicles.

(a) If a public nuisance, as described in section 22-39 hereof, is not abated after notice is given in accordance with this article, the city may take action to abate such nuisance. Junked vehicles or parts thereof may be disposed of by removal to a scrap yard, demolisher or any suitable site operated by the city for processing as scrap or salvage. A junked vehicle disposed of to a demolisher, in accordance with this article, shall be transferred to such demolisher by a form or forms required by the state department of transportation.

(b) After a vehicle has been removed pursuant to this article, it shall not be reconstructed or made operable by any person.

(c) Notice shall be given to the state department of transportation not later than the fifth day after the date of removal identifying the vehicle or part of a vehicle so removed.
(Code 1961, § 13-138; Ord. No. 036-08, § 1(exh. A), 2-25-2008)

Sec. 22-46. Inapplicability of procedures adopted under this article.

Procedures adopted under this article do not apply to a vehicle or vehicle part:

(1) That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

(2) That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

   a. Maintained in an orderly manner;

   b. Not a health hazard; and

   c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees or shrubbery.

(Code 1961, § 13-139; Ord. No. 036-08, § 1(exh. A), 2-25-2008)

Sec. 22-47. Application.

Nothing in this article shall affect ordinances that permit immediate removal of a vehicle left on public property which constitutes an obstruction of traffic.
(Code 1961, § 13-140; Ord. No. 036-08, § 1(exh. A), 2-25-2008)

Chapter 23

RESERVED

Chapter 24

HEALTH AND SANITATION*

Article I. In General

Sec. 24-1. Nuisances generally—What constitutes.
Sec. 24-2. Same—Duty to abate.
Sec. 24-3. Same—Liabilities for existence on rented premises.
Sec. 24-4. Same—Penalty; abatement by court order.
Sec. 24-5. Odor nuisances—Generally.
Sec. 24-6. Same—Enumerated.
Sec. 24-7. Definitions.
Sec. 24-8. Stagnant water, rubbish, weeds, nonaesthetic trees, dilapidated buildings and other objectionable, unsightly or unsanitary matter—Prohibited; nuisances.
Sec. 24-9. Same—Notice to property owner.
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Sec. 24-11. Violation; penalty.
Sec. 24-12. Nuisances outside city limits.
Sec. 24-13. Mosquito control—Certain collections of water prohibited unless treated.
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Sec. 24-15. Same—Evidence of mosquito breeding; failure to prevent breeding after notice.
Sec. 24-16. Same—Prevention of breeding by health officer.
Sec. 24-17. Same—Health officer's right of entry; violations.
Sec. 24-18. Spitting on sidewalk or floor of public building prohibited.
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Article II. Sanitary Standards for Public and Semipublic Swimming Pools

Sec. 24-44. Adoption of Texas Department of State Health Services Standards for Public Swimming Pools and Spas.
Sec. 24-45. Amendments.
Sec. 24-46. Definitions.
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Sec. 24-48. Inspections.
Sec. 24-49. Permits.

***State law references—**Health and sanitation nuisances, Texas Health and Safety Code § 341.011; municipal authority to regulate sanitation and abate nuisances, Texas Health and Safety Code § 342.001 et seq.; authority of city to regulate the cleaning of a building, establishment or ground from filth, carrion or other impure or unwholesome matter, Texas Health and Safety Code § 342.003.

ARTICLE I. IN GENERAL

Sec. 24-1. Nuisances generally—What constitutes.

Whatever is dangerous to human life or health, or whatever renders the ground, the water, the air or food a hazard or injury to human life or health or that is offensive to the senses or that is, or threatens to become, detrimental to the public health, is hereby declared to be a nuisance and prohibited and made unlawful.
(Code 1961, § 12-1; Ord. of 6-23-1953, § 2)

Sec. 24-2. Same—Duty to abate.

It shall be the duty of the owner, or the owners agent, or the occupant or his agent, of any lot, building, premises or place of any kind within the city where any nuisance may exist to remove, abate or destroy the same without delay.
(Code 1961, § 12-2; Ord. of 6-23-1953, § 8)

Sec. 24-3. Same—Liabilities for existence on rented premises.

Whenever a nuisance is found to exist on rented premises, the owner, or the owners agent, and the occupant may each be liable for its existence and, upon conviction, punished as provided in section 24-4.
(Code 1961, § 12-3; Ord. of 6-23-1953, § 8)

Sec. 24-4. Same—Penalty; abatement by court order.

Any person who shall, within the corporate limits of the city, commit, cause, create, permit, keep or otherwise maintain a nuisance shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in section 1-5. Whenever it shall appear to the court trying the case that the nuisance continues at the time of conviction, the court shall order and adjudge the removal, abatement or destruction of the nuisance, as the case may require, and shall issue a separate warrant therefor. The court shall inquire into the probable costs of such removal, abatement or destruction and shall tax the costs thereof against the defendant as costs in the case.
(Code 1961, § 12-4; Ord. of 6-23-1953, §§ 9, 10)

Sec. 24-5. Odor nuisances—Generally.

Any unreasonably noxious, unpleasant or strong odor, which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is prohibited. Any odor, stench or smell of such character,

strength and continued duration which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities is hereby declared to be a nuisance and is prohibited.
(Code 1961, § 12-5; Ord. of 6-23-1953, § 4)

Sec. 24-6. Same—Enumerated.

The following things are, among others, declared to be offensive odors and odor nuisances in violation of section 24-5, but the enumeration shall not be deemed to be exclusive:

(1) *Animal and chicken lots or pens.* Offensive odors from horse, cow or hog lots or pens or chicken yards or enclosures, or other similar places where animals are kept, which have become offensive from use, or which shall disturb the comfort and repose of persons of ordinary sensibilities.

(2) *Privies.*

a. Maintaining a privy upon private property where a public sewer is within 150 feet from any side of the lot or premises and where a water line is adjacent to or across the street from the property;

b. Privies not coming within subsection (1) of this section, which produce offensive odors, which have become dilapidated, out of repair, or the contents whereof are exposed to public view or discharged into any public street, alley or gutter or upon the private property of another.

(3) *Smoke.* Offensive odors from smoke from the burning of rubbish, trash, rubber, chemical substances or other things or substances.

(4) *Laundry discharge.* The discharge of waste water from any laundry, dry cleaning, launderette or similar establishment into the storm sewers of the city, which discharge gives off offensive, obnoxious, unpleasant or strong odor.

(5) *Cellars, vaults, etc.* All cellars, vaults, drains, pools, privies, sewers, yards, grounds or premises which, from any cause, become foul, nauseous, offensive or injurious to health, or unpleasant to adjacent residents or to persons passing by.

(6) *Chemicals.* Offensive odors from the use or possession of chemicals or from industrial processes or activities which shall disturb the comfort and repose of persons of ordinary sensibilities.

(7) *Dead animals.* The failure of the owner or possessor of any animal which shall die within the corporate limits of the city, or the failure of the owner or possessor of any premises upon which any animal may die within the corporate limits of the city, to remove or have the carcass of the same removed within 24 hours after the death of the animal.

(Code 1961, § 12-6; Ord. of 6-23-1953, § 4)

Sec. 24-7. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings herein set forth, except where the context clearly indicates a different meaning:

Brush means scrub vegetation and decaying remains of said vegetation.

Code enforcement officer means any city employee designated by the city manager or designee, to enforce the provisions of this chapter.

Nonaesthetic trees means a woody perennial plant having a single, usually elongated main stem less than six inches in diameter.

Weeds means herbage in excess of 12 inches tall.
(Code 1961, § 12-6.1; Ord. No. 68-86, § 1, 3-10-1986)

Sec. 24-8. Stagnant water, rubbish, weeds, nonaesthetic trees, dilapidated buildings and other objectionable, unsightly or unsanitary matter—Prohibited; nuisances.

It shall be unlawful for any person or corporation or other business entity owning or occupying any real property inside the corporate limits of the city to allow stagnant water to stand on the property or any part thereof; to fail to clean any house, building, establishment, lot, yard or ground within the city limits from filth, carrion or any other impure or unwholesome matter of any kind; to fail to keep any lot within the said city free from weeds, rubbish, brush, nonaesthetic trees, and any other objectionable, unsightly or unsanitary matter of whatever nature; or to allow to remain on property within the corporate limits of the city any dilapidated building, whether used or occupied or not, which is or could be a fire hazard. All of such conditions are hereby deemed to be nuisances per se.
(Code 1961, § 12-7; Ord. No. 44-59, § 1, 8-11-1959; Ord. No. 131-80, § 1, 5-12-1980; Ord. No. 68-86, § 1, 3-10-1986)

Sec. 24-9. Same—Notice to property owner.

Complaints alleging violations of section 24-8 shall be received and processed or may be initiated by code enforcement officers of the building official's office within the department of public works of the city. An inspection shall be made by code enforcement officers to determine whether or not a probable violation exists. Where it appears after such inspection that there is a violation, the notice of said violation shall be given to the owner or occupant in charge as follows: notice in writing personally served; or notice by letter addressed to such owner at the owners post office address; or notice by publication two times within ten consecutive days in a newspaper of general circulation in said city if personal service may not be had on the owner or occupant. The contents of such notice shall include:

(1) Date of notice;

(2) Directed to the owner, if known, and the owners address, if known, and if unknown, "to the owner of Lot _____, Block _____, _____ Addition to the City of Texarkana, Texas, and with a street address of _____ Street, Texarkana, Texas," or other proper description, so that the lot may be identified;

(3) Calling attention to the Code violations on the property;

(4) Stating the minimum requirements to correct the said violations;

(5) A statement that, if the proper action is not taken within ten days to correct the deficiency, or if a written application is not filed with the city council within the same ten-day period, the city may do such work or cause the same to be done and thereafter charge the expenses incurred in doing or having such work done, together with costs of newspaper publication, lien notices and administrative costs to the owner of each such property, and that the city shall have a lien on the property as provided by law;

(6) A statement that a complaint may be filed in municipal court in addition to any other action by the city if the violation is not corrected and if the appeal, where made, is not sustained by the city council; and

(7) The amount charged to the owner of the property for the expenses of newspaper publication, lien notices and administrative costs shall be as established by the city council from time to time, and is on file in the city secretary's office or city website.

(Code 1961, § 12-8; Ord. No. 44-59, § 2, 8-11-1959; Ord. No. 131-80, § 2, 5-12-1980; Ord. No. 292-80, § 1, 9-22-1980; Ord. No. 68-86, § 1, 3-10-1986)

Sec. 24-10. Unlawful conditions; removal by city.

(a) If any owner or occupant notified as provided in section 24-9 fails or refuses to meet the requirements of said notice within ten days after date of the service, or mailing or publication of said notice, and if no written appeal is received by the city council from said owner or occupant, the city manager or the director of public works or designee, may cause such work to be done and cause the city to pay therefor and charge the expenses incurred in doing or having such work done to the owner of such property as herein provided.

(b) The city manager or the director of public works or designee, shall have, in addition to the foregoing remedy, the power to cause the necessary work to be done at the expense of the city and to cause the said expense, and any administrative expense, to be assessed on the real estate, or lot upon which such expense is incurred. On filing with the county clerk of the county a statement of such expenses by the mayor or the city health officer of said city, the city shall have a privileged lien thereon second only to tax liens and liens for street improvements to secure the expenditures so made and ten percent on the amount from the date that payment was due. For any such expenditures and interest as aforesaid, suit may be instituted by the city

attorney, and foreclosure had in the name of the city; and the statements so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work or improvements, as is provided under state law.

(c) Prior to the filing of a lien as aforesaid, the director of finance or designee, shall cause a written notice to be sent by regular mail to the home or occupant of the land, providing a statement of charges of work done, and further providing a 60-day waiting period of delay in filing the said lien pending possible payment of the charges by the owner. If payment is not received within the 60-day period, the lien will be promptly filed. In cases wherein notification by publication has been necessary, the 60-day period of delay shall not be required.

(d) Any lien filed, as provided for in this section, shall include the following statement:

"The City of Texarkana, Texas, claims a lien, second only to tax liens and liens for street improvements against the above described property for the herein described work performed, as authorized by state law."

(e) No lien foreclosure suit shall be filed without the express authorization of the city council in each instance.

(f) If a written appeal is filed with the city, the city council, by the owner or occupant as provided for in section 24-9, further proceedings shall be stayed pending action by the city council.
(Code 1961, § 12-9; Ord. No. 44-59, §§ 3, 5, 6, 8-11-1959; Ord. No. 131-80, § 3, 5-12-1980; Ord. No. 292-80, § 2, 9-22-1980; Ord. No. 68-86, § 1, 3-10-1986)

Sec. 24-11. Violation; penalty.

Any owner or occupant of real property located within the corporate limits of the city, who violates the provisions of section 24-8 or section 24-10 shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the city, shall be punished as provided by this Code. It shall not be a defense to prosecution under this section that the city performed the work necessary to correct the noted deficiencies and violations, or that the city caused such work to be performed, as is provided for in section 24-10. Each day that a violation of the provisions of section 24-8 or section 24-10 exists shall constitute a separate offense. It shall be a defense to a violation of these sections that the person alleged to have committed a misdemeanor is neither the owner nor the occupant in charge of the property upon which the alleged violations exist.
(Code 1961, § 12-10; Ord. No. 44-59, §§ 4, 7, 8-11-1959; Ord. No. 131-80, § 4, 5-12-1980)

Sec. 24-12. Nuisances outside city limits.

It shall be unlawful for any person to create or maintain any nuisance, as defined in this Code or other ordinance of the city, outside the city limits for a distance of 5,000 feet.
(Code 1961, § 12-11; Ord. of 9-25-1951)

Sec. 24-13. Mosquito control—Certain collections of water prohibited unless treated.

It shall be unlawful for any person to have, keep, maintain or permit, within the limits of the city any collection of standing or flowing water in which mosquitoes breed, or are likely to breed, unless such collection of water is treated so as to effectually prevent such breeding. This section shall include, but not be limited to, ponds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, except horse troughs in frequent use, urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets or other similar water containers.
(Code 1961, § 12-12; Ord. of 6-11-1940, §§ 1, 2)

Sec. 24-14. Same—Method of treating collections of water.

The method of treatment of any collection of water that is specified in section 24-13 directed toward the prevention of the breeding of mosquitoes shall be approved by the accredited health officer and may be any one or more of the following:

(1) Screening with wire netting of at least 16 meshes each way or with any other material which will effectually prevent the ingress or egress of mosquitoes.

(2) Complete emptying every seven days of unscreened containers, together with their thorough drying or cleaning.

(3) Using a larvacide approved and applied under the direction of the health officer.

(4) Covering completely the surface of the water with kerosene, petroleum or paraffin oil once every seven days.

(5) Cleaning and keeping sufficiently free of vegetable growth and other obstructions, and stocking with mosquito-destroying fish.

(6) Filling or draining to the satisfaction of the health officer, the health officers agent or accredited representative.

(7) Proper disposal, by removal or destruction, of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water.

(Code 1961, § 12-13; Ord. of 6-11-1940, § 3)

Sec. 24-15. Same—Evidence of mosquito breeding; failure to prevent breeding after notice.

The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there, and failure to prevent such breeding within three days after notice by the health officer shall be deemed a violation of this Code.
(Code 1961, § 12-14; Ord. of 6-11-1940, § 4)

Sec. 24-16. Same—Prevention of breeding by health officer.

If any person responsible for conditions giving rise to the breeding of mosquitoes fails or refuses to take necessary measures to prevent the same, within three days after due notice has been given to the person, the health officer or the health officers authorized agent, is hereby authorized to do so, and all necessary costs incurred by a person for this purpose shall be a charge against the property owner or other person offending as the case may be.
(Code 1961, § 12-15; Ord. of 6-11-1940, § 5)

Sec. 24-17. Same—Health officer's right of entry; violations.

For the purpose of enforcing the provisions of sections 24-13 to 24-16, the health officer, or the health officers duly accredited agent acting under the health officers authority, may, at all reasonable times, enter in and upon the premises within the health officers jurisdiction. Any person charged with any of the duties imposed by sections 24-13 to 24-16 failing, within the time designated by such sections or within the time stated in the notice of the health officer, as the case may be, to perform such duties, or to carry out the necessary measures to the satisfaction of the health officer, shall be deemed guilty of a misdemeanor.
(Code 1961, § 12-16; Ord. of 6-11-1940, § 6)

Sec. 24-18. Spitting on sidewalk or floor of public building prohibited.

It shall be unlawful for any person to spit or expectorate on any sidewalk or on the floor of any public building within the city.
(Code 1961, § 12-17; Penal Code 1909, art. 57A)

Sec. 24-19. Use of 1080, sodium fluoroacetate, prohibited; permit of authority for use.

(a) The use and distribution or placing of 1080, otherwise known as sodium fluoroacetate, by any person, firm, or corporation, in any building or on any premises, or places within the corporate limits of the city, shall be unlawful, unless a permit of authority has been acquired from the Texarkana-Bowie County Health Department as hereinafter provided for.

(b) The use of 1080, sodium fluoroacetate, compound or drug shall be used or placed on such premises, and only by such persons, firms or corporations as may be designated in writing by a permit of authority for such use issued by the Texarkana-Bowie County Health Department.
(Code 1961, § 12-18; Ord. No. 34-66, § 1, 4-25-1966)

Sec. 24-20. Texas Clean Air Act adopted; enforcement.

All sections of the Texas Clean Air Act, as amended and as it may be revised (Texas Health and Safety Code § 382.001 et seq.), are hereby approved and adopted by the city and the city shall have and exercise the power to enforce said act as provided therein together with any rules

and regulations adopted by the state air control board. Nothing contained herein shall prohibit the city from enforcing any ordinances presently in force relating to the same or similar subject. The enforcement power contained in said act and hereby adopted shall be cumulative of other remedies the city may have for said violations.
(Code 1961, § 12-19; Ord. No. 147-69, § 1, 10-13-1969)

State law reference—Authority of municipality to enact and enforce ordinance for the control and abatement of air pollution, Texas Health and Safety Code § 382.113.

Secs. 24-21—24-43. Reserved.

ARTICLE II. SANITARY STANDARDS FOR PUBLIC AND SEMIPUBLIC SWIMMING POOLS*

Sec. 24-44. Adoption of Texas Department of State Health Services Standards for Public Swimming Pools and Spas.

The city hereby adopts by reference the provisions of the Texas Department of State Health Services Standards for Public Pools and Spas Texas Health and Safety Code § 341.064; Tex. Admin. Code §§ 265.181—265.208, "Standards for Public Pools and Spas," and Tex. Admin. Code §§ 265.301—265.308 "Public Interactive Water Features and Fountains," regarding the regulation of pools and spas, as said rules currently exist and as they may hereafter be amended by the state board of health, save and except such portions as are hereinafter amended by this article. Said rules are incorporated into this article and for all purposes are made a part hereof.
(Code 1961, § 12-45; Ord. No. 193-05, § 1(exh. A), 7-25-2005)

Sec. 24-45. Amendments.

The following amendments to the Texas Department of State Health Services Standards for Public Pools and Spas adopted by section 12-44 are hereby made and adopted, such amendments being set forth herein with reference to and prefaced by the section number of the Texas Department of State Health Services Standards for Public Swimming Pools and Spas:

Section 265.199(c)(2) of the said standards for public swimming pools and spas adopted by section 12-45 herein is hereby amended to read as follows:

Depth and unit markers on decks shall be slip-resistant tile, placed within 24 inches of the water's edge, and positioned to be read while standing on the deck facing the water.

***State law reference—**Authority of municipality to issue permits for, inspect, collect administrative fees, regulate, and close public swimming pools within the jurisdiction, Texas Health and Safety Code § 341.064.

Section 265.199(d)(2) of the said standards for public swimming pools and spas adopted by section 12-45 herein is hereby amended to read as follows:

Depth markers and any unit marker on decks shall be slip-resistant tile, placed within 24 inches of the water's edge, and positioned to be read while standing on the deck facing the water.

(Code 1961, § 12-46; Ord. No. 193-05, § 1(exh. A), 7-25-2005)

Sec. 24-46. Definitions.

For the purposes of this article the following words shall have the below-defined meanings, except where the context clearly indicates a different meaning:

Health officer means the city health officer of the city or the health officers designated representative.

Private residential pool means any swimming pool or wading pool situated on any premises as an appurtenance to a single-family dwelling for the use of the residents or guests of the residents of such dwelling.

Public pool means the following:

(1) Any swimming or wading pool owned or operated by the city or other public agency; or

(2) Any privately owned swimming pool or wading pool, which is open to the general public or a significant portion thereof, for a fee.

Semipublic pool means any swimming or wading pool serving a private club, motel, hotel, apartment, condominium, duplex, homeowners' association or other similar activity, the use of which is limited to member, or residents and their guests.

Spas and hot tubs means pools designed for recreational and therapeutic use and are shallow in depth and not meant for swimming or diving.

Swimming pool means any artificial structure or excavation more than 24 inches in depth, either indoors or outdoors used, or suitable to be used, for swimming, diving or other water recreational purposes.

Wading pool means an artificial pool, with a maximum depth of 24 inches, intended primarily for use by children.

(Code 1961, § 12-47; Ord. No. 193-05, § 1(exh. A), 7-25-2005)

Sec. 24-47. Scope.

The provisions of this article shall apply to spas and hot tubs, public or semipublic swimming or wading pools. The provisions of the article shall not apply to private residential pools, spas or hot tubs. Wherever in this article the term "pool" is used, it shall be deemed to refer only to public and semipublic pools, spas or hot tubs as herein defined.

(Code 1961, § 12-48; Ord. No. 193-05, § 1(exh. A), 7-25-2005)

Sec. 24-48. Inspections.

The health officer is authorized to conduct such inspections as are deemed necessary to ensure compliance with all provisions of this article and shall have right of entry to the swimming pool at any reasonable hour for this purpose.
(Code 1961, § 12-49; Ord. No. 193-05, § 1(exh. A), 7-25-2005)

Sec. 24-49. Permits.

(a) *Permits required.* No person shall operate or maintain a swimming pool or wading pool, unless the person has obtained a permit from the health officer to operate such pool. Such permit shall be valid for one-year from date of issue, unless otherwise revoked for cause. Only persons who comply with this article shall be entitled to receive and retain such a permit. Permits are not transferable.

(b) *Fees.* Fees (nonrefundable) to be charged for a permit, license or certificate shall be in amounts as established by the city council from time to time, and is on file in the city secretary's office or city website.

(c) *Revocation.*

(1) The health officer may revoke and/or withhold a permit issued, or to be issued, under the provisions of this article in case there has been any false statement or misrepresentation as to a material fact in the application upon which the permit was based or for any reason the swimming pool does not meet all the requirements of this article, or is found to be in violation of any other law or regulations.

(2) The swimming pool permit will be considered revoked when a written notice from the health officer containing reasons for revocation is presented to the property owner, or the owners agent or the person in charge or the owners agent, stating any violation of this article or any local or state law. The written notice may be delivered in person by the health officer or sent by regular U.S. mail to the property owner, the person in charge or to the address where the violations occurred. In cases of minor infractions not constituting a serious health hazard, the health officer may issue a warning notice specifying the infraction noted and granting a reasonable time for correction of the infractions. The above notice provisions shall apply.

(3) If a permit is revoked, the permit holder must apply for a new permit as required by this article and must pay all fees required by this article.

(Code 1961, § 12-50; Ord. No. 193-05, § 1(exh. A), 7-25-2005; Ord. No. 012-09, § 1, 1-26-2009)

Chapter 25

RESERVED

Chapter 26

MOTOR VEHICLES AND TRAFFIC*

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***State law references**—Rules of the Road, Texas Transportation Code § 541.001 et seq.; powers of local authorities regarding regulation of traffic, Texas Transportation Code § 542.202 et seq.; limitations on local authorities, Texas Transportation Code § 542.203.

ARTICLE I. IN GENERAL

Sec. 26-1. Traffic register approval.

The city manager shall have the authority to approve the traffic register.

Sec. 26-2. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings herein ascribed to them:

Alley means any street of 20 feet or less in width having no legal or official name other than alley.

Bus zone means that portion of the street set aside, by authorized and appropriate markings, pursuant to authority from the city council, for the exclusive use of buses operating under franchise granted by the city, for the loading and unloading of passengers.

Crosswalk means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway. The term "crosswalk" also includes any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Curb means the lateral boundary between that portion of the street set aside exclusively for pedestrians and commonly called sidewalks and that portion of the street set aside and used for vehicular traffic, whether marked by a curbstone or not.

Driver or *operator* means every person who drives or is in actual physical control of a vehicle.

Driveway means entrances to and exits from private premises not open for the use of the public for vehicle travel, except by the permission of the owner.

Intersection means the area embraced within the prolongation or connection of the lateral curblines of the roadways of two streets or highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets or highways joining at any other angle may come in conflict.

Limit lines means boundaries of parking areas, loading zones, safety or danger zones, crosswalks and lines marked for the purposes of excluding traffic and parking.

Owner means any person who holds the legal title of a vehicle or who has the legal right of possession or control thereof.

Pedestrian means any person afoot.

Roadway means that part of a street or highway for the use of vehicles.

Safety zone means that part of a roadway from which vehicles, unless confined to, are excluded.

Sidewalk means that part of the street or highway for the use of pedestrians, between the curbline and property line.

Street or *highway* means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Traffic means pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together, while using any street or highway for the purpose of travel.

Traffic control device means any sign, signal, marking or device placed or erected for the purpose of regulating, warning or guiding traffic.

Traffic control signal means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Traffic sign means any block, sign or obstruction placed at the intersection of streets to indicate the point where traffic should move, any safety zone sign or marker, reserved or no parking sign, and any other sign, marker or instrumentality used for the purpose of regulating and directing traffic.
(Code 1961, § 13-1; Ord. of 11-21-1924, § 1; Ord. of 5-12-1931, § 2; Ord. of 11-13-1941, § 1; Ord. of 2-10-1942, § 1; Ord. of 7-24-1951, § 1; Ord. of 7-28-1953, § 2; Ord. of 2-23-1954, § 4; Ord. of 4-27-1954, § 2; Ord. of 9-15-1954, § 2; Ord. No. 41-57, § 1, 6-11-1957; Ord. No. 44-57, § 2, 6-25-1957; Ord. No. 5-58, § 3, 2-11-1958; Ord. No. 45-58, § 3, 6-24-1958; Ord. No. 27-59, § 5, 4-28-1959; Ord. No. 28-59, § 5, 4-28-1959; Ord. No. 51-60, § 4, 7-12-1960)

Sec. 26-3. Diversion of traffic.

Traffic in the city may be diverted by police officers and by temporary signs and barricades placed under the direction of the chief of police.
(Code 1961, § 13-5; Ord. of 11-21-1924, § 3)

Sec. 26-4. Repairing, washing, etc., vehicles on streets or sidewalks.

It shall be unlawful for any person to use any part of any sidewalk, street or alley within the city for the purpose of repairing, washing or greasing any automobile or other vehicle.
(Code 1961, § 13-9; Ord. of 5-12-1927, § 1)

Sec. 26-5. Displaying vehicles for sale on streets or sidewalks.

It shall be unlawful for any person to place any new or secondhand automobile or other motor vehicles on any sidewalk, street or alley of the city for the purpose of displaying the same for sale.
(Code 1961, § 13-10; Ord. of 5-12-1927, § 3)

Sec. 26-6. Prohibited routes for commercial vehicles.

(a) The term "commercial motor vehicle" means a motor vehicle, except a school bus, the operator of which is required to possess a Class A or B state driver's license in accordance with state law.

(b) A person commits an offense if the person drives or operates a commercial motor vehicle upon a public street in a residential area or a public street listed below:

(1) Robin Lane between Richmond Road and Moores Lane.

(2) West 52nd Street between State Line/I-30 ROW and Elizabeth Street.

(3) Elizabeth Street between Texas Boulevard and West 52nd Street.

(4) West 40th Street between Texas Boulevard and Summerhill Road.

(5) Kennedy Lane between Summerhill Road and Richmond Road.

(6) College Drive (W. 33rd) between State Line Avenue and Belt Road.

(7) Belt Road between Richmond Road and Old Boston Road.

(8) Old Boston Road between New Boston Road and Robison Road.

(9) Tucker Street between Robison Road and Wheeler Street.

(10) Jamison Street between South Lake Drive and Robison Road.

(11) Findley Street between South Lake Drive and West city limits.

(12) Garber Street between South Lake Drive and Allen Lane.

(13) Norris Cooley Drive between Allen Lane and Robison Road.

(14) Flower Acres Road between South Lake Drive and Bender Road.

(15) Bender Road between Flower Acres Road and city limits.

(16) Beechwood Road between Flower Acres Road and Leopard Drive.

Note: The term "residential area," as used in this section, is defined to mean any area where family dwelling units, homes and apartments prevail in such neighborhood or area, and where there is no commercial or industrial establishment located in the area that regularly uses such vehicles in its normal and usual course of business.

(c) It is an affirmative defense to any prosecution hereunder if such vehicle was being driven or operated to or from the place of employment of the driver or to fulfill a local commercial obligation to a buyer or seller at a given destination, evidenced by a bill of sale or invoice, and

the route taken was the only route along such public street in a residential area or such street listed above or if the driver or operator of the vehicle obtained a permit as described in section 105-294(a) and (b).
(Code 1961, § 13-25; Ord. No. 341-88, § 1, 11-14-1988; Ord. No. 401-95, § 1, 11-13-1995; Ord. No. 104-2012, § 1, 7-30-2012)

Sec. 26-7. Driving through or passing funeral procession.

It shall be unlawful for the driver of any vehicle to drive through a funeral procession or to pass, in either direction, such a procession, unless otherwise directed by a police officer. This section shall not apply to authorized emergency vehicles being operated as such.
(Code 1961, § 13-40; Ord. of 11-21-1924, § 10)

Sec. 26-8. Speed regulations on US 67; registration standard; signage; penalties.

(a) The following prescribed section of US 67 is regulated as to the speed of motor vehicles traveling thereon in the direction indicated, and it shall be unlawful for the driver of any motor vehicle to drive said vehicle within said section in the direction stated at a speed in excess of the following:

(1) For traffic traveling west on US 67.

a. Forty miles per hour from the intersection of US 71 (MP 0.000 Cont. 0010-13) west for a distance of 1.771 miles, to a point 471.5 feet west of TNER Railroad (MP 1.771 Cont. 0010-13).

b. Forty-five miles per hour from a point 471.5 feet west of TNER Railroad (MP 1.771 Cont. 0010-13) west for a distance of 2.129 miles, to a point 380 feet west of Memorial Drive (MP 3.900 Cont. 0010-13).

c. Fifty miles per hour from a point 380 feet west of Memorial Drive (MP 3.900 Cont. 0010-13) west for a distance of 0.618 miles to a point 1,000 feet east of FM 989 (MP 4.518 Cont. 0010-13) said point being the West City Limits of Texarkana, TX., and also being the point of termination.

(2) For traffic traveling east on US 67.

a. Fifty miles per hour from the West City Limits of Texarkana, TX., also being 1,000 feet east of FM 989 (4.518 Cont. 0010-13) east for a distance of 0.618 miles to a point 380 feet west of Memorial Drive (MP 3.900 Cont. 0010-13).

b. Forty-five miles per hour from a point 380 feet west of Memorial Drive (MP 3.900 Cont. 0010-13) east for a distance of 2.129 miles to a point 471.5 feet west TNER Railroad (MP 1.771 Cont. 0010-13).

c. Forty miles per hour from a point 471.5 feet west TNER Railroad (MP 1.771 Cont. 0010-13) east for a distance of 1.771 miles to the intersection of US 71 (MP 0.000 Cont. 0010-13) said point being the point of termination.

(b) That the hereinabove speeds for vehicular traffic traveling upon the hereinabove designated section of US 67 the direction herein specified be and they are hereby found to be reasonable and safe prima facie speed limits therefore. The fact that this regulation of the speed of motor vehicles is needed, creates an emergency which is for the immediate preservation of public safety and general welfare, requires that this chapter take effect immediately from and after its passage and it is accordingly so ordained and registered in the city's traffic register.

(c) That the state department of transportation is authorized to erect signs indicating the speed limits herein designated.

(d) That any person violating any provisions of this chapter shall upon conviction be deemed guilty of a misdemeanor and shall be fined in a sum not to exceed $200.00.
(Ord. No. 2015-003, §§ 1—4, 1-26-2015)

Secs. 26-9—26-32. Reserved.

ARTICLE II. STOPPING, STANDING AND PARKING*

Sec. 26-33. Controls and limitations on authority of traffic engineer.

The traffic engineer is given authority to make determinations and/or establish traffic control devices based upon an engineering and traffic study and shall be limited by the provisions of the state Manual on Uniform Traffic Control Devices or as otherwise provided by law.
(Code 1961, § 13-87.1; Ord. No. 54-81, § 3, 3-23-1981)

Sec. 26-34. Duties and authority of traffic engineer.

Whenever and wherever the congestion of traffic, the frequency of the passage of vehicles or pedestrians, or both, the direction and volume of the flow of traffic, the dimensions and conditions of the streets and sidewalks, or the use of property abutting the streets are such that the traffic engineer finds it to be necessary for the free flow and the expeditious handling of traffic and safety of persons and property, the traffic engineer, in accordance with this chapter is authorized as follows:

(1) To designate and maintain crosswalks;

(2) To establish safety zones on any of the streets of the city;

***State law reference—**Authority of city to regulate standing and parking of vehicles, Texas Transportation Code § 542.202(a)(2).

(3) To mark lanes for traffic and parking stalls on the streets of the city;

(4) To designate the locations at which the making of right, left or complete turns at any intersection of streets in the city is prohibited;

(5) To designate the course to be traveled by vehicles turning at or near certain intersections;

(6) To designate routes directing traffic near public or private schools, parks and public buildings;

(7) To designate areas on the streets of the city which shall not be used as spaces for the parking of vehicles;

(8) To designate areas on the streets of the city where angle parking may be permitted;

(9) To designate intersections of streets which drivers operating vehicles approaching the intersection on one or more of the intersecting streets must bring such vehicle to a complete stop before proceeding into such intersection;

(10) To designate intersections, the crossing of which shall be controlled by red, green or amber lights or traffic control devices to be installed at each intersection;

(11) To designate the routes which shall be followed by single-unit trucks with tandem axles or truck-trailer and semitrailer combinations, in using the streets of the city, provided, that no such vehicle shall be prohibited from using any street for the purpose of going directly to or from any residential, commercial or industrial establishment abutting on such street for the purpose of delivering or picking up materials thereat in the regular course of business;

(12) To make such changes as changing conditions may require in any designation, determination or regulation the traffic engineer is authorized to make under this section;

(13) To designate streets on which the operation of bicycles shall be prohibited at all times;

(14) To designate streets on which the operation of bicycles shall be prohibited during specific hours of the day;

(15) To designate and mark appropriately, those traffic lanes on multilane streets to be used only by vehicles engaging in left turn movements;

(16) To designate areas to be used for the parking of vehicles in public parks, public playgrounds and off-street parking lots which are owned, operated or maintained by the city;

(17) To determine locations for the prohibition of right turns on red signals at intersections controlled by traffic control devices;

(18) To designate locations for time-limit parking and for handicapped parking; and

(19) To designate and determine locations for commercial vehicle and bus loading zones.
(Code 1961, § 13-87.2; Ord. No. 54-81, § 3, 3-23-1981; Ord. No. 30-82, § 1, 2-8-1982; Ord. No. 289-91, § 1, 8-26-1991)

Sec. 26-35. Traffic control register; generally.

(a) The public record, which shall be called the traffic control register, shall contain a record of every specific location in the city where any traffic control device, marking or special regulation is deemed necessary and installed.

(b) The city council finds that the conditions prerequisite to the establishment of all special traffic regulations prescribed in this chapter, and the installation of all traffic control devices, signs, signals and markings evidenced by the record thereof in the traffic register, exist and such findings are hereby confirmed and such regulations shall continue in operation until modified as provided by the city secretary as provided in this chapter, and all persons shall be charged with notice of the contents of the same.
(Code 1961, § 13-87.4; Ord. No. 54-81, § 3, 3-23-1981)

Sec. 26-36. Recording of traffic regulations established by the city council.

Whenever the city council shall, by ordinance or resolution, make any special regulations of traffic applicable to a specific location, the record of such location shall be dated, authenticated and placed in the traffic control register of the city secretary.
(Code 1961, § 13-87.5; Ord. No. 54-81, § 3, 3-23-1981)

Sec. 26-37. Established administratively.

Whenever the city manager shall approve, in writing, and shall file with the city secretary any written determination, designation, finding or conclusion of the traffic engineer, pursuant to the authority granted in this chapter, the same shall become a record of the specific location at which a traffic control device, marking or special regulation of traffic is hereby made applicable and the same shall be dated, authenticated and placed in the traffic control register by the city secretary.
(Code 1961, § 13-87.6; Ord. No. 54-81, § 3, 3-23-1981)

Sec. 26-38. Marking of deletions.

Whenever any special regulation of traffic becomes expressly not applicable to a specific location in the city, as determined by the traffic engineer in writing, the record of such location shall remain in the traffic control register, but shall be prominently marked "deleted" by the city secretary who shall also note the dates of such deletion and the authority therefor.
(Code 1961, § 13-87.7; Ord. No. 54-81, § 3, 3-23-1981)

Sec. 26-39. Observance of lines or markings when parking.

Whenever parking is permitted in the city, the vehicle so parked shall be parked within the lines or markings established on the street for such parking space, whether parallel or angle.
(Code 1961, § 13-90; Ord. of 2-10-1942, § 8)

Sec. 26-40. Parking prohibited in alleys; exceptions.

It shall be unlawful for any person to park any vehicle in any alley, except for the purpose of loading or unloading merchandise to and from business concerns in such alley, and which shall be in such manner as to leave the alley free for the passage of other vehicles.
(Code 1961, § 13-92; Ord. of 5-12-1931, § 1; Ord. of 2-10-1942, § 6; Ord. of 8-10-1954, § 5)

Sec. 26-41. Parking of noncommercial vehicles prohibited.

It shall be unlawful for any person to park a noncommercial vehicle in an area designated as a loading zone in the city.
(Code 1961, § 13-104; Ord. No. 38-59, § 1, 7-28-1959)

Sec. 26-42. Parking prohibited.

No person shall stop, stand or park a vehicle, other than buses for the pickup and discharge of the passengers for hire, in any location designated in this chapter as a bus stop and marked as directed in this chapter.
(Code 1961, § 13-106; Ord. No. 316-84, § 1, 11-26-1984)

Sec. 26-43. Certain vehicles not to be parked on city streets or rights-of-way.

(a) No person shall park or suffer to be parked on the public streets or rights-of-way of streets any vehicle over the size of one ton, except for the purpose of loading or unloading cargo, merchandise, or articles from such vehicle.

(b) Vehicles of over one ton size are such vehicles as defined by the Texas Transportation Code for registration purposes and include, but are not limited to, commercial motor vehicles, road tractors, semitrailers, trailers and truck-tractors.
(Code 1961, § 13-107; Ord. No. 45-58, §§ 1, 2, 4, 6-24-1958; Ord. No. 134-99, § 1, 4-26-1999)

Sec. 26-44. Parking in municipal parking areas.

(a) It shall be unlawful for any person, other than an employee or a public official of the city, to park a motor vehicle in an area designated as a municipal parking area. The city council may, by minute or order, designate portions of municipally owned property as municipal parking areas. Upon designation of a municipal parking area by the city council, signs shall be erected at each entrance to the area which signs shall reflect the parking restrictions within the area.

(b) It shall be unlawful for any person other than an authorized employee of the agencies housed in the Bi-State Justice Center to park a motor vehicle in the basement parking area of the Bi-State Justice Center.
(Code 1961, § 13-108.1; Ord. No. 121-75, § 1, 6-9-1975; Ord. No. 287-94, § 1, 9-26-1994)

Sec. 26-45. Signs to indicate parking prohibitions, restrictions, etc.

The city engineer shall post or paint and maintain appropriate signs, curb and street markings and the like so as to indicate the parking restrictions, limitations or prohibitions imposed by sections of this Code and the traffic register and no person shall be convicted of a violation of such sections in the absence of such signs or markings.
(Code 1961, § 13-109; Ord. of 11-24-1953, § 4; Ord. of 5-8-1956, § 4; Ord. No. 44-57, § 5, 6-25-1957; Ord. No. 7-59, § 5, 2-24-1959; Ord. No. 52-60, § 5, 6-12-1960)

Secs. 26-46—26-63. Reserved.

ARTICLE III. PRIVATE PROPERTY

Sec. 26-64. Certain vehicular use on private property prohibited.

(a) *Unlawful.* It is unlawful for any person to operate a vehicle upon the private property of another in areas not normally open for vehicular use without the written consent of the owner or authorized agent. Vehicles under this section include, but are not limited to, all-terrain vehicles (ATV), golf carts, utility vehicles, motorcycles, dirt bikes and similar motor-driven vehicles.

(b) *Exceptions.* This section shall not apply to the owner, the owners immediate family members, employees, tenants or authorized agents or emergency vehicles.

(c) *Signs.* Signs prohibiting vehicular use may be posted on private property. The posting of any such sign constitutes prima facie evidence that the owner has not consented to the operation of vehicles upon the private property. Such signs shall be the sole responsibility and expense of the owner. The signs shall read, "Vehicular Use Prohibited, City of Texarkana, Texas; Chapter 13-145." and must be a minimum of 18 inches by 18 inches or a maximum of 36 inches by 36 inches on a white background with three-inch high letters in order to constitute prima facie evidence of the lack of consent as provided in this section.
(Code 1961, § 13-145; Ord. No. 039-2012, § 1, 3-26-2012)

Chapter 27

RESERVED

Chapter 28

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Sec. 28-242. Sound amplification systems in vehicles.
Sec. 28-243. Spinning of automobile tires.
Sec. 28-244. Engine compression braking.

ARTICLE I. IN GENERAL

Sec. 28-1. Advertisements, handbills, etc.

(a) The printing, pasting, stitching or placing of any advertisement, handbill or placard or any printed, pictured or written matter upon any house, wall, building, fence or other private property without the permission of the owner or person in charge thereof is hereby prohibited.

(b) All advertising of any form, whether temporary or permanent, is hereby prohibited on all streets, sidewalks, rights-of-way, easements, parks or any other public property within the corporate limits of the city; provided, however, that the city council may, after hearing, grant to civic organizations the privilege of placing private advertising on public property when said advertising is done in connection with projects beneficial to the public interest. The city council may require the removal of said advertising at any time that it becomes destroyed, unsightly, deteriorated or in bad taste.

(c) Any such advertisement not in compliance with this section which is not removed by the owner or person in charge thereof shall be removed by the proper city officials and disposed of.
(Code 1961, § 15-2; Ord. of 6-23-1953, § 7; Ord. No. 39-70, § 1, 3-9-1970; Ord. No. 121-71, § 1, 6-28-1971; Ord. No. 49-98, § 1, 3-9-1998)

Sec. 28-2. Bicycles—Bell and light required; use of bell.

All bicycles ridden within the city shall be equipped with a bell or horn by day and it shall be unlawful for any person to ride any bicycle not so equipped. It shall be the duty of every bicycle rider to ring the bell or sound the horn upon approaching a pedestrian and street and alley corners.
(Code 1961, § 15-3; Penal Code 1909, art. 27)

Sec. 28-3. Same—Riding on sidewalks prohibited.

It shall be unlawful for any person to ride a bicycle on or across any sidewalk within the city's Central Business District.
(Code 1961, § 15-4; Penal Code 1909, art. 28)

Sec. 28-4. City employees—Unauthorized direction of, interference with, etc.

(a) Any person not an elected or appointed official of the city, who shall direct, control or interfere with, or attempt to direct, control or interfere with, any city employee while in the performance of city employees duties or performing duties of his job or position of the city shall be guilty of a misdemeanor.

(b) The term "city employee," as used in this section, is defined to mean any employee of the city in any department, who receives compensation for any employee labor or services from the city and who is listed on the payroll of the city as a full-time or part-time employee, and who

works under and receives orders and directions from, through or under either an elected or appointed official of the city. The term "elected or appointed official" means those officers of the city whose offices are created and defined by either the city charter or ordinances of the city.
(Code 1961, § 15-5; Ord. of 8-11-1953, §§ 1, 2)

Sec. 28-5. Excavations on unenclosed premises; barricades and signals required.

It shall be the duty of every person making any excavation in and upon any unenclosed premises, public or private, to place and maintain upon, over and around the same sufficient signals and barricades to warn approaching persons and animals and to protect persons, their animals and other property from injury.
(Code 1961, § 15-9; Penal Code 1909, art. 49, § 1)

Sec. 28-6. Firearms, air guns and dangerous toys.

(a) The discharge of any firearm or air gun at any time within the corporate limits of the city is hereby prohibited, except that which is necessary and lawful for the protection of one's person, premises or property.

(b) Air guns may not be carried or possessed by a person under 18 years of age on public property or on private property without the consent of the property owner.

(c) Toy guns, air guns, replica firearms, any look-alike firearm, or any toy weapon cannot be used, displayed or presented in a manner that is intended to or would likely cause any person to be alarmed, intimidated, or threatened.

(d) This section shall not apply to a shooting gallery, gunsmith establishment or an authorized indoor pistol and rifle range, when the same is properly fitted and arranged for the purpose of discharging firearms so that no danger arises therefrom.
(Code 1961, § 15-13; Ord. of 6-23-1953, § 3; Ord. No. 126-85, § 1, 4-8-1985)

Sec. 28-7. Fireworks; prohibition from sale, use or possession; exceptions; permit for supervised display; penalty.

(a) *Definitions.* For the purposes of this section the words and phrases below shall have the following meanings, except where the context clearly indicates a different meaning:

Chief means the fire chief of the city fire department or designee.

Discharge site means the area immediately surrounding the fireworks mortars used for an outdoor public fireworks display.

Display site means the immediate area where a public fireworks display is conducted, including the discharge site, the designated area in which hazardous debris is intended to fall after fireworks are fired, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or the vehicle parking areas.

Fireworks means a composition or device that is:

(1) Designated for entertainment to produce a visible or audible effect by combustion, explosion, deflagration or detonation; and

(2) Defined by 49 CFR 173.56(j) (1996).

Fireworks 1.3G means a large fireworks device which is:

(1) Primarily designed to produce visible or audible effects by combustion, deflagration or detonation; and

(2) Classified as a 1.3G explosive by the U.S. Department of Transportation in 49 CFR part 173 (1996).

Fireworks 1.4G means a small fireworks device which:

(1) Is primarily designed to produce visible or audible effects by combustion, deflagration or detonation;

(2) Complies with the construction, labeling, and chemical composition requirements of the U.S. Consumer Product Safety Commission in 16 CFR part 1507 (1996), or the most recently adopted version of that rule; and

(3) Is classified by the U.S. Department of Transportation in 49 CFR part 173 (1996).

Flame effects means a stationary or hand-held device of solid, liquid or gas, designated specifically to produce an open flame when ignited to display a thermal, physical, visual or audible phenomenon as defined in NFPA Standard 160. Such devices include paraffin wax candles, LPG candles, torches and LPG burners.

Local permit means the permit which is issued by the chief upon application for and compliance with all requirements under this section.

Public display or *display* means the igniting of fireworks 1.3G or fireworks 1.4G for public or private amusement.

Pyrotechnic means an explosive composition or device designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration or detonation as defined by NFPA Standard 1126.

Pyrotechnic operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging and supervising public displays of fireworks 1.3G or fireworks 1.4G.

Sponsor means the organization (person, group or agency) that arranges with a duly authorized fireworks supplier for its services in presenting a fireworks display or in providing fireworks for use in a display.

Working day means a Monday, Tuesday, Wednesday, Thursday or Friday, unless one of those days is a city holiday in which case it will not be considered a working day for the purposes of this section.

(b) *Fireworks prohibited generally.* It shall be unlawful for any person to give away, sell, offer or expose for sale, or have in possession with intent to give away, sell or to use, discharge or cause to be discharged, ignited, fired, or otherwise set in action, or to possess with the intent to discharge or cause to be discharged, ignited, fired or otherwise set in action within rockets, torpedoes, Roman candles, fire balloons or other fireworks or substances of any combination whatsoever designed or intended for pyrotechnic display, except as hereinafter provided.

(c) *Exceptions from prohibition.*

(1) Subsection (b) of this section shall not apply to handheld sparklers nor to the sale of any fireworks articles by wholesalers to each other, or to the sale of any such articles at wholesale to merchants conducting business entirely outside the city limits, or to the sale by wholesalers for private or public demonstrations as hereinafter provided, or to the storage of any such articles by such wholesalers for any of such purposes, or to the sale, storage or use of flashlight composition by photographers or dealers in photographic supplies, or to the sale, storage or use of blank cartridges for theatrical purposes or for signal purposes in athletic contests or sports events, or by any police organization or federal or state militia.

(2) Subsection (b) of this section shall not apply to a public retail fireworks business in existence at the time the location of the business is annexed, provided the business acquires a permit from the office of the fire marshal within 90 days from the date of annexation.

a. The permit to operate a public retail fireworks business shall expire three years from the date of issuance.

b. The public retail fireworks business shall be exempt from any and all other building, plumbing, and fire code provisions of this Code for the life of the permit.

(d) *Supervised displays; permit required; contents of application.* The chief is authorized to issue a local permit for the public display of fireworks upon the submission by a sponsor to the chief of a written application for such permit. An application requesting a local permit for a fireworks 1.4G public display must be submitted at least three working days in advance of the day of the proposed display. An application requesting a local permit for a fireworks 1.3G public display must be submitted at least ten working days in advance of the day of the proposed display. An application for a local permit for either a fireworks 1.4G or a fireworks 1.3G display shall include the following:

(1) The name of the organizing sponsor of the display and the name, address and phone number of the person who is authorized to submit the application on behalf of the sponsor;

(2) The date and time of day at which the display is to be held, including any alternate dates and/or times;

(3) The exact location planned for the display;

(4) The name, address, phone number and license number of the pyrotechnic operator responsible for discharging and supervising the display;

(5) The number, classification type and size of fireworks to be discharged;

(6) The manner and place of storage of such fireworks prior to the display, including the length of time that fireworks will be on site;

(7) The date and times proposed for set-up of said fireworks prior to the display; and

(8) A diagram of the grounds on which the display is to be held indicating:

a. The point at which the fireworks are to be discharged;

b. The location and distance from the point of discharge of all buildings, highways, utilities or other overhead obstructions, and trees located within a 600-foot radius from the point of discharge; and

c. The location and method of spectator restraint; provided, however, that consideration of the location of buildings, highways, utilities or other overhead obstructions, and trees beyond a 600-foot radius may, in the sole discretion of the chief, be given so as to require a showing of their location, depending on the character of the display site and the size of the fireworks to be discharged.

(e) *Supervised displays, general conditions applicable to all displays.* All public displays of fireworks for public or private amusement permitted under this section shall be subject to the following general conditions:

(1) The chief shall have the right to be present at the discharge of any public display of fireworks for which a local permit has been issued hereunder and shall have the right to cause the same to be stopped, unless it is conducted in strict accordance with the statements made in the application for the permit and the general conditions of this section.

(2) The chief shall have the right to require or provide any degree of fire protection deemed necessary for the safety of spectators or property in the area of the display.

(3) All public displays of fireworks permitted under this section shall be conducted in accordance with Texas Occupations Code ch. 2154, and the version of the International Fire Code most recently adopted by reference in this Code. In the event of a conflict between these standards, the more restrictive standard shall apply.

(4) Displays of both fireworks 1.3G and fireworks 1.4G permitted under this section shall be conducted by a licensed pyrotechnic operator as defined in the Texas Occupation Code ch. 2154.

(5) This section shall apply only to outdoor displays of fireworks. Display of fireworks before a proximate audience or flame effects displays shall be permitted in accordance with the version of the International Fire Code most recently adopted by reference in this Code and the Texas Occupations Code ch. 2154.

(f) *Supervised displays, issuance of permit.* The chief shall consider the application, inspect the location of the proposed display and determine whether the proposed display will be unduly hazardous to property or persons. If, after proper consideration and inspection, the chief determines that the proposed display complies with the applicable standards and general conditions, the chief shall issue a local permit for the proposed display.

(g) *Penalty for violation.* Any person violating any provisions of subsections (b) or (c) of this section shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the city, shall be fined not more than $200.00. Any person violating any provisions of subsection (d) of this section shall be deemed guilty of a misdemeanor and upon conviction in the municipal court of the city, shall be fined not more than $500.00. If any violation of this section is also a violation of the fire code, the offense may be prosecuted as a fire code violation with the applicable penalties under section 18-10.
(Code 1961, § 15-13.1; Ord. No. 220-76, § 1, 12-13-1976; Ord. No. 167-92, § 1, 6-8-1992; Ord. No. 090-07, § 1, 4-23-2007)

State law references—State law does not preempt municipal authority to prohibit or regulate use of fireworks, Texas Occupations Code § 2154.004; regulation of fireworks and fireworks displays, Texas Occupations Code § 2154.001 et seq.; fireworks use, displays and regulations, 28 Tex. Admin. Code § 34.800 et seq.

Sec. 28-8. Hunting wild game prohibited; using steel traps prohibited.

(a) *Generally.* It shall be unlawful for any person within the corporate limits either on public or private property to do any of the following acts:

(1) To knowingly shoot, kill or hunt any wild game.

(2) To set a trap or to trap any animal by the use of a steel-jawed spring trap or any other type of trap that would be injurious to the animal or person; provided, however, that this provision shall not apply to the trapping of rodents by use of conventional means.

(b) *Exceptions.* The provisions of this section shall not apply to an animal control officer, or any other public safety officer, acting in their official capacity.

(c) *Penalty.* Any person found guilty of violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject to the fine as prescribed by law for Class C misdemeanors and that each day of any such violation shall be a separate offense.
(Code 1961, § 15-13.2; Ord. No. 326, §§ 1, 3, 10-14-1991)

Sec. 28-9. Display of material harmful to minors.

(a) For the purposes of this section, the following words shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

Material harmful to minors has the same meaning as given to harmful material in the Texas Penal Code § 43.24.

Minor mean an individual younger than 18 years of age.

Person means an individual, corporation, association or partnership.

(b) A person shall display material harmful to minors in a manner that prevents access to and viewing of the material by a minor. Such display shall include, but is not limited to, the following:

(1) Display of the material packaged within an opaque cover;

(2) Display of the material in a manner whereby it is accessible only with assistance of the displayer or the displayers employee; or

(3) Display in an area physically segregated from the rest of the establishment and designed to prohibit access to and view of the material by minors; by prominently posting at the entrance to such restricted area signage reading "Adults only—You must be 18 years of age to enter," and by enforcing such restrictions.

(c) It shall be an offense for a person to knowingly or intentionally fail to comply with subsection (b) of this section.
(Code 1961, § 15-14; Ord. No. 146-89, § 2, 6-12-1989)

Sec. 28-10. Loitering, prowling, etc., on property of another.

It shall be unlawful for any person to loiter, prowl, wander, idle or stroll, upon or about the private residence or premises of any resident or citizen of the city, unless given express permission by the occupant or owner of the residence or premises.
(Code 1961, § 15-16; Ord. of 9-22-1937, § 1)

Sec. 28-11. Sleeping in public places or on another's property.

It shall be unlawful for any person to sleep upon the sidewalks, streets, alleys or in any public place or public thoroughfare within the city, or upon the private property of another without the latter's permission.
(Code 1961, § 15-18; Ord. of 5-23-1953, § 7)

Secs. 28-12—28-40. Reserved.

ARTICLE II. SMOKING*

Sec. 28-41. Smoking prohibited in certain public areas.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

City-owned buildings are those buildings or facilities that are operated, owned or managed in part or whole by the city.

City-owned property is any real property, other than buildings or facilities defined as a city-owned building, that is maintained, managed, operated, or owned in whole or in part by the city.

Public service areas are those areas of a city-owned building that are generally accessible to the public (i.e., hallways and common areas).

(b) *Prohibition.* A person commits an offense if the person smokes or possesses a burning tobacco, weed or other plant product in any of the following indoor or enclosed areas:

(1) The city hall;

(2) The fire administrative offices;

(3) The living area and offices of the following city fire stations:

a. Central Fire Station;

b. Summerhill Fire Station;

c. Oaklawn Fire Station;

d. Lake Drive Fire Station;

e. Richmond Road Fire Station;

(4) The city public library;

***State law reference—**Smoking tobacco prohibited in certain public places, Texas Penal Code § 48.01.

(5) The Texarkana-Bowie County Family Health Center;

(6) The street division complex;

(7) The sign and signal division building;

(8) The fleet services facility;

(9) Southwest Recreation Center;

(10) Collins Memorial Building;

(11) Spring Lake Park Maintenance Building;

(12) Concession stands located in the following locations:

a. Swanger Complex;

b. Karrh Park;

c. Dobson Field;

(13) Perot Theatre;

(14) Perot Annex;

(15) Central Warehouse;

(16) The city water utility main office;

(17) New Boston Road Water Treatment Plant;

(18) Rollingwood Wastewater Treatment Plant;

(19) Wagner Creek Wastewater Treatment Plant;

(20) An elevator used by the public where posted "No Smoking;"

(21) A hospital where posted "No Smoking;"

(22) Any conference room, meeting room or public service area of any facility owned, operated or managed by the city where posted "No Smoking;"

(23) Any facility of a public primary or secondary school, or an enclosed theater, movie house, library or museum where posted "No Smoking."

(c) *Prohibition.* A person commits an offense if that person smokes or possesses a burning tobacco, weed or other plant product or if that person uses or expectorates any smokeless tobacco product, including chewing tobacco of any type, any kind of tobacco suitable for chewing, snuff or other preparations of pulverized tobacco, or any other article or product that is made of tobacco on any of the following city-owned buildings, facilities or property:

The Texarkana-Bowie County Family Health Center and the real property on which the Texarkana-Bowie County Family Health Center is located.

The city council has the authority to determine whether the above-mentioned areas of city-owned, operated, maintained, and managed buildings, facilities or property will be posted as a no smoking area or tobacco free zone. The sign to designate such no smoking area or tobacco free zone shall contain the words "No Smoking" or "Tobacco Free Zone" and the size and shape must be approved by the city council.

(d) *Defense.* It is a defense to prosecution under this section if the city-owned building, facility or property in or on which the offense takes place does not have prominently displayed a reasonably sized notice that smoking is prohibited or that the building, facility or property is a tobacco free zone. It is also a defense to prosecution under this section if the person is in possession of the burning tobacco product or smokes tobacco exclusively within an area designated for smoking tobacco or as a participant in an authorized theatrical performance.

(e) *Penalty.* Any person violating any provision of this section shall be deemed guilty or a misdemeanor and, upon conviction in the municipal court of the city, shall be fined not more than $200.00. Each day of any such violation shall be deemed a separate offense.
(Code 1961, § 15-20; Ord. No. 16-86, § 1, 1-13-1986; Ord. No. 1-94, § 1, 1-10-1994; Ord. No. 201-94, § 1, 7-11-1994; Ord. No. 225-2000, §§ 1—3, 8-14-2000; Ord. No. 280-2000, § 1, 9-15-2000)

Sec. 28-42. E-cigarette regulations.

(a) *Purpose.* The purpose of this section is to prohibit the sale to minors of e-cigarettes and liquid nicotine, both defined in section 28-43, within the city limits of the city.

(b) *Sale, distribution or offering for sale to minor.*

(1) *Offense.* It shall be unlawful for any person to give, sell or offer for sale an e-cigarette, liquid nicotine or sample to a minor within the territorial limits of the city.

(2) *Defenses.* It shall be a defense to the above offense if:

a. The minor is in the presence of a parent, guardian, spouse or other adult to whom the minor had been committed by a court; or

b. The minor presents an apparently valid proof of identification.

(c) *Vendor-assisted sales required; self-service merchandising prohibited.*

(1) *Offense.* A retailer or other person may not:

a. Offer e-cigarettes or liquid nicotine for sale in a manner that permits a customer direct access to the e-cigarettes or liquid nicotine;

b. Offer for sale, or display for sale, e-cigarettes or liquid nicotine by means of self-service merchandising; or

c. Install or maintain an open display unit containing e-cigarettes or liquid nicotine.

(2) *Defenses.* It shall be a defense to the above offense if:

a. The facility or business is not open to persons younger than 18 years of age at any time; or

b. The open display unit is located in an area that is inaccessible to customers.

(d) *Penalty for violation.* Any person violating any provisions of subsections (b) or (c) of this section shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the city, shall be fined not more than $200.00.
(Ord. No. 2014-048, § 1, 5-27-2014)

Sec. 28-43. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bar means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges and cabarets.

Bingo facility means any facility used for the purpose of operating bingo gaming by a person or entity licensed by the Bingo Enabling Act.

Business means a sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishment where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

City-owned buildings means those buildings or facilities that are operated, owned or managed in part or whole by the city.

Electronic cigarette or *e-cigarette* means any device that uses an atomizer or similar device that allows users to inhale a vapor of liquid nicotine or other vapor without the use of fire, smoke, ash or carbon monoxide and includes any of its component parts and regardless of the details of the product appearance or marketed name.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit and a person who volunteers their services for a nonprofit entity.

Employer means a person, business, partnership, association, corporation, including municipal corporation, trust or nonprofit entity that employs the services of one of more individual persons.

Enclosed area means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.

Health care facility means an office or institution providing care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories and offices of surgeons, chiropractors, physical therapists, physicians, dentists and all specialists within these professions. The term "health care facility" includes all waiting rooms, hallways, private rooms, semiprivate rooms and wards within health care facilities.

Liquid nicotine means any liquid product composed either in whole or in part of nicotine, propylene glycol and/or other substance and manufactured for use with e-cigarettes.

Minor means any individual younger than 18 years of age.

Nonpublic area means the area of a public place in which the public is not generally permitted access by express or implied invitation and/or in which the public is expressly prohibited from entering or occupying.

Person means an individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business.

Place of employment means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways and vehicles. A private residence is not a place of employment, unless it is used as a child care, adult day care or health care facility.

Proof of identification means identification that contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is 18 years of age or older and was issued by a governmental agency. The proof of identification may include a driver's license issued by the state or another state, a passport or an identification card issued by a state or federal government.

Public area means the area of a public place in which the public is generally permitted to enter or occupy by express or implied invitation of the owner/operator.

Public place means an enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters and waiting rooms. A private residence is not a public place, unless it is used as a child care, adult day care or health care facility.

Restaurant means an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands and private and public school cafeterias, which gives or offers for

sale food to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" includes a bar area within the restaurant.

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Service line means an indoor line in which one or more persons are waiting for or receiving a service of any kind, whether or not the service involves the exchange of money.

Shopping mall means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.

Sports arena means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition or witness sports or other events.

Vaping means to inhale (breathe into the lungs) the vapor produced by an electronic cigarette or any other similar vapor delivery device.
(Code 1961, § 15-20.001; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-44. Application of article to city-owned facilities.

All enclosed facilities, including buildings and vehicles owned, leased or operated by the city shall be nonsmoking at all times notwithstanding other provisions of sections 28-43 through 28-57.
(Code 1961, § 15-20.002; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-45. Prohibition of smoking in public places.

Smoking shall be prohibited in all enclosed public places within the city, including, but not limited to, the following places:

(1) Any public facility, place, building or vehicle where minors are permitted to enter or ride.

(2) Aquariums, galleries, libraries, museums and zoo facilities and grounds.

(3) Areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public, including, but not limited to, attorneys' offices and other professional offices, banks, laundromats, hotels and motels.

(4) Convention facilities.

(5) Elevators.

(6) Facilities primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance; however, smoking which is a part of a stage performance is permitted.

(7) Health care facilities, except bed space facilities where smoking is ordered by an attending physician in keeping with the guidelines established by the facility.

(8) Licensed child care and adult day care facilities.

(9) Lobbies, hallways and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes and other multiple-unit residential facilities.

(10) Polling places.

(11) Public transportation facilities, including buses, bus terminals, taxicabs, train stations, airports and other facilities and means of public transit under the authority of the city as well as ticket, boarding and waiting areas of public transit depots.

(12) Restaurants.

(13) Restrooms, lobbies, reception areas, hallways and other common-use areas.

(14) Retail stores.

(15) Every room, chamber, places of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city.

(16) Service lines.

(17) Shopping malls.

(18) Sports arenas and convention halls, including bowling facilities and outdoor arenas.

(19) The living area and offices of the city fire stations.

(20) Concession stands.

(21) Training facilities that house residents in private and group rooms.

(Code 1961, § 15-20.003; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-46. Prohibition of smoking in places of employment.

(a) *Smoking in the workplace.* An employer may prohibit smoking in a workplace, or the employer may permit smoking in a workplace as provided by this article.

(b) *Designated areas.* An employee (or employer) may not smoke in a workplace, except in a designated employee smoking area.

(c) *Written policy required.*

(1) An employer must adopt a written smoking policy. If smoking is to be permitted, the policy must include provisions that comply with this article.

(2) The employer must communicate the policy to each employee and to each new employee.

(3) The employer must post the policy in the workplace within three weeks of its adoption.

(d) *Designated smoking area.*

(1) An employer that permits smoking in the workplace shall designate one or more smoking areas for use by its employees. An employee smoking area may include a private enclosed office.

(2) A designated smoking area:

a. Must be located in an area accessible to employees, but not accessible to the general public, except by express invitation of the employer or an employee; and

b. Must meet the provisions of section 28-48(5).

(3) A designated smoking area may not:

a. Include an area with a food or drink dispensing facility intended for use by all employees;

b. Include a restroom commonly used by nonsmoking employees; or

c. Be located in a common employee work area.

(e) *Sign required.* An employer shall post a sign in each employee smoking area stating that the area is a designated smoking area. The sign must be visible to employees and to the public.
(Code 1961, § 15-20.004; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-47. Reasonable distance.

Smoking is prohibited within a reasonable distance of ten feet outside an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or other means.
(Code 1961, § 15-20.005; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-48. Where smoking not regulated.

Notwithstanding any other provision of sections 28-43 through 28-57 to the contrary, the following areas shall be exempt from the provisions of sections 28-45 and 28-46:

(1) Private residences, except when used as a licensed child care, adult day care or health care facility.

(2) Private vehicles, except when used in conjunction with a licensed day care, adult day care or health care facility.

(3) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than 20 percent of rooms rented to guests in a hotel or motel may be so designated.

(4) Outdoor areas of places of employment, except those covered by the provisions of section 28-47.

(5) Designated smoking areas. The owner/operator of a public place may establish a designated public smoking area within a public area and/or a designated employee smoking area within a nonpublic area of a public place in compliance with the following specifications:

a. *Separate ventilation.* The designated smoking area must be equipped with a physical barrier that separates the designated smoking area from the nonsmoking area with a separate ventilation. The physical barrier must form an effective membrane continuous from outside wall to outside wall, from smoke barrier to smoke barrier, from floor to floor or roof above, or a combination thereof, including continuity through all concealed spaces, such as above suspended ceilings, interstitial structural and mechanical spaces. Transfer grilles, louvers and similar openings shall not be used in these partitions. Self-closing, tight-fitting doors are permitted in such barriers.

b. *Negative pressure.* The ventilation system must be a HVAC system designed by a licensed professional engineer to have negative pressure on the area designated for smoking to prevent air from a smoking area to be drawn across or into a nonsmoking area and to have sufficient capacity to remove tobacco smoke from the interior of the building at the rate of one cubic foot per minute per square foot of area.

c. *Access to designated smoking area.* The designated smoking area shall not be positioned in a location that would require anyone entering through the main entrance of the building to pass through the designated smoking area.

d. *Restrooms.* If restroom areas are not provided in both the smoking and nonsmoking designated areas, they shall be located in the nonsmoking area such that nobody attempting to access the restrooms will be required to enter into the designated smoking area.

e. *Square footage limitation on designated smoking areas.*

1. *Public areas.* The designated smoking area located in a public area of a public place, except for a bingo facility, shall not exceed 25 percent of the square footage of the combined public areas within the public place.

2. *Bingo facilities.* The designated smoking area located in a public area of a bingo facility, where minors are permitted, shall not exceed 80 percent of the square footage of the public area.

3. *Employee smoking areas.* A designated employee smoking area located within a nonpublic area of a public place shall not be restricted as to area so long as it otherwise complies with the provision of this section and section 28-46.

(6) Outdoor patio areas beyond ten feet of a public entrance of any establishment or facility where food is served.

(7) Retail tobacco stores.

(8) Nightclubs and bars, however, such facilities shall be required to install a commercial air cleaning system having sufficient capacity to remove tobacco smoke from the interior of the building at the rate of one cubic foot per minute per square foot of area.

(9) Bingo facilities that prohibit minors from entering or occupying the premises during public hours.

(Code 1961, § 15-20.006; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-49. Declaration of establishment as nonsmoking.

Notwithstanding any other provision of sections 28-43 through 28-57, an owner, operator, manager or other person in control of an establishment, facility or outdoor area may declare that entire establishment, facility or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of section 28-50(a) is posted.

(Code 1961, § 15-20.007; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-50. Posting of signs.

(a) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by sections 28-43 through 28-57, by the owner, operator, manager or other person in control of that place. The lettering of the sign will be not less than one inch in height.

(b) Every public place and place of employment where smoking is prohibited by sections 28-43 through 28-57 shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(c) All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by sections 28-43 through 28-57 by the owner, operator, manager or other person having control of the area.
(Code 1961, § 15-20.008; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-51. Minors prohibited from entering smoking areas.

Notwithstanding any other provision to the contrary, minors are prohibited from entering any designated public smoking area, any designated employee smoking area, and/or any other area where smoking is not regulated pursuant to sections 28-43 through 28-57.
(Code 1961, § 15-20.009; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-52. Enforcement.

(a) The building official of the city shall be responsible for compliance with sections 28-43 through 28-57. The police department and/or fire department may, while an establishment is undergoing inspections, inspect for compliance with sections 28-43 through 28-57.

(b) The owner, operator, person in charge or manager of any facility, business or agency within the purview of this section shall comply with the provisions of this section.

(c) Notwithstanding any other provision of sections 28-43 through 28-57, an employee or private citizen may bring legal action to enforce sections 28-43 through 28-57; provided, however, that the exclusive remedy for private enforcement is by injunctive relief.

(d) The building official, in the building official's sole discretion, may enforce this section by any of the following actions:

(1) Serving written notice on the owner, operator, person in charge or manager of any facility, business or agency within the purview of this section requiring the correction within a reasonable specified time frame of any violation of this section;

(2) Requesting the city attorney to maintain an action for injunction to enforce the provisions of this section, to cause the correction of any such violation and for assessment and recovery of a civil penalty of such violation including attorney's fees; or

(3) Issuing a municipal court citation.

The remedies contained herein are cumulative of and in addition to any other remedies that are available to the city at law or in equity.

(e) In undertaking the enforcement of this section, the city is assuming an undertaking only to promote the general health, safety and welfare of it citizens. The city is not assuming any duty or obligation, nor is it imposing any duty and/or obligation on its officer and/or employees, nor is it liable in money damage or otherwise to any person who claims that:

(1) The city and/or one of its officers and/or employees breached any such obligation; and

(2) The breach proximately caused injury.
(Code 1961, § 15-20.010; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-53. Violations and penalties.

(a) A person who smokes in an area where smoking is prohibited by the provisions of sections 28-43 through 28-57 shall be guilty of an infraction, punishable by a fine not exceeding $200.00. Each day of any such violation shall be deemed a separate offense.

(b) A person who owns, manages, operates or otherwise controls a public place or place of employment and who fails to comply with the provisions of sections 28-43 through 28-57 shall be guilty of an infraction, punishable by:

(1) A fine not exceeding $50.00 for a first violation.

(2) A fine not exceeding $100.00 for a second violation within one year of the previous violation.

(3) A fine not exceeding $250.00 for each additional violation within one year of the previous violation.

(c) Each day on which a violation of sections 28-43 through 28-57 occurs shall be considered a separate and distinct violation.
(Code 1961, § 15-20.011; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-54. Public education.

The city manager shall engage in a continuing program to explain and clarify the purposes and requirements of sections 28-43 through 28-57 to citizens affected by it, and to guide owners, operators and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of sections 28-43 through 28-57.
(Code 1961, § 15-20.012; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-55. Governmental agency cooperation.

The city manager shall annually request other governmental and educational agencies having facilities within the city to establish local operating procedures in cooperation and compliance with sections 28-43 through 28-57. This includes urging all federal, state, city and school district agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.
(Code 1961, § 15-20.013; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-56. Other applicable laws.

Sections 28-43 through 28-57 shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
(Code 1961, § 15-20.014; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-57. Liberal construction.

Sections 28-43 through this section shall be liberally construed so as to further their purposes.
(Code 1961, § 15-20.015; Ord. No. 162-04, § 1, 8-23-2004)

Sec. 28-58. Acts prohibited in parking lots and outdoor spaces.

(a) *Definition.* In this section, the term "parking lot" means any area or space located in, at or adjacent to a premises, which is used, designed or intended for the parking of motor vehicles by the general public and maintained for the convenience of customers, clients, patients or residents. The term "premises" means a restaurant, drive-in restaurant, store, retail or wholesale business establishment, office building, professional building, recreational building, public building, school, hospital, apartment complex or other building. The term "outdoor space" means the sidewalks and common outdoor areas of any premises to which the public has access.

(b) *Statement of public policy.* Due to the potential escalation of violent and other related crimes, it is contrary to the health, safety and general welfare of the community to permit any person to engage in any conduct prohibited by this section. Allowing any person to engage in any conduct prohibited by this section allows such person or persons to establish control of areas with the effect of intimidating citizens and creating a justifiable fear for the safety of people and property in those areas.

(c) *Prohibited acts.* The following acts are hereby declared to be unlawful:

(1) To enter a parking lot in a motor vehicle of any kind and use such parking lot for racing or as a shortcut to other property or a street;

(2) For any person to congregate inside or outside of a motor vehicle parked on a parking lot when not otherwise engaged in a lawful pursuit relating to the use of the premises, and:

a. Remaining on or returning to the premises after being requested to depart from the premises by a person in charge of the premises or a peace officer; or

b. Engaging in such activity without the owner's consent;

(3) To leave a motor vehicle unattended on a parking lot, except for the purpose of entering into a premises or returning therefrom, or except with the consent of the owner, operator or manager of such parking lot or premises;

(4) For any person to congregate on any parking lot or outdoor space when not otherwise engaged in a lawful pursuit relating to the use of the premises, and:

a. Remaining on or returning to the premises after being requested to depart from the premises by a person in charge of the premises or a peace officer; or

b. Engaging in such activity without the owner's consent;

(5) For the purpose of this section, the fact that the premises is closed shall constitute prima facie proof that a person is not engaged in a lawful pursuit relating to the use of the premises and does not have the owner's consent. If the parking lot or outdoor space has a sign or device displaying restrictions on the use or operation of the premises, including, but not limited to, time limitations on use or operation of the premises, or a "no loitering" prohibition, a violation by any person of any restriction shall be prima facie proof that the person does not have the owner's consent.

(Code 1961, § 15-20.1; Ord. No. 22-87, § 1, 6-22-1987; Ord. No. 071-2013, § 1, 6-24-2013)

Secs. 28-59—28-76. Reserved.

ARTICLE III. SEXUALLY ORIENTED BUSINESSES*

Sec. 28-77. Purpose and intent.

(a) It is the purpose of this article to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(b) It is the intent of the city council that the locational regulations of this article are promulgated pursuant to Texas Local Government Code ch. 243. It is the intent of the city council that all other provisions of this article are promulgated pursuant to the city Charter and the Texas Local Government Code.

(Code 1961, § 15-30; Ord. No. 202-94, § 1, 7-11-1994)

***State law reference**—Municipal authority to regulate sexually oriented businesses, Texas Local Government Code § 243.001 et seq.

Sec. 28-78. Definitions.

In this article, the following terms, when used in this article, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas, as defined herein.

Adult bookstore or *adult video store* means a commercial establishment which offers for sale or rental one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas, as defined in this section; or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities or simulated nudity. This does not include items used for conception control or for protection from sexually transmitted diseases.

Adult cabaret means a nightclub, bar, lounge, restaurant or similar commercial establishment which provides or features:

(1) Persons who appear in a state of nudity or simulated nudity as defined in this section;

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities, as defined in this section;

(3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, as defined in this section; or

(4) A combination of any of the above.

Adult motel means a hotel, motel or similar commercial establishment which rents or otherwise permits a room to be occupied in exchange for any form of consideration, and also:

(1) Offers accommodations to the tenant or occupier of the room for any closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, as defined in this section, and has a sign visible from the public right-of-way which advertises the availability of this type of adult accommodations;

(2) Offers a sleeping room for rent for a period of time that is less than ten hours;

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours; or

(4) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two or more times in less than a ten-hour period and creates a rebuttable presumption that the establishment is operated as an adult motel.

Adult motion picture theater means a commercial establishment which regularly features nonlive performances or entertainment such as films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, as defined in this section.

Adult theater means a theater, concert hall, auditorium or similar commercial establishment that regularly features persons who appear in a state of nudity or features live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities, as defined in this section.

Allow means to let happen, cause, suffer or permit, including the failure to prevent.

Applicant means the individual or entity that will be the intended operator of the enterprise.

Chief of police means the chief of police of the city or the chief of police designated agent.

Church means a place where persons regularly assemble for religious worship activities connected with such worship, or for propagating a particular form of religious belief.

City enforcement personnel means an authorized representative of any of the following city departments or divisions:

(1) Department of community development;

(2) Code enforcement division;

(3) Health department;

(4) Fire department;

(5) Police department; and

(6) Inspection department.

Customer means any person who:

(1) Enters the premises and patronizes a sexually oriented business, whether or not in exchange for the payment of admission fee or any other form of consideration, gratuity or as a guest of a member; or

(2) Purchases, rents or otherwise partakes of any sexually oriented merchandise, entertainment or other services while on the premises.

Employee means any person on the premises of a sexually oriented business who receives any form of compensation, including tips or gratuities from the operator, manager, customer, other employees or entertainment personnel and in exchange therefor:

(1) Renders any work, service, performance or exhibition whatsoever, directly or indirectly, to or for a customer; or

(2) Renders any other support service whatsoever, directly or indirectly, for or on behalf of the furtherance of the business operation; and

(3) Shall include, but is not necessarily limited to, bartenders, cashiers, dancers, disk jockeys, escorts, hosts, hostesses, models, masseurs, outcall persons, strippers, models, waiters, waitresses or other persons working on or about the premises.

Entertainment personnel means any person, including persons traditionally regarded as independent contractors, who receives any form of compensation, including tips or gratuities from the operator, customers, employees or other entertainment personnel and in exchange therefor:

(1) Renders any live entertainment, service, performance or exhibition whatsoever, directly or indirectly, to or for a customer for the furtherance of the business operation; and

(2) Shall include, but is not necessarily limited to, bartenders, cashiers, dancers, disk jockeys, escorts, hosts, hostesses, models, masseurs, outcall persons, strippers, models, waiters, waitresses or other persons working on or about the premises.

Entertainment, sexually oriented, means any variety of live or nonlive performances or exhibitions which are distinguished or characterized by an emphasis on matters exhibiting, depicting, relating to or engaging in specified sexual activities or while exposing or depicting specified anatomical areas, or which provides sexual gratification or sexual stimulation to customers.

Escort means a person who, for consideration, agrees or offers to privately model, dance or similarly perform for another person or to act as a private companion, guide or date for another person.

Escort agency means a person or business association that, for consideration, furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes, for a fee, tip or other consideration.

Establishment means and includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;

(3) The addition of any sexually oriented business to any other existing sexually oriented business;

(4) The relocation of any sexually oriented business.

Licensed day care center means a child care facility or a building used as a day nursery, children's boarding home, child placement agency or other facility which provides for the care or custody of children under 14 years of age, licensed by the state, pursuant to Texas Human Resources Code ch. 42.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

Massage means any method by which a person uses their hands, feet or an instrument for treating the superficial parts of a customer's body for medical, hygienic, exercise, entertainment, relaxation, or stimulation purposes by rubbing, stroking, kneading, tapping, pounding or vibrating.

Nude modeling business means any establishment where an employee or entertainment personnel performs a massage or specified sexual activities while appearing in a state of nudity, simulated nudity, or while displaying specified anatomical areas, and is also provided or allowed to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted to customers.

Nude modeling studio means any establishment where an employee or entertainment personnel appears in a state of nudity, simulated nudity or displays specified anatomical areas, and is also provided or allowed to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted to customers.

Nudity or *state of nudity* means appearing while any of the following portions of the human body are less than completely and opaquely covered:

(1) Genitals, whether or not in a state of sexual arousal;

(2) Pubic region or pubic hair;

(3) Buttocks;

(4) The portions of the female breasts beginning from a point immediately above the top of the areola and continuing down to the lowest portion of the breasts; or

(5) Any combination of the above.

Operator means the manager, applicant or other natural person principally in charge of a sexually oriented business, or the person in whose name a valid license has been issued pursuant to sections 28-80 and 28-81.

Outcall business means a commercial venture that provides employees or entertainment personnel who, in exchange for a fee, commission, tip or other consideration, goes to the location requested by the customer and while there:

(1) Privately models lingerie or other intimate wearing apparel;

(2) Privately performs a strip tease;

(3) Privately performs a nude modeling session; or

(4) Bathes or massages the customer;

but shall not include persons otherwise engaged in legitimate, nonsexually oriented activities or services such as licensed private nurses, licensed physical therapists, aides for the elderly or handicapped, social secretaries or similar persons whose business or service relationship with their patron is not characterized by sexually oriented activities.

Person means any individual, proprietorship, partnership, corporation, association or other legal entity.

Principal business operation. For the purposes of determining whether a business is subject to regulation shall mean and include any nonlive, sexually oriented retail store or rental business activity, as defined herein, for which amounts to ten percent or more of the total business operation at a particular location. The ten percent criteria may be determined by percentages of floor space utilized, inventory of items for sale or rental, display areas, presentation time of entertainment or performances, or gross revenue of the business as measured over any continuous 90-day period. However, the ten percent criteria shall not apply to any sexually oriented business featuring or offering live performances, entertainment, modeling or other live activity, all such live activity is subject to regulations as a sexually oriented business.

Public building means a building used by federal, state or local government and open to the general public.

Public park means a tract of land maintained by the federal, state or local government for the enjoyment of the general public.

Regularly means offering, featuring, promoting or advertising a happening, occurrence or activity on a recurring basis or at fixed intervals, or as a customary or regular aspect of the business.

Rent or *subrent* means the act of permitting a room or other portion of the premises to be occupied in exchange for any form of consideration.

School means and includes public and private, primary and secondary educational facilities providing education up through and including the 12th grade level.

Seminude means a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast as well as portions of the body covered by supporting straps or devices.

Sexual encounter center means a commercial enterprise that, for any form of consideration or prize offers physical activities, contact, wrestling or tumbling between male and female persons or between persons of the same sex when one or more of the persons is in a state of nudity or simulated nudity.

Sexually oriented businesses which are subject to the regulations of this article, shall mean and include any commercial venture whose operations include:

(1) The providing, featuring or offering of employees or entertainment personnel who appear on the premises while in a state of nudity or simulated nudity and provide live performances or entertainment for customers; or

(2) As a principal business operation (ten percent or more) as defined herein, provides, features or offers nonlive, sexually explicit entertainment, materials or items for sale or rental for customers; or provides or offers a service or exhibition of materials or items which are intended to provide sexual stimulation or sexual gratification to its customers, said materials or items being distinguished by or characterized by an emphasis on subject matter depicting, describing or relating to specified sexual activities and/or specified anatomical areas; and

(3) Shall include, but is not limited to, any form of sexually oriented business, adult arcade, adult bath, adult tanning salon, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude modeling business, nude modeling studio, massage parlor, adult outcall establishment, escort agency, sexually oriented encounter center or other business establishment conducting sexually oriented activity or entertainment as defined or regulated herein.

The term "sexually oriented business" shall not be construed to regulate:

(1) An otherwise lawfully operated retail business which does not offer or feature sexually explicit merchandise, material or items for other sale or rental to customers as a principal business operation (ten percent or less) and does not offer or feature any form of live sexually oriented entertainment;

(2) Any clothing business offering wearing apparel for sale to customers but does not exhibit merchandise on live models;

(3) A business operated by or employing licensed psychologists, licensed therapists, licensed athletic trainers, licensed cosmetologists or licensed barbers that, as the major business purpose, performs functions authorized under the license held;

(4) Any medical practice operated by or employing licensed psychologists, physicians, physical therapists, registered nurses, chiropractors or athletic trainers engaged in practicing of the healing arts as the major business purpose;

(5) A massage establishment which is properly registered under Texas Occupations Code § 455.001 et seq., as amended;

(6) Any education courses conducted at a proprietary school licensed by the state or conducted by a private college or university which operates educational programs in which credits are transferrable to a junior college, college or university licensed by the state; and where in order to participate in a class a student must enroll at least three days in advance of the class and where no more than one nude model appears before the class at any one time.

Simulated nudity means a state of dress in which any artificial device or covering is worn on a person and exposed to view so as to simulate an actual state of nudity.

Specified anatomical areas means the following portions of the human body:

(1) Genitals, whether or not in a state of sexual arousal;

(2) Pubic region or pubic hair;

(3) Buttocks;

(4) The portions of the female breasts beginning from a point immediately above the top of the areola and continuing downward to the lowest portion of the breasts; or

(5) Any combination of the above.

Specified sexual activity means and includes one or more of the following:

(1) The fondling, massaging or other erotic touching or stimulation of an erogenous zone or of specified anatomical areas, whether clothed or nude;

(2) Normal or perverted sexual activity, actual or simulated, including intercourse, oral copulation or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

Substantial enlargement of a sexually oriented business means the increase of more than 25 percent as the floor area exists on May 22, 1989.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

(1) The sale, lease or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, gift or similar means; or

(3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of business, except for the transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Code 1961, § 15-31; Ord. No. 202-94, § 1, 7-11-1994; Ord. No. 398-95, § 1, 11-13-1995)

Sec. 28-79. License required.

(a) It shall be unlawful for any person to own or operate a sexually oriented business in the city without a valid license issued in accordance with these regulations. A separate application and license shall be required for each sexually oriented business. A sexually oriented business without a license is hereby declared to be a public nuisance.

(b) The fact that a person possesses a valid theater license, dance hall license or public house of amusement license does not exempt a person from the requirement of obtaining a sexually oriented business license. A person who operates a sexually oriented business and possesses a theater license, public house of amusement license or dance hall license shall comply with the requirements and provisions of this article as well as any other prevailing code, laws and/or ordinances pertaining to those other such licenses.

(Code 1961, § 15-32; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-80. Sexually oriented business license application.

(a) To obtain a license to operate a sexually oriented business, a written application shall be filed with the chief of police on the form provided by the chief of police or an accurate and legible facsimile of the form. The completed application, including any attachments, shall be hand delivered to the chief of police's office during regular working hours or mailed, return receipt requested. A receipt shall be mailed to the applicant upon confirmation that the application is complete. The receipt or a notice of omission shall be mailed to the applicant within five days of delivery of the application to the chief of police.

(b) An annual fee for a sexually oriented business license of an amount established from time to time and on file in the city secretary's office or city website shall accompany the submission of each application. The fee shall be paid in the form of cash, money order, cashier or bank check. An application shall not be considered to have been filed until all applicable fees are paid and all information required by the application form has been submitted.

(c) Each applicant shall furnish the following information to the chief of police:

(1) The full legal name and any other name used by the applicant, the applicant's social security number and driver's license or state identification number.

(2) A general description of the sexually oriented business, which shall include the address where it shall be located and the services to be provided. That address shall be the only location for which the license will be valid.

(3) The applicant's complete business license or permit history. This shall include any permit or license which has been issued to the applicant by any agency, board, city, county or state, and any professional or vocational license or permit. This shall include those which have expired or are currently in effect and shall include any license or permit that has been denied, or was issued to the applicant and subsequently revoked or suspended. If there have been licenses or permits which have been denied, revoked or suspended, the permit history shall include the reasons therefor.

(4) The name and address of the owner of the real property upon or in which the sexually oriented business is to be located and a copy of any lease or rental agreement.

(5) The name and residential address of the operator of the business.

(6) If the applicant intends to operate the business under an assumed name, a certified copy of the assumed name certificate filed in compliance with the Assumed Business or Professional Name Act (Texas Business and Commerce Code ch. 36).

(7) The application shall contain a statement under oath that:

a. The applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct.

b. The applicant has read and understands these regulations.

(d) If the applicant is an individual, the applicant shall also provide:

(1) Each of the applicant's residential addresses for the three years immediately preceding the date of the application, indicating the dates of each residence and including the present address and telephone number of the applicant.

(2) Applicant's business, occupation and employment history for the three years immediately preceding the date of application, indicating the applicable dates and addresses.

(3) Documentation that the applicant is at least 21 years of age.

(4) Applicant's height, eye color and natural hair color.

(5) Two photographs of the applicant taken within one month immediately preceding the date of application. The size and characteristics of the photographs shall be specified by the chief of police. One photograph shall be affixed to the license and one photograph shall be retained by the chief of police. A new photograph may be required by the chief of police's office upon application for renewal of the permit.

(6) Applicant's criminal history which shall consist of a statement of any and all criminal convictions and the date and place thereof. The statement shall include any charges to which applicant entered a plea of nolo contendere or for which the applicant received deferred adjudication, but shall not include traffic violations.

(7) The chief of police may require the applicant to furnish fingerprints for the purpose of establishing identification.

(8) Other identification and information as reasonably necessary in order to confirm the validity of information provided in the application.

(e) If the applicant is a corporation, partnership, joint venture or other similar business entity to which the requirements of subsection (d) of this section would apply, the applicant will provide, in addition to the requirements of subsection (a) of this section:

(1) If the applicant is a state corporation, a certified copy of the articles or incorporation with amendments; names and residential addresses of current officers and directors; and the name and address of each stockholder holding more than five percent of the stock of the corporation.

(2) If the applicant is a foreign corporation, a certified copy of their certificate of authority to transact business in this state with all amendments; names and address of current officers and directors; and name and address of each stockholder holding more than five percent of the stock of the corporation.

(3) If the applicant is a general or limited partnership, the application shall set forth the names and residential addresses of each of the partners, including limited partners. If the applicant is a limited partner formed under the laws of the state, a certified copy of the certificate of limited partnership filed with the office of the secretary of state, and amendments.

(4) If one or more of the partners is a corporation, the provisions of this section pertaining to corporate applicants shall apply.

(5) If the applicant is a joint venture or other similar entity, the names and residential addresses of the participants (if individuals), and the applicable information required in subsections (1), (2), (3), and (4) of this section, if the participants are corporations or partnerships.

(6) The corporation applicant shall designate one officer to act as responsible managing officer. Partnerships shall designate a general partner as responsible managing officer. Joint ventures or other business entities shall designate an appropriate individual participant or owner to act as its responsible managing officer. The managing officer shall complete and sign all applications and forms required of an individual under this section, but the fee for only one application shall be charged.

(f) Each application shall be accompanied by the following:

(1) A nonrefundable fee shall be paid in the form of cash, money order, cashier or bank check. The amount of the nonrefundable fee shall be as established by the city council, from time to time, and is on file in the city secretary's office or city website.

(2) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who must comply with section 28-154 shall submit a diagram meeting the requirements of section 28-99.

(3) All applicable forms and information required by the application form listed under this section.

(4) An application shall not be considered to have been filed until all applicable fees are paid and all information required by the application form has been submitted.

(g) The chief of police shall have 21 days from receipt of the application in which to investigate the application and background of the applicant. Compliance with other provisions of these regulations may, from time to time, require an extension of this investigatory period, in which case, an extension, reasonable under the circumstances, shall be allowed.

(h) The applicant shall be under a continuing affirmative duty throughout the application period and the effective dates of the license to notify the chief of police of any of the following events. Notice shall be provided in writing and delivered within seven days immediately following the occurrence of:

(1) Address or name change of the applicant;

(2) Revocation of any permits or licenses listed in the applicant's permit history pursuant to subsection (c)(3) of this section;

(3) The applicant, operator or any employee of the business being formally charged with a crime listed under section 28-81.

(Code 1961, § 15-33; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-81. Issuance of license.

(a) The chief of police shall approve the issuance of a license to an applicant within 30 days after receipt of an application, unless the chief of police finds one or more of the following to be true:

(1) An applicant is under 21 years of age.

(2) An applicant, or an applicant's spouse, is overdue in their payment to the city of taxes, fees, fines or penalties assessed against them or imposed upon them in relation to a sexually oriented business.

(3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(4) An applicant, or an applicant's spouse, has been convicted of a violation of a provision of this article other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

(5) An applicant is residing with a person who has been denied a license by the city to operate a sexually oriented business within the preceding 12 months, or is residing with a person whose license to operate a sexually oriented business has been revoked within the preceding 12 months.

(6) The premises to be used for the sexually oriented business have not been approved by all appropriate city enforcement personnel to ensure its compliance with all applicable laws and ordinances.

(7) The license fee required by this article has not been paid.

(8) An applicant or the proposed establishment is in violation of or is not in compliance with sections 28-94 through 28-100.

(9) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding 12 months and has demonstrated that applicant is unable to operate or manage a sexually oriented business premises in a peaceful and law abiding manner thus necessitating action by law enforcement officers.

(10) An applicant, an applicant's spouse, or, if the applicant is a corporation, partnership or other business entity, any officer, director, holder of five percent or more stock, partner or participant was convicted, received deferred adjudication, or entered a plea of nolo contendere in a court of competent jurisdiction within the immediately preceding five-year period, or less than three years have elapsed since the completion of the sentence received, including probation and parole, of any of the following offenses:

a. Involving:

1. Any of the following offenses as described in ch. 43 of the Texas Penal Code:

(i) Prostitution;

(ii) Promotion of prostitution;

(iii) Aggravated promotion of prostitution;

(iv) Compelling prostitution;

(v) Obscenity;

(vi) Sale, distribution or display of harmful material to minors;

(vii) Sexual performance of a child;

(viii) Possession of child pornography;

2. Any of the following offenses as described in ch. 21 of the Texas Penal Code:

(i) Public lewdness;

(ii) Indecent exposure;

(iii) Indecency with a child;

3. Sexual assault or aggravated sexual assault as described in ch. 22 of the Texas Penal Code;

4. Incest, solicitation of a child or harboring a runaway child as described in ch. 25 of the Texas Penal Code;

5. Gambling, gambling promotion, keeping a gambling place, communicating gambling information, possession of gambling devices or equipment, possession of gambling paraphernalia as described in ch. 47 of the Texas Penal Code;

6. Forgery, credit card abuse, commercial bribery as described in ch. 32 of the Texas Penal Code;

7. A criminal offense as described in ch. 481, subch. D of the Texas Health and Safety Code; or

8. Criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any other offense in another state, that if committed in this state, would have been punishable as one or more of the heretofore mentioned offenses.

b. For which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the latter date, if the conviction is of a misdemeanor offense;

2. Less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the latter date, if the conviction is of a felony offense;

3. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction whichever is the latter date, if the convictions are of two or more misdemeanor offenses or a combination of misdemeanor offenses occurring within any 12-month period;

(11) The applicant has allowed acts of unlawful sexual misconduct or other unlawful activities to be committed in connection with previous business operations;

(12) The business, as proposed, does not meet all the requirements of these regulations, or otherwise prohibited by law;

(13) The applicant has knowingly made a misleading statement of a material fact by omitting or falsifying information in the application for the license;

(14) In the event that the chief of police determines that the applicant is not eligible for a license, the applicant shall be given notice in writing for the reasons for that determination.

(b) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

(c) An applicant, applicant's spouse, or, if the applicant is a corporation, partnership or other business entity, any officer, director or holder of five percent or more stock, partner or participant was convicted, received deferred adjudication or entered a plea of nolo contendere in a court of competent jurisdiction within the immediately preceding five-year period, or less than three years have elapsed since the completion of the sentence received, including probation and parole, of any offense listed in subsection (a)(10)a. of this section may qualify for a sexually oriented business license only when the time period required by subsection (a)(10)b. of this section has elapsed.

(d) The license, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may easily be read at any time.

(e) It is the responsibility of the applicant, to secure and provide to the chief of police, the evidence required to determine present fitness as may be requested by the chief of police, city enforcement personnel or licensing authorities.

(f) The chief of police shall defer determination whether to issue a sexually oriented business license until final disposition of charges of any of the above listed crimes in subsection (a)(10)a. of this section which are pending or arise during the investigation.
(Code 1961, § 15-34; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-82. Fees.

(a) There shall be an annual nonrefundable fee for a sexually oriented business license. The amount of the nonrefundable business license fee shall be as established by the city council, from time to time, and is on file in the city secretary's office or city website.

(b) No portion of any fee collected under this article shall be returned after a license has been issued or refused.

(c) If an applicant is required by this Code to also obtain a dance hall license or public house of amusement license for the business at a single location, payment of the fee for the sexually oriented business license exempts the applicant from payment of the fees for the dance hall or public house of amusement license.
(Code 1961, § 15-35; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-83. Inspection.

(a) An applicant or licensee shall permit representatives of the police department, health department, fire department, community development department, code enforcement division and building inspection division to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(b) A person who operates a sexually oriented business, or a person's agent or employee, commits an offense if the person refuses to permit a lawful inspection of the premises by a representative of the police department at any time it is occupied or open for business.

(c) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.
(Code 1961, § 15-36; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-84. Expiration of license.

(a) Each license shall be valid for one year from the date issued, unless revoked or suspended under the provisions of section 28-86 or 28-87; the business is sold or transferred; or the license is cancelled by written request of the applicant. Each license may be renewed only by making application as required in section 28-85.

(b) When the chief of police denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the chief of police finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.
(Code 1961, § 15-37; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-85. License renewals.

(a) Licenses shall be reviewed for renewal upon application to the chief of police not more than 30 days prior to the expiration date. The form for renewal application shall be provided by the chief of police.

(b) An annual nonrefundable renewal fee in an amount established from time to time and on file in the city secretary's office or city website shall accompany the application for renewal. The fee shall be paid in the form of cash, money order, cashier or bank check.

(c) The renewal application shall contain:

(1) Certification by the applicant that there have been no changes in the information provided in the initial application; and/or

(2) Any information which has changed since the initial application, along with any related documentation required in the initial application.

(d) The chief of police shall make the determination regarding renewal within 14 days of receipt of the completed renewal application or by the expiration date of the previous permit, whichever period is longer.

(e) If a renewal application is submitted less than 14 days before the previous license expires, the original license will expire and until the chief of police's determination on renewal, there will be no valid license.
(Code 1961, § 15-38; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-86. Suspension.

The chief of police shall suspend a license for a period not to exceed 30 days if the chief of police determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with sections 28-90 through 28-125 and 28-149;

(2) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;

(3) Refused to allow an inspection of the sexually oriented business premises as authorized by this article;

(4) Knowingly permitted gambling by any person on the sexually oriented business premises;

(5) Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.
(Code 1961, § 15-39; Ord. No. 202-94, § 1, 7-11-1994; Ord. No. 314-95, § 1, 8-14-1995)

Sec. 28-87. Revocation.

(a) The chief of police shall revoke a license if a cause of suspension in section 28-86 occurs and the license has been suspended within the 12 preceding months.

(b) The chief of police shall revoke a license if the chief of police determines:

(1) The owner or operator of the sexually oriented business knowingly allowed a person under the age of 18 years of age to enter the sexually oriented business;

(2) A licensee gave false or misleading information in the material submitted to the chief of police during the application process;

(3) A licensee or employee has knowingly allowed possession, use or sale of controlled substances on the premises;

(4) A licensee or employee has knowingly allowed prostitution on the premises;

(5) A licensee or employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(6) A licensee has been convicted of an offense listed in section 28-81(a)(10)a. for which the time period required in section 28-81(a)(10)b. has not elapsed;

(7) On two or more occasions within an eight-month period a person committed an offense occurring in or on the licensed premises of a crime listed in section 28-81(a)(10)a. for which a conviction has been obtained, and the person were employees of the sexually oriented business at the time that the offenses were committed;

(8) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as it is defined in Texas Penal Code § 21.01;

(9) A licensee is delinquent in payment to the city for motel occupancy taxes, ad valorem taxes, or sales taxes related to the sexually oriented business; or

(10) The owner or operator has transferred the ownership or control of the sexually oriented business.

(c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(d) Subsection (b)(8) of this section does not apply to adult motels as a ground for revoking the license, unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view.

(e) When the chief of police revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the chief of police finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least

90 days have elapsed since the date the revocation became effective. If the license was revoked under subsection (b)(5) of this section, an applicant may not be granted another license until the appropriate number of years required under section 28-81(a)(10)b. has elapsed.
(Code 1961, § 15-40; Ord. No. 202-94, § 1, 7-11-1994; Ord. No. 314-95, § 2, 8-14-1995)

Sec. 28-88. Appeal.

(a) If the chief of police denies the issuance of a license, or suspends or revokes a license, the chief of police shall serve on the applicant or licensee written notice of the chief of police action, including the reasons for the denial, suspension or revocation of the license, and the right to an appeal. The applicant or licensee must file a written appeal to the permit and license appeal board with the city secretary within ten calendar days after service of notice of the chief of police's action. The filing of an appeal stays the action of the chief of police in suspending or revoking a license until the permit and license appeal board makes a final decision. The permit and license appeal board hearing shall be held within ten calendar days of the date of the receipt of written notice by the aggrieved party and each party shall be provided an opportunity to present evidence, cross examine witnesses and be represented by legal counsel. The permit and license appeal board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(b) At the appeal presentation, the party making the appeal shall bear the burden of proof as to disputed factual matters to produce a preponderance of the evidence to compel modification of the chief of police's action.

(c) The permit and license appeal board shall decide the appeal on the basis of a preponderance of the evidence presented at the hearing if there is a dispute of fact, otherwise the board shall decide the appeal in accordance with the provisions of this Code. The board shall affirm, reverse or modify the action of the chief of police by a majority vote. Failure to reach a majority decision shall leave the chief of police's decision unchanged. A hearing of a permit and license appeal board may proceed if at least three of the board members are present. The permit and license appeal board shall issue its decision within five calendar days of the hearing and serve notice of its decision on the applicant or licensee and chief of police. The decision of the permit and license appeal board is final as to administrative remedies, and no rehearing may be granted.
(Code 1961, § 15-41; Ord. No. 202-94, § 1, 7-11-1994; Ord. No. 314-95, § 3, 8-14-1995)

Sec. 28-89. Notices.

Notices under this article may be served either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license or any notice of address change which has been received by the chief of police. Notices mailed as above shall be deemed served upon their deposit in the U.S.

mail. In the event that any notice served by mail is returned by the postal service, the chief of police shall cause it to be posted at the principal entrance to the establishment, in which event, notice shall be deemed served on the date of posting.
(Code 1961, § 15-41.1; Ord. No. 314-95, § 3, 8-14-1995)

Sec. 28-90. Permit and license appeal board.

There is hereby created a permit and license appeal board consisting of five members, each being a resident of the city, each to be appointed by the city council for a term of two years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member, whose place becomes vacant for any cause, in the same manner as the original appointment was made. Two members heretofore appointed shall serve until May 1, 1997, or until their successors are appointed, and three members, as heretofore appointed, shall serve until May 1, 1996, or until their successors are appointed, and thereafter each member reappointed or each new appointee shall serve for a full term of two years, unless removed as hereinabove provided. Provided, however, that the city council may appoint two alternate members of the permit and license appeal board who shall serve in the absence of one or more of the regular members when requested to do so by the mayor or city manager. The alternate members shall serve for the same period as the regular members, which is for a term of two years, and any vacancy shall be filled in the same manner and they shall be subject to removal the same as the regular members.
(Code 1961, § 15-41.2; Ord. No. 314-95, § 3, 8-14-1995)

Sec. 28-91. Procedure.

Meeting of the permit and license appeal board shall be held at the call of the chairperson and at such other times as the permit and license appeal board may determine. The chairperson, or in the chairpersons absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The permit and license appeal board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
(Code 1961, § 15-41.3; Ord. No. 314-95, § 3, 8-14-1995)

Sec. 28-92. Appeal to district court.

If an applicant for a license or a licensee is dissatisfied with the decision of the permit and license appeal board, they may appeal the decision to the state district court. An appeal to the state district court must be filed within 20 days after the date of service of the decision of the permit and license appeal board.
(Code 1961, § 15-42; Ord. No. 202-94, § 1, 7-11-1994; Ord. No. 314-95, § 4, 8-14-1995)

Sec. 28-93. Transfer of license.

A licensee shall not transfer the licensee's license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. A license issued under these regulations is not transferrable, assignable or divisible and it shall be unlawful for any person to use a license which has been issued to another person under these regulations.
(Code 1961, § 15-43; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-94. Location of sexually oriented business.

(a) A person commits an offense if the person operates, or causes to be operated, a sexually oriented business within 1,000 feet of:

(1) A church;

(2) A public or private elementary or secondary school;

(3) A boundary of a residential district as defined by the city zoning ordinance;

(4) A public park adjacent to a residential district as defined by the city zoning ordinance;

(5) The property line of a lot devoted to residential use;

(6) A licensed day care center;

(7) A public building.

(b) A person commits an offense if the person causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

(c) A person commits an offense if the person causes or permits the operation, establishment or maintenance of more than one sexually oriented business in the same building, structure or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

(d) For the purposes of subsection (a) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, residential lot, day care center or public building. Also for the purpose of subsections (a) and (b) of this section, measurement of the 1,000-foot distance shall also include churches, schools, boundaries of a residential district, a public park adjacent to a residential district, the property line of a lot devoted to residential use, a licensed day care center, a public building or other sexually

oriented businesses which are located in an adjoining city, township or rural land area and which are within the 1,000-foot distance of the nearest property line of the property sought to be used as a sexually oriented business within the city.

(e) For purposes of subsection (b) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closed exterior wall of the structure in which each business is located.

(f) Any sexually oriented business lawfully in operation on May 22, 1989, that is in violation of subsection (a), (b), or (c) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed three years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in permissible locations, the sexually oriented business which was first established and continually operating at a particular location is the conforming use, and the after-established business is nonconforming.

(g) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, public or private elementary or secondary school, public park, residential lot, residential district, licensed day care center or public building within 1,000 feet of a sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.
(Code 1961, § 15-44; Ord. No. 202-94, § 1, 7-11-1994; Ord. No. 398-95, §§ 2—4, 11-13-1995)

Sec. 28-95. Exemption from location restrictions.

(a) The chief of police may, in the chief of police discretion, grant an exemption from the locational restrictions of section 28-94 if the chief of police makes the following findings; that:

(1) The location of the proposed sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;

(2) The granting of the exemption will not violate the spirit and intent of this article;

(3) The location of the proposed sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;

(4) The location of an additional sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor interfere with any efforts of urban renewal or restoration; and

(5) All other applicable provisions of this article will be observed.

(b) The chief of police shall hear and consider evidence offered by any interested party. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the chief of police is final.

(c) If the chief of police grants the exemption, the exemption is valid for one year from the date of the chief of police's action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of section 28-94 until the applicant applies for and receives another exemption.

(d) If the chief of police denies the exemption, the applicant may not reapply for an exemption until at least 12 months have elapsed since the date of the chief of police's action.

(e) The grant of an exemption does not exempt the applicant from any other provisions of this article other than the locational restrictions of section 28-94.
(Code 1961, § 15-45; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-96. Additional regulations for adult motels.

(a) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel, as that term is defined in this Code.

(b) A person commits an offense, if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business permit, that person rents or subrents a sleeping room to a person and within ten hours from the time the room is rented the person rents or subrents the same sleeping room again.

(c) For purposes of subsection (b) of this section, the terms "rent" or "subrent" mean the act of allowing a room to be occupied for any form of consideration.
(Code 1961, § 15-46; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-97. Additional regulations for nude model studios.

(a) A nude model studio may not employ anyone under the age of 18 years.

(b) A person under the age of 18 years commits an offense if the person appears in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or persons of the opposite sex.

(c) A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(d) A nude studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.
(Code 1961, § 15-47; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-98. Additional regulations for adult motion picture theaters and adult theaters.

(a) The requirements and provision of other applicable chapters of this Code remain applicable to adult theaters and adult motion picture theaters.

(b) A person commits an offense if the person knowingly allows a person under the age of 18 years to appear in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(c) A person under the age of 18 years commits an offense if the person knowingly appears in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(d) It is a defense to prosecution under subsections (b) and (c) of this section if the person under 18 years was in a restroom not open to public view or persons of the opposite sex.
(Code 1961, § 15-48; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-99. Regulations pertaining to exhibition of sexually explicit films or videos.

(a) A person who operates or causes to be operated a sexually oriented business, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette or other visual reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station shall not exceed 32 square feet of floor area. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The chief of police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the chief of police or designee.

(4) It is the duty of the owner and operators of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the owner and operators, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (a)(5) of this section remains unobstructed of any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a)(1) of this section.

(7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle as measured at floor level.

(8) It shall be the duty of the owner and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described in subsection (a)(7) of this section, is maintained at all times that any patron is present in the premises.

(b) A person having a duty under subsections (a)(1) through (8) of this section commits an offense if the knowingly fails to fulfill that duty.
(Code 1961, § 15-48.1; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-100. Additional regulations for escort agencies.

(a) An escort agency shall not employee any person under the age of 18 years.

(b) A person violates this section if the person acts as an escort for any person under the age of 18 years.
(Code 1961, § 15-48.2; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-101. Persons younger than 18 years of age prohibited from entry.

(a) It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time that the premises is open for business.

(b) An attendant shall be stationed at each public entrance to the business at all times during business hours. The attendant shall not allow any person under the age of 18 years of age to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless the attendant asked for and was furnished:

(1) A valid operator's, commercial operator's or chauffeur's license; or

(2) A valid personal identification certificate issued by the state department of public safety reflecting such person is 18 years of age or older.

(Code 1961, § 15-48.3; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-102. Enforcement.

(a) Any person violating section 28-94, upon conviction, is punishable by a fine not to exceed $2,000.00. Each day that a violation is permitted or continues to exist shall constitute a separate violation.

(b) Any person violating a provision of this article other than section 28-94 upon conviction, is punishable by a fine not to exceed $500.00. Each day that a violation is permitted or continues to exist shall constitute a separate violation.

(c) It is a defense to prosecution under section 28-94 or 28-97, that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school licensed by the state; a college, junior college or university supported entirely or partially by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partially by taxation; or

(3) In a structure:

a. Which has no sign visible from the exterior of the structure and no advertising that indicates that a nude person is available for viewing;

b. Where in order to participate in a class a student must enroll at least three days in advance of the class; and

c. Where no more than one nude model is on the premises at any one time.

(d) It is a defense to prosecution under section 28-99 that each item of descriptive, printed, film or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political or scientific value.
(Code 1961, § 15-48.4; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-103. Injunction.

The city attorney is hereby authorized to bring a civil action in the district court of the county, to enjoin a person who operates, or causes to be operated, a sexually oriented business without a valid license or in violation of this article. Such violations shall also be subject to prosecution for criminal violations.
(Code 1961, § 15-48.5; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-104. Effect on state law.

These regulations do not legalize anything prohibited under the Penal Code or other state law.
(Code 1961, § 15-48.6; Ord. No. 202-94, § 1, 7-11-1994)

Sec. 28-105. Operative date.

All persons operating a sexually oriented business at the time this article becomes effective shall submit the appropriate application for a license within 45 days of the effective date of this article.
(Code 1961, § 15-48.7; Ord. No. 202-94, § 1, 7-11-1994)

Secs. 28-106—28-123. Reserved.

ARTICLE IV. PROHIBITED SUBSTANCES

Sec. 28-124. Solicitation to purchase a prohibited substance.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Controlled substance has the same meaning ascribed to the term by Texas Health and Safety Code § 481.002, as amended.

Controlled substance analogue has the same meaning ascribed to the term by Texas Health and Safety Code § 481.002, as amended.

Dangerous drug has the same meaning ascribed to the term by Texas Health and Safety Code § 483.001, as amended.

Prohibited substance means a controlled substance, controlled substance analogue, dangerous drug, volatile chemical or any combination of those substances.

Volatile chemical means any chemical or isomar of a chemical listed in Texas Health and Safety Code § 484.002, as amended.

(b) A person commits an offense if, with intent to acquire a prohibited substance, the person requests, commands or attempts to induce another to sell, donate or otherwise transfer or deliver a prohibited substance to the person.

(c) A person may not be convicted under this section unless:

(1) The testimony of the person allegedly solicited is corroborated; and

(2) The solicitation is made under circumstances strongly corroborative of both the solicitation itself and the person's intent that the other person act on the solicitation.

(d) It is no defense to prosecution under this section that:

(1) No monetary or other consideration was tendered to the person solicited;

(2) The person solicited was unable or unwilling to transfer or deliver a prohibited substance; or

(3) The person soliciting did not use or identify the controlled substance by its proper medical term, as it is identified in the Texas Health and Safety Code.

(e) It is an affirmative defense to any prosecution under this section that the solicitation was made:

(1) In furtherance of a transaction that would not constitute a violation of any applicable law; or

(2) By a peace officer, federal law enforcement officer or other law enforcement agent acting in the lawful discharge of an official duty.

(f) An offense under this section is punishable by a fine of not less than $100.00 nor more than $2,000.00.

(g) Any conduct proscribed under this section that is also an offense under state law shall not be prosecuted under this section, but shall be prosecuted pursuant to, and punishable as provided by, the applicable state law. An offense under this section is not a lesser included offense under chs. 481, 483, or 484 of the Texas Health and Safety Code.
(Code 1961, § 15-49; Ord. No. 63-92, § 1, 3-9-1992)

Sec. 28-125. Possession, sale or ingestion of certain substances.

(a) It shall be unlawful for any person to use, possess, purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following substances within the city limits:

(1) Any substance similar to those listed in the Texas Health and Safety Code ch. 481, Texas Controlled Substance Act, Penalty Groups 2, 2A and 3, regardless if marketed as tobacco, herbs, spice, incense, bath salts, or any blend thereof, which when inhaled or otherwise ingested produces intoxication, stupefaction, paralysis, irrational behavior, or in any manner, changes distorts, or disturbs the auditory, visual, or mental process; or

(2) A substance that has no apparent legitimate purpose for consumers other than to produce an intoxicating effect which alters normal mental and physical capabilities.

(b) It is not a violation of this section if a person was acting under the supervision of an authorized law enforcement officer to enforce or ensure compliance with this section.

(c) This section does not apply to any person who commits any act described in this section pursuant to the direction or prescription of a licensed physician or dentist licensed by the state to direct or prescribe such act. This section likewise does not apply to the inhalation of anesthesia for a medical or dental purpose.

(d) Any person who violates this section shall be guilty of a misdemeanor and subject to a fine upon conviction in municipal court.
(Code 1961, § 15-49.1; Ord. No. 091-2010, § 1(exh. A), 6-28-2010)

Secs. 28-126—28-148. Reserved.

ARTICLE V. CURFEW FOR MINORS

Sec. 28-149. Purposes and findings.

(a) *Purposes.* The purposes of this article are to:

(1) Protect minors from criminal activity that occurs after the curfew hour;

(2) Protect minors from improper influences that prevail after the curfew hour;

(3) Protect the public from illegal acts of minors committed after the curfew hour; and

(4) Help parents, guardians, custodians or other responsible persons, in carrying out their responsibility to exercise reasonable supervision of the children entrusted to their care.

(b) *Findings.* In determining that a need exists for this article, the city council finds and determines as follows:

(1) The city is a stable family community where parental responsibility for the whereabouts of children is the norm.

(2) During nocturnal hours children are at a greater risk of victimization or becoming involved in delinquent or criminal behavior.

(3) As parental control increases, the likelihood of children being victimized or becoming involved in delinquent or criminal behavior decreases.

(4) According to the 1990 Census:

a. The population of the city is 31,656. The city occupies 23.20 square miles.

b. There are 8,225 children within the age group affected by this article.

c. There are 4,160 families in the city with their own children; 2,743 married couple families with their own children; 92 male heads of household with no wife present with their own children; and 1,271 female heads of household with no husband present with their own children.

(5) The data set forth in subsection (b)(4) of this section are significant criteria in establishing the need for this article when evaluated in conjunction with the crime statistics which are attached hereto, marked exhibit A and made a part hereof by reference. The data in exhibit A demonstrates a compelling need for enactment of this article. Exhibit A illustrates statistics for crime within the city for the approximate 2½-year period from 1991 through July, 1993. These statistics show the number of offenses involving juveniles which have occurred during that approximate 2½-year period for both the time period which would not be included within the curfew hours of this article (noncurfew) and the time period which would be included within the curfew hours of this article (curfew). Exhibit A indicates that juvenile crime, juvenile violent crime, and juvenile victimization have continued to increase over the last 2½ years and have reached an unacceptable and alarming level, compelling the city council to adopt this article for the public good, safety and welfare.

(Code 1961, § 15-50; Ord. No. 261-93, § 1, 8-9-1993)

Editor's note—Exhibit A, referenced above, has not been set out herein but is on file and available for inspection at the office of the city secretary.

Sec. 28-150. Definitions.

For the purposes of this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours means:

(1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. the following day; and

(2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday; and

(3) 9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday or Friday.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

Minor shall mean any person under 17 years of age.

Operator means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment, including the members or partners of an association or partnership and the officers of a corporation.

Parent means a person who is the natural parent, adoptive parent or the step-parent of a person. As used herein, the term "parent" also includes a court-appointed guardian or other person 21 years of age or older and authorized by the parent, by a court order or by the court-appointed guardian to have the care and custody of a person.

Premises means the structure within which the establishment is housed.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
(Code 1961, § 15-51; Ord. No. 261-93, § 1, 8-9-1993)

Sec. 28-151. Offenses.

(a) It shall be unlawful for any minor to intentionally or knowingly remain, walk, run, stand, drive or ride about in or upon any public place in the city during curfew hours.

(b) It shall be unlawful for the parent of a minor to knowingly permit, or by inefficient control to allow such minor to remain, walk, run, stand, drive or ride about, in or upon any public place in the city during curfew hours. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody.

(c) It shall be unlawful for a person to induce, encourage or assist a minor to remain, walk, run, stand, drive or ride about, in or upon any public place in the city during curfew hours.

(d) It shall be unlawful for the owner, operator or any employee of an establishment to knowingly allow a minor to enter or to remain upon the premises of the establishment during curfew hours.
(Code 1961, § 15-52; Ord. No. 261-93, § 1, 8-9-1993)

Sec. 28-152. Exceptions; defenses.

(a) It is a defense to prosecution under section 28-151 that at the time of the act that otherwise would constitute an offense:

(1) The minor was accompanied by the minors parent;

(2) The minor was accompanied by an adult 21 years of age or older designated by their parent;

(3) The minor was on an errand made necessary by an emergency;

(4) The minor was attending a school, religious activity, or government sponsored activity or going to or coming from a school, religious or government sponsored activity;

(5) The minor was engaged in a lawful employment activity or volunteer work at a recognized charity institution, or going to or coming from such activity without detour or stop;

(6) The minor was attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or other similar entity that takes responsibility for the minor;

(7) The minor was, with parental consent, in a motor vehicle engaged in interstate travel, beginning, ending or passing through the city;

(8) The minor was on an errand at the direction of the minor's parent, without any detour or stop;

(9) The minor was on the property or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto if the owner or occupant of the adjacent building does not communicate an objection to the minor and the police department;

(10) The minor was attending or traveling directly to or from an activity involving the exercise of the First and Fourteenth Amendment rights protected by the United States Constitution, including, but not limited to, the exercise of religion, freedom of speech and the right of assembly;

(11) The minor was married or had been married or had disabilities of minority removed in accordance with ch. 31 of the Texas Family Code;

(12) The minor was following the direction of a peace officer;

(13) With respect to the hours between 9:00 a.m. and 2:30 p.m. only, that the offense occurred during the school summer vacation break period of the school in which the minor is enrolled or on a holiday observed by the closure of classes in the school in which the minor is enrolled or that the minor has graduated from high school or received a high school equivalency certificate; or

(14) In a prosecution under section 28-151(d), the owner, operator or employee of the place of business promptly notified the police department that a minor was present on the premises of the businesses during the curfew hours and refused to leave.

(b) Each of the foregoing exceptions, and their several limitations, are severable, as hereinafter provided but reemphasized here.
(Code 1961, § 15-53; Ord. No. 261-93, § 1, 8-9-1993)

Sec. 28-153. Supplemental effect.

The provisions of this article are supplemental and shall be cumulative with all other laws and ordinances applicable in any manner to juveniles.
(Code 1961, § 15-54; Ord. No. 261-93, § 1, 8-9-1993)

Sec. 28-154. Enforcement.

Before taking any enforcement action under this article, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this article, unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 28-152 is present.
(Code 1961, § 15-55; Ord. No. 261, § 1, 8-9-1993)

Sec. 28-155. Penalties.

(a) A minor who violates section 28-151(a) shall be guilty of a misdemeanor and, upon conviction, shall be punishable by a fine not to exceed $500.00, and may be subject to appropriate action by a juvenile court in accordance with Texas Family Code §§ 51.03 and 51.08 and Texas Penal Code § 8.07.

(b) A parent of a minor who violates section 28-151(b) shall be guilty of a misdemeanor and, upon conviction, shall be punishable by a fine not to exceed $500.00.

(c) A person who violates a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted.

(d) In assessing punishment for either a parent or a minor, the municipal court judge may consider a community service or teen court program.
(Code 1961, § 15-56; Ord. No. 261-93, § 1, 8-9-1993)

Sec. 28-156. Construction and severability.

It is intended that the curfew article be held inapplicable in such cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given. The city council does not intend to violate the constitution of the state or the Constitution of the United States of America, and does not intend an interpretation of this article or an application thereof which is absurd, impossible or unreasonable.
(Code 1961, § 15-57; Ord. No. 261-93, § 1, 8-9-1993)

Secs. 28-157—28-180. Reserved.

ARTICLE VI. PUBLIC TRANSIT OFFENSES

Sec. 28-181. Prohibitions; public transit offenses.

(a) It shall be unlawful for any person to commit any of the following acts while aboard public transit system vehicles, and at public transit facilities and other transit service provision locations:

(1) Create a fire hazard by possessing any combustible liquid, explosive, source of heat or flame while such source is in operation, lighted or smoldering smoking materials or corrosive material.

(2) Smoke or carry a lighted or smoldering pipe, cigar or cigarette.

(3) Consume, distribute or discard food or drink while inside a transit vehicle, or within a transit structure where it is prohibited.

(4) Discard litter, trash or other offensive materials in a place other than a designated trash receptacle.

(5) Engage in loud or boisterous conduct which tends to disturb the peace and safety of other persons aboard a transit vehicle or within a transit facility, or which tends to distract the vehicle operator or obstruct the operator's vision.

(6) Operate any musical instrument, radio, tape or CD player, television, scanner, or other device producing an audible sound, unless such device is connected to earphones to be audible only to the individual operating the device or wearing the earphones.

(7) Interfere with the driver's operation of the transit vehicle.

(8) Open, stop, impede or interfere with the doors of a transit vehicle.

(9) Stand in front of the white line marked on the forward part of the floor or at the rear exit of any transit vehicle.

(10) Run, climb through windows or on seats, obstruct passage or otherwise endanger other passengers.

(11) Board a public transit vehicle through the rear exit door, unless so directed by an employee or agent of the transit system.

(12) Willfully damage, deface, mark, cut, scratch or draw on or remove any part or fixture of a transit vehicle, structure or sign.

(13) Place or store any package, box or case in the aisle way of a transit vehicle, facility or shelter.

(14) Bring or operate baby carriages, strollers or small shopping carts which cannot be readily collapsed or secured so they do not block aisles or present an impediment to other passengers.

(15) Bring or operate wagons, large shopping carts or bicycles on transit vehicles or within transit facilities.

(16) Wear, ride or use roller skates, in-line skates, skateboards or bicycles on transit vehicles or within transit facilities.

(17) Ride on top of or on the outside of any transit vehicle, or hold onto a transit vehicle while it is in motion.

(18) Carry on their person deadly weapons, including firearms, knives, switchblades, swords or other weapons that could endanger other passengers.

(19) Carry, lead or accompany any live animal, reptile, fish, bird or other live thing, unless the animal, reptile, fish, bird or other live thing is properly and securely packaged. The packaging must be small enough that it does not obstruct or reasonably disturb other passengers or the vehicle operator. It shall not be unlawful under this section for a disabled passenger to be accompanied by a service animal under the control of the disabled passenger.

(20) Walk with bare feet or without a shirt on transit vehicles or within transit facilities.

(21) Board a transit vehicle or enter a transit facility bleeding, or with an open wound, or after having soiled oneself with bodily fluids.

(22) Deliberately spit, urinate or defecate on a transit vehicle or within a transit facility.

(23) Knowingly board a transit vehicle without paying the established fare or presenting a valid pass or transfer.

(24) Refuse to leave a transit vehicle or facility after having been ordered to do so by the vehicle operator, a designated transit agent or a police officer.

(25) Falsely cause or create a scare or panic by communicating a bomb scare, hijacking threat or other false warning which tends to unreasonably cause fear, apprehension or panic on a transit vehicle or within transit facilities.

(26) Place, move or park any structure or vehicle along a street or driveway within 30 feet of a designated transit terminal, shelter, bus stop or other such structure without the express consent of the transit agency.

(27) Post any signs, advertisements, circulars or printed materials, set up any tables or other portable equipment, or leave any leaflets or other printed materials on transit vehicles or within transit facilities, without the express consent of the transit agency.

(28) Carry on commercial speech, including, but not limited to, media or advertisement of any sale or attempt to sell any item or service, in a location that is not specifically provided for that purpose by the transit agency. It shall not be unlawful under this section to use space specifically made available on transit vehicles or within transit facilities for advertisements, community announcements, or other information.

(b) Any person who commits a public transit offense shall be guilty of a Class C misdemeanor.
(Code 1961, § 15-66; Ord. No. 123-01, § 1, 5-14-2001)

Secs. 28-182—28-200. Reserved.

ARTICLE VII. PANHANDLING

Sec. 28-201. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Panhandling means any solicitation made in person requesting an immediate donation of money or thing of value. The term "panhandling" includes the purchase of an item or service under circumstances where a reasonable person would understand that the purchase is in substance a donation.
(Code 1961, § 15-67; Ord. No. 155-01, § 1, 6-25-2001)

Sec. 28-202. Time of panhandling.

Any person who panhandles after sunset or before sunrise is guilty of a Class C misdemeanor.
(Code 1961, § 15-68; Ord. No. 155-01, § 1, 6-25-2001)

Sec. 28-203. Place of panhandling.

Any person who panhandles at any hour when the person solicited is in any of the prohibited places is guilty of a Class C misdemeanor:

(1) In any vehicle or a pedestrian on a public street, roadway or highway at locations within the city limits as recommended by the police chief and approved by the city manager. The office of the police chief will have a list of the locations;

(2) At any bus stop;

(3) In any public transportation vehicle or facility; or

(4) On private property, and the panhandler has been denied permission from the owner or occupant of the private property.

(Code 1961, § 15-69; Ord. No. 155-01, § 1, 6-25-2001; Ord. No. 087-06, § 1, 3-27-2006)

Sec. 28-204. Manner of panhandling.

Any person who panhandles in any of the following manners is guilty of a Class C misdemeanor:

(1) By blocking the path of the person solicited along a sidewalk or street;

(2) By following a person who walks away from the panhandler;

(3) By using profane or abusive language, either during the solicitation or following a refusal; or

(4) By any statement, gesture or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.

(Code 1961, § 15-70; Ord. No. 155-01, § 1, 6-25-2001)

Sec. 28-205. Panhandling that is false or misleading.

Any person who knowingly makes any false or misleading representation in the course of soliciting a donation is guilty of a Class C misdemeanor. False or misleading representations include, but are not limited to, the following:

(1) Stating that the solicitor is homeless when the solicitor is not;

(2) Stating that the solicitor is from out of town and stranded when that is not true;

(3) Using makeup or device to simulate any deformity;

(4) Wearing or displaying an indication of physical disability when the solicitor does not suffer the disability indicated;

(5) Wearing a military uniform or other indication of military service when the solicitor is neither a present nor former member of the service indicated; or

(6) Stating that the donation is needed to meet a need which does not exist or the solicitor already has sufficient funds to meet.

(Code 1961, § 15-71; Ord. No. 155-01, § 1, 6-25-2001)

Secs. 28-206—28-233. Reserved.

ARTICLE VIII. NOISE

Sec. 28-234. Unreasonable noises, residential zoning.

(a) In all areas zoned for residential use, the creation of any unreasonably loud noise which causes distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is hereby prohibited.

(b) Any noise of such character, intensity and continued duration which substantially interferes with the comfortable enjoyment of any dwelling in an area zoned for residential use by persons of ordinary sensibilities is also declared to be a nuisance and is hereby prohibited.

(Code 1961, § 14-1; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Sec. 28-235. Unreasonable noises, commercial zoning.

(a) In areas zoned for commercial use, the creation of any unreasonably loud noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is hereby prohibited when such noise emanates from inside or on the premises of a house, hotel, apartment or other dwelling place.

(b) Noise emanating from any premises in an area zoned for commercial use is hereby deemed reasonable and permissible when it is associated with the ordinary operation of an amusement, business, industry or commerce and such business is being conducted in accordance with all city ordinances and permit requirements.

(Code 1961, § 14-2; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Sec. 28-236. Noisy animals and birds.

It shall be unlawful for any person to keep any animal or bird which, by causing frequent or long-continued noise, disturbs the comfort and repose of any person of ordinary sensibilities in the immediate vicinity.

(Code 1961, § 14-3; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Sec. 28-237. Building operations prohibited at certain times.

The erection, including excavation, demolition, alteration or repair of any building is hereby prohibited on Sundays and between the hours of 6:00 p.m. and 7:00 a.m. on any other day;

provided, however, that, in cases of necessity in the interest of public safety and convenience, the council may, by resolution, grant a permit allowing such activities during the times herein prohibited under such conditions as the council may deem proper.
(Code 1961, § 14-4; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Sec. 28-238. Noise near schools, courts, hospitals, place of worship, etc.

The creation of any excessive, unreasonable or unnecessary noise on any street adjacent to any school, place of worship, institution of learning or court while the same is in session, or adjacent to any hospital, convalescent, old age or rest home, which unreasonably interferes with the workings of such institution or may interfere with the comfort of patients within such institution, is hereby prohibited, if conspicuous signs or other evidence indicating the presence of such school, court, hospital, convalescent, old age or rest home are displayed, giving the public adequate notice of the presence of such institution.
(Code 1961, § 14-5; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Sec. 28-239. Stationary loudspeakers and amplifiers.

Except as provided in section 28-235(b), the use of any stationary loudspeaker or amplifier or other musical instrument in such manner or with such volume, particularly between the hours of 10:00 p.m. and 7:00 a.m., as to annoy and disturb persons of ordinary sensibilities in the immediate vicinity thereof is prohibited. The operation of such loudspeaker or amplifier or other musical instrument or device at any time on Sunday so as to disturb church services and congregations therein is likewise prohibited. Upon application by the user of such device, the city council may, by resolution, make special exemption or exception to this section for such times as the council feels will serve the public welfare.
(Code 1961, § 14-6; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Sec. 28-240. Noisy vehicles generally.

The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise is hereby prohibited.
(Code 1961, § 14-7; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Sec. 28-241. Mufflers required for vehicles.

It shall be unlawful for any person to operate any motor vehicle, motorcycle, motor scooter or other conveyance operated by a gasoline or diesel engine, without a suitable muffler thereon in operation at all times, such muffler designed to prevent excessive or unusual noises. The term "muffler," within the meaning of this section, means a device through which the escaping gases

of the motor of a motor vehicle, motor scooter, motorcycle or other conveyance operated by a gasoline or diesel engine pass, designed to muffle or minimize the noise to the greatest extent as produced by the operation of such motor.
(Code 1961, § 14-8; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Sec. 28-242. Sound amplification systems in vehicles.

(a) No person operating or occupying a motor vehicle in a street, highway, alley, parking lot or driveway, whether public or private property, shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of 30 or more feet from the vehicle.

(b) Sound amplification system means any radio, tape player, compact disc player, loudspeaker, or other electronic device used for the amplification of sound.

(c) Plainly audible means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 30 feet or more. Measurement standards shall be by the auditory senses, based on direct line of sight. Words or phrases need not be discernible and bass reverberations are included. It is an offense regardless of whether the motor vehicle is stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway, on either public or private property.

(d) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

(1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

(2) The vehicle was an emergency or public safety vehicle;

(3) The vehicle was owned and operated by a public utility company, including the city; or

(4) The system or vehicle was used in an authorized public activity, such as a parade, fireworks, sporting event, musical production or other activity which has the approval of the city council or a department of the city authorized to grant such approval.

(Code 1961, § 14-9; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Sec. 28-243. Spinning of automobile tires.

It shall be unlawful for any person driving or operating any motor vehicle to cause unreasonable, disturbing or unnecessary noise by spinning the tires of such motor vehicle upon any street, alley or other public way.
(Code 1961, § 14-10; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Sec. 28-244. Engine compression braking.

(a) It shall be unlawful for the driver of any truck or other motor vehicle to use or operate, or cause to be used or operated, within the city, any mechanical exhaust device, or engine compression brake designed to be used in the braking or deceleration of any truck or other vehicle which results in the excessive, loud, unusual or explosive noise from such vehicle, or otherwise engage in engine compression braking. It is an affirmative defense to a violation of this section that engine compression braking was used on an emergency basis to avoid damage to property or to avoid personal injury.

(b) Any person violating any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court, shall be fined not more than $300.00 for each offense. Each time a person uses the engine brake it shall be considered a separate offense. (Code 1961, § 14-11; Ord. No. 184-2010, § 1(exh. A), 11-22-2010)

Chapter 29

RESERVED

Chapter 30

OIL AND GAS WELLS*

Article I. In General

Sec. 30-1. Definitions.
Sec. 30-2. Location in or obstruction of streets.
Sec. 30-3. Excavations and lines on or under streets.
Sec. 30-4. Location near residence or commercial building.
Sec. 30-5. Bond required prior to drilling.
Sec. 30-6. Insurance required prior to drilling.
Sec. 30-7. Drilling practices generally.
Sec. 30-8. Premises to be kept clean and sanitary.
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Sec. 30-16. Fire protection generally.
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Article II. Permit

Sec. 30-44. Required.
Sec. 30-45. Application.
Sec. 30-46. Fee.
Sec. 30-47. Issuance; contents.
Sec. 30-48. Termination.

***State law references**—Oil and gas generally, Texas Natural Resources Code chs. 52, 81, 91; lease of municipal oil, gas or mineral land, Texas Local Government Code § 253.005; municipal authority to regulate exploration and development of mineral interests, Texas Natural Resource Code § 92.007.

ARTICLE I. IN GENERAL

Sec. 30-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Lease means any tract of land subject to an oil, gas and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases, but operated as one lease, and any tract of land in which the minerals are owned by an operator or someone holding under it or the operator, but which, due to the free royalty ownership, is developed and operated as a separate tract.

Permittee means the person to whom is issued a permit for the drilling and operation of a well under this chapter, and the person or its administrators, executors, heirs, successors and assigns.

Technical words mean all technical or oil and gas industry words or phrases used in this chapter and not specifically defined herein shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry.

Well includes and means any holes or bores, to any sand, formation, strata or depth for the purpose of producing and recovering any oil, gas, liquid hydrocarbon or any of them.
(Code 1961, § 16-1; Ord. of 12-20-1955, § 1)

Sec. 30-2. Location in or obstruction of streets.

No well shall be drilled and no permit shall be issued for any well to be drilled at any location which is within any of the streets or alleys of the city and no street or alley shall be blocked or encumbered or closed in any drilling or production operation except by special permit by order of the city council, and then only temporarily.
(Code 1961, § 16-2; Ord. of 12-20-1955, § 3)

Sec. 30-3. Excavations and lines on or under streets.

No permittee shall make any excavations or construct any lines for the conveyance of fuel, water or minerals on, under or through the streets and alleys of the city, without express written permission of the city council, and then only in strict compliance with the ordinances of the city.
(Code 1961, § 16-3; Ord. of 12-20-1955, § 9)

Sec. 30-4. Location near residence or commercial building.

No well shall be drilled and no permit shall be issued for any well to be drilled at any location which is nearer than 200 feet to any residence or commercial building without the written permission of the owner of such building.
(Code 1961, § 16-4; Ord. of 12-20-1955, § 4)

Sec. 30-5. Bond required prior to drilling.

(a) In the event a permit is issued by the city council under the terms of this chapter for the drilling and operation of a well, no actual drilling operations shall be commenced until the permittee shall file with the city secretary, a bond in such principal sum as is determined by the city council, but not less than $25,000.00. Such bond shall be executed by a reliable insurance company authorized to do business in the state as surety, and with the permittee as principal, and shall run to the city for the benefit of the city and all persons concerned. Such bond shall be conditioned that the permittee will comply with the terms and conditions of this chapter in the drilling and operation of the well. The bond shall become effective on or before the date the same is filed with the city secretary and remain in force and effect for at least six months subsequent to the expiration of the term of the permit issued. In addition, the bond will be conditioned that the permittee will promptly pay all fines, penalties and other assessments imposed upon the permittee by reason of the permittees breach of any of the terms, provisions and conditions of this chapter; that the permittee will promptly restore the streets and sidewalks and other public property of the city, which may be disturbed or damaged in the operations, to their former condition; that the permittee will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the drilling or producing operations, and will, after abandonment, grade, level and restore the property to the same surface condition, as nearly as possible, as existed when operations for the drilling of the well were first commenced; and that the permittee will indemnify and hold the city harmless from any and all liability growing out of or attributable to the granting of such permit. If at any time, the city council shall deem any bond to be insufficient for any reason, it may require the permittee to file a new bond.

(b) If, after completion of a well, the permittee has complied with all of the provisions of this chapter, the permittee may apply to the city council to have the bond reduced to a sum of not less than $10,000.00 for the remainder of the time the well produces without reworking. During reworking operations, the amount of the bond shall be increased to the original amount.
(Code 1961, § 16-5; Ord. of 12-20-1955, § 8)

Sec. 30-6. Insurance required prior to drilling.

(a) In addition to the bond required by section 30-5, each permittee shall carry a policy of standard comprehensive public liability insurance, including contractual liability, covering bodily injuries and property damage, naming the permittee and the city, in an insurance company authorized to do business within the state. Such policy in the aggregate, shall provide for the following minimum coverages:

(1) Bodily injuries, $100,000.00 one person; $300,000.00 one accident.

(2) Property damage, $200,000.00.

(b) The permittee shall file with the city secretary, certificates of such insurance prior to commencing any drilling operations.

(c) If, after completion of a well, the permittee has complied with all of the provisions of this chapter, the permittee may apply to the city council to have the insurance policies reduced as follows:

(1) Bodily injuries, $50,000.00 one person; $100,000.00 one accident.

(2) Property damage, $50,000.00.

(d) For the remainder of the time the well produces without reworking, the amount of the insurance policy shall be increased to the original amount.
(Code 1961, § 16-6; Ord. of 12-20-1955, § 8)

Sec. 30-7. Drilling practices generally.

All drilling operations at any well performed by a permittee under this chapter shall be conducted in accordance with the best practices of the reasonably prudent operator. Each permittee under this chapter shall observe and follow the recommendations and/or regulations of the American Petroleum Institute and the state railroad commission.
(Code 1961, § 16-7; Ord. of 12-20-1955, § 12)

Sec. 30-8. Premises to be kept clean and sanitary.

The premises shall be kept in a clean and sanitary condition, free from rubbish of every character, to the satisfaction of the health officer, at all times drilling operations or reworking operations are being conducted, and as long thereafter as oil and/or gas is being produced therefrom.
(Code 1961, § 16-8; Ord. of 12-20-1955, § 13)

Sec. 30-9. Derrick and rig.

It shall be unlawful and an offense for any person to use or operate, in connection with the drilling or reworking of any well within the city, any wooden derrick or any steam-powered rig, and all engines shall be equipped with adequate mufflers approved by the city. It shall likewise be unlawful for any person to permit any drilling rig or derrick to remain on the premises or drilling site for a period longer than 60 days after completion or abandonment of the well.
(Code 1961, § 16-9; Ord. of 12-20-1955, § 10)

Sec. 30-10. Pits.

Steel slush pits shall be used in connection with all drilling and reworking operations. Such pits and contents shall be removed from the premises and the drilling site within 30 days after completion of the well. No earthen slush pits shall be used.
(Code 1961, § 16-10; Ord. of 12-20-1955, § 11)

Sec. 30-11. Waste matter not to run or be deposited in streets, alleys, etc.

It shall be unlawful for any permittee, permittees agents or employees, to permit any mud, water, waste oil, slush or other waste matter from any slush pit, storage tank or well located within the city, or from any premises within the city developed or being developed for oil or gas purposes, to run into or be deposited in the alleys, streets, lots, land or leases within the corporate limits of the city.
(Code 1961, § 16-11; Ord. of 12-20-1955, § 13)

Sec. 30-12. Motive power for post-drilling operations.

Motive power for all well operations after completion of drilling operations shall be electric or properly muffled gas, gasoline or diesel engines. Mufflers shall be approved by the city council prior to their use.
(Code 1961, § 16-12; Ord. of 12-20-1955, § 14)

Sec. 30-13. Storage tanks, separators and underground pipe lines.

It shall be unlawful and an offense for any person to use, construct or operate, in connection with any producing well within the city, any crude oil storage tanks except to the extent of two steel tanks for oil storage, not exceeding 500 barrels capacity each and so constructed and maintained as to be vapor tight. Additional tankage, however, may be approved by the director of public works upon application of the permittee. A permittee may use, construct and operate a steel conventional separator, and such other steel tanks and appurtenances as are necessary for treating oil, with each of such facilities to be so constructed and maintained as to be vapor tight. Each oil and gas separator shall be equipped with both a regulation pressure relief safety valve and a bursting head. Any oil or gas produced may be transported outside of the city limits by underground pipe lines or tank trucks as appropriate.
(Code 1961, § 16-13; Ord. of 12-20-1955, § 15; Ord. No. 41-82, § 1, 3-8-1982)

Sec. 30-14. Fence required upon completion.

Any person who completes a well as a producer shall have the obligation to enclose the well, together with its surface facilities, by a substantial fence constructed of concrete block, brick, wood, chainlink or other type fence as determined by the city council. Such fence shall be sufficiently high and properly built so as to ordinarily keep persons or animals out of the enclosure, with all gates thereto to be kept locked when the permittee, or the permittees employees, are not within the enclosure. Such fence shall be adequately maintained by the permittee so as not to present an unsightly appearance and so as to provide the required protection against unauthorized entry.
(Code 1961, § 16-14; Ord. of 12-20-1955, § 16; Ord. No. 93-82, § 1, 5-24-1982)

Sec. 30-15. Elimination of dust, noise, vibration and noxious odors.

All oil operations, and drilling and production operations shall be conducted in such a manner as to eliminate, as far as practicable, dust, noise, vibration and noxious odors, and shall be in accordance with the best accepted practices incident to exploration and drilling for and production of oil, gas and other hydrocarbon substances. Proven technological improvements in exploration, drilling and production methods shall be adopted as they become, from time to time, available, if capable of reducing factors of nuisance and annoyance.
(Code 1961, § 16-15; Ord. of 12-20-1955, § 17)

Sec. 30-16. Fire protection generally.

(a) It shall be unlawful to operate a well for oil or gas without a four-inch header being laid over the top of the tanks and a 2½-inch line extending from the tank battery to a point 200 feet from the tank battery. The manner and method provided for connection at such point shall be determined by the fire department so that foamite or other chemicals may be pumped through such line and the header on the tanks into such tanks to extinguish fires in the tanks.

(b) Adequate firefighting apparatus and supplies, approved by the fire department shall be maintained on the drilling site at all times during drilling and production operations. All machinery, equipment and installations on all drilling sites within the city shall conform with such requirements as may, from time to time, be issued by the fire department.
(Code 1961, § 16-16; Ord. of 12-20-1955, § 19)

Sec. 30-17. Escaping gas and flaring or burning gas permitted; conditions.

A permittee engaged in the drilling or operation of a well within the corporate limits of the city may permit gas to escape into the air or flare or burn gas from a torch or any similar means when necessary to complete a well upon the original completion or upon the recompletion of work over jobs upon wells, or when the gas associated with a well classified as an oil well cannot be marketed because of a low BTU content, so long as the same does not constitute a fire hazard to the property of others within the vicinity of such gas well. All produced gas which is flared or burned, rather than sold, under these provisions shall be flared or burned under procedures having the prior approval of the city fire marshal and shall in all respects comply with applicable local, state and federal statutes and regulations.
(Code 1961, § 16-17; Ord. of 12-20-1955, § 18; Ord. No. 41-82, § 2, 3-8-1982)

Sec. 30-18. Disposal of salt water and other impurities.

Each permittee shall make adequate provision for the disposal of all salt water or other impurities which each permittee may bring to the surface, such disposal to be made in such manner as to not contaminate the water supply, present or prospective, or to injure surface vegetation.
(Code 1961, § 16-18; Ord. of 12-20-1955, § 21)

Sec. 30-19. Abandonment procedure.

Whenever any well is abandoned, it shall be the obligation of the permittee and the operator of the well to set a 200-foot cement plug in the bottom of the surface casing, with the bottom of the plug 100 feet below the surface casing section and the top of the plug in the top of the surface casing. No surface or conductor string of casing may be pulled or removed from a well. During initial abandonment operations, it will be the obligation of the permittee and the operator of the well to flood the well with mud-laden fluid weighing not less than ten pounds per gallon, and the well will be kept filled to the top with such mud-laden fluid at all times. Mud-laden fluid of the above specifications will be left in the well bore below and between cement plugs. Any additional provisions or precautionary measures prescribed by the state or the state railroad commission in connection with the abandonment and plugging of a well shall be complied with by the permittee.
(Code 1961, § 16-19; Ord. of 12-20-1955, § 20)

Sec. 30-20. Violation of state law or rules, regulations, etc., of state or federal regulatory body.

Any violation of the laws of the state or any rules, regulations or requirements of the state or of any state or federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, maintaining or abandoning an oil or gas well or related appurtenances, equipment or facilities or in reference to firewalls, fire protection, blow-out protection, safety protection or convenience of persons or property shall also be a violation of this chapter and punishable as such.
(Code 1961, § 16-20; Ord. of 12-20-1955, § 22)

Secs. 30-21—30-43. Reserved.

ARTICLE II. PERMIT

Sec. 30-44. Required.

It shall be unlawful and an offense for any person, acting either for oneself or acting as agent, employee, independent contractor or servant of any other person, to commence to drill, to drill or to operate any well within the city or to work upon or assist in any way in the prosecution or operation of any well, unless a permit for the drilling and operation of such well has first been issued by authority of the city council.
(Code 1961, § 16-27; Ord. of 12-20-1955, § 2)

Sec. 30-45. Application.

Every application for a permit to drill and operate a well shall be in writing, signed by the applicant or by some person duly authorized to sign the same on the applicants behalf, and filed with the city secretary. No application shall request a permit to drill and operate more than one well.
(Code 1961, § 16-28; Ord. of 12-20-1955, § 5)

Sec. 30-46. Fee.

The fee for a permit required by this article shall be in an amount as established by the city from time to time and is on file in the city secretary's office or city website, which amount in cash, shall accompany the application.
(Code 1961, § 16-29; Ord. of 12-20-1955, § 5)

Sec. 30-47. Issuance; contents.

The city council, within 20 days after the filing of an application for a permit to drill and operate a well, shall determine whether or not the application complies in all respects with the provisions of this chapter, and, if it does, the city council shall then fix the amount of the principal of the bond provided for in section 30-5, and issue a permit for the drilling and operation of the well applied for. Each permit issued shall:

(1) By reference have incorporated therein all the provisions of this chapter with the same force and effect as if this chapter were copied verbatim in the permit;

(2) Specify the well location with particularity to lot number, block number, name of addition or subdivision, or other available correct legal description;

(3) Contain and specify that the term of such permit shall be for a period of one year from the date of the permit and as long thereafter as the permittee is engaged in drilling operations with no cessations of such operations for more than 90 days, or oil or gas is produced in commercial quantities from the well drilled pursuant to such permit, provided, that if at any time after discovery of oil or gas, the production thereof in commercial quantities shall cease, the term shall not terminate if the permittee commences additional reworking operations within 90 days thereafter, and, if they result in the production of oil or gas, so long thereafter as oil or gas is produced in commercial quantities from the well;

(4) Contain and specify such conditions as are authorized by this chapter;

(5) Specify the total depth to which the well may be drilled, not exceeding the projected depth; and

(6) Contain and specify that no actual operations shall be commenced until the permittee shall file and have approved an indemnity bond in the designated principal amount as determined by the city council and conditioned as specified in section 30-5.

(Code 1961, § 16-30; Ord. of 12-20-1955, § 6)

Sec. 30-48. Termination.

A permit issued under this article shall terminate and become inoperative without any action on the part of the city unless, within 90 days from the date of issuance, actual drilling of the well shall have commenced. The cessation for a like period of the drilling operations or the cessation of the production of oil or gas from the well after production shall have commenced shall operate to terminate and cancel the permit, and the well shall be considered as abandoned for all purposes of this chapter, and it shall be unlawful thereafter to continue the operation or drilling of such well without the issuance of another permit.

(Code 1961, § 16-31; Ord. of 12-20-1955, § 7)

Chapter 31

RESERVED

Chapter 32

PARKS AND RECREATION*

Article I. In General

Sec. 32-1. Advertisements, handbills, etc.
Sec. 32-2. Administration.
Sec. 32-3. Rental and user agreements.
Sec. 32-4. Recreation fees and charges.
Sec. 32-5. Park rules.
Sec. 32-6. Park regulation.
Sec. 32-7. Hours open for public use; park curfew offense.
Sec. 32-8. Advertisements, handbills, etc.
Secs. 32-9—32-34. Reserved.

Article II. Bringle Lake

Sec. 32-35. Named and defined.
Sec. 32-36. Use by general public.
Sec. 32-37. Warning signs.
Sec. 32-38. Fishing at Bringle Lake.
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Sec. 32-43. Bringle Lake property.
Sec. 32-44. Vehicular traffic.
Sec. 32-45. Firearms, hunting and camping.
Sec. 32-46. Fireworks and explosives.
Sec. 32-47. Fire prevention.
Sec. 32-48. Closed areas.
Sec. 32-49. Hours of public access.
Sec. 32-50. General control.
Sec. 32-51. Applicability of state law to fishing and boating.
Sec. 32-52. Religious or political rallies.
Sec. 32-53. Penalties for violations.

***State law reference**—Municipal authority to improve land for park purposes, operate and maintain parks and recreation, to construct buildings, lay out and pave driveways and walks, construct ditches or lakes and set out trees and shrubs, Texas Local Government Code § 331.001 et seq.

ARTICLE I. IN GENERAL

Sec. 32-1. Advertisements, handbills, etc.

(a) All advertising of any form, whether temporary or permanent, is hereby prohibited on all streets, sidewalks, rights-of-way, easements, parks or any other public property within the corporate limits of the city; provided, however, that the city council may, after a hearing, grant to civic organizations the privilege of placing private advertising on public property when said advertising is done in connection with projects beneficial to the public interest. The city council may require the removal of said advertising at any time that it becomes destroyed, unsightly, deteriorated or in bad taste.

(b) Any such advertisement not in compliance with this section which is not removed by the owner or person in charge thereof shall be removed by the proper city officials and disposed of.
(Code 1961, § 15-2; Ord. of 6-23-1953, § 7; Ord. No. 39-70, § 1, 3-9-1970; Ord. No. 121-71, § 1, 6-28-1971; Ord. No. 49-98, § 1, 3-9-1998)

Sec. 32-2. Administration.

The administration and supervision of the parks and recreation department shall be the responsibility of the parks and recreation director or such other person as may be delegated or assigned such duties by the city manager.
(Code 1961, § 17-1; Ord. No. 068-08, exh. A, 3-24-2008)

Sec. 32-3. Rental and user agreements.

(a) The parks and recreation director or designee, shall prepare and sign user or rental agreements for the rental of facilities and/or equipment of the parks and recreation department. All user and rental agreements shall be signed by the manager or designee.

(b) The manager or designee, may enter rented facilities for the purpose of ensuring that parties comply with the provisions of this chapter or the applicable agreement.
(Code 1961, § 17-2; Ord. No. 068-08, exh. A, 3-24-2008)

Sec. 32-4. Recreation fees and charges.

The parks and recreation director shall prepare a list of recreation fees and charges for the public use of city-owned facilities. The approved schedule shall be filed with the city secretary.
(Code 1961, § 17-6; Ord. No. 068-08, exh. A, 3-24-2008)

Sec. 32-5. Park rules.

The parks and recreation director shall prepare a list of general park rules that are applicable to all city parks and may prepare lists of additional park rules that are applicable to specific city

parks. These general and additional park rules shall be submitted to the city manager for approval. The approved park rules shall be filed with the city secretary and copies shall be provided to the city council.
(Code 1961, § 17-7; Ord. No. 068-08, exh. A, 3-24-2008)

Sec. 32-6. Park regulation.

The parks and recreation director shall have proprietary managerial authority over all city parks, and the director, and other city employees authorized by the director, may direct any individual to cease an activity inconsistent with the purposes of city parks or with the rights of other users and may order such individual to leave the park. Any conduct which constitutes a violation of state law, an ordinance of this city, any general or additional park rule, or a direction by the director or other authorized city employee under this section shall constitute grounds for expulsion from the park. Any peace officer may arrest or issue a citation for a violation of state law or city ordinance committed in the peace officers presence.
(Code 1961, § 17-8; Ord. No. 068-08, exh. A, 3-24-2008)

Sec. 32-7. Hours open for public use; park curfew offense.

All city parks are open for public use from daylight to 10:00 p.m., with the exceptions of Kidtopia and Bringle Lake East which are open for public use during daylight hours only. The parks shall be open to the public every day of the year unless closed at the direction of the parks and recreation director due to unusual or emergency circumstances. It shall be unlawful for any person to use or be in a city park during hours other than those listed herein as open for public use. It shall be a defense to prosecution of this offense if the person was a participant or spectator at a scheduled special event or sporting event, including a baseball, softball or soccer game.
(Code 1961, § 17-9; Ord. No. 068-08, exh. A, 3-24-2008; Ord. No. 150-08, § 1, 7-28-2008)

Sec. 32-8. Advertisements, handbills, etc.

All advertising of any form, whether temporary or permanent, is hereby prohibited on all streets, sidewalks, rights-of-way, easements, parks or any other public property within the corporate limits of the city; provided, however, that the city council may, after hearing, grant to civic organizations the privilege of placing private advertising on public property when said advertising is done in connection with projects beneficial to the public interest. The city council may require the removal of said advertising at any time that it becomes destroyed, unsightly, deteriorated or in bad taste. Notwithstanding the prohibitions set forth hereinabove and to provide an express exception thereto for the allowance and posting of advertising on athletic fields, the following guidelines shall obtain in the posting of advertising on athletic fields:

(1) All requests for permission to place advertising signs on city park property shall be made in writing to the director of parks and recreation;

(2) Advertising signage may be placed on the outfield fence and scoreboard or other areas which may be deemed appropriate by the director of parks and recreation;

(3) Signs shall be no taller than the outfield fence and no wider than eight feet;

(4) Hard body signs made of plywood or metal shall be installed no earlier than one week prior to the competition season and removed no later than ten days after the completion of the season, except that signs affixed to scoreboards may remain throughout the year as long as the sign is permanently attached to the scoreboard structure, unless otherwise approved in writing by the director of parks and recreation;

(5) Banners or flexible signs shall be installed no earlier than three days prior to the competition season and removed anytime there is a three-day lag in play and/or no later than five days after the completion of the season, unless otherwise approved in writing by the director of parks and recreation;

(6) All signs shall be of professional quality and in good taste and shall not promote alcohol consumption, tobacco or tobacco products or nudity;

(7) It shall be the responsibility of the league to properly install, remove and maintain the signage with the understanding that signs must remain in good quality condition and not pose a hazard to participants or spectators, provided that the city is in no way responsible for the loss of, or damage to, signs for any reason, including, but not limited to, loss due to theft, vandalism or natural causes;

(8) The parks and recreation department reserves the right to remove signs for any reason without notice.

(Code 1961, § 15-2(b); Ord. of 6-23-1953, § 7; Ord. No. 39-70, § 1, 3-9-1970; Ord. No. 121-71, § 1, 6-28-1971; Ord. No. 49-98, § 1, 3-9-1998)

Secs. 32-9—32-34. Reserved.

ARTICLE II. BRINGLE LAKE

Sec. 32-35. Named and defined.

That certain lake and dam acquired by the city from the city water corporation on August 27, 1948, located north of the city, near Wamba, Texas, on a clear creek and being the city's supplemental water source, shall hereinafter be officially known as Bringle Lake. The term "Waterworks Lake," as used elsewhere within this Code, means and is synonymous with "Bringle Lake." The term "Bringle Lake" includes the land contiguous thereto, owned by the city.

(Code 1961, § 29-34; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-36. Use by general public.

The general public shall be permitted certain restricted use of city-owned property at Bringle Lake as hereinafter provided. Such permitted use shall be consistent with the operation of Bringle Lake as a source of public water supply.
(Code 1961, § 29-35; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-37. Warning signs.

Warning signs may be erected and maintained by the city to indicate those areas and activities prohibited to the public use. The lack of such signs, however, shall not be a defense to a violation of any section within this article.
(Code 1961, § 29-36; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-38. Fishing at Bringle Lake.

It shall be unlawful for any person to fish in Bringle Lake after sunset or before sunrise. No night fishing shall be allowed.
(Code 1961, § 29-37; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-39. Approaching new intake towers and pump station prohibited.

It shall be unlawful for any person to fish or otherwise approach within 200 feet of the water intake towers or the pump station at Bringle Lake.
(Code 1961, § 29-38; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-40. Operation of motor boats on Bringle Lake; exception.

The waters of Bringle Lake are declared to be a "No-Wake" zone. It shall be unlawful for any person to operate a boat upon Bringle Lake in a manner or at a headway speed that creates a swell or wake.
(Code 1961, § 29-39; Ord. No. 229-80, § 1, 7-28-1980; Ord. No. 93-03, § 1, 5-27-2003)

Sec. 32-41. Jet skiing, water skiing, bathing, swimming or washing prohibited.

It shall be unlawful for any person to jet ski, water ski, bathe, swim or to wash any article of any character in the water of Bringle Lake.
(Code 1961, § 29-40; Ord. No. 229-80, § 1, 7-28-1980; Ord. No. 93-03, § 2, 5-27-2003)

Sec. 32-42. Depositing refuse, litter, rubbish and like materials prohibited.

It shall be unlawful for any person to throw, place, leave or deposit any refuse, litter, rubbish, trash or filth of any kind in or upon the water or land areas of Bringle Lake.
(Code 1961, § 29-41; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-43. Bringle Lake property.

(a) No person at Bringle Lake shall willfully mark, deface, disfigure, injure, tamper with or displace or remove any building, bridges, tables, benches, fireplaces, railings, paving or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, fences, boundary markers or other structures or equipment, facilities or property or appurtenances whatsoever, either real or personal.

(b) No person on the Bringle Lake property shall dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.
(Code 1961, § 29-42; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-44. Vehicular traffic.

No person on the Bringle Lake property shall drive any vehicle on any area except the roads or parking areas, or such other areas as may on occasion be specifically designated by proper authority as temporary parking areas. Motor vehicles shall not be driven upon or otherwise be moved upon or over the Bringle Lake dam or spillway.
(Code 1961, § 29-43; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-45. Firearms, hunting and camping.

(a) No person on the Bringle Lake property shall hunt, trap or pursue wildlife at any time. No person shall use or discharge firearms of any description or air-rifles, spring-guns, bows and arrows, slings or any other forms of weapons potentially inimical to wildlife and dangerous to human safety or other instrument that can be loaded with and fire blank cartridges, or any kind of trapping device. Shooting into the Bringle Lake area from beyond park boundaries with any of the aforementioned weapons is prohibited.

(b) No person shall set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor leave on Bringle Lake property after closing hours, any moveable structure or special vehicle to be used for such purposes, such as a house trailer, camp trailer, camp wagon or the like.
(Code 1961, § 29-44; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-46. Fireworks and explosives.

No person on the Bringle Lake property shall set off or otherwise cause to explode or discharge or burn any firecracker, torpedocracker, rocket or other fireworks or explosives of inflammable materials, or discharge them or throw them into such area from land or highway

adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints.
(Code 1961, § 29-45; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-47. Fire prevention.

No person on the Bringle Lake property shall build or attempt to build a fire, except in such areas or in such containers as may be designated elsewhere within this Code. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, or other inflammable material within the Bringle Lake property area.
(Code 1961, § 29-46; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-48. Closed areas.

No person shall enter an area posted by the city as closed to the public, nor shall any person use or abet the use of any area of the Bringle Lake property in violation of notices published by the city. Any section, area or part of the Bringle Lake property may be declared closed to the public by the city manager at any time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses as the city manager shall find reasonably necessary to protect the Bringle Lake property as to its primary function as a supplemental source of water supply to the city.
(Code 1961, § 29-47; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-49. Hours of public access.

The Bringle Lake property, unless otherwise declared closed to the public by the city manager under authority of section 32-48, shall be open to the public from sunrise to sunset daily. The Bringle Lake property shall not be open to the public during the hours of darkness, and it shall be unlawful for members of the public to use or to be in or upon the Bringle Lake property during the hours of darkness.
(Code 1961, § 29-47.1; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-50. General control.

The general control of Bringle Lake shall be vested in the city manager under any department of the city the city manager shall designate.
(Code 1961, § 29-47.2; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-51. Applicability of state law to fishing and boating.

Fishing and boating regulations as set forth in the Parks and Wildlife Code, as amended, of the civil statutes of the state are applicable to all persons engaged in fishing and boating activities at Bringle Lake.
(Code 1961, § 29-47.3; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-52. Religious or political rallies.

It shall be unlawful for any person to conduct or to participate in a religious or political rally or gathering on the Bringle Lake property.
(Code 1961, § 29-47.4; Ord. No. 229-80, § 1, 7-28-1980)

Sec. 32-53. Penalties for violations.

Any person, firm or corporation who shall violate any of the provisions of this article regulating conduct in, around or upon the Bringle Lake property shall be guilty of a misdemeanor and, upon conviction thereof in the municipal court of the city, shall be punished according to the general penalties described in section 1-5. Police officers of the city shall exercise their authority and carry out the police power of the city in, around and upon the Bringle Lake property owned by the city in the same manner as if the Bringle Lake property were within the territorial limits of the city.
(Code 1961, § 29-47.5; Ord. No. 229-80, § 1, 7-28-1980)

Chapter 33

RESERVED

Chapter 34

PAWNBROKERS AND JUNK AND SECONDHAND DEALERS*

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Sec. 34-89. Definitions.
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***State law reference—**Texas Pawnshop Act, Texas Finance Code § 371.001 et seq.

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Sec. 34-100. Exemptions.
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ARTICLE I. IN GENERAL

Secs. 34-1—34-18. Reserved.

ARTICLE II. MOTOR VEHICLE JUNK YARDS*

Sec. 34-19. Definition.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Motor vehicle junk yard or business means and includes any business and any place of storage or deposit which displays, or in or upon which there are displayed, to view, two or more unregistered motor vehicles which are unfit for reconditioning for use on the public highways, or used parts of motor vehicles, or old iron, metal, glass, paper, cordage or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle.
(Code 1961, § 18-9; Ord. No. 67-63, § 1, 10-1-1963)

Sec. 34-20. Compliance with articles; license required.

No motor vehicle junk yard or business shall be established, operated or maintained within the corporate limits of the city without complying with the terms and provisions of this article as hereinafter set out, and without procuring a license as hereinafter required.
(Code 1961, § 18-10; Ord. No. 67-63, § 2, 10-1-1963)

Sec. 34-21. Application for license; bond; inspections; construction and maintenance.

Every applicant for a license as an owner or operator of a motor vehicle junk yard shall file with the city secretary a written application, signed and sworn to by the applicant. Said application shall contain the following information:

(1) The name and residence of each applicant, if an individual or partnership; if a corporation, its name, principal place of business, and the address of each of its officers, to-wit: president, vice president, secretary, treasurer and general manager.

(2) The length of time each applicant, if a person or partnership, has resided in the city, the business or occupation pursued by the applicant during the five years immediately preceding the date of such application, giving the place where such business or occupation was followed, whether they have ever been convicted of a felony or of a misdemeanor, and if so, giving the nature of the offense and court in which such

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***State law reference**—Person operating a junkyard or an automotive wrecking and salvage yard must comply with a municipal ordinance concerning screening the yard, Texas Transportation Code § 396.023.

conviction was had. If the applicant is a corporation, the application shall contain the same information with respect to each of its officials, president, vice president, secretary, treasurer and general manager.

(3) The address and legal description of the place where such business is to be located or carried on.

(4) Each application shall contain a stipulation to the effect that the applicant accepts the license, if granted, upon the condition that it may be suspended for good cause at any time by the city manager or other proper officials designated by the city council; provided, however, the applicant shall have the right to appeal a hearing before the city council of the city and if said city council concurs in the action of the city manager or other designated officer in suspending said license, its decision shall be final.

(5) Each applicant shall be accompanied by a bond in the penal sum of $2,000.00, payable to the city with at least two good and sufficient sureties or sufficient collateral security, approved by the city manager, conditioned that during the term of the license the applicant will duly observe all laws, ordinances, rules and regulations which are now in force or which may hereafter become applicable. Such bond may be sued on by the city or by any person aggrieved in any court of competent jurisdiction; provided, that if any article or thing found in possession of, or on the premises of, the operator or owner of such motor vehicle junk yard shall be identified and claimed as lost or stolen property and the claimant or owner shall make affidavit as to the ownership of the same, and such owner or operator refusing to deliver such property to the claimant or owner, may be sued by suit brought in any court of competent jurisdiction by such claimant or owner against such owner or operator for the property, or the value of same upon their bond; provided further, that where suit is maintained by some person other than the city, the city shall not be responsible for the court costs or any other matter therein involved. At any time the bond required herein shall be by the city council deemed insufficient, written notice thereof shall be given the principal therein, and if a new bond is not furnished within five days after such notice, the license shall be cancelled.

(6) When such application has been made, the city secretary shall at once report the same to the chief of police, city health officer, fire chief and building inspector. It shall thereupon become the duty of each of said city officials to inspect, or cause to be inspected, the place where the business is to be carried on, and to determine whether such place of business complies with all applicable laws, ordinances, rules and regulations. The place where such business shall be so conducted and maintained shall be so constructed and maintained that such business may be carried on in a sanitary manner and that no fire hazard shall be contained thereon. Said place of business shall be so arranged that a proper inspection may be made at any time by the duly authorized health, fire, building and police authorities.

(Code 1961, § 18-11; Ord. No. 67-63, § 3, 10-1-1963)

Sec. 34-22. Issuance of license.

When an application and bond have been filed and a proper inspection and investigation shall have been made, and if the applicant is found to be a suitable person to carry on such business, a license shall be issued to the applicant to engage in the business of operating a motor vehicle junk yard after the applicant has made payment to the city of the license fee hereinafter required.
(Code 1961, § 18-12; Ord. No. 67-63, § 4, 10-1-1963)

Sec. 34-23. License fee; termination and transfer of license; duplicate licenses.

(a) Each owner or operator of a motor vehicle junk yard shall pay an annual license fee to the office of the city secretary. No license shall be issued for a period of more than one year, and all licenses shall terminate on January 1, next succeeding the issuance thereof, unless sooner revoked or suspended as provided for herein. No license issued shall be transferable to any other owner or operator.

(b) In the event a license is lost or destroyed, the city shall issue a duplicate thereof in lieu of the original license upon the filing of an affidavit setting forth the circumstances surrounding the loss or the destruction of said license upon the payment of a fee. The annual license fee and the duplicate license fee shall be in amounts as established by the city council from time to time, and is on file in the city secretary's office or city website.
(Code 1961, § 18-13; Ord. No. 67-63, § 5, 10-1-1963)

Sec. 34-24. Operating without license.

It shall hereafter be unlawful for any person, firm or corporation to establish, operate or maintain a motor vehicle junk yard without procuring a license therefor, and each day such operation without said license shall constitute a separate offense.
(Code 1961, § 18-14; Ord. No. 67-63, § 6, 10-1-1963)

Sec. 34-25. Records to be kept.

Each owner or operator of a motor vehicle junk yard shall keep a daily record in which shall be entered and described each article purchased, received or in any manner acquired by the owner or operator, and the name and residence of each person from whom each article was purchased or acquired, the day and hour of such purchase or acquisition. This record shall be opened to inspection by the chief of police or any person acting under the chief of police direction at all reasonable times. No entry in said record shall be in anywise changed, erased, obliterated, altered or defaced.
(Code 1961, § 18-15; Ord. No. 67-63, § 7, 10-1-1963)

Sec. 34-26. Enclosure required.

Each motor vehicle junk yard, other than a building where such business is carried on, shall be enclosed by a fence or other structure not less than six feet in height, which said fence or structure shall be so constructed that no dust or other material may pass through same. Said enclosure shall be maintained in good condition at all times.
(Code 1961, § 18-16; Ord. No. 67-63, § 8, 10-1-1963)

Sec. 34-27. Parking or storage of vehicles on adjoining or adjacent streets, alleys, etc.

No motor vehicle which is unable to operate on its own power or which has been wrecked or damaged shall be parked or stored for more than 12 hours on any street, road, highway, alley or highway right-of-way adjoining or adjacent to any motor vehicle junk yard within the corporate limits of the city.
(Code 1961, § 18-17; Ord. No. 67-63, § 9, 10-1-1963)

Sec. 34-28. Violations of article.

Any person violating any of the provisions of this article or who, having had any person's license revoked, continues such business as a motor vehicle junk yard shall, upon conviction, be deemed guilty of a misdemeanor and fined as provided by this Code. Each day during which any violation of this article occurs shall constitute a separate offense. In addition to the penalties imposed hereinabove, the offender's license issued as such motor vehicle junk yard owner or operator shall be cancelled, and any persons bond shall be forfeited. In the event of such forfeiture, the amount due upon said bond may be recovered in any ordinary civil action.
(Code 1961, § 18-18; Ord. No. 67-63, § 10, 10-1-1963)

Sec. 34-29. Article cumulative.

This article shall be and is hereby declared to be cumulative of all other ordinances of the city affecting pawnbrokers and junk and secondhand dealers and shall not operate to repeal or affect any such ordinance or ordinances except in so far as the provisions of such ordinances are inconsistent or in conflict with the provisions of this article in which instances those provisions shall be and they are hereby repealed.
(Code 1961, § 18-19; Ord. No. 67-63, § 11, 10-1-1963)

Secs. 34-30—34-46. Reserved.

ARTICLE III. TRANSIENT DEALERS IN PRECIOUS METALS*

Sec. 34-47. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Precious metal means any form of previously owned gold, silver, platinum or gems. However, this article shall have no application for transaction involving loose teeth.

Transient precious metal dealer means a person, firm or corporation engaged in the business of buying precious metals within the city limits for a period of less than 30 consecutive days, whether for cash or trade, whether or not a fixed place of business is maintained for such purposes.
(Code 1961, § 18-20; Ord. No. 328-80, § 1, 11-24-1980)

Sec. 34-48. Records.

Every transient precious metal dealer shall keep a well-bound record book or register which shall contain a copy of every receipt issued by said dealer. A receipt shall be issued by a transient precious metal dealer to every individual from whom the dealer buys or otherwise receives precious metals. The chief of police, or a duly authorized agent, shall be entitled to inspect said book or register at any reasonable time.
(Code 1961, § 18-21; Ord. No. 328-80, § 1, 11-24-1980)

Sec. 34-49. Application.

Every transient precious metals dealer, as defined in section 34-47, shall make written application to the city secretary for a license to engage in the buying of precious metals. Such application shall show the name, address and date of birth of the applicant, the name and address of the person, form or corporation, if any, that the applicant represents, the kind of precious metal that will be bought and by what method the applicant will pay the seller. The application shall further state the inclusive dates during which the applicant wishes to purchase precious metals in the city.
(Code 1961, § 18-22; Ord. No. 328-80, § 1, 11-24-1980)

Sec. 34-50. Revocation of license.

If, after the license provided for in this article has been issued, any agency or official of the city finds that the license was obtained by false representation in the application, such license may be revoked by the city secretary. Such license may also be revoked if it shall appear to any agent or official of the city that the holder of such license has violated any ordinance of the city

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***State law reference**—Precious metal to dealers generally, Texas Occupations Code § 1956.061 et seq.

or any statute of the state in connection with any soliciting by such holder or for any unjust, unfair, inequitable or fraudulent act by the licensee or licensees agent, employee or employer. The city secretary shall provide a licensee with the opportunity to be heard prior to any revocation of the license.
(Code 1961, § 18-23; Ord. No. 328-80, § 1, 11-24-1980)

Sec. 34-51. License not transferable; authority to conduct business extends to one person only.

A license issued under this article shall not be transferable nor give authority to more than one person to conduct a business as a transient dealer in precious metals, but any person having obtained such license may have the assistance of one or more persons in conducting such business.
(Code 1961, § 18-24; Ord. No. 328-80, § 1, 11-24-1980)

Sec. 34-52. Reports for police department.

Every transient dealer in precious metals, as defined in section 34-47, shall daily enter on a form, in chronological order, all transactions wherein and whereby it receives precious metals and shall provide all pertinent information pertaining to each transaction to the chief of police prior to leaving the city. Each page or sheet aforementioned shall contain columns appropriately entitled for the reporting of such information as shall be required herein, and, specifically shall contain columns entitled: article, description of article, amount paid and the name, age, sex, race, residence, driver's license or social security number and physical description of the seller.
(Code 1961, § 18-25; Ord. No. 328-80, § 1, 11-24-1980)

Sec. 34-53. Content of reports.

The information to be entered under the column titles shall be as follows:

(1) *Age.* The age of the seller shall be placed in this column.

(2) *Amount paid.* In this column shall be entered the amount paid for the article or articles by the transient dealer in precious metals.

(3) *Article.* In this column shall be entered a description of the class of goods within which the purchased items belong. Examples are: coins, rings, silverware, etc.

(4) *Description of article.* In this column shall be entered a concise description of the goods shall be given, including make, model, brand name and physical description of the article.

(5) *Driver's license.* In this column shall be placed the driver's license number and the state of issuance of such license of the person selling the precious metals. The social security number, rather than the driver's license number, shall be used if, and only if, the seller has no driver's license.

(6) *Name of person selling.* In this column shall be entered the name of the person presenting the goods for sale. The name shall be substantiated and verified by the dealer by examination of the seller's driver's license, seller's social security card or other commonly used document for verification.

(7) *Physical description.* In this column, the dealer shall set forth the physical characteristics of the seller.

(8) *Race.* In this column, the race of the seller shall be stated.

(9) *Residence.* In this column, the residence address of the seller shall be stated.

(10) *Sex.* In this column, the sex of the seller shall be stated.

(Code 1961, § 18-26; Ord. No. 328-80, § 1, 11-24-1980)

Sec. 34-54. Retention of precious metals.

In the event that any precious metals, for the receipt of which a record is required to be made under this article, is not retained in the possession of the dealer for a period of at least ten days, the dealer shall make a record of the disposition of the property. Such record shall include the name, residence address and driver's license number or social security number of the property as provided in section 34-52.

(Code 1961, § 18-27; Ord. No. 328-80, § 1, 11-24-1980)

Sec. 34-55. Notification to police of altered goods.

Some articles made from precious metals have a serial number or other means of identification. If any such identified article is offered for sale to a precious metal dealer and if any such serial number or other identification shall have been removed, mutilated, defaced or destroyed, or melted down, such fact shall be immediately reported by the dealer to the chief of police or chief of police duly authorized agent.

(Code 1961, § 18-28; Ord. No. 328-80, § 1, 11-24-1980)

Sec. 34-56. Penalties.

Any transient dealer in precious metals who shall willfully violate any provision hereof shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be punished by a fine as provided by this Code for each offense. Each and every item of goods acquired in violation hereof shall be deemed a separate transaction and each failure of any said dealer to keep a record of each transaction as required by this article, or to comply with any other provision hereof, shall constitute a separate offense.

(Code 1961, § 18-29; Ord. No. 328-80, § 1, 11-24-1980)

Sec. 34-57. Exemption of certain financial institutions and firms.

This article shall have no application to financial institutions chartered under state or federal banking laws; or to security firms duly licensed under federal or state laws; or to transactions between institutions or firms.
(Code 1961, § 18-30; Ord. No. 328-80, § 1, 11-24-1980)

Secs. 34-58—34-87. Reserved.

ARTICLE IV. PEDDLERS AND ITINERANT MERCHANTS

Sec. 34-88. Purpose and construction of article.

This entire article is and shall be deemed an exercise of the police power of the state and of the city for the public safety, comfort, convenience and protection of the city and its citizens, and all the provisions of this article shall be construed for the accomplishment of that purpose.
(Code 1961, § 19-1; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-89. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings herein ascribed to them, except where the context clearly indicates a different meaning:

Itinerant vendor. The terms "itinerant vendor," "peddler" and "itinerant merchant" mean all persons, firms and corporations, as well as their agents and employees, who engage in the temporary or transient business in the city, of selling, offering for sale, any goods or merchandise, or exhibiting the same for sale or exhibiting the same for the purpose of taking orders for the sale thereof, or soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs, newspapers or magazines or subscriptions to newspapers or magazines, and who, for the purpose of carrying on such business or conducting such exhibits, either hire, rent, lease or occupy any room or space in any building, tent, structure, motor vehicle or other enclosure in the city, or any other place, whether enclosed or not, in the city, or goes from door-to-door or place-to-place within the city, in, on, through, from or by which any goods or merchandise may be sold, offered for sale, exhibited for sale, exhibited for the purpose of taking orders for the sale thereof, or the soliciting or taking orders for the sale thereof.

Temporary means any such business transacted or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least one month in or upon which such business is to be operated or conducted.

Transient means and shall be construed to mean, such business of any such itinerant vendor as may be operated or conducted by persons, firms or corporations or by their agents or employees, who reside away from the city or who have fixed places of business in places other

than the city, or who have their headquarters in places other than the city, or who move stocks of goods or merchandise or samples thereof into the city with the purpose or intention of removing them or the unsold portion thereof away from the city before the expiration of one month.
(Code 1961, § 19-2; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-90. License required.

It shall be unlawful for any itinerant vendor to engage in any activity defined in section 34-89 in the city without first obtaining a license therefor from the city. A person, firm, corporation or organization which falls within the definition of an itinerant vendor as herein defined shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or other person.
(Code 1961, § 19-3; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-91. Application for license.

No license therefor shall be issued by the city until the itinerant merchant shall make application, in writing, on blanks to be furnished by the city secretary. Such application shall be in affidavit form stating the full name and address of the itinerant merchant, the location of the merchant's principal office and place of business, and describing any prior convictions for felonies or misdemeanors involving moral turpitude. The application must be accompanied by:

(1) A statement showing the kind and character of the goods or merchandise to be sold, offered for sale or exhibited;

(2) The full corporate name and name and address of an officer of the corporation, if the itinerant merchant is a corporation incorporated under the laws of the state;

(3) A copy of its permit to do business in the state or the name of its agent for service, if the itinerant merchant is a corporation incorporated under the laws of some state other than the state;

(4) Two recent photographic likenesses of the applicant's face, which photographs shall not exceed one inch square in size;

(5) A certificate or letter from an officer or manager of the company or organization for whom the itinerant merchant works or solicits, stating that the applicant is an employee and/or agent of such organization;

(6) The period of time the applicant intends to engage in the itinerant vendor business in the city;

(7) An accurate physical description of the applicant;

(8) Proof of identity of the applicant;

(9) Proof of a valid sales tax permit issued by the state.
(Code 1961, § 19-4; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-92. Fee.

The fee for a license required by section 34-90 shall be in an amount as established by the city council from time to time, and is on file in the city secretary's office or city website. When any person, firm, company, partnership, corporation or association engages in any activity for which the license is required, through one or more agents or employees, such person, firm, company, partnership, corporation of association shall, in addition to the license fee above mentioned, pay a license fee for each agent or employee so engaged. The fees herein provided shall be used for the purpose of defraying expenses incident to the issuing of licenses.
(Code 1961, § 19-6; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-93. To be carried on person.

It shall be unlawful for any person to engage in any activity for which a license is required by section 34-90, unless the person is carrying such license on their person.
(Code 1961, § 19-7; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-94. Term.

A license issued under this article shall be valid for a term of one year from the date of issuance.
(Code 1961, § 19-8; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-95. Bond of applicant.

(a) Each application for a license under this article shall be accompanied by a bond in the penal sum of $500.00, signed by the applicant and signed, as surety, by some surety company authorized to do business in the state or, as an alternative, signed by two individuals qualified in the state to act as such surety. The bond shall be conditioned for the final delivery of goods, wares, merchandise, services, photographs, magazines and newspapers in accordance with the terms of any order obtained prior to delivery and also conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist in the article sold by the principal at the time of delivery, and that may be discovered by the purchaser or customer within 30 days after delivery. Such bond shall be for the use and benefit of all persons that may make any purchase or give any order to the principal on the bond or to an agent or employee of the principal.

(b) Any person who is engaged in the sale of food and food products, and who delivers the same at the time of sale, shall not be required to execute the bond required by this section.

(c) In case the applicant for a license under this article is a person, firm, company, partnership, corporation or association acting through one or more agents or employees, such person, firm, company, partnership, corporation or association shall be required to enter into only one bond, in the sum of $500.00 as required in subsection (a) of this section, which bond shall be made to cover the activities of all its agents or employees.
(Code 1961, § 19-9; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-96. Hours.

It shall be unlawful for any person to engage in any activity described in section 34-89, except between the hours of 10:00 a.m. and 7:00 p.m.
(Code 1961, § 19-10; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-97. Suspension or revocation of license.

(a) Any license issued under this article may be suspended or revoked for any of the following reasons:

(1) Fraud or misrepresentation in the application for the license;

(2) Fraud or misrepresentation in the course of conducting the business of vending;

(3) Conducting the business of vending contrary to the conditions of the license;

(4) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.

(b) Upon suspension or revocation, the city shall deliver written notice to the license holder, stating the action taken and the reasons supporting such action. The written notice shall be delivered to the license holder's place of business or mailed to the license holder's last known address.
(Code 1961, § 19-11; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-98. Appeals.

Persons who are denied licenses or whose licenses have been suspended or revoked may appeal by filing a written notice of appeal with the city secretary. The appeal must be filed within ten days after receipt of the notice of denial, suspension or revocation. The city manager shall hear and determine the appeal, and the decision of the manager shall be final.
(Code 1961, § 19-12; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-99. License not transferable; authority to conduct business extends to one person only.

A license issued under this article shall not be transferable nor give authority to more than one person to conduct a business as an itinerant merchant, but any person having obtained such license may have the assistance of one or more persons in conducting such business.
(Code 1961, § 19-13; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-100. Exemptions.

This article shall not be applicable to:

(1) Ordinary commercial travelers who sell or exhibit for sale goods or merchandise to parties engaged in the business of buying and selling and dealing in such goods or merchandise;

(2) Vendors of farm produce, poultry, stock or agricultural products in their natural state.

(Code 1961, § 19-14; Ord. No. 102-88, § 1, 4-25-1988)

Sec. 34-101. Violations of article.

Any person violating any of the provisions of this article shall, upon conviction, be fined as provided in section 1-5, and each sale, offer for sale, exhibition for purpose of sale or exhibition for the purpose of taking orders for the sale thereof, in violation of this article shall constitute a separate offense.

(Code 1961, § 19-15; Ord. No. 102-88, § 1, 4-25-1988)

Chapter 35

RESERVED

Chapter 36

PUBLIC AMUSEMENTS AND SPECIAL EVENTS

Article I. In General

Sec. 36-1. Definitions.
Sec. 36-2. Scope.
Sec. 36-3. Permit required.
Sec. 36-4. Special events and public amusements near schools or religious organizations.
Sec. 36-5. Issuance of permit.
Sec. 36-6. Other permits required.
Sec. 36-7. Rights not created.
Sec. 36-8. Display of permit.
Sec. 36-9. Inspection of special event or public amusement premises.
Sec. 36-10. Revocation of special event or public amusement permit.
Sec. 36-11. Penalty.
Sec. 36-12. Refund of fee or transfer of permit.
Secs. 36-13—36-42. Reserved.

Article II. Special Event

Sec. 36-43. Application for permit; special event.
Sec. 36-44. Special event on city property.
Sec. 36-45. Multiple special events on same premises.
Secs. 36-46—36-63. Reserved.

Article III. Public Amusement and Coin-Operated Machines

Sec. 36-64. Application for permit; public amusement.
Sec. 36-65. Applications for coin-operated machines.

ARTICLE I. IN GENERAL

Sec. 36-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section, except where the context clearly indicates a different meaning:

Coin-operated machine means a gaming machine involving amusement, skill, pleasure or chance and is operated by coins, currency, metal slugs, tokens or checks. For the purposes of this chapter, the term "coin-operated machine" does not include a vending machine used solely to make a purchase of food, beverage or merchandise.

Public amusements include operation of coin-operated machines, circuses, rides, carnivals, side shows, gaming places, gambling places, billiard halls, bingo halls, dance halls, night clubs, skating rinks, skateboarding places, shooting galleries, bowling alleys and other similar amusement enterprises where people gather for similar amusement activities, games or entertainment.

Special events include parties, dances, parades, weddings, celebrations or other gatherings which would likely result in traffic congestion, parking problems, crowds, sanitation problems, excessive noise, security or safety concerns, violations of any city ordinance, or any other circumstances likely to cause a breech of the peace or adversely affect the health and safety of the public or any participant at the special event.

Special events and public amusements committee, hereinafter referred to as "committee," will consist of city staff with specialized training related to law enforcement, fire safety, zoning, building standards, public health, traffic control or other expertise necessary to protect the public or the participants from the potential adverse consequences of a special event or public amusement.
(Code 1961, § 21-1; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-2. Scope.

This chapter is not intended to regulate the following:

(1) A school-sponsored special event or public amusement when the special event or public amusement is held on school property.

(2) A special event or public amusement sponsored by a religious organization when the event is held on property owned by the religious organization and the special event or public amusement is not-for-profit. Exception: Religious organizations who rent, lease, or loan their premises for any special event or public amusement must obtain a permit in accordance with the provisions of this chapter if the premises is:

a. Rented, leased, or loaned to any other organization, person or group of people who are not members of the religious organization; or

b. If the premises is rented, leased or loaned for profit.

(3) Special events or public amusements sponsored by or hosted by a nonprofit organization who has filed with the secretary of the state when the special event or public amusement is held on property owned by the nonprofit organization and the special event or public amusement is not-for-profit.

(4) Any special event or public amusement sponsored by the city.

(5) Special events or public amusements held on the property of a city park. Such special events or public amusements shall require specific permission from the city's parks and recreation department.

(Code 1961, § 21-2; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-3. Permit required.

It shall be unlawful for any person to conduct any special event or public amusement or have a special event or public amusement on their premises without first obtaining a permit from the city secretary or designee. See also section 36-11.

(Code 1961, § 21-3; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-4. Special events and public amusements near schools or religious organizations.

(a) Applications for a special event permit or a public amusement permit may be denied if:

(1) The premises is within 1,000 feet of a school or a religious organization;

(2) The special event or public amusement will be more than three days in duration; and

(3) The special event or public amusement will likely result in noise, crowds, traffic congestion and other conditions which would likely be disruptive to the area.

(b) For purposes of this chapter, the distance of 1,000 feet is calculated from the structure where the special event or public amusement is to be held to the nearest structure of the school or religious organization. If the special event or public amusement is to be held outdoors, then the distance will be calculated from the nearest point between the property line where the special event or public amusement is to be held and the property line where the school or religious organization is located.

(c) Any exceptions to this 1,000-feet rule shall be decided by the city council.

(Code 1961, § 21-9; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-5. Issuance of permit.

(a) The city secretary or designee, shall submit the permit application to the special events and public amusements committee for approval. After reviewing the application, the committee will make a recommendation to the city secretary for approval or denial of the permit request.

(b) The city reserves the right to delay a permit request until the permit applicant provides the city secretary a certificate of a satisfactory amount of insurance covering any damages arising from the special event or public amusement or adverse conditions or consequences caused by the special event, public amusement or the participants or patrons.

(c) Permits issued under the provisions of this chapter may include restrictions on the days and hours of operation for the special event or public amusement.

(1) People under the age of 17 are not allowed in billiard halls, bingo halls, dance halls and night clubs, unless accompanied by a parent or guardian.

(2) The committee may make patron and participant age restrictions a condition of any permit if the premises is not conducive to the welfare, health or safety of people under the age of 17.

(d) The city secretary may defer to the city manager or the city council for approval of any permit application in, which case, the city council shall have final authority over the denial of a permit application or the issuance of a permit.

(e) If the permit is approved, the permit shall be issued after the applicant has paid all required fees.

(f) There is no fee for a one-day special event permit or a one-day public amusement permit. There is a fee for an annual special event permit or an annual public amusement permit. In accordance with the Texas Occupations Code § 2153.451, permit fees for coin-operated machines shall be in an amount as established by the city from time to time and on file in the city secretary's office or city website. The permit shall indicate the name of the person responsible for compliance with the provisions of this chapter, the type of special event or public amusement authorized by the permit, address, days of the week and hours of operation authorized by the permit, any applicable age restrictions for the premises, and the effective dates of the permit. A separate permit and permit fee is required for each premises.
(Code 1961, § 21-10; Ord. No. 168-09, § 1(exh. A), 11-23-2009; Ord. No. 161-2010, § 1, 10-25-2010)

Sec. 36-6. Other permits required.

Issuance of a permit under the provisions of this chapter does not eliminate the requirement to obtain other permits, zoning or licenses which may be required for the special event or public amusement, including certificates of occupancy, food service permits, water permits or any other permit required by city ordinance or applicable state and federal statutes.
(Code 1961, § 21-11; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-7. Rights not created.

No permit granted under the terms of this chapter shall be deemed the granting of a right for future applications, special events, public amusements or pursuits. All applicants and their respective properties, special events and public amusements remain subject to the terms and provisions of this article and subject to future regulations and amendments of this chapter as adopted by the city council. Each application will be independently reviewed by the special events and public amusements committee. All permits are subject to re-review by the committee at any time, and permits may be revoked at any time as described in section 36-10.
(Code 1961, § 21-12; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-8. Display of permit.

Permits issued under the provisions of this chapter must be prominently displayed on the premises at the main entrance used by participants or patrons of the premises. If the location is not conducive to displaying the permit, such as outdoor events, then the applicant is responsible to see that they or another person responsible for the premises are present and have the permit in their possession so that the permit is immediately available for inspection by any city official upon request.
(Code 1961, § 21-13; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-9. Inspection of special event or public amusement premises.

The city reserves the right to enter and inspect any property, building or premises before, during, or after a special event or public amusement for the purposes of verifying the accuracy of the information on the permit application, ensuring compliance with this chapter and all city ordinances and determining if there are any conditions on the premises contrary to the health, safety or welfare of the public or any participant.
(Code 1961, § 21-14; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-10. Revocation of special event or public amusement permit.

(a) The city may at any time revoke a special event permit or public amusement permit if there are any misrepresentations on the application, the preparations or conditions at the site are not as represented in the application, violations of city ordinances exist, or any other circumstances are discovered whereby the special event or public amusement will likely have an adverse effect on the health, safety or welfare of the public or any participant.

(b) If the city denies the issuance or revokes an annual permit, the city shall provide the applicant written notice delivered in person or by certified mail with return receipt requested. After receiving notice, the applicant or person in control of the premises must immediately cease the special event or public amusement and cause the participants and patrons to vacate the premises.

(c) If the city denies the issuance or revokes a daily permit, the city shall provide the applicant written notice delivered in person or if circumstances require an immediate notice then the city may notify the applicant or person in charge of the premises verbally in person. After receiving notice, the applicant or person in control of the premises must immediately cease the special event or public amusement and cause the participants and patrons to vacate the premises.
(Code 1961, § 21-15; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-11. Penalty.

The applicant, property owner or other person in control of the premises violates the provisions of this chapter and is guilty of a misdemeanor and subject to a fine upon conviction in municipal court if the permit applicant, property owner or other person in control of the property:

(1) Falsifies any information on the permit application.

(2) Fails to comply with the terms stated in the permit application.

(3) Conducts a special event or public amusement without a valid permit.

(4) Fails to provide the city secretary a minimum of five days' notice of any special event as required by section 36-45.

(5) Fails to display the permit as required herein.

(6) Fails to make the permit immediately available for inspection upon the request of a city official designated to enforce city ordinances.

(7) Fails to allow the thorough inspection of the premises for city ordinance violations at the location of a special event or public amusement.

(8) Fails to immediately cease the special event or public amusement and cause the participants or patrons to immediately vacate the premises if the permit is revoked or if ordered to cease the event or public amusement by a representative of the city who is designated to enforce city ordinances.

(9) Fails to clean up city property and restore the property to the pre-event condition as required in section 36-44.

(10) Each day of the special event or public amusement in violation of this chapter is deemed a separate offense.

(Code 1961, § 21-16; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-12. Refund of fee or transfer of permit.

Permits fees are not refundable. Permits are not transferable to a new owner of a business, a new type of business in the same location or to a different special event. A separate permit and permit fee is required for each premises.
(Code 1961, § 21-17; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Secs. 36-13—36-42. Reserved.

ARTICLE II. SPECIAL EVENT

Sec. 36-43. Application for permit; special event.

(a) A person seeking a special event permit shall file an application with the city secretary or designee, at least 20 business days before the date of the special event.

(b) The applicant shall be the special event sponsor. The applicant/sponsor agrees to accept responsibility for all aspects of the special event and consequences thereof, including the safety and welfare of all participants, patrons and the public. The applicant must show satisfactory proof of identification by either a state-issued driver's license or state-issued identification card when submitting the application.

(c) The application for a special event permit must include:

(1) A description of the premises where the special event will be held.

(2) A description of the nature of the special event.

(3) The name and address of the property owner where the special event will be held and a letter signed by the property owner giving permission to use the property for the special event.

(4) The dates and times of the special event.

(5) The maximum number of people that the special event sponsor will allow to attend the special event and a plan for controlling the number of people attending the special event.

(6) A plan to manage parking and traffic control which includes a request for any necessary street closures and a plan for the ingress and egress of emergency equipment and personnel.

(7) A plan for special event security.

(8) A plan to provide adequate restroom facilities and trash containers.

(9) Any other information that the city deems necessary in order to consider the permit request.

(10) An acknowledgement signed by the applicant stating that the applicant may be required to fully reimburse the city for any city resources expended before, during or after the special event to handle any matter related to the special event, including time spent by city personnel, city equipment or other city resources. The amount of the fee will be determined by the city department providing the resource subject to the approval of the city manager.

(Code 1961, § 21-4; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-44. Special event on city property.

(a) If a special event is to be held on city-owned property, the special event sponsor may be required to furnish the city with a certificate of insurance in a sufficient amount as determined by the city to protect city-owned property.

(b) The special event sponsor shall sign an agreement to indemnify and hold harmless the city, its officers, employees, agents and representatives against all claims of liability and causes of action resulting from injury or damage to persons or property arising out of the special event or public amusement.

(c) The applicant shall provide a signed statement promising to clean up the city property and restore the property to the pre-event condition.

(Code 1961, § 21-5; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-45. Multiple special events on same premises.

(a) If a place of business hosts multiple special events over the course of the year, then the property owner or person in control of the property is responsible for meeting all of the requirements listed in section 36-43, for each special event held on the premises.

(b) A place of business which hosts multiple special events on their premises and already has an annual permit for the premises shall give notice to the city secretary at least five business days in advance of any special event to be held on the premises.

(Code 1961, § 21-6; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Secs. 36-46—36-63. Reserved.

ARTICLE III. PUBLIC AMUSEMENT AND COIN-OPERATED MACHINES

Sec. 36-64. Application for permit; public amusement.

(a) A person seeking a public amusement permit shall file an application with the city secretary or designee, at least 20 business days before the public amusement begins.

(b) The applicant must be the owner or other person in control of the property where the public amusement is located. The applicant agrees to accept responsibility for all aspects of the public amusement, including the safety and welfare of all participants and the public. The applicant must show satisfactory proof of identification by either a state-issued driver's license or state-issued identification card when submitting the application.

(c) The application for a public amusement permit must include:

(1) The name and address of the applicant.

(2) A description of the premises where the public amusement is held.

(3) A description of the type of public amusement.

(4) The dates of the public amusement.

(5) The maximum number of people allowed to participate in the public amusement and a plan for controlling the number of people participating.

(6) A plan to manage parking and traffic control which includes a request for any necessary street closures and a plan for the ingress and egress of emergency equipment and personnel.

(7) A plan for security.

(8) A plan to provide adequate restroom facilities and trash containers.

(9) Any other information that the city deems necessary in order to consider the permit request.

(10) An acknowledgement signed by the applicant stating that the applicant may be required to fully reimburse the city for any city resources expended before, during or after the public amusement to handle any matter related to the public amusement, including time spent by city personnel, city equipment or other city resources. The amount of the fee will be determined by the city department providing the resource subject to the approval of the city manager.

(11) An insurance and inspection certificate for each amusement ride as required by the state board of insurance.

(Code 1961, § 21-7; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Sec. 36-65. Applications for coin-operated machines.

(a) Applications for a public amusement permit to operate a coin-operated machine may not require all of the information required by section 36-64.

(b) Applications for a public amusement permit to operate a coin-operated machine may be exempt from committee review at the discretion of the city manager or designee.

(Code 1961, § 21-8; Ord. No. 168-09, § 1(exh. A), 11-23-2009)

Chapter 37

RESERVED

Chapter 38

ROSE HILL CEMETERY*

Sec. 38-1. Administration.
Sec. 38-2. Cemetery hours.
Sec. 38-3. Definition.
Sec. 38-4. Transfer of lots.
Sec. 38-5. Proof of ownership of lot upon death of purchaser.
Sec. 38-6. Lot division lines prohibited.
Sec. 38-7. Lot enclosures prohibited.
Sec. 38-8. Graves to be level with lot and in grass.
Sec. 38-9. Size, etc., of monuments.
Sec. 38-10. Number and location of monuments.
Sec. 38-11. Curbing, slabs, etc.
Sec. 38-12. Artificial walks prohibited on lots.
Sec. 38-13. Trees, shrubs and flowers.
Sec. 38-14. Deposit of brush or rubbish in driveways prohibited.
Sec. 38-15. Rules and regulations.
Sec. 38-16. Chapter to be part of deeds to lots; purchasers terms and conditions subject to chapter.

***State law reference**—Municipal regulation of cemeteries, Texas Health and Safety Code § 713.001 et seq.

Sec. 38-1. Administration.

The administration and supervision of the Rose Hill Cemetery property shall be the responsibility of the parks director.

Sec. 38-2. Cemetery hours.

The cemetery property shall be open to the public during daylight hours only.

Sec. 38-3. Definition.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cemetery, as used in this chapter, means the Rose Hill Cemetery owned and maintained by the city.
(Code 1961, § 23-1)

Sec. 38-4. Transfer of lots.

A fee shall be paid to the city secretary before there shall be any recognition of a transfer of ownership to any cemetery lot. No transfer shall be valid at any time without the consent of the city endorsed thereon. The transfer fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.
(Code 1961, § 23-4; Res. of 12-27-1929, § 14)

Sec. 38-5. Proof of ownership of lot upon death of purchaser.

Upon the death of any owner, or part owner, of a lot in the cemetery, the heirs or devisees of such decedent shall file in the office of the city secretary, full proof of their heirship or proprietorship for the purpose of being recorded. Without such proof and record, the right to the lot cannot be recognized by said city.
(Code 1961, § 23-5; Res. of 12-27-1929, § 13)

Sec. 38-6. Lot division lines prohibited.

When two or more persons are interested as owners of a cemetery lot, no division line will be permitted on the lot or will be recognized by the city.
(Code 1961, § 23-7; Res. of 12-27-1929, § 16)

Sec. 38-7. Lot enclosures prohibited.

Enclosures of all kinds around lots in the cemetery are prohibited, including fences, copings, hedges and the like.
(Code 1961, § 23-8; Res. of 12-27-1929, § 2)

Sec. 38-8. Graves to be level with lot and in grass.

All graves in the cemetery shall be finished level with the lot and shall be in grass.
(Code 1961, § 23-11; Res. of 12-27-1929, § 6)

Sec. 38-9. Size, etc., of monuments.

The owner of each lot in the cemetery containing over 200 feet shall have the right to erect thereon, a proper monument or headstone under the general supervision of the city, plans of which must be submitted to and approved by the city as to size and material. The size of the base stone of such monument shall not exceed four percent of the area of the lot, but the city reserves the right to erect any and all necessary foundations for the same at the owner's cost, and to cultivate trees, shrubs and plants on the same.
(Code 1961, § 23-12; Res. of 12-27-1929, § 9)

Sec. 38-10. Number and location of monuments.

No more than one monument or one mausoleum may be placed upon one lot in the cemetery. All monuments must be placed in the center of the lot, unless otherwise permitted by the city. All headstones must be placed flush with the ground or at the head of single graves.
(Code 1961, § 23-13; Res. of 12-27-1929, § 5)

Sec. 38-11. Curbing, slabs, etc.

No curbing, slabs, seats, cradles, boxes, glass jars, toy shells or trinkets shall be permitted on any lot or grave in the cemetery, except with the written permission of the city. All wire designs containing flowers or cut flowers will be removed as soon as the flowers are withered. All parties having cut flowers will secure vases from the sexton.
(Code 1961, § 23-14; Res. of 12-27-1929, § 11)

Sec. 38-12. Artificial walks prohibited on lots.

No gravel, brick, stone, cement or any kind of artificial walks will be allowed on cemetery lots.
(Code 1961, § 23-15; Res. of 12-27-1929, § 19)

Sec. 38-13. Trees, shrubs and flowers.

(a) All shrubs, trees and flowers in the cemetery will be planted and cared for by the city and no trees, flowers or shrubs, except cut flowers, will be permitted to be set out on any lot without the written consent of the city. The city shall have the right to remove any structure or object on any lot or grave that they may deem objectionable.

(b) If any trees or shrubs situated on any cemetery lot by means of their roots, branches or otherwise, become detrimental to adjacent lots or avenues, or dangerous or inconvenient, or interfere with the scheme of the cemetery development, the city shall have the right to enter the lots and remove such trees or shrubs, or such parts thereof as are detrimental, dangerous, inconvenient or interfering.

(c) No trees, shrubs or flowers growing within a cemetery lot shall be cut down, trimmed, destroyed or taken away without consent having first been obtained from the city.
(Code 1961, § 23-16; Res. of 12-27-1929, §§ 9, 10, 12)

Sec. 38-14. Deposit of brush or rubbish in driveways prohibited.

It shall be unlawful for any person to deposit or throw any brush or rubbish in the driveways in and through the cemetery.
(Code 1961, § 23-17; Ord. of 4-25-1921, § 3)

Sec. 38-15. Rules and regulations.

The city shall have the sole authority and power to make reasonable rules and regulations with reference to the use and occupancy of lots within the cemetery as it may deem proper. Any power delegated to third parties by prior ordinance is rescinded.
(Code 1961, § 23-18; Ord. of 4-25-1921, § 5)

Sec. 38-16. Chapter to be part of deeds to lots; purchasers terms and conditions subject to chapter.

The transferee of a lot shall be subject to the terms and conditions of this chapter and the rules and regulations for the cemetery promulgated by the cemetery association, from time to time.
(Code 1961, § 23-19; Ord. of 4-25-1921, § 6)

Chapter 39

RESERVED

Chapter 40

TAXATION*

Article I. In General

Secs. 40-1—40-18. Reserved.

Article II. Hotel Occupancy Tax

Sec. 40-19. Definitions.
Sec. 40-20. Tax levied; amount.
Sec. 40-21. Collection of tax.
Sec. 40-22. Quarterly reports to tax assessor and collector.
Sec. 40-23. Rules and regulations of tax assessor and collector; access to books and records.
Sec. 40-24. Penalties for delinquent reports and payments.
Sec. 40-25. Purposes and uses of tax revenue.
Sec. 40-26. Duties of the city council.
Secs. 40-27—40-55. Reserved.

Article III. Ad Valorem Tax Limitation

Sec. 40-56. Ad valorem tax limitation on certain residential homesteads.

***State law references**—Property Tax Code, Texas Tax Code § 1.01 et seq.; general taxing authority of municipalities, Texas Tax Code § 302.001 et seq.

ARTICLE I. IN GENERAL

Secs. 40-1—40-18. Reserved.

ARTICLE II. HOTEL OCCUPANCY TAX*

Sec. 40-19. Definitions.

As hereinbelow employed, the following words, terms and phrases are defined as follows, except where the context clearly indicates a different meaning:

Assessor and collector of taxes means the assessor and collector of taxes of the city.

Consideration means the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room, not related to the cleaning and readying of such room for occupancy.

Hotel means any building in which the public may, for a consideration, obtain sleeping accommodations. The term "hotel" includes hotels, motels, tourist homes, houses or courts, lodginghouses, inns, roominghouses or other buildings where rooms are furnished for a consideration, but the term "hotel" shall not be defined so as to include hospitals, sanitariums or nursing homes.

Occupancy means the use or possession, or the right to the use or possess, of any room in a hotel if the room is one ordinarily used for sleeping, and if the occupant's use, possession, or right to use or possess, extends for a period of less than 30 days.

Occupant means anyone who, for a consideration, uses, possesses or has a right to use or possess any room in a hotel, if the room is one ordinarily used for sleeping.

Person means any individual, company, corporation or association owning, operating, managing or controlling any hotel.

Quarterly period means the regular calendar of the year, the first quarter being composed of the months of January, February and March; the second quarter being the months of April, May and June; the third quarter being the months of July, August and September; and the fourth quarter being the months of October, November and December.
(Code 1961, § 26-12; Ord. No. 161-70, § 1, 11-9-1970; Ord. No. 156-79, § 2, 7-23-1979)

***State law reference**—Municipal authority to impose a hotel occupancy tax, Texas Tax Code § 351.001 et seq.

Sec. 40-20. Tax levied; amount.

(a) There is hereby levied a tax upon the cost of occupancy of any room ordinarily used for sleeping furnished by any hotel, where the cost of occupancy is at the rate of $2.00 or more each day. Such tax shall be equal to seven percent of the consideration paid by the occupant of the room ordinarily used for sleeping to the hotel.

(b) The tax does not apply to a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for the period.

(c) This article does not impose a tax on the United States, this state or an agency, institution, board or commission of this state other than an institution of higher education.

(d) This article does not impose a tax on an officer or employee of a governmental entity described by subsection (c) of this section when traveling on or otherwise engaged in the course of official duties for the governmental entity.

(e) In this section, the term "institution of higher education" means any public technical institute, public junior college, public senior college or university, medical or dental unit or other agency of higher education as defined in Texas Education Code § 61.003.
(Code 1961, § 26-13; Ord. No. 161-70, § 1, 11-9-1970; Ord. No. 156-79, § 3, 7-23-1979; Ord. No. 244-94, § 1, 8-22-1994; Ord. No. 253-04, § 1, 9-13-2004)

Sec. 40-21. Collection of tax.

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed by section 40-20 for the city.
(Code 1961, § 26-14; Ord. No. 161-70, § 1, 11-9-1970)

Sec. 40-22. Quarterly reports to tax assessor and collector.

On the last day of the month following each quarterly period, every person required in section 40-21 to collect the tax imposed herein shall file a report with the assessor and collector of taxes showing the consideration paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies and any other information the assessor and collector of taxes may reasonably require. Such person shall pay the tax due on such occupancies at the time of filing such report.
(Code 1961, § 26-15; Ord. No. 161-70, § 1, 11-9-1970)

Sec. 40-23. Rules and regulations of tax assessor and collector; access to books and records.

The assessor and collector of taxes shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied hereby, and shall upon

reasonable notice have access to books and records necessary to enable them to determine the correctness of any report filed as required by this article and the amount of taxes due under the provisions of this article.
(Code 1961, § 26-16; Ord. No. 161-70, § 1, 11-9-1970)

Sec. 40-24. Penalties for delinquent reports and payments.

(a) If any person shall fail to file a report as required herein or shall fail to pay to the assessor and collector of taxes the tax imposed herein when said report or payment is due, the person shall forfeit five percent of the amount due as a penalty and after the first 30 days the person shall forfeit an additional five percent of such tax; provided, however, that such penalty shall never be less than $1.00.

(b) If any person shall fail to pay to the assessor and collector of taxes the tax imposed herein when said report or payment is due, the person shall be liable to the city for interest on the unpaid amount at the rate provided by Texas Tax Code § 111.060(b). Delinquent interest shall accrue from the first day after the date due until the tax is paid.
(Code 1961, § 26-17; Ord. No. 161-70, § 1, 11-9-1970)

Sec. 40-25. Purposes and uses of tax revenue.

The revenues collected under the provisions of these sections shall be used only for the purposes enumerated in Texas Tax Code § 351.101, as amended.
(Code 1961, § 26-18; Ord. No. 161-70, § 1, 11-9-1970; Ord. No. 156-79, § 4, 7-23-1979)

Sec. 40-26. Duties of the city council.

The city council may, each year, reserve an amount in the annual budget equal to one percent of the cost of the occupancy of hotel rooms for the purpose of advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities, and for promotion of tourism and advertising of the city and its vicinity, either by the city or through contract with persons or organizations selected by the city. The city council, or its designated representative, may negotiate and contract with persons, firms or organizations to accomplish this purpose.
(Code 1961, § 26-19; Ord. No. 161-70, § 1, 11-9-1970; Ord. No. 156-79, § 5, 7-23-1979)

Secs. 40-27—40-55. Reserved.

ARTICLE III. AD VALOREM TAX LIMITATION

Sec. 40-56. Ad valorem tax limitation on certain residential homesteads.

(a) A person who is disabled or who is 65 years of age or older shall receive a residence homestead exemption prescribed or authorized by state law. The total amount of ad valorem taxes imposed on the residence homestead of a person who is disabled or is 65 years of age or older shall not be increased while it remains the residence homestead of that person, or that person's spouse, who is disabled or 65 years of age or older.

(b) If the person who is disabled or is 65 years of age or older dies in a year in which the person received a residence homestead exemption, the total amount of ad valorem taxes imposed on the residence homestead shall not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is 55 years of age or older at the time of the person's death.

(c) Notwithstanding subsections (a) and (b) of this section, taxes on the residence homestead may be increased to the extent the value of the homestead is increased by improvements other than repairs and other than improvements made to comply with governmental requirements.

(Code 1961, § 26-30; Ord. No. 54-04, § 1, 2-23-2004)

Chapter 41

RESERVED

Chapter 42

WATER AND SEWERS*

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ARTICLE I. IN GENERAL

Sec. 42-1. Systems designated.

All property owned and controlled by the city, including its plant, water supply, mains and system and the organization used by the city in furnishing an adequate supply of water to the inhabitants of the city, shall constitute and be known as the city water and sewer systems.
(Code 1961, § 29-1; Ord. of 8-8-1950, § 4)

Sec. 42-2. Department of water utilities.

(a) *Created.* There is hereby created within the governmental structure of the city a new department to be known as the department of water utilities.

(b) *Director.* A director of this department shall be appointed by the city manager who shall be known as the director of the department of water utilities and the director shall function in such capacity and shall be subject to the direction of the city manager.

(c) *Activities transferred.* All activities of the city water and sewer system are hereby transferred and assigned to the department of water utilities.

(d) *Construction of terms.* Any place in this chapter wherein the words "director of public works," "city engineer" or "public works department" are used, shall be constructed to mean the director of the department of water utilities or the department of water utilities respectively.
(Code 1961, § 29-1.1; Ord. No. 75-65, § 1, 8-3-1965; Ord. No. 136-75, § 1, 6-23-1975)

Sec. 42-3. Permit to turn water on or off from angle stop.

No plumber or any other person shall turn on or off water from the angle stop within the meter box without a written permit first obtained from the water and sewer system, except only in case of repairs or emergency. Doing so may be considered tampering.
(Code 1961, § 29-2; Ord. of 8-5-1950, § 8)

Sec. 42-4. Repairs and renewals of service pipe.

The water and sewer system shall have the right to make all repairs and renewals of service pipes from the main to the curb and it shall be unlawful for any other person to repair or renew such service pipes without first obtaining the written consent of the water and sewer system.
(Code 1961, § 29-3; Ord. of 8-8-1950, § 7)

Sec. 42-5. Water and sewer connections generally.

(a) All connections to the city sewer system or water system at the meter or property line shall be made in strict compliance with this chapter and chapter 105 and under the supervision of the plumbing inspector.

(b) Every sewer line connecting a structure to the city sewer main which is constructed, moved or replaced after passage of this section shall connect to a two-way cleanout at the city right-of-way line. The required two-way cleanout shall be located within two feet of the right-of-way line on the private property side. All cleanouts shall be securely sealed with a proper cap at all times. Such cleanouts shall be installed at the property owner's expense, except as provided in subsection (c) of this section.

(c) When the city replaces or moves a sanitary sewer main or a water main or otherwise disrupts an existing connection to the sewer system or the water system, the city shall be responsible for any new taps and the installation of lateral lines to a two-way sewer cleanout or a water meter within two feet of the right-of-way line on the private property side. The city will replace or cause a contractor to replace the line from the main to the two-way cleanout or to the meter. Only a licensed, bonded plumber may replace lines from the two-way cleanout or the meter to the structure. Once service has been restored, the lateral line becomes the sole responsibility of the property owner from the cleanout to the structure and from the meter to the structure.

(d) The property owner is responsible for the proper installation of a lateral sewer line from the structure to the two-way cleanout or a lateral water line from the structure to the water meter for any structure that has not yet been connected to the sanitary sewer system or water system. The property owner shall then be responsible for the proper maintenance, replacement or repair of the line from the cleanout or from the water meter to the structure it serves. All costs associated with the installation, maintenance and repair of the line between the cleanout and the structure or from the meter to the structure shall be borne by the property owner.

(e) The city shall be responsible for the installation, maintenance, repair or replacement of sewer lines from the sewer main to the two-way cleanout and from the water main to the water meter. The city shall not be responsible for the installation, maintenance, repair or replacement of sewer lines or water lines on private property, except as provided for in subsection (c) of this section for those instances when the city's actions have disrupted service water or sewer service. The city reserves the right to terminate any illegal taps or to not reconnect any illegal taps found in the city right-of-way.

(f) Installation, maintenance and repair of private laterals for sewer or water may only be done by a licensed plumber. Connections, materials and manner of construction shall comply with the following standards:

(1) The private lateral shall be kept free from roots, grease deposits and other solids, which may impede the flow or obstruct the transmission of waste;

(2) All joints shall be tight and all pipes shall be sound;

(3) The private lateral shall be free of any structural defects such as cracks, breaks, openings, rodent holes or missing portions, and the grade shall be uniform without sags or offsets;

(4) Sewer connections, water connections, materials and manner of construction shall be in compliance with all city codes and subject to inspection as required by this chapter or otherwise deemed necessary by the city.

(Code 1961, § 29-4; Ord. of 2-2-1948, § 7; Ord. No. 079-2011, § 1, 5-23-2011)

Sec. 42-6. Permit for water or sewer connections—Required.

No plumber or other person shall make any connection from any premises to the city water lines or manholes without first obtaining a permit therefor from the plumbing inspector on a form furnished by the inspector.

(Code 1961, § 29-5; Ord. of 2-2-1948, § 8; Ord. No. 079-2011, § 2, 5-23-2011)

Sec. 42-7. Same—Fee.

No permit to make connection with the city water or sewer line in any manner shall be issued or granted by the plumbing inspector or department of water utilities until the applicant pays the permit fee in accordance with the city's current fee schedule on file in the city secretary's office or city website.

(Code 1961, § 29-6; Ord. of 2-2-1948, § 8; Ord. No. 079-2011, § 3, 5-23-2011)

Sec. 42-8. Same—Inspection prerequisite to issuance.

No permit shall be issued to make a connection with the city water or sewer line until after the house plumbing and the house sewer line have been inspected and approved by the plumbing inspector.

(Code 1961, § 29-7; Ord. of 2-2-1948, § 7; Ord. No. 079-2011, § 4, 5-23-2011)

Sec. 42-9. Same—Records to be kept.

The plumbing inspector shall keep a record, in a book kept for that purpose, of all sewer connection permits issued by the inspector, showing the names of all persons to whom permits are issued and the number of the lot and block, and the street address upon which the premises to be connected are located.

(Code 1961, § 29-8; Ord. of 2-2-1948, § 7)

Sec. 42-10. Severance of water or sewer connections in case of defective repairs or alterations.

Where alterations or repairs have been made to existing house plumbing or an existing old house water line or sewer line, where the house sewer line or water line is already connected to the city sewer line or city water line, and, upon inspection by the plumbing inspector, it is found

that such alterations or repairs have been made contrary to, and in violation of, any of the provisions of this Code, the city shall have the right to sever such connections and deny reconnection until the applicable provisions of this Code have been complied with.
(Code 1961, § 29-9; Ord. of 2-2-1948, § 7; Ord. No. 079-2011, § 5, 5-23-2011)

Sec. 42-11. Down spouts, gutters, etc., not to be connected to sewer.

It shall be unlawful for any person to connect, or permit to be connected, with any house sewer or sanitary sewer within the corporate limits of the city, any down spouts or guttering from any building or automobile wash rack or any other devices for conveying into the sanitary sewers of the city surface or wastewater or any other substance, except sewerage.
(Code 1961, § 29-10; Ord. of 5-27-1924, § 1; Ord. of 2-2-1948, § 24)

Sec. 42-12. Water and sewer connections for buildings outside city.

Before any water or sewer connection from any building, house or structure lying outside the city limits is made to the water and sewer systems of the city, the owner or contractor shall secure a permit from the plumbing inspector, and such work must be inspected and be approved before being connected to the city water or sewer system, the same as any building, house or structure within the city limits and in compliance with all provisions of this Code. Any person who refuses to secure such permit or have such work inspected shall not be permitted to connect to either the water or sewer systems of the city and any connection so made shall be disconnected by the plumbing inspector and service discontinued.
(Code 1961, § 29-11; Ord. No. 44-60, § 4, 5-24-1960; Ord. No. 079-2011, § 6, 5-23-2011)

Sec. 42-13. Injuring property of water system, etc.

It shall be unlawful for any person to injure in any manner any reservoir, tank, fountain, hydrant, standpipe or other appliance belonging to the city water system or to turn on or off, without proper authority, the water in any street or alley, or any fire hydrant, private hydrant or any other water fixture.
(Code 1961, § 29-12; Penal Code 1909, art. 18, § 1)

Sec. 42-14. Deposit of oil, waste, etc., in sanitary sewers.

It shall be unlawful for any person to pour, deposit or place any oil, gasoline or any inflammable liquids, waste or substance, or any substance that has an offensive odor, into a sanitary sewer within the city. It shall also be unlawful for any person to place or deposit in any sanitary sewer any substance that is capable of or likely to clog or obstruct such a sewer.
(Code 1961, § 29-13; Ord. of 9-8-1953, §§ 1, 2)

Sec. 42-15. Sand traps required.

(a) All floor washers or floor and area drains connected to sanitary sewer lines shall be by the means of a sand trap as known to the plumbing trade (sketches available at the plumbing inspector's office), and shall be vented the same as any other fixture or trap within an enclosed building or structure.

(b) All floor washers or floor and area drains connected to sanitary sewer drains shall be by means of a sand trap as known to the plumbing trade, but are not required to be vented as are in enclosed buildings or structures.
(Code 1961, § 29-14; Ord. No. 30-63, § 1, 5-13-1963)

Sec. 42-16. When water and sewer connection compulsory.

Every residence, place of business, or other building or place where persons reside, congregate or are employed, and which is situated on a lot or tract of land which abuts a street, alley or utility easement in which there is a public sanitary sewer water main, shall be connected to the sewer and/or by the owner or agent at the expense of the owner or agent of the premises in the most direct manner possible, and with a separate connection for each home, building or place, except under the following conditions: where said connection is to serve a facility in existence prior to sanitary sewer installation and such facility cannot be served by gravity flow. This exemption is not available to any facilities constructed subsequent to the installation of a sanitary sewer in a street, alley or easement abutting the property.
(Code 1961, § 29-15; Ord. No. 30-63, § 2, 5-13-1963; Ord. No. 340-91, § 1, 11-11-1991)

Sec. 42-17. Sewage disposal system required.

No permit of any type shall be issued so as to allow the improvement or occupancy of property, until provision has been made in accordance with this chapter for the disposal of sewage from the property.
(Code 1961, § 29-16; Ord. No. 86-75, § 1, 4-28-1975)

Sec. 42-18. Application for financial assistance in connecting to public sanitary sewer and water systems.

Any resident who is required to connect to the public sanitary sewer and water systems, but is financially unable to do so, may apply for financial assistance in the form of a loan or grant.
(Code 1961, § 29-17; Ord. No. 17-93, § 1, 1-25-1993)

Sec. 42-19. Violations of chapter.

Any person violating any of the provisions contained in articles I, IV or V of this chapter which relate to sanitation shall be guilty of a misdemeanor and, upon conviction thereof in the municipal court of the city, shall be punished by a fine of not more than $2,000.00. Any person

violating any other provision contained in articles I, IV or V of this chapter shall be guilty of a misdemeanor and, upon conviction thereof in the municipal court of the city, shall be punished by a fine of not more than $500.00.
(Code 1961, § 29-18; Ord. No. 391-97, § 1, 11-24-1997)

Secs. 42-20—42-41. Reserved.

ARTICLE II. WATER AND SEWER CHARGES*

Sec. 42-42. Water rates specified—Generally.

(a) *Treated water rates.*

(1) The rates and charges for treated water services to residential customers rendered by the department of water utilities of the city for the below listed items shall be in amounts as established by the city council from time to time, and are on file in the city secretary's office or city website:

a. The minimum monthly charge for which 2,000 gallons shall be allowed.

b. For all over 2,000 gallons per month.

(2) The rates and charges for treated water services to commercial customers rendered by the department of water utilities of the city for the below listed items shall be in amounts as established by the city council from time to time, and are on file in the city secretary's office or city website:

a. The minimum monthly charge for 2,000 gallons shall be based on the meter size as follows: 5/8, 1, 1 1/2, 2, 3, 4, 6.

b. For all over 2,000 gallons per month, the charge shall be per 1,000 gallons.

(3) The rates shall apply to all water connections within the corporate limits of the city. Water services rendered to water connections outside said corporate limits shall be at a rate 50 percent higher than the above rates.

(b) *Raw water rates.* The rates for raw water services rendered by the department of water utilities of the city shall be per 1,000 gallons. The rate shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website. This rate shall apply to raw water connection within the corporate limits of the city. Raw water services rendered to water connections outside said corporate limits shall be at a rate 50 percent higher than the above rate.

***State law reference—**Authority of home-rule municipality to prescribe rates for the use of water to compel the payment thereof, Texas Local Government Code § 552.017.

(c) *Standby fire protection service rates.* Customers having treated water service to their fire protection systems shall be charged for standby service within the city limits in amounts as established by the city council from time to time and are on file in the city secretary's office or city website.

(Code 1961, § 29-19; Ord. No. 35-57, § 1, 5-16-1957; Ord. No. 23-62, § 1, 6-8-1962; Ord. No. 168-68, § 1, 12-23-1968; Ord. No. 210-74, § 1, 8-29-1974; Ord. No. 34-77, § 1, 3-14-1977; Ord. No. 250-81, § 1, 11-23-1981; Ord. No. 64-88, § 1, 3-14-1988; Ord. No. 293-99, § 1, 10-25-1999)

Sec. 42-43. Same—Tapping charge.

(a) The department of water utilities (Texarkana Water Utilities or TWU) shall allow appropriately qualified utility contractors to set water services which shall include the main tap, service line, meter setter and meter box as well as all related excavation, backfilling, cleanup, miscellaneous parts and other related items, for residential and commercial customers under the following circumstances:

(1) All costs to set a water service shall be the responsibility of the builders or individual lot owners.

(2) All materials used for water services and associated devices or structures shall be approved by the TWU. An approved materials list shall be available from the utility engineering division and any exceptions or additions shall be in writing.

(3) All water service installations shall be inspected by the TWU before backfilling and charging with water. All installation specifications and standards shall conform to the standard design criteria of the TWU.

(4) For meter installations of two inches and smaller, builders and individual property owners shall be responsible for the actual cost of a meter at the time a water service account is established and the water meter shall be obtained from and installed by the TWU.

(5) For large meter installations (three inches and larger), the contractor shall be responsible for installation of the meter and may obtain the meter from the utility prior to construction or may purchase a meter from an outside source with the written approval of the utility engineering division.

(6) Prior to the beginning of any construction associated with a water service, the owner or owner's contractor shall obtain a water tapping permit for a fee from the TWU. Such fee shall cover notification costs for underground utility location and inspection. The water tapping permit fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office and city website.

(7) The TWU shall prepare and maintain a list of approved utility contractors for purposes of water service installation. Such contractors shall have appropriate qualifications and

equipment to perform water service installations. Such contractors shall be responsible for damages to streets, curbs, rights-of-way, utilities and any property whatsoever as a result of their work or actions. Failure to promptly pay for any damages, failure to follow underground utility location regulations, failure to cleanup and restore yards, streets and rights-of-way associated with the construction, or failure to follow any procedures or specifications for water service installation shall be cause to delete a contractor from the approved list.

(8) Nothing contained herein shall prevent the TWU from installing water services or making water main taps during an emergency, circumstances of hardship or any other circumstance deemed to be in the best interest of the city or the customers of the TWU. Unless otherwise directed, all costs, including materials and labor, shall be recovered by the TWU when installing meter services or making main taps.

(9) Water services from the main to the discharge side of the meter shall remain the property of the utility, regardless of customer type.

(b) Inasmuch as subdivision developers, who, for the purposes of this section, are neither residential nor commercial customers, are responsible to provide the materials necessary for the installation of wastewater service lines, the tapping fee will not be required. An inspection fee only will be charged for each service line so inspected, whether approved or not. Subdivision developers installing wastewater service lines in accordance with this and other related ordinances of the city will utilize materials approved by the department of water utilities so as to facilitate the department's ongoing maintenance program. As-built drawings, which are to be provided to the department of water utilities prior to acceptance of a system by the department, will indicate the specific location of such wastewater service lines. The inspection fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.
(Code 1961, § 29-20; Ord. No. 35-57, § 2, 5-16-1957; Ord. No. 155-78, § 1, 6-26-1978; Ord. No. 17-80, § 1, 1-14-1980; Ord. No. 115-98, § 2, 4-27-1998)

Sec. 42-44. Sewer rates specified.

(a) *Sewer rates in the city.* For users within the corporate limits of the city, the following sewer charges for services rendered by the department of water utilities are to be paid by each subscriber whose premises are connected with and are serviced by or through any part of the water utilities sewer system of the city, on and after each respective date:

(1) Monthly sewer rates (effective January 1, 2002):

a. Minimum charge, $/bill (including 2,000 gallons):

1. Residential, per month: 10.52.

2. Commercial, per month: $10.52.

b. Volume charge, $/1,000.00 gallons; first 2,000 gallons:

1. Residential per month: Minimum.

2. Commercial per month: Minimum.

Over 2,000 gallons, $/1,000.00 gallons:

1. Residential per month: $3.77.

2. Commercial per month: $4.41.

c. Maximum charge:

1. Residential per month: $59.53.

2. Commercial per month: none.

(2) Monthly infrastructure fee:

a. Residential per month: $1.00 (water); $1.00 (sewer).

b. Commercial per month: $2.50 (water); $2.50 (sewer).

(3) Wholesale customers: Determined by contract basis.

(4) Unmetered sewer rates (includes $1.00 infrastructure fee):

a. TX unmetered, per month: $26.72.

b. TX unmetered, OCL per month: $40.08.

(5) Extra strength charge: Surcharge rate: $/pound:

a. CBOD (over 200 to 450 mg/l): $0.00;

CBOD (over 450 mg/l)/$0.20/pound.

b. TSS (over 200 mg/l): $0.15/pound.

c. NH3 (over 20 mg/l): 0.30/pound.

d. COD (over 450 to 1,500 mg/l): $0.00;

COD (over 1,500 mg/l): $0.10/pound.

e. TSS (over 200 mg/l): $0.15/pound.

(b) *Rates.* The rates shall apply to all sewer connections within the corporate limits of the city. Sewer services rendered to residential and commercial connections outside said corporate limits shall be at a rate 50 percent higher than the above rates.

(c) *Septic tank cleaning.* The fee for septic tank cleaning truck discharges shall be in an amount as established by the city council from time to time and on file in the city secretary's office or city website.

(d) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Family means any number of individuals living together as a single housekeeping unit.

Industrial user means a user engaged in manufacturing or producing the products of industry or labor, excluding specifically cafes, restaurants and any business engaged in serving food for consumption.

Residence means any building used exclusively as living quarters for a family. Any building occupied by two families shall be considered as two residences. Any building occupied by three or more families shall be considered to be as many residences as there are families assigned to different sections in the same structure.
(Code 1961, § 29-21; Ord. of 8-8-1950, §§ 1, 2; Ord. No. 168-68, §§ 1, 2, 12-23-1968; Ord. No. 210-74, § 1, 8-29-1974; Ord. No. 141-79, § 1, 6-18-1979; Ord. No. 250-81, § 1, 11-23-1981; Ord. No. 64-88, § 2, 3-14-1988; Ord. No. 339-9, § 1, 12-10-1990; Ord. No. 61-92, § 1, 3-9-1992; Ord. No. 290-01, § 1, 11-12-2001; Ord. No. 082-09, § 1, 7-27-2009)

Sec. 42-45. Customer deposits.

(a) A deposit shall be required from all residential customers. New residential customers may submit a verifiable letter of reference, subject to the approval in form and content of the utility, in lieu of the cash deposit. Service authorized under a letter of reference may be revoked should late payment be received on two or more occasions during any six-month period. Should service be shut-off for nonpayment to any customer who has service authorized under a letter of reference, subsection (f) of this section shall apply. A letter of reference shall be from a public or private utility and show a good payment history for a period of not less than 12 months. The deposit for residential customers shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(b) A deposit will be required from all commercial and industrial customers of an amount of money which will, in the judgment of the director of the water utilities department, be sufficient to insure it against loss due to nonpayment of bills. The amount of the commercial or industrial deposit shall be equal to an estimate of the cost of one month's service or a flat fee, whichever is greater. The estimate of service cost shall be made by the director of utilities, or the director of utilities designated representative. The estimate may be based upon customer information, consumption of businesses of a similar size and nature, and/or any other information available and acceptable to the utility. The deposit for commercial and industrial customers shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(c) A refund of a customer deposit may be made if, in the judgment of the director of the water utilities department, the customer has established a timely and reliable record of payment over the previous 12-month period. Otherwise, a refund of a deposit shall be made only at the termination of service, subject to any outstanding balance due the water utilities department.

(d) A customer changing their residence or place of business and having a deposit shall have the right to have the deposit transferred to their new residence or place of business, provided all charges are current at the original address.

(e) The water utilities department will, upon request, furnish services without the necessity for an additional deposit or application to developers who have established a developer's escrow account with the water utilities department. Each escrow account shall have at all times a balance equal to or greater than the number of service lines held in the name of each such line. Final bills to developers will be rendered without applying any portion of the developer's escrow account. If final bills are not paid within the limits of these articles, the water utilities department will apply that portion of the escrow account necessary to satisfy the outstanding bill. If it is necessary because of delinquency to apply the escrow account, the developer shall re-establish the developers escrow account to the level required by the water utilities department. When the developer no longer desires that service be rendered in the manner outlined herein and has no unpaid accounts, the director may request and receive a refund of the developers escrow account.

(f) In the event an account is shut-off for nonpayment and/or delinquency, a deposit of twice the amount called for in subsections (a) or (b) of this section shall be required to re-establish the account and provide service.
(Code 1961, § 29-22; Ord. of 8-8-1950, § 7; Ord. No. 155-78, § 12, 6-26-1978; Ord. No. 119-84, § 1, 5-14-1984; Ord. No. 15-92, § 1, 1-13-1992; Ord. No. 150-92, § 1, 5-26-1992)

Sec. 42-46. Failure of meter to register correctly.

Should any meter fail to register correctly the amount of water used by customers since the previous reading, the water and sewer systems shall have the right to determine the amount due by making a charge for the water based on an average of the basis of any three previous months.
(Code 1961, § 29-23; Ord. of 8-8-1950, § 5)

Sec. 42-47. Billing periods.

(a) *Treated water and sewer services.* Charges for treated water and sewer services rendered by the city shall be billed monthly.

(b) *Raw water services.* Charges for raw water services rendered by the city to residential users shall be billed every three months.

(c) *Raw water services to industrial or commercial users.* Charges for raw water services rendered by the city to industrial or commercial users shall be billed monthly.
(Code 1961, § 29-24; Ord. of 1-11-1955, § 3; Ord. No. 23-62, § 1, 6-8-1962)

Sec. 42-48. Place and time of payment.

(a) *When bills due.* All bills for water and sewer services rendered by the city shall be due and payable from the date on which the same are mailed.

(b) *Place of payment.* Bills shall be paid at the water utility business office or at an authorized collection substation. Bills paid at any other location shall not be accepted and shall be considered unpaid until such time as the pay is received by the utility.
(Code 1961, § 29-25; Ord. of 8-8-1950, § 5; Ord. No. 135-71, § 1, 7-12-1971)

Sec. 42-49. Failure to pay bill—Penalty added.

If any bill for water and sewer service rendered by the city is not paid within 15 days after the same is mailed, a penalty of ten percent of the total amount of such bill shall be added thereto.
(Code 1961, § 29-26; Ord. of 8-8-1950, § 5)

Sec. 42-50. Same—Disconnecting service.

In the event any bill for water and sewer service is not paid within 30 days from the date the same is mailed, the water supply to such customer shall be turned off and shall not be turned on again until all service charges, in addition to the amount of the bill and penalty, shall have been paid.
(Code 1961, § 29-27; Ord. of 8-8-1950, § 5; Ord. No. 64-66, § 1, 9-26-1966; Ord. No. 118-84, § 1, 5-14-1984; Ord. No. 366-92, § 1, 12-21-1992)

Sec. 42-51. Service charges.

(a) A connection charge will be made to a water customer for turning on a meter in connection with the commencement of initial service.

(b) A disconnection charge will be made to a water customer for turning off a meter in connection with the discontinuation of service.

(c) A transfer charge will be made to turn on a meter in connection with the transfer of service from one location to another such location.

(d) A dishonored check charge will be made in connection with the collection of dishonored checks.

(e) A service charge will be added to those accounts that are not paid by the due date and time specified on the customer's second notice. This service charge will be assessed whether or not service is actually physically turned off before payment is received.

(f) An after-hours service charge shall be charged after 5:00 p.m. on weekdays and on weekends and holidays to reinstate water service to customers that have been disconnected for nonpayment. This service charge will also be applicable to regular service turn-on's taken after 2:00 p.m. each regular workday. Service turn-on is available during the next regular working day to both of these types of customers without the service charge.

(g) A meter reread fee shall be charged for any customer-initiated reread if no problem is found with the initial meter reading. Nothing in this article shall be construed to prevent the utility from providing this service at no charge to any customer when a problem or perceived problem exists with a meter.

(h) A meter testing fee shall be charged for any customer-initiated meter test for meters of two inches and smaller if the meter is found to be within industry tolerances. Testing of meters larger than two inches will be done at the utilities' cost plus ten percent where the meter is found to be within tolerances. Nothing in this article shall be construed to prevent the utility from providing this service at no charge to any customer when a problem or perceived problem exists with a meter.

(i) A rental cleanup service shall be available to rental property owners with good payment histories which allows water and sewer service to be connected without a deposit and without solid waste service for not more than 30 days. This service is available for a charge, plus regular water and sewer charges. At the end of 30 days, the account automatically becomes a regular water, sewer and solid waste account with the customer of record responsible for all charges.

(j) Known residential or commercial construction contractors with a good payment history may establish a water only account for new construction with no deposit for a period of 90 days. At the end of 90 days, the account becomes a regular water, sewer and solid waste account with the customer of record responsible for all charges. The utility may extend the 90 days for waiving of the sewer charges upon request by the customer if special circumstances exist that preclude discharge to the sanitary sewer. Solid waste charges may be waived only upon approval by the public works director or city manager.

(k) A tampering fee shall be charged to any customer whose service has been tampered with in the following manner:

(1) A meter lock broken;

(2) A meter lock removed;

(3) A meter broken;

(4) A meter stolen;

(5) An unauthorized connection inserted;

(6) Damage inside the meter box; or

(7) Unauthorized service turn-on or water used.

Nothing in the preceding subsection shall be construed to prevent the city from pursuing civil or criminal penalties against any person or parties tampering with, damaging and/or using, without authorization, water services, sewer services, fire hydrants, water valves or any related water and/or sewer system appurtenances to the maximum allowed by state law.

(l) A fee for bacteriological testing of water samples shall be charged.

(m) The fees charged in this section shall be in amounts as established by the city council from time to time and are on file in the city secretary's office or city website.
(Code 1961, § 29-27.1; Ord. No. 64-66, § 2, 9-26-1966; Ord. No. 118-84, § 1, 5-14-1984; Ord. No. 366-92, § 2, 12-21-1992; Ord. No. 293-99, § 2, 10-25-1999)

Sec. 42-52. Rate adjustments.

Prior to the regular June meeting of the city council each year, in preparation for the upcoming fiscal year, the city manager shall review the water and sewer rates currently in effect and may adjust the rates as deemed appropriate, based on the average change in the previous calendar year for Consumer Price Index - All Urban Consumers - U.S. City Average - All Items - Seasonally Adjusted. Changes in the Consumer Price Index (CPI) will only result in a rate change when it is a statistically significant change. A statistically significant change is deemed a change of more than positive or negative one-half of one percent. If changes are made, the change will affect all minimum charges, volume charges, unmetered sewer rates and wholesale water rates. The city manager shall inform the city council in writing of this adjustment. If the city council desires to alter the rate, the city council shall do so prior to the adoption of the new fiscal year budget scheduled to begin on October 1 of each new fiscal year, as provided by city council ordinance.
(Code 1961, § 29-27.2; Ord. No. 290-01, § 2, 11-12-2001; Ord. No. 021-2010, § 1, 1-25-2010; Ord. No. 066-2010, § 1, 4-26-2010; Ord. No. 182-2011, § 1, 10-24-2011)

Sec. 42-53. Article deemed part of contract with customer.

All of the provisions of this article shall be deemed to be incorporated in every contract between the water and sewer systems and its customers, and each customer shall be charged with the knowledge of the provisions of this article and, by applying for and accepting water or sewer services from the water and systems, the customer shall be deemed to have assented to the provisions hereof.
(Code 1961, § 29-28; Ord. of 8-8-1950)

Sec. 42-54. Negotiation of water and sewer contracts with new, large industrial customers.

Anything in this article to the contrary notwithstanding, the water utilities department, with the consent of the city manager, shall be authorized to negotiate water and/or sewer contracts with new, large (a minimum of 300,000 gallons per day water usage) industrial customers at rates other than those stated in this article where such rates are deemed to be in the economic

interest of the city, for economic development and other purposes; provided, however, such contracts shall not be entered into and become binding on the city, unless specifically authorized by formal action of the city council. Contracts for these special water and/or sewer rates shall provide for definite times to be in effect.
(Code 1961, § 29-29; Ord. No. 24-94, § 1, 1-10-1994)

Sec. 42-55. Charges for sewer and industrial pretreatment services.

(a) The sewer surcharge for excessive strength wastes, as provided for in article IV of this chapter, shall be as follows: for TSS, the charge shall be $0.10 per pound and for BOD, the charge shall be $0.25 per pound.

(b) Industrial wastewater discharge permit fees, as provided for in article IV of this chapter, shall be charged based on the type of industrial discharger. The discharge permit fees shall be in an amount as established by the city council from time to time and on file in the city secretary's office or city website.

(c) The fee for leachate processing shall be in an amount as established by the city council from time to time and on file in the city secretary's office or city website.
(Code 1961, § 29-30; Ord. No. 293-99, § 3, 10-25-1999)

Secs. 42-56—42-83. Reserved.

ARTICLE III. NONDOMESTIC WASTE

DIVISION 1. GENERALLY

Secs. 42-84—42-109. Reserved.

DIVISION 2. PUBLICLY-OWNED TREATMENT WORKS

Sec. 42-110. General provisions.

(a) *Purpose and policy.*

(1) This division sets forth uniform requirements for users of the publicly owned treatment works (POTW), enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code, 1251 et seq.), and the General Pretreatment Regulations (Code of Federal Regulations, title 40, part 403) and allows the city to control miscellaneous unsewered discharges.

(2) The objectives of this division are:

a. To prevent the introduction of pollutants into the POTW that may interfere with the operation of the POTW;

b. To prevent the introduction of pollutants into the POTW which may pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

c. To protect both POTW personnel and the general public who may be affected by the wastewater and sludge from the POTW;

d. To promote reuse and recycling of wastewater and sludge from the POTW;

e. To enable the city to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge disposal conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject; and

f. To protect the waters of the state within the jurisdiction of the city from the introduction of pollutants.

(b) *Applicability.*

(1) This division shall apply to all users of the POTW and authorizes the issuance of wastewater discharge permits to nondomestic users; provides for monitoring, compliance and enforcement; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(2) On and after the adoption of this division, any person discharging, or seeking approval to discharge, nondomestic wastewater into the public sewers, including sanitary sewers, within the city or within its jurisdiction or wishing to discharge transported wastes into the wastewater treatment system, shall be required to comply with the requirements herein before such approval may be granted.

(c) *Administration.* Except as otherwise provided herein, the control authority shall administer, implement and enforce the provisions of this article.

(d) *Definition of terms.* Unless a provision explicitly states otherwise, the following terms and phrases, when used in this division, shall have the meanings ascribed to them in this section:

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 United States Code 1251 et seq., 86 Stat. 816, Pub. L. 92-500.

Approval authority means the director in an NPDES state with an approved state pretreatment program and the appropriate regional administrator in a non-NPDES state or NPDES state without an approved state pretreatment program.

Approved analytical procedures means analytical procedures approved for the testing of wastewater samples in accordance with title 40 of the Code of Federal Regulations, part 136 (40 CFR 136) and amendments thereto or any method that has been approved for analyses in accordance with the approval procedure outlined in 40 CFR 136 or those analytical procedures approved by the Texas Commission on Environmental Quality as appropriate.

Authorized representative means:

(1) The responsible corporate officer, if the user submitting the report is a corporation. The responsible corporate officer shall be a president, secretary, treasurer or vice-president of the corporation in charge of the principal business function or any other person who performs similar policy or decision-making function for the corporation; or by the manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000.00 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(2) A general partner or proprietor if the user submitting the reports is a partnership or sole proprietorship, respectively;

(3) A duly authorized representative of the individual designated in subsections (a) or (b) of this definition, if:

   a. The authorization is submitted in writing to the control authority by the individual described in subsections (a) or (b) of this definition;

   b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as a plant manager, operator of a well or well field superintendent or a position of equivalent responsibility or having overall responsibility for environmental matters for the company;

(4) If authorization under subsection (c) of this definition is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or the overall responsibility for environmental matters for the company, a new authorization satisfying the requirements in subsection (c) of this definition shall be submitted to the control authority prior to or together with the next report to be signed by an authorized representative.

Biochemical oxygen demand (BOD) means the relative quantity of oxygen required for the biochemical degradation of organic matter and the oxygen used to oxidize inorganic material such as sulfides and ferrous iron under standardized laboratory procedures (approved analytical procedures), where a diluted sample is incubated for five days at 20 degrees Celsius and the results are expressed in milligrams per liter (mg/l).

Boiler blowdown water means the discharge of boiler recirculation water for the purpose of discharging materials contained in the water, the buildup of which would cause concentration in amounts exceeding limits established by best engineering practice.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from drainage pipes inside the walls of a building and conveys it to a building sewer.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Bypass means the intentional diversion of wastestreams from any portion of the user's treatment facility.

Carbonaceous biochemical oxygen demand (CBOD) means a BOD5 where a nitrification inhibitor is added to the sample prior to incubation in accordance with approved analytical procedures.

Categorical pretreatment standard or *categorical standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the Act (33 USC 1317), which apply to a specific category of users and which appear in 40 CFR ch. I, subchapter N, parts 405 through 471.

Categorical user means a nondomestic user of the city POTW that is subject to categorical pretreatment standards as defined above.

City means the City of Texarkana, Texas, together with all its governing and operating bodies.

Composite sample means a sample made up of a mixture of discrete samples collected at the same sampling point at equal intervals over a 24-hour period, with each interval not to exceed two hours. In a flow proportional composite sample, the discrete portions are varied according to flow. Where flow is not continuous over a 24-hour period, portions shall be collected at equal intervals over the period of discharge in a 24-hour period, with each interval not to exceed two hours.

Control authority means the executive director of the TWU, or the directors duly authorized representative.

Control mechanism means a wastewater discharge permit, a no discharge permit, a consent order, an administrative order, a certified letter or other written or verbal instrument whose purpose is to limit, control or stop wastewater discharges from nondomestic resources.

Direct discharge or *discharge of pollutants* mean a discharge into the waterways of the state, including storm drains, natural and manmade ditches and other outlets.

Discharge limitations mean any restrictions established by this article on the quantities, rates and/or concentrations of chemical, physical, biological and other constituents which are discharged into the sanitary sewer system.

Domestic wastewater means wastewater normally derived from the sanitary conveniences of single or multifamily dwellings, from office buildings or from commercial establishments, factories and institutions, which originates from toilet facilities, baths or kitchens, provided there is no commercial preparation of foods, free from stormwater, surface water and industrial or other process wastes.

Environmental Protection Agency or *EPA* means the United States Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

Existing source means any building, structure, facility or installation from which there is a discharge of pollutants, the construction of which commenced prior to the publication of proposed pretreatment standards under section 307(c) of the Act. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria for a new source but otherwise alters, replaces or adds to the existing process or production equipment.

Garbage means animal and vegetable wastes resulting from the handling, preparation, cooking and serving of foods and from the handling, storage or sale of produce, composed largely of putrescible organic matter and its natural moisture.

Grab sample means an individual sample collected in a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes. Grab samples shall be used for pH, cyanide, total phenols, oil and grease, total petroleum hydrocarbons, sulfide and volatile organics analyses.

Incompatible waste means wastes which cannot or should not be commingled for disposal due to differing processing, storage and disposal requirements.

Indirect discharge means the discharge or the introduction of pollutants into the POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the Act or this article, including holding tank and equalization basin waste and any other nondomestic wastewater discharged into the sanitary sewer system.

Interference means a discharge which, alone or in conjunction with a discharge from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation or of the prevention of sewage sludge use or disposal, in compliance with any of the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations):

a. Section 405 of the Act;

b. Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA);

c. Clean Air Act;

d. Toxic Substances Control Act; and

e. Marine Protection, Research and Sanctuaries Act.

Maximum allowable headworks loading means the maximum pounds of pollutant per day, established under EPA guidelines, designed to protect the POTW, to prevent pass through and interference, and to protect the POTW worker and the environment.

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

National pollutant discharge elimination system permit or *NPDES permit* means an authorization, license or equivalent control document issued by the EPA or an approved state, issued pursuant to section 402 of the Act.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction from which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if the pretreatment standards are thereafter promulgated in accordance with that section, provided that:

(1) The building, structure, facility or installation is constructed at a site on which no other source is located.

(2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source.

(3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the site. Factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source shall be considered in determining whether the source is substantially independent.

(4) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria in subsections (2) or (3) of this definition, but otherwise alters, replaces or adds to existing process or production equipment.

(5) Construction of a new source has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous on-site construction program:

1. Any placement, assembly or installation of facilities or equipment; or

2. Significant site preparation work, including clearing, excavation or removal of existing buildings, or facilities which are necessary for the placement, assembly or installation or new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product. Noncontact cooling water shall be considered a dilution wastestream for use in the combined wastestream formula.

Nondomestic user or *industrial user* means a source of indirect discharge which does not constitute a discharge of pollutants (direct discharge) under regulations issued pursuant to section 402 of the Act; any person who discharges or causes a discharge of nondomestic wastewater into the sanitary sewer system.

Nondomestic wastewater means all wastewater resulting from any industrial, commercial, manufacturing, food preparation or food processing operation or from development of any natural resource, or any mixture of these with water or domestic wastewater, as distinct from domestic wastewater.

Normal domestic wastewater means domestic wastewater in which the concentration of total suspended solids does not exceed 200 mg/l, the concentration of five-day carbonaceous biochemical oxygen demand does not exceed 200 mg/l and the concentration of ammonia as nitrogen does not exceed 20 mg/l, measured by approved analytical procedures.

Outlet means any point of discharge into a watercourse or channel, natural or manmade, in which a flow of water occurs continuously or intermittently, and any pond, ditch, lake or other body of surface water or groundwater.

Owner or *operator* means the owner or operator of any facility or activity subject to regulation under this division and any person who possess any interest in the structure or property to which such ownership relates.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

Person means any and all persons, natural or artificial, including any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or its legal representatives, agents or assigns. The term "person" includes all federal, state and local government entities.

pH means a measurement of the hydrogen-ion concentration in solution, expressed as the logarithm (base ten) of the reciprocal of the hydrogen-ion concentration in gram moles per liter of solution, measured in accordance with approved analytical procedures; a measure of the acidity or alkalinity of a solution, expressed in standard units (S.U.).

Plumbing inspector means any individual official, board, department or agency established and authorized by the state, county, city or other political subdivision created by law to administer and enforce the provisions of the plumbing code as adopted or amended.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal agricultural and industrial wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pollution control inspector means the technical supervisor, chief pollution control technician, pollution control technician or other employee of the TWU designated by the control authority to administer and enforce this article.

Pretreatment means the treatment of a waste before discharge into a POTW or outlet to remove or to neutralize substances injurious to the sewers and subsequent treatment processes or to affect a partial reduction in load on the treatment process. Pretreatment may be by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d) and by the terms of this division.

Pretreatment requirements mean any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on any nondomestic user and any substantive or procedural requirement imposed on any nondomestic user by the control authority in order to regulate the user's wastewater under the provisions of this article.

Pretreatment standard means any regulation containing pollutant discharge limits or prohibitions promulgated by the EPA or the state or the city which applies to nondomestic users, including prohibitive discharges outlined in section 42-111.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with, or results from the production or use of, any raw material, intermediate product, finished product, byproduct or waste product. The term "process wastewater" excludes domestic, noncontact cooling and boiler blowdown wastewaters.

Prohibited discharge standards or *prohibited discharges* mean absolute prohibitions against the discharge of certain substances as outlined in this division.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in diameter.

Public sewer means a sewer in which all owners of abutting property have substantially equal right and which is controlled by the city.

Publicly owned treatment works or *POTW* means a treatment works as defined by section 212 of the Act which is owned by the city. The term "publicly owned treatment works" shall include:

(1) Any devices and systems used in storage, treatment, recycling and reclamation of municipal wastewater or liquid industrial wastes;

(2) Sewers, pipes and other appurtenances used in the transportation of wastewater to the treatment plant portion of the POTW;

(3) The municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works; and

(4) Any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement, users of the POTW.

POTW treatment plant means the portion of the POTW which is designed to provide treatment, including recycling and reclamation, of municipal wastewater and industrial wastes.

Sanitary sewer means a sewer in which liquid and waterborne wastes from residences, commercial buildings, industrial plants and institutions are carried and to which stormwaters, surface waters and groundwaters are not intentionally admitted. The term "sanitary sewer" also means a pipe or other conveyance which carries stormwater and surface water, street wash, and other wash waters or drainage, but excludes domestic and nondomestic wastewater.

Septic tank waste means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

Severe property damage means substantial physical damage to property, damage to the treatment facility which causes it to become inoperable, or substantial and permanent loss of natural resources, which can reasonably be expected to occur in the absence of a bypass. The term "severe property damage" shall not include economic loss caused by delays in production.

Sewer means a pipe or conduit and appurtenances for the collection, transport or pumping of wastewater.

Significant industrial user means any nondomestic user of the city's wastewater disposal system who:

(1) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR ch. 1, subchapter N;

(2) Discharges an average of 25,000 gallons or more of process wastewater to the POTW, excluding sanitary, noncontact cooling, and boiler blowdown wastewaters, per workday;

(3) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic (BOD_5, TSS, etc.) design capacity of the POTW treatment plant;

(4) Has a reasonable potential, in the opinion of the control authority, to adversely affect the POTW treatment plant's operation (inhibition, pass through of pollutants, sludge contamination or endangerment of POTW workers, etc.) or for violating any pretreatment standard or requirement; or

(5) Is found by the control authority to have a significant impact, either singly or in combination with other contributing industries, on the POTW, the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system, or may pose a health/welfare hazard to the POTW workers or the public or may injure the environment.

Significant noncompliance means any violation which meet one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD_5, TSS, fats, oil and grease and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) the control authority determines has caused, alone or in combination with other discharges, interference, pass through or has endangered the health of the POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused an imminent endangerment to human health or welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports, including, but not limited to, baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other violation or group of violations the control authority determines will adversely affect the operation or implementation of the local pretreatment program; or

(9) The current definition accepted by region VI of the EPA.

Sludge means the accumulated solids separated from liquids, such as water and wastewater, during processing and any solid material containing large amounts of entrained water collected during water or wastewater treatment. The term "sludge" includes settled solids resulting from chemical treatment, coagulation, flocculation, sedimentation, flotation, or biological oxidation of water and wastewater and materials removed from septic tanks.

Slug load means any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge or any discharge which would cause a violation of the prohibited standards in section 42-111.

Stormwater means any flow occurring during or following any form of precipitation and resulting from such precipitation, including snowmelt.

Stormwater runoff means that portion of the rainfall which is normally drained into the sanitary sewers or finds its way to natural or manmade drainage channels.

Surcharge means the charge, in addition to the published sewer use rate designed to recover costs, incurred during the treatment of nondomestic wastewater, above the standard rate. The basis for surcharge on industrial wastes is a capital and operating cost for suspended solids, oxygen demand and ammonia exceeding the concentration and loads established by this division or upon which the published water and sewer rates are based.

Texarkana Water Utilities or *TWU* means the bi-city water and wastewater utility department of the cities of Texarkana, Arkansas and Texarkana, Texas that functions operationally

for both cities while maintaining financial functions, including revenues and expenditures, separate and apart. The utilities are managed by an executive director who answers directly to the city managers of both the Texarkanas.

Total suspended solids or *TSS* means the solid materials which will be retained on a glass fiber filter (Whatman grade 934AH or equivalent) when filtered under vacuum and dried in a laboratory oven at 103 degrees to 105 degrees Celsius according to approved analytical procedures.

Toxic pollutants means any pollutant or combination of pollutants listed in regulations promulgated by the EPA under the provisions of the Act, section 307(a), or other acts.

Unpolluted water or *unpolluted drainage* means any water or waste containing none of the following:

(1) Free or emulsified grease or oil;

(2) Acid or alkali;

(3) Phenols or other substances imparting taste or odor in receiving waters;

(4) Toxic or poisonous substances in suspension, colloidal state or solution;

(5) Noxious or odorous gases;

(6) Total suspended solids and/or five-day biochemical oxygen demand in concentrations greater than ten mg/l; or

(7) Color in excess of 150 Jackson turbidity units.

Upset means an exceptional incident in which there is unintentional and temporary non-compliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. The term "upset" does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

User means any person who contributes or causes or permits the contribution of wastewater into the city's POTW.

Waste disposer or *disposer* means the POTW which accepts liquid transported waste for treatment and disposal through the POTW treatment plant.

Waste generator or *generator* means any person, by site, whose act or process produces waste regulated under this division or whose first act causes a waste to become subject to regulation.

Waste transporter or *transporter* means the owner or operator of a truck or other vehicle used for delivery of wastes to the POTW other than via the sanitary sewer collection system.

Wastewater means liquid and water-carried wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.
(Code 1961, § 29-48; Ord. No. 228-95, § 2(exh. A), 6-12-1995)

Sec. 42-111. General sewer use requirements.

(a) *Applicability.* Unless otherwise stated herein, this section shall apply to all users of the city's POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other federal, state or local pretreatment standards of requirements or whether such user has been issued a wastewater discharge permit.

(b) *Prohibited discharges.*

(1) In cases where the character or volume of the wastewater from a manufacturing, commercial or industrial facility or other premises is such that it will damage the system or cannot be treated satisfactorily in the system or violates this article in any manner, the control authority shall have the right to require disposal of such waste otherwise and prevent it from entering the sanitary sewer system.

(2) A user shall not discharge or cause to be discharged into the sanitary sewer any stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, yard drainage, yard fountain drainage, lawn spray waters or pond water, and unpolluted wastewater, unless specifically authorized by the control authority.

a. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, yard drainage, lawn spray waters and pond water shall be discharged to such sewers as are specifically designed as sanitary sewers or into a natural outlet;

b. Unpolluted process water, swimming pool drainage, condensate, deionized water, noncontact cooling water, yard fountain drainage and other unpolluted wastewater may be discharged into the sanitary sewer system upon prior written consent of the control authority. The specific maximum flow rate of such waters shall be determined by the control authority on a case-by-case basis. The control authority may specify at what times such wastewater may be discharged. These types of wastewaters may be discharged to sanitary sewers or natural outlets, provided such discharges has been permitted by the appropriate state and/or federal agency and the control authority have been made aware of such discharges as provided by this division.

c. When unpolluted wastewater is mixed with a regulated wastestream, the user shall meet an adjusted limit calculated according to the combined wastestream formula.

(3) A user shall not discharge, or cause to be discharged, any pollutant which will cause interference or pass through.

(4) A user shall not discharge pollutants which, by reason of their nature or quantity, either alone or by interaction with other substances, are, or may be, sufficient to create fire or explosion hazard or injure, in any way, the POTW and its operation.

a. Prohibited wastestreams shall include, but are not limited to, any wastestream with a closed cup flashpoint of less than 60 degrees Celsius (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21.

b. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides and other substances which are or may be a fire hazard or other hazard to the sanitary sewer system.

(5) A user shall not discharge pollutants having corrosive properties capable of damaging the collection or treatment structures, equipment, POTW personnel or the environment.

(6) A user shall not discharge any solid or viscous substances which may cause an obstruction to the flow in the sewers or in any way interfere with the collection and treatment processes. In no case shall solids greater than one-half inch be discharged to the POTW. Prohibited materials include, but are not limited to ashes, wax, paraffin, cinders, sand, mud, straw, wood shavings, sawdust, bone, paunch manure, hair, hides, fleshings, entrails, whole blood, feathers, lime slurries, beer or distillery slops, grain processing wastes, grinding compounds and residues from grinding operations, acetylene generation sludge, chemical residues, acid residues, plastics, rubber, tar, asphalt residues and food processing bulk solids.

(7) A user shall not discharge any pollutant, including oxygen-demanding pollutants released at a flow rate or pollutant concentration which, alone or by interaction with other pollutants, may cause interference with the POTW.

(8) A user shall not discharge any wastestream at temperatures which may inhibit biological activity in the POTW resulting in interference of the normal processes.

a. A wastestream at the discharge point shall not have a temperature greater than 65 degrees Celsius (149 degrees Fahrenheit).

b. In no case shall a discharge raise the temperature at the POTW treatment plant above 40 degrees Celsius (104 degrees Fahrenheit) measured at the influent of the POTW treatment plant.

(9) A user shall not discharge petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts which may cause interference or pass through or may otherwise violate the provisions of this article.

(10) A user shall not discharge any pollutants which may result in toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety risks, any noxious or malodorous liquids, or any solids or gases which, alone or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or to prevent entry into the sewers for maintenance or repairs.

(11) No person shall discharge any substance into any manhole, sewer cleanout or other opening in the POTW collection system.

(12) A user shall not discharge any wastewater containing toxic pollutants which may, either singly or by interaction with other wastes, injure or interfere with any wastewater treatment process, constitute a hazard to human, animal or aquatic life, create a toxic effect in the receiving waters of the POTW, or exceed the limitations set forth in a categorical pretreatment standard of this division.

(13) A user shall not discharge any garbage which has not been properly shredded to a degree that all particles are freely carried under normal flow conditions in the POTW collection system, with no particle having a dimension greater than one-half inch.

(14) A user shall not discharge any substance which may, alone or by interaction with other wastes, cause the POTW to violate its NPDES permit or worsen or prolong any occurring violation.

(15) A user shall not discharge any substance which may cause the POTW's effluent or any other products of the POTW such as residuals, sludges or scums to be unsuitable for reclamation and reuse or which may interfere with the reclamation process. In no case shall a substance be discharged to the POTW which may cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act, any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or state criteria applicable to the sludge management method being used.

(16) A user shall not discharge any wastewater which imparts color not removed by the treatment process, such as, but not limited to, dye wastes and vegetable canning solutions, which consequently imparts color in the treatment plant's effluent.

(17) A user shall not discharge any wastewater containing materials which exert or cause unusual concentrations of solids or composition; as for example, unusual concentrations of inert suspended solids, such as, but not limited to, fuller's earth, lime slurries and lime residues, or unusual concentrations of dissolved solids, such as, but not limited to, sodium chloride, calcium chloride and sodium sulfate.

(18) A user shall not discharge any sludges, screenings or other residues from the pretreatment of domestic or nondomestic wastes.

(19) A user shall not discharge any septic tank sludge, except such sludge may be discharged by permitted transporters into selected treatment facilities only at locations designated for this purpose and under the direction of an on-duty POTW treatment plant operator.

(20) A user shall not discharge any wastewater which causes, or may cause, a hazard to human or aquatic life or the environment, or creates, or may create, a public nuisance.

(21) A user shall not discharge any radioactivity as radium 226 greater than three ppc/L or strontium 90 greater than ten ppc/L or other radioactive wastes, except in compliance with applicable state and federal regulations. In the known absence of strontium 90 and alpha emitters, the concentration shall not be greater than 1,000 ppc/L.

(22) A user shall not discharge any wastewater containing excessive amounts of fats, oils and grease which may, alone or in combination with other wastes, cause obstruction of the flow in the POTW collection system.

(23) A user shall not discharge any detergents, surface active agents or any other substances which may cause excessive foaming in the POTW.

(24) A user shall not discharge any wastewater which causes two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent or any single reading over ten percent of the lower explosion limit of the meter.

(25) A user shall not discharge any medical wastes, except as specifically authorized by the control authority in a wastewater discharge permit.

(26) No person shall discharge, or cause to be discharged, any pesticide, herbicide or fungicide, such as, but not limited to, chlordane, heptachlor, aldrin, dieldrin, DDT, DDD or DDE, or any other toxic, poisonous, or other substance that may injure or interfere with the normal treatment processes or may constitute a hazard to human, animal or plant life, including aquatic organisms or create any toxicity or other hazards, in the POTW's receiving stream.

(c) *Specific pollutant limitations.*

(1) No person shall discharge, or cause to be discharged, to the POTW any wastewater containing pollutant concentrations in excess of the specific limitations set forth in this section.

(2) The following pollutant limits are established to protect against pass through and interference and to allow appropriate recycling and reuse. No person shall discharge, or cause to be discharged, to the POTW any wastewater containing pollutants in excess of the following maximum allowable discharge limits except as provided herein:

Daily Maximum Concentration (mg/l)		
Pollutant	*South Regional WWTP*	*Waggoner Creek WWTP*
Ammonia as nitrogen	250.00	250.00
Arsenic (T)	0.248	0.201
Biochemical oxygen demand (carbonaceous)	1500.00	1500.00
Cadmium (T)	0.069	0.105
Chemical oxygen demand	3750.00	3750.00
Chromium (T)	7.820	3.417
Copper (T)	1.158	1.547
Cyanide (T)	0.172	1.252
Lead (T)	0.718	0.842
Mercury (T)	0.0008	0.0678
Molybdenum (T)	0.821	0.821
Oil and grease (T)	100.00	100.00
Nickel (T)	0.920	2.057
Phenol	50.00	50.00
Total petroleum hydrocarbons	20.00	20.00
Total suspended solids	1500.00	1500.00
Selenium (T)	0.143	0.143
Silver (T)	0.111	0.315
Zinc (T)	3.605	3.121

(3) A user may petition the control authority for a variance from a specific discharge limitation listed in subsection (c)(2) of this section.

a. The control authority may grant a variance to a user discharging into the sanitary sewer system when there is sufficient evidence that allowing such a variance will not result in an unpermitted discharge from the POTW treatment plant, will not adversely affect the treatment of wastewater or the operation of the sanitary sewer system, and will not be in violation of any applicable law or regulation.

1. The control authority shall not grant a variance which exceeds a federal categorical standard.

2. The control authority shall not grant a variance, to any user which would cause the POTW's influent to equal or exceed 80 percent of the technically based maximum allowable headworks loading.

3. A variance may be revoked at any time at the discretion of the control authority.

b. The control authority may grant a variance to any permitted user not to exceed the following limits. This variance may be revoked by the control authority without notice when it has reason to believe the maximum allowable headworks loading has been or may be exceeded for that pollutant or when additional industrial users are added to the POTW:

Daily Maximum Concentration (mg/l)		
Pollutant	*South Regional WWTP*	*Waggoner Creek WWTP*
Arsenic (T)	4.219	N/A
Cadmium (T)	1.630	0.217
Chromium (T)	15.641	3.514
Copper (T)	2.317	3.182
Cyanide (T)	4.021	1.287
Lead (T)	2.646	1.731
Mercury (T)	0.0029	N/A
Molybdenum (T)	1.661	1.661
Nickel (T)	1.840	4.231
Silver	0.154	0.648
Zinc (T)	7.210	3.209

c. The maximum allowable headworks loading established for the purpose of this subsection are:

Pounds Per Day		
Pollutant	*South Regional WWTP*	*Waggoner Creek WWTP*
Arsenic (T)	1.3606	N/A
Cadmium (T)	0.3825	0.0627
Chromium (T)	48.8521	2.0234
Copper (T)	6.3496	0.9165
Cyanide (T)	0.9434	0.7414
Lead (T)	3.9353	0.4986
Mercury (T)	0.0046	N/A
Molybdenum (T)	4.4987	4.4987
Nickel (T)	5.0437	1.2185
Silver	0.6099	0.1866
Zinc (T)	19.7542	1.8481

(4) No person shall discharge, or cause to be discharged, any wastewater having a pH less than 5.5 S.U. nor greater than 10.5 S.U.

(d) *Prohibition of dilution as substitute for treatment.* No user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with any pretreatment standard or requirement or any other requirement developed by the EPA, the state or the city, unless expressly authorized by an applicable categorical pretreatment standard. The control authority may impose mass limits on any user where it is known or suspected that the user may use dilution to meet applicable pretreatment standards or requirements or where diluting the discharge is unavoidable.

(e) *Right of revision.* The control authority shall reserve the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW. In cases where the control authority deems it necessary to impose more stringent

limitations than the national and/or local standard or the control authority deems it necessary to impose limitations on the flow amount or rate or on the nature of the waste for reasons of protection of the POTW sewer system or treatment plant, a reasonable limitation may be imposed.

(f) *National (Categorical) Pretreatment Standards.*

(1) The categorical pretreatment standards found in the Code of Federal Regulations, title 40, ch. I, subchapter N, parts 405 through 471 are hereby incorporated.

(2) Any user for which National Pretreatment Standards specifying quantities or concentrations of pollutants which may be discharged to a POTW by existing and new users in specific industrial subcategories are established shall be deemed a significant industrial user and the appropriate limitations applied. A user subject to such limitations shall be required to obtain a wastewater discharge permit.

(3) When a wastestream subject to a categorical pretreatment standard is mixed with wastestreams not regulated by the same standard, is a mixture of more than one regulated wastestream, of regulated and unregulated wastestreams, or of regulated and dilution wastestreams, or where no discrete sampling point is available, the control authority shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(4) The wastewater discharge permit for a categorical user shall minimally include applicable National Categorical Pretreatment Standards for new or existing sources, whichever is applicable, set forth in 40 CFR, subchapter N, parts 401 through 471. The National Standards shall be in addition to the general prohibitions established in this division and in 40 CFR 403.

(5) In cases where a National Categorical Standard for a particular subcategory is established under the National Pretreatment Program and under this division, the allowable discharge limitation shall be the concentration or mass which is more stringent.

(6) In cases where pollutants are or may be contained in the wastewater from a categorical user and the pollutants are not regulated under the categorical standard, the control authority may regulate those pollutants in addition to the pollutants regulated by the categorical standard.

(7) A user may obtain a variance from the categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by the EPA when developing the categorical standard. A user requesting a fundamentally different factor variance shall comply with the procedural and substantive provisions in 40 CFR 403.13.

(8) A user may obtain a net/gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(g) *Alternate mass or concentration limitations.*

(1) The control authority may impose mass limitations, in addition to or in place of the concentration limits in subsection (c)(2) of this section, on any user, especially to prevent the employment of dilution in order to comply with the provisions of this article.

(2) Where the limitations in a categorical standard are expressed only in terms of mass of pollutants per unit of production, the control authority may convert the limits to equivalent limits expressed either as mass of pollutant per day or per specific discharge amount (i.e., per gallon or batch) or as effluent concentration.

a. Equivalent mass shall be calculated by multiplying the limitation by average rate of production;

b. Equivalent concentration shall be calculated by multiplying the limitation by the average rate of production, then dividing by the average daily flow rate from the regulated process.

(h) *Prevention from accident/slug discharge.*

(1) Pollutants, substances or wastewater prohibited by this article shall not be processed or stored in a manner which could result in a discharge of such pollutants, substances or wastewater to the POTW.

(2) The control authority shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan at least once every two years.

(3) The control authority may require any user to develop a detailed written accidental discharge/slug control plan outlining facilities and operating procedures to provide spill and accidental discharge protection. This plan shall be submitted to the control authority for approval and shall be implemented by the user upon acceptance by the control authority. The plan shall contain, at a minimum, the following:

a. A description of discharge practices, including nonroutine batch discharges;

b. A description of stored chemicals;

c. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents and measures and equipment for emergency response; and

d. Procedures for immediate notification of the facility's authorized representative and the control authority in the event of an accidental or slug discharge.

1. These procedures shall be posted in a conspicuous place in the workplace.

2. Employers shall ensure all employees, who may cause such a discharge to occur, are advised of the emergency notification procedures.

(4) If, in the opinion of the control authority, the facilities or procedures are not adequate to prevent accidental discharge or if an accidental discharge occurs while a plan is in effect, the control authority shall require additional facilities or procedures to prevent occurrence or recurrence. Alternately, the control authority may develop such a plan for the user.

(i) *Procedures in case of accidental discharge.* In case an accidental or slug discharge to the POTW occurs, the user shall immediately telephone and notify the control authority of the incident.

(1) Notification to the control authority of an accidental discharge shall include:

a. Name and address of the facility;

b. Name of person responsible for operation of the facility (a contact person for the control authority);

c. Location of the discharge;

d. Time the discharge began and duration of the discharge;

e. Type of wastes being discharged;

f. Cause of the discharge;

g. Concentration and volume of the waste;

h. Corrective action taken; and

i. Whether or not the discharge has been discontinued.

(2) Within five days following an accidental or slug discharge, the user shall submit a detailed written report describing the cause of the discharge, all information required in subsection (i)(1) of this section, and the measures to be taken by the user to prevent similar future occurrences.

(3) Such notification shall not relieve the user of responsibility for expense, loss, damage or other liability which may be incurred by the POTW as a result of the discharge, including, but not limited to, costs of response personnel and equipment and supplies, injury to person and damage to property.

(4) Such notification shall not relieve the user of any fines, civil penalties or other liabilities which may be imposed by this article.

(j) *Storage of hazardous/dangerous materials.*

(1) The storage of any material in areas served by public sewers or in areas draining into the city's sewer which, because of discharge or leakage from such storage, may create an explosion hazard in the POTW or in any other way have a deleterious effect upon the POTW or the treatment processes or constitute a hazard to human, animal or plant life or the receiving stream shall be subject to review by the control authority, who may, at the authorities discretion, require reasonable safeguards to prevent discharge or leakage of such materials into the sewers.

(2) No hazardous or dangerous materials, including, but not limited to, paints, solvents, boiler treatment chemicals, sludges and hazardous wastes, shall be stored in proximity to a floor drain or other sewer access. Containers of such materials shall be clearly labeled and stored in a place where the materials, in case of leakage or rupture of the container, cannot enter the sanitary sewer system.

(3) Where containers of treatment chemicals which are manually or automatically pumped into a system must be maintained in proximity of a floor drain, a physical containment shall be installed that is adequate to contain at least 120 percent of the maximum volume of the container.

(4) Any facility, including manufacturing, warehousing, distribution, commercial, private and retail facilities having underground storage of materials shall, upon request by the control authority, provide documentation so the underground storage meets all applicable federal, state and local regulations.

(k) *Pretreatment of wastes discharged to the sanitary sewer.*

(1) In cases where waters or wastes are discharged or are proposed to be discharged into the sanitary sewer system which contain the substances or possess the characteristics enumerated in this article or which may have a deleterious effect upon the POTW, its processes, equipment or receiving waters or the environment, or which otherwise create, or may create, a hazard to life or constitutes a public nuisance, the control authority may reject the wastes or require pretreatment as necessary to comply with this division. The user shall achieve compliance with all categorical pretreatment standards, local limits and prohibitions set forth in this division within the time limits specified by the EPA, the state or the control authority, whichever is more stringent.

(2) Where pretreatment or flow equalization facilities are provided for any waters or wastes, these facilities shall be maintained in satisfactory and effective operation by the owner at the owners expense.

(3) Whenever deemed necessary, the control authority may require any user to restrict its discharge during peak flow periods, may designate certain wastewater be discharged only into specific sewers, may require relocation or consolidation of points of dis-

charge, may require separation of domestic wastestreams from nondomestic wastestreams, or may impose other conditions necessary to protect the POTW or to determine the user's compliance with the requirements of this division.

a. Appropriate pretreatment technology shall include control equipment, such as equalization tanks or facilities for the protection against surges or slug loads that might interfere with or otherwise be incompatible with the POTW.

b. The control authority may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. The design and installation of the facility and equipment shall be reviewed and approved by the control authority before such facilities are constructed. A wastewater discharge permit may be issued solely for flow equalization.

(4) Where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility shall meet an adjusted pretreatment limit calculated in accordance with the combined wastestream formula found in 40 CFR 403.6(e).

(5) In no case shall a discharge be allowed with characteristics that exceed a categorical pretreatment standard nor shall dilution or other methods for circumventing pretreatment be allowed.

(6) The installation and operation of a garbage grinder equipped with a three-quarter horsepower or greater motor shall be subject to review and approval by the control authority.

(7) Grease, oil and sand traps, catch basins, interceptors or hold-haul tanks shall be provided for the proper handling of wastes containing grease, sand and other harmful ingredients. Interceptors are not required for private living quarters or dwellings.

a. Any establishment not specifically exempted by this division or other ordinance which prepares food for on- or off-site consumption shall be equipped with an adequately sized grease trap.

b. Vehicle wash facilities, wash bays in service stations and similar installations shall be equipped with grease, oil and sand traps and shall discharge to the sanitary sewer. These facilities shall be protected from rainwater runoff. Drainage from areas exposed to rainwater runoff shall not be discharged to the sanitary sewer.

c. Work areas of machine shops or of any facility or part of a facility which manufactures, rebuilds, repairs, overhauls or maintains motors, transmissions, hydraulic systems or similar machinery and areas where fluids are changed shall not have any floor drains or other devices where wastewater or other wastes may be discharged into the sanitary sewer.

1. Areas, such as described above, shall be physically separated from any area that drains to the sanitary sewer.

2. Drainage from areas, such as described above, shall go to a hold-haul tank. Hold-haul tanks shall be equipped to prevent leakage, spills and splashing during operation and cleaning.

3. Floor cleaning wash water from areas, such as described above, shall be excluded from the sanitary sewer, except where pretreated to within the specifications of this division.

4. Disposal records shall be maintained for materials removed from hold-haul tanks. Such records shall be made available to the control authority for inspection and copying upon request.

d. Grease, oil and sand traps, catch basins, interceptors and hold-haul tanks shall be constructed and maintained in accordance with the provisions outlined in this Code.

(8) Steam cleaning and chemical cleaning facilities shall not discharge to the sanitary sewer, unless a facility or process is provided that will consistently produce an effluent that is in compliance with this division, particularly in regard to grease, oils, organics and other chemicals.

(9) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter at their expense.

(l) *Control equipment.*

(1) The control authority may require a nondomestic user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at the users own expense. All devices used to measure wastewater flow shall be periodically calibrated to ensure accuracy of measurement, but not less than once per year. Other monitoring equipment shall be calibrated in accordance with the manufacturer's schedule to ensure accuracy of measurements.

(2) The control authority may require any nondomestic user to install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes and flows. Such manholes shall be readily accessible to the control authority at any time.

a. Control manholes shall be easily accessible and safely located and shall be constructed in accordance with plans approved by the control authority. Such manholes shall be inspected by the control authority prior to use.

b. Control manholes shall be installed by the owner at the owners expense and shall be maintained by the owner so as to be safe and accessible at all times.

c. Control manholes shall be constructed to exclude entry and exit of waters not discharged through the building sewer, i.e., to prevent infiltration/inflow and exfiltration/exflow.

(m) *Monitoring requirements.*

(1) Where required by any permit or order or otherwise ordered by the control authority, the nondomestic user shall obtain representative samples of the facility's wastewater discharge or proposed discharge for analysis. Specified analyses shall be conducted no less frequently than as outlined in the permit or order or other document issued by the control authority.

a. For the purpose of this subsection, the term "representative sample" means a 24-hour composite sample consisting of at least 12 parts where the discharge is continuous. Where the discharge is not continuous, the sample shall be representative of all discharges occurring in a 24-hour period.

1. Facilities allowed to composite for less than 24 hours, i.e., discharge does not occur 24 hours per day, shall composite a minimum of four parts collected at equal intervals over the discharge time of a 24-hour period, with the intervals not to exceed two hours.

2. Portions shall be composited according to flow where feasible. The control authority may waive flow proportional composite sampling for any user that demonstrates flow proportional composting is not feasible. In such cases, samples may be obtained through time proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates this will provide a representative sample of the effluent being discharged.

3. Grab samples shall be collected for pH, cyanide, total phenols, oils and grease, total petroleum hydrocarbons, sulfide and volatile organics analyses.

b. Specific pollutants for which to analyze shall be determined by the control authority. The basis for the determination of pollutants of concern shall include the type of wastes being discharged or proposed for discharge, the nature of the process generating the wastes, materials and chemicals used in the process, the type of facility from which the discharge originates and other methods normally used in the determination of pollutants expected present in wastewater.

c. A qualified testing laboratory that adequately demonstrates acceptable quality control/quality assurance shall be employed to conduct analyses. This may be demonstrated through a state, professional or federal program or association.

d. Analyses may be conducted by qualified persons onsite with prior written approval of the control authority. Onsite laboratories conducting monitoring for compliance with this division shall be subject to the same requirements as commercial or contract laboratories.

e. All costs of the self monitoring program shall be borne by the user.

(2) The control authority shall conduct monitoring necessary to determine, independent of information supplied by the nondomestic user, compliance or noncompliance with the provisions of this division.

a. The control authority may randomly sample and analyze the discharge from any nondomestic user and conduct surveillance activities in order to identify, independent of information supplied by the user, occasional and continuing compliance or noncompliance with the provisions of this division.

1. The control authority shall inspect and analyze, or have analyzed, samples of the discharge of each significant user at least once per year.

2. The control authority may conduct sampling and analyses of the discharge of any nondomestic user where deemed necessary to ensure compliance with this division.

b. All costs of analyses, including shipping charges, if any, of samples collected by the control authority shall be billed to the user.

(3) All sampling and analyses shall be conducted according to procedures outlined in 40 CFR 136 and amendments thereto, except where a particular method for analysis is prescribed in 40 CFR for a federal category or subcategory or where specified in a permit or other document issued by the control authority. For analysis of pollutants not listed in the above references, methods shall be determined by the control authority.

(Code 1961, § 29-49; Ord. No. 228-95, § 2 (exh. A), 6-12-1995; Ord. No. 162-2011, §§ 1—3, 9-26-2011)

Sec. 42-112. Direct discharges prohibited.

(a) *Discharge into waters of the United States.*

(1) No person shall discharge, or cause to be discharged, any prohibited or specifically limited pollutant into any sanitary sewer, drain, gutter, stream or natural or manmade outlet or otherwise cause a discharge of pollutants into the waters of the United States, unless such discharge has been specifically reviewed and approved by the appropriate state and/or federal agency.

(2) Documentation of approval for direct discharges shall be filed with the control authority.

(b) *Discharges onto public or private property.*

(1) No person shall deposit or discharge any wastewater, industrial waste or polluted liquid onto public or private property or street or adjacent to any natural outlet, natural watercourse, sanitary sewer, gutter, drainage ditch or other area within the jurisdiction of the city.

(2) Pollution of waters of the United States caused by runoff or washing, whether accidental or intentional, is strictly prohibited.

(Code 1961, § 29-49.1; Ord. No. 228-95, § 2 (exh. A), 6-12-1995)

Sec. 42-113. Wastewater discharge permits.

(a) *Applicability.* Any nondomestic user of the POTW may be required to obtain a wastewater discharge permit from the control authority. Categorical and significant users and all users who deliver transported waste to the POTW shall be required to obtain a permit prior to any discharge.

(b) *Approval requirements.*

(1) Review and acceptance by the control authority shall be obtained prior to the connection to, or the discharge into, the public sewers of any wastewater other than normal domestic wastewater.

a. Anyone wishing to discharge waters or wastes other than normal domestic wastewater into the POTW shall apply to and receive permission from the control authority prior to discharge to the sanitary sewer system.

b. When required by the control authority, any nondomestic user shall submit information on the nature and characteristics of its wastewater within 30 days of the request. The control authority may prepare a form for this purpose and may periodically require users to update the information.

(2) Any nondomestic user shall acquire approval prior to changes in the quantity or quality of the discharge. The control authority shall deny or condition new or increased contributions of pollutants or changes in the nature of pollutants to the POTW by users where such contributions do not meet applicable pretreatment standards or conditions of this article or where the contributions may cause the POTW to violate its NPDES permit.

(c) *Classifications of wastewater discharge permits.*

(1) The control authority shall be authorized to issue two specific classifications of wastewater discharge permits, classified according to the disposal method or type, quality or quantity of wastewater to be discharged to the sanitary sewer:

a. Class S (significant wastewater discharge permit) shall be issued all users who meet the criteria for a significant user as outlined in 40 CFR 403.3(t)(l) and as defined in section 42-110. All categorical users shall be issued a Class S permit.

b. Class NS (nonsignificant wastewater discharge permit) may be issued to any nondomestic user of the POTW who does not meet the criteria for a significant

user, but the control authority has reason to believe should have a control document. The control authority shall be authorized to issue five types of the Class NS permits:

1. Type M (minor wastewater discharge permit) may be issued to nondomestic users of the POTW who contribute less than 25,000 gallons of process wastewater per day and who do not otherwise meet the criteria of the Class S permit but, in the opinion of the control authority, should be regulated for quality, quantity or type of wastewater discharge.
2. Type C (commercial wastewater discharge permit) may be issued primarily to establishments engaged in the retail sale or prepared food and drinks for on-premises or immediate consumption, including, but not limited to, carryout, delivery, catering and institutional food services as well as any firm, hospital, nursing home or other person or entity whose wastewater discharges require pretreatment in the form of a grease or sand trap.
3. Type I (intermittent wastewater discharge permit) may be issued to users who normally do not contribute wastewater to the sanitary sewer system because of closed loop treatment systems, but may occasionally wish to discharge wastewater to the POTW when the treated water cannot be recycled. Requirements for at least 24-hour advance notice of discharge shall be included in all Type I permits.
4. Type T (transported wastewater discharge permit) shall be issued to all users who deliver wastes to the POTW by truck.
5. Type N (no discharge permit) may be issued to facilities who do not discharge process wastewater to the POTW, but would be categorical users if process wastewater was discharged.

(d) *Application for wastewater discharge permit.*

(1) A nondomestic user shall not connect to the sanitary sewer without prior written permission of the control authority. Written permission shall not be given without proof the user has obtained all necessary city permits.

a. A significant industrial user shall not discharge wastewater to the POTW without first obtaining a Class S wastewater discharge permit from the control authority.

b. The control authority may require other nondomestic users to obtain a permit as necessary to carry out the purposes of this division.

(2) Any nondomestic user required by this division to obtain a permit who was discharging wastewater into the POTW prior to the effective date of the ordinance from which this division is derived and who wishes to continue such discharges in the future shall, within 30 days after the effective date of the ordinance from which this division is

derived, apply to the control authority for a permit and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of the ordinance from which this division is derived, except in accordance with a permit issued by the control authority.

(3) Any nondomestic user required to obtain a permit who proposes to begin discharging or recommence discharging into the POTW shall obtain such permit prior to beginning or recommencing such discharge. An application for the permit shall be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

(4) Nondomestic users required to obtain a permit shall file an application for wastewater discharge permit and shall submit to an inspection of the facility for which the permit is requested.

a. Prior to filing an application for a wastewater discharge permit, the nondomestic user shall consult with the control authority, or the authorities duly authorized representative, concerning the types, concentrations and quantities of industrial wastes proposed for discharge.

b. Proposed new nondomestic users shall apply for a permit prior to construction of such facilities. The control authority shall approve or disapprove such application in a timely manner.

c. The nondomestic user, or proposed nondomestic user, shall submit to the control authority for review and acceptance, all design calculations, plans, specifications and other pertinent information relating to proposed wastewater pretreatment and process facilities if the effluent from such facilities may be discharged to the POTW.

d. All nondomestic users required to file an application for a wastewater discharge permit shall submit said application on the form, provided by the control authority, for the type of permit requested. Incomplete or inaccurate applications shall not be processed and shall be returned to the user for revision. The following information shall be included in all Class S permit applications and may be included in Class NS applications.

1. All information required by section 42-115(a)(1);

2. Description of activities, facilities and plant processes on the premises, including a list of raw materials and chemicals used and stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

3. Number of employees, hours of operation and proposed or actual hours of operation;

4. Each product produced by type, amount, process, and rate of production;

5. Type and amount of raw materials processes (average and maximum per day);
6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains and appurtenances by size, location and elevation, and all points of discharge;
7. Time and duration of discharges; and
8. Any other information as may be deemed necessary by the control authority to evaluate the application.

(5) The application shall be signed by an authorized representative of the user and shall contain the certification statement outlined in section 42-115(e)(1).

(e) *Issuance of a wastewater discharge permit.*

(1) Within 30 days of receipt of a completed application for a wastewater discharge permit, the control authority shall determine whether or not to issue a permit.

(2) The control authority may deny any application for permit. The control authority shall notify, in writing, any applicant whose application is denied within ten days after the decision to deny the permit.

(3) The control authority shall evaluate data furnished by the user and data from other sources as available to determine whether a permit should be issued and the specific contents to be placed in the permit. The control authority may require additional information, including additional analyses, from the user where deemed necessary.

(4) The control authority shall document each step in the permitting process in such a manner to facilitate defending any challenges that the permit terms and conditions were developed in an arbitrary manner and to make reissuance easier. Proper documentation shall satisfy the EPA's requirements for documentation of permitting rationale.

(5) A wastewater discharge permit shall be issued for a specified time period not to exceed five years from the effective date of the permit. A permit may be issued for a period less than five years at the discretion of the control authority.

(6) The permit, with original signature, shall be displayed by the user in a conspicuous location in the workplace. A Type T permit shall be maintained in the permitted vehicle at all times.

(f) *Contents of the wastewater discharge permit.*

(1) The wastewater discharge permit shall contain standard conditions and general regulations applicable to the user.

a. The Class S permit shall minimally contain, where applicable, National Categorical Pretreatment Standards and requirements for new or existing sources as set forth in the 40 CFR 401 through 471 and amendments thereto.

b. All permits shall contain the following, except as outlined in subsection (2) of this section:

1. A statement of permit ownership;
2. A statement of duration of the permit, including specific dates of validity;
3. A statement that the permit is nontransferable without prior notification to the control authority in accordance with subsection (j) of this section;
4. Effluent limits based on applicable pretreatment standards;
5. Self-monitoring, sampling and reporting requirements, including an identification of pollutants to be monitored, sampling location, sampling frequency, specific analytical methods and method detection limits, and sample types;
6. Notification and recordkeeping requirements;
7. A statement of applicable administrative, civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule shall not extend any compliance date beyond that required by the applicable federal, state or local law; and
8. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment requirements, including those which become effective during the term of the permit.

c. At the discretion of the control authority, a permit may contain, but need not be limited to, the following conditions:

1. Limits on the average or maximum rate, amount and time of discharge, including requirements for advance notice or approval of such discharge;
2. Requirements for flow regulation and equalization;
3. Requirements for installation and maintenance of pretreatment technology or pollution control (or construction of appropriate containment devices) designed to reduce, eliminate or prevent the introduction of pollutants into the POTW;
4. Requirements for the installation and maintenance of metering devices for the wastestream;
5. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
6. Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or nonroutine discharges;

7. Requirements for development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
8. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
9. Other conditions as deemed appropriate by the control authority to ensure compliance with this division and state and federal laws, rules and regulations.

(2) The Type T permit shall contain conditions and regulations applicable to the operation of the liquid transported waste vehicle.

a. The Type T permit shall contain the following:

1. Name, address and telephone number of the business;
2. Name and address of the permittee;
3. Name and location of the disposal site;
4. Names of drivers registered to operate the transport vehicle;
5. Description (make, model, color) and capacity of the transport vehicle;
6. Registration and/or establishment numbers issued by the state in which the vehicle will be operated;
7. Type of wastes to be transported to the POTW;
8. Effective and expiration dates of the permit;
9. Requirements to comply with the applicable provisions contained in this article; and
10. Recordkeeping requirements.

b. A Type T permit may contain the following:

1. Specific limitations for the type, nature and amount of wastes to be delivered to the POTW; and
2. Requirements for analyses of wastes prior to delivery to the POTW.

(3) Any violation of the terms and conditions of a permit shall be deemed a violation of this division and shall subject the permittee to the enforcement provisions set forth in section 42-119.

(4) Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state or local law.

(5) It is the permittee's responsibility to be familiar with the contents and requirements of the permit and with all federal, state and local regulations and requirements applicable

to the disposal of nondomestic wastewater into the sanitary sewer system and to comply with those requirements and regulations, whether or not the requirements are contained in the permit issued to the user.

(g) *Wastewater discharge permit appeals.*

(1) Any person, including the permittee, may petition the control authority to reconsider the terms of the permit within 30 days' notice of issuance.

a. Any petition to reconsider a permit shall be in writing.

b. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

c. In its petition, the appealing party shall indicate the permit provisions to which it objects and the alternative condition, if any, it seeks to place in the permit.

(2) The effectiveness of the permit shall not be stayed pending the appeal, however, provisions being reconsidered may be stayed.

(3) If the control authority fails to act within 30 days, the request for reconsideration shall be deemed denied. Decisions not to reconsider or modify a permit or to deny issuance of a permit shall be considered final administrative actions for the purpose of judicial review.

(4) Aggrieved parties seeking judicial review of the final administrative decision shall do so by filing a complaint with the appropriate court of competent jurisdiction within the applicable statute of limitations.

(h) *Modification of the wastewater discharge permit.*

(1) A wastewater discharge permit may be modified for good cause at any time during the life of the permit by the control authority.

a. Modification of the permit may be made for reasons such as, but not limited to, the following:

1. To incorporate any new or revised federal, state or local pretreatment standards or requirements;

2. To address significant alterations or additions to the permittees operation, processes, or wastewater volume or character since the time the permit was issued;

3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

4. Violation of any terms or conditions of the permit;

5. Misrepresentations or failure to fully disclose all relevant facts in the permit application or in any required report;

6. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

7. To correct typographical or other errors in the permit; or

8. To reflect a transfer of the facility ownership or operation to a new owner or operator.

b. In addition to the reasons given in subsection (h)(1) of this section, a Type T permit may be modified for any of the following reasons:

1. To reflect changes in limitations or requirements;

2. To reflect changes or alterations in operations;

3. When a vehicle is modified or replaced; and

4. When the volume of waste handled, equipment or total operation is expanded by 50 percent.

(2) Except as provided by federal or state laws, the permittee shall be informed of any proposed changes in the permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance, except where the changes were a result of the combined wastestream formula or the issuance of alternate limits for production-based standards.

(3) The permittee shall file for modification of the permit at least 30 days prior to all changes or alterations of the pretreatment facilities or processes or any changes which may affect the character of the wastewater discharge.

(4) Within 180 days after the promulgation of a National Categorical Pretreatment Standard, the permit of users who are subject to that standard shall be revised to require compliance with such standard within the time frame prescribed in the standard.

a. Any user who is subject to a newly promulgated National Pretreatment Standard and who does not have a permit, shall submit an application for wastewater discharge permit within 180 days after the promulgation of the applicable pretreatment standard or as prescribed in the standard.

b. Any permittee or other user who is required to have a permit due to the promulgation of a new standard shall submit, in a format specified by the control authority and within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard, a report containing the following information:

1. The nature and concentration of any pollutants in the discharge which are limited by the standard;

2. A statement regarding whether such standard is being met on a consistent basis and, if not, whether additional operations and maintenance or pretreatment will be required to meet such standard;

3. The shortest possible time by which the user will provide such additional operations and maintenance or pretreatment. The completion and compliance date shall not be later than the compliance date established for the standard; and

4. Such report shall contain the signatory statement outlined in section 42-115(e).

(5) The permit shall be maintained as an accurate representation of the user's wastewater discharge to the POTW. Failure to maintain the permit as an accurate representation of the wastewater discharge to the POTW shall be cause for enforcement action.

a. *Renewal of the wastewater discharge permit.*

1. A permittee shall file an application for permit renewal by submitting a complete application in accordance with subsection (d) of this section, a minimum of 90 days prior to the expiration date of the existing permit. A new application for permit shall be completed and submitted to the control authority before renewal will be considered.

2. When a completed and timely renewal application has been filed with the control authority, any permittee shall continue to perform under the existing permit until such time as a new permit is issued or the renewal has been denied.

(i) *Transfer of a wastewater discharge permit.*

(1) A wastewater discharge permit may be transferred to a new owner or operator only if the permittee gives at least 90 days' advance notice to the control authority and the control authority approves the transfer.

(2) The notice shall include a written certification by the new owner or operator which:

a. States the new owner/operator has no immediate intent to change the facility's operations or processes;

b. Identifies the specific date on which the transfer is to occur; and

c. Acknowledges full responsibility for complying with the existing permit.

(3) Failure to provide advance notice of a transfer shall render the permit void as of the date of the facility transfer.

(j) *Revocation of the wastewater discharge permit.*

(1) The control authority may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

a. Failure to notify the control authority of significant changes to the wastewater prior to the changed discharge;

b. Failure to provide prior written notification to the control authority of changed conditions pursuant to section 42-115(c)(1);

c. Misrepresentation or failure to fully disclose all relevant facts in the application for wastewater discharge permit;

d. Falsifying self-monitoring reports;

e. Tampering with monitoring equipment;

f. Refusing to allow timely access to the facility premises and records;

g. Failure to meet effluent limits;

h. Failure to pay fines when assessed;

i. Failure to pay sewer charges;

j. Failure to meet compliance schedules;

k. Failure to complete a wastewater survey or permit application;

l. Failure to provide advance notice of transfer of business ownership of a permitted facility; or

m. Violation of any pretreatment standard or requirement or any terms of the permit or this article.

(2) In addition to the above reasons, a Type T permit may be suspended or revoked for any of the following reasons:

a. Use of nonregistered, unlicensed or unsafe vehicles or nonregistered or unlicensed vehicle operators;

b. Mixing of septic tank waste with incompatible waste for the purpose of deception;

c. Dilution of waste for the purpose of deception;

d. Discharge of a waste load without a POTW operator present;

e. Discharge of a waste load within the city POTW, except at the designated discharge point;

f. Rejection of more than three loads during the life of a permit;

g. Failure to document final disposal of a rejected load;

h. Providing false or inaccurate information on the source or composition of the waste;

i. Failure to maintain proper records as outlined in this division;

j. Failure to remain current on charges for transported waste delivery; or

k. Loss or failure to renew state certifications or permits.

(3) A permit shall be voided upon cessation of operations or transfer of business ownership, except as provided in subsection (k) of this section.

a. The permit issued to a particular user shall become void upon the issuance of a new permit to that user.

b. Amendments to a permit shall supersede and invalidate pages contained in the permit which they are intended to replace.

(k) *Regulation of wastes received from other jurisdictions.*

(1) If another municipality or other jurisdiction (e.g., county), or user located within another municipality or other jurisdiction contributes wastewater to the POTW, the control authority shall enter into an agreement with the contributing municipality or other jurisdiction for the purpose of control of the wastewater discharges.

(2) Prior to entering into an agreement required by subsection (k)(1) of this section, the control authority shall request the following information from the contributing jurisdiction:

a. A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction;

b. An inventory of all nondomestic users located within the contribution jurisdiction; and

c. Such other information as the control authority may deem necessary.

(3) Such agreement shall contain the following conditions:

a. A requirement for the contributing jurisdiction to adopt a sewer use ordinance which is at least as stringent as this division and local limits which are at least as stringent as those specified in this division. This requirement shall specify that such ordinance and limits shall be revised as necessary to reflect changes made to this division or limits contained herein;

b. A requirement for the contributing jurisdiction to submit a revised nondomestic user inventory at least on an annual basis;

c. A provision specifying which pretreatment activities, including permit issuance, inspection, sampling and enforcement will be conducted by the contributing

jurisdiction; which of these activities will be conducted by the control authority, and which of these activities will be conducted jointly by the control authority and the contributing jurisdiction;

d. A requirement for the contributing jurisdiction to provide the control authority with access to all information that the contributing jurisdiction obtains as part of its pretreatment activities;

e. A provision ensuring the control authority access to facilities of users located within the jurisdiction's jurisdictional boundaries for the purpose of inspection, sampling and other duties deemed necessary by the control authority; and

f. A provision specifying remedies for a breach of the terms of the agreement.

(4) The contributing jurisdiction may adopt this division, by reference or other means, and specify the control authority as the primary or sole administrator of the pretreatment program within its jurisdiction with all powers of permitting, inspection, sampling and enforcement of this division within its jurisdiction.

(5) Where the contributing jurisdiction retains primary responsibility for permitting, compliance monitoring or enforcement, the agreement shall specify the control authority has the right to take legal action to enforce the terms of the contributing jurisdiction's ordinance or to impose and enforce pretreatment standards and requirements directly against noncompliant dischargers in the event the contributing jurisdiction is unable or unwilling to take such action.

(Code 1961, § 29-50; Ord. No. 228-95, § 2(exh. A), 6-12-1995)

Sec. 42-114. Pretreatment charges and fees.

(a) *Charges for wastewater discharge permit.*

(1) The city may adopt reasonable fees for reimbursement of the costs for setting up and operating the city's industrial pretreatment program. The control authority shall periodically review the costs for the pretreatment program and recommend appropriate fees to the city manager for presentation to the elected body. Such fees may include:

a. Fees for permit applications, including the cost of processing such applications;

b. Fees for monitoring, inspection and surveillance procedures, including the cost of collecting and analyzing a user's discharge and reviewing monitoring reports submitted by permittees;

c. Fees for reviewing and responding to accidental discharge procedures and construction;

d. Fees for filing appeals; and

e. Other fees as the control authority deems necessary to carry out the requirements contained herein.

(2) An annual fee shall be assessed for issuance of a permit as established by the city council from time to time and on file in the city secretary's office or city website. This fee schedule may be revised as deemed necessary by the control authority.

(3) Any user who applies for a permit shall reimburse the control authority for costs incurred during and directly related to the permitting process, including, but not limited to, analytical services necessary to establish the nature of the wastewater proposed to be discharged, whether or not the user is issued a permit.

(b) *Charges for delivery of waste to the POTW.*

(1) An appropriate charge shall be made for each load of transported waste delivered to the POTW treatment plant. This charge shall be based on a per gallon cost of treatment for such waste and may be adjusted on an as needed basis to reflect changes in the cost to treat such waste.

(2) Prompt payment of delivery charges shall be made by the permittee. No permittee shall be allowed to discharge wastes to the POTW treatment plant while delinquent in payment of charges.

(c) *Surcharge for excessive strength wastes.*

(1) Any nondomestic user who discharges into the sanitary sewer system may be charged a surcharge for excessive strength wastes. For the purpose of this subsection, the term "excessive strength waste" means waste having a strength greater than that established for normal domestic wastewater.

(2) A surcharge may be levied to compensate for the added expense, per pound of pollutant, in the operation and maintenance of the city's POTW for treatment of nondomestic wastes with excessive ammonia as nitrogen, oxygen demand and suspended solids.

a. Excessive ammonia as nitrogen shall be concentrations greater than 20 mg/l; excessive total suspended solids shall be concentrations greater than 200 mg/l; and excessive oxygen demand shall be concentrations of $CBOD_5$ greater than 200 mg/l (or COD greater than 450 mg/l in accordance with subsection (2)c. of this section).

b. Surcharge shall be calculated according the following formula:

$$S = (8.345)(V)[C1(CBOD_5\text{-}200) + C2(TSS\text{-}200) + C3\ (NH_3\text{-}20)]$$

Where:

S = Surcharge in dollars

V = Volume in million gallons, based on water consumption (or discharge, if water source other than TWU employed and discharged is metered)

C1 = Cost, in dollars, to treat one pound $CBOD_5$

C2 = Cost, in dollars, to treat one pound TSS

C3 = 2.33 times the cost, in dollars, to treat one pound $CBOD_5$

$CBOD_5$ = Carbonaceous biochemical oxygen demand (mg/l)

TSS = Total suspended solids (mg/l)

NH_3 = Ammonia (as nitrogen)

8.345 = Weight, in pounds, per gallon of water

c. Where the chemical oxygen demand (COD) of the wastewater is greater than or equal to 2.25 times the $CBOD_5$ or where the $CBOD_5$ may be negligible due to the type of wastewater or where historical data indicates the $CBOD_5$ of the discharge is less than 200 mg/l, the COD may be substituted for $CBOD_5$ and the following formula shall be used:

$$S = (8.345)(V)[C4(COD-450) + C2(TSS - 200)]$$

Where:

C4 = Cost, in dollars, to treat one pound COD

COD = Chemical oxygen demand (mg/l)

d. Surcharge rates shall be reviewed and revised annually by the control authority to reflect approximate actual cost to the POTW.

(3) Private residences shall be excluded from surcharge.

(4) Initiation or continuation of surcharge testing on any nondomestic user shall be at the discretion of the control authority with consideration to the nature or history of the discharge, the impact or potential impact on the POTW, and resources available to the control authority. Where a surcharge is levied, testing shall be conducted not less than once per quarter. Where the monthly surcharge amount is greater than $250.00, testing shall be conducted not less than monthly. Surcharge shall be based on all laboratory values obtained during the most recent 12 months.

(5) Surcharge billing shall be included as a separate item on the regular bill for water and sewer service and shall be paid monthly in accordance with the existing practices. Surcharge shall be due at the same time as the water and sewer and refuse charges become due. Payment for water and sewer and refuse services shall not be accepted without payment of the surcharge.

(6) Failure to pay sewer surcharges when due shall be sufficient cause to disconnect any and all services to the water or sewer mains of the city. In addition, the same charges and penalties provided by the ordinances of the city for failure to pay for water and sewer service when due shall apply.

(Code 1961, § 29-50.1; Ord. No. 228-95, § 2 (exh. A), 6-12-1995)

Sec. 42-115. Reporting requirements.

(a) *Categorical users.*

(1) *Baseline monitoring report.* Within 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a categorical determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging or scheduled to discharge to the POTW who have not previously submitted such information shall submit to the control authority, a report which contains the information required in this subsection. At least 90 days prior to commencement of discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical pretreatment standard shall submit to the control authority a report which contains the information required in this subsection. A new source shall report the method of pretreatment it intends to employ to meet the applicable categorical pretreatment standards. A new source shall give reasonable estimates of its anticipated flow and quantity of pollutants to be discharged.

a. *Identifying information.* The name and address of the facility, including the name of the operators and owners.

b. *Environmental permits.* A copy of all environmental control permits held by or for the facility.

c. *Description of operations.* A brief description of the nature, average rate of production and standard industrial classification codes of the operations carried out at the facility. This description shall include a schematic process diagram and a plumbing diagram which indicates the points of discharge to the POTW from the regulated processes.

d. *Flow measurement.* Information showing the measured average and maximum daily flow, in gallons per day, to the POTW from each of the following:

1. Each regulated process wastestream;

2. Other wastestreams as necessary to allow use of the combined wastestream formula as outlined in 40 CFR 403.6;

3. A verifiable estimate of these flows may be provided where justified by cost or feasibility considerations.

e. *Measurement of pollutants.* Identify the pretreatment standards applicable to each regulated process and the results of sampling and analysis identifying the nature and concentration of pollutants (or mass of pollutants where required by the standard or the control authority) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average

concentrations or mass, where required, shall be reported. The sample shall be representative of the daily operation and shall be analyzed according to approved analytical procedures.

1. Twenty-four hour composite samples shall be obtained through flow proportional composite sampling techniques where feasible except cyanide, pH, total phenols, oil and grease, sulfide and volatile organics, where required, shall be collected as four grab samples during a 24-hour period. In cases where the control authority determines that flow proportional sampling is infeasible, samples may be obtained through time proportional composite or through a minimum of four grab samples where it can be demonstrated this will provide a representative sample of the discharge.
2. A minimum of one representative composite sample shall be collected and analyzed to compile the data necessary to comply with the requirements of this subsection.
3. Samples shall be taken immediately downstream from the pretreatment facilities if such exists or immediately downstream of the regulated process if no pretreatment exists. If other wastestreams are mixed with the regulated wastestream prior to pretreatment, flows and concentrations necessary to allow use of the combined wastestream formula, as outlined in 40 CFR 403.6, shall be measured in order to evaluate compliance with the pretreatment standards. Where alternate concentration or mass limitations have been calculated in accordance with 40 CFR 403.6, this adjusted limit along with supporting data shall be submitted to the control authority.
4. The baseline monitoring report shall indicate the date, place and time of sampling and method of analysis and shall contain certification that the sampling is representative of normal work cycles and expected pollutant discharge to the POTW.

f. *Certification.* The report shall include a statement reviewed by an authorized representative (as defined in 40 CFR 403.12(l)) and certified to by a qualified professional indicating whether the pretreatment standards are being met on a consistent basis and, if not, whether additional operations and maintenance (O&M) or additional pretreatment is required to meet the applicable standards.

g. *Compliance schedule.* If additional pretreatment or O&M is required to meet the applicable pretreatment standard, a plan outlining the shortest schedule by which such additional pretreatment or O&M will be provided shall be included. The completion date of this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events, including, but not limited

to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation, leading to the construction and operation of the additional pretreatment facilities required to meet the applicable pretreatment standard. No increment shall exceed nine months.

2. No later than 14 days following each date in the schedule and the final compliance date, a progress report shall be submitted to the control authority, including, at a minimum, whether or not it complied with the increment in the schedule and, if not, the reason for the delay, the date compliance with the increment is expected, and the steps being taken to return the construction to the schedule established. In no instance shall more than nine months elapse between progress reports to the control authority.

3. The compliance schedule shall be signed and certified by the authorized representative in accordance with subsection (e) of this section.

(2) *Ninety-day compliance report.* Within 90 days of the date for final compliance with the applicable pretreatment standard, or in the case of a new source, 90 days following the commencement of the introduction of wastewater into the POTW, any nondomestic user subject to categorical pretreatment standards and requirements shall submit a report to the control authority containing the information required in subsection (a)(1)d. through f. of this section.

a. For nondomestic users subject to equivalent mass or concentration limits calculated in accordance with 40 CFR 403.6, this report shall contain a reasonable estimate of the nondomestic user's long-term production rate.

b. For all other nondomestic users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production or other measurement of operation, the report shall include the actual production during the appropriate sampling period.

(3) *Periodic compliance reports.* Any nondomestic user subject to a categorical pretreatment standard, after the compliance date of such standard, or in the case of a new source, after commencement of discharge into the POTW, shall submit periodic reports indicating the nature and concentration of pollutants in the discharge, which are limited by the pretreatment standard.

a. Periodic compliance reports shall be submitted to the control authority on or before the due date as specified by the control authority. Minimum sampling and reporting frequencies shall be specified by the control authority and in no case shall be less than twice per year.

b. Periodic compliance reports shall contain, at a minimum, the following information:

1. The results, expressed in mg/l or mass as may be required, of analyses for regulated pollutants;
2. The date and time of sampling, sampling method used and who collected the sample;
3. The date and time of analyses and who performed the analyses;
4. The analytical techniques/methods used;
5. The average and maximum daily flow from the regulated process for the calendar month;
6. The minimum and maximum pH recorded during the reporting period (not subject to averaging);
7. Analytical quality control data; and
8. The information required in subsection (2)a. and b. of this section, where applicable.

c. All wastewater samples shall be representative of the discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times and records of such shall be maintained. Failure to keep the monitoring facility in good working order shall not be grounds for claiming analytical results are not representative of the discharge.

d. If the nondomestic user subject to reporting requirements in this subsection monitors any pollutant at the designated sampling point more frequently than required, using approved analytical procedures, the results of this monitoring shall be included in the report.

(b) *Noncategorical users; self monitoring reports.* Any nondomestic user who is required by the control authority to analyze for pollutants in the wastewater discharge and submit self-monitoring reports shall submit those reports to the control authority on or before the due date as specified by the control authority. Minimum sampling and reporting frequencies shall be specified by the control authority, but shall not be less than twice per year.

(1) Self-monitoring reports shall contain the information specified for periodic compliance reports outlined in subsection (a)(3)b. of this section.

(2) Self-monitoring reports shall be submitted to the control authority on or before the due date as specified by the control authority.

(3) Subsections (a)(3)c. and d. of this section shall apply to all self-monitoring reports.

(c) *Reporting requirements applicable to all nondomestic users.*

(1) *Report of changed conditions.* Each nondomestic use shall notify the control authority of any planned significant changes to the operations or system which might alter the nature, quality or volume of its wastewater at least 90 days prior to the change.

a. For the purpose of this requirement, significant changes include, but are not limited to, flow increases of 20 percent or greater, additional wastestreams and the discharge of any previously unreported pollutants.

b. The control authority may require the nondomestic user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an application for wastewater discharge permit.

c. The control authority may issue a permit or modify an existing permit in response to changed conditions or anticipated changed conditions.

(2) *Reports of potential problems.* In a case of any discharge, including, but no limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the control authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and the corrective actions taken by the user.

a. Within five days following such discharge, the user shall submit a detailed written report describing the cause of the discharge and the measures to be taken to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this division.

b. A notice shall be permanently posted on the nondomestic user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in this subsection. Employers shall ensure all employees who may cause such a discharge to occur are advised of the emergency notification and containment procedures.

(3) *Notification of violation and repeat sampling.* The nondomestic user shall notify the control authority, by telephone, within 24 hours of becoming aware of a violation of the permit or of this division.

a. The notification shall be followed by a written statement within five working days providing a description of the violation, a description of the suspected cause of

the violation, and the action the nondomestic user has or intends to take to prevent recurrence of the violation. The statement shall be signed by the facility's authorized representative.

b. Such notification shall not relieve the user from liability or prevent the control authority from taking appropriate enforcement actions.

c. If an analysis required by the control authority indicates a violation, the user shall repeat the sampling and analysis and shall submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation, except the user is not required to resample if:

1. The control authority performs sampling at the facility at least once a month;

2. The control authority performed sampling at the facility between the time the user performed its initial sampling and the time the user receives the results of the sampling.

(d) *Reports from unpermitted nondomestic users.*

(1) All nondomestic users not required to obtain a permit shall provide appropriate reports to the control authority as the control authority may require in order to protect the POTW, to protect property and person of the residential user, and to meet regulatory requirements.

(2) All reports shall be submitted to the control authority on or before the date specified by the control authority.

(e) *Signatory requirements for user reports and applications.*

(1) All reports and applications submitted to the control authority under this division shall include a certification statement signed by the facility's authorized representative. The certification statement shall read as follows:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there is significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(2) Where the user has an approved toxic organic management plan (TOMP), a TOMP signatory statement shall be submitted with each periodic compliance report. The statement shall be signed by the facility's authorized representative. The statement shall read as follows:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for total toxic organics (TTO), I certify

that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since the filing of the last discharge monitoring report. I further certify that this facility is implementing the toxic organic management plant (TOMP) submitted to the control authority."

(3) Reports required by this article are subject to the provisions of 18 USC 1001 relating to fraud and false statements and the provisions of section 309(c)(2) of the Act governing false statements, representations, or certifications in reports required under the Act.

(f) *Recordkeeping requirements.*

(1) Written reports submitted to the control authority shall be deemed submitted on the date postmarked. For reports which are not mailed, postage paid, into a mailing facility serviced by the United States Postal Service, the date of receipt shall govern.

(2) Any user subject to the reporting requirements established in this division shall maintain records of all information resulting from all activities required by this division.

(3) Any user subject to the reporting requirements in this division shall be required to retain, and make available upon request for inspection and copying by the control authority, the state commission on environmental quality or the EPA, all records of information obtained pursuant to any monitoring activities required by this division and any records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements for a minimum of three years. Records of information pertaining to the generation, transport and disposal of liquid transported waste shall be retained for a minimum of five years. This period of retention shall be automatically extended for the duration of any litigation concerning the user or the city or where the user has been specifically notified of a longer retention time by the control authority, the TNRCC or the EPA.

(Code 1961, § 29-51; Ord. No. 228-95, § 2(exh. A), 6-12-1995)

Sec. 42-116. Powers and authorities of control authority.

(a) The control authority shall be allowed ready access, without delay, to all parts of the premises of a nondomestic user during any reasonable time for the purpose of inspection, sampling, records examination and copying, surveillance and monitoring necessary to determine compliance or noncompliance with the provisions of this division and for the performance of any additional duties.

(1) The control authority and the authority's representatives shall be permitted to enter any premises of any nondomestic user during any hour when an abnormal discharge is known or suspected to originate from the premises.

(2) Where a nondomestic user has security measures in force which require proper identification and clearance before entry into its premises, the nondomestic user shall make

necessary arrangements so that, upon presentation of suitable identification, the control authority will be permitted to enter without delay for the purpose of performing specific responsibilities.

(3) The control authority shall have the right to set on the nondomestic user's property, such devices as are necessary to conduct sampling, inspection, compliance monitoring or metering.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the user, at the user's expense, upon the written or verbal request of the control authority or the authority's representative and shall not be replaced.

(5) If the control authority, or the authority's representative, has been refused access to a building, structure or property or any part thereof, and is able to demonstrate probable cause to believe there may be a violation of this division or that there is a need to inspect or sample as a part of routine inspection and sampling program of the control authority designed to verify compliance with this division or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the control authority may seek issuance of a search warrant from a court of competent jurisdiction.

(b) Representatives of the United States Environmental Protection Agency (EPA) and the state commission on environmental quality and the Arkansas Department of Pollution Control and Ecology (ADPCE) shall have the same rights of entry as described for the control authority in subsection (a) of this section.
(Code 1961, § 29-51.1; Ord. No. 228-95, § 2 (exh. A), 6-12-1995)

Sec. 42-117. Confidential information.

(a) *Disclosure of user information and data.*

(1) Information and data provided to the control authority which is effluent data as defined by 40 CFR 2.302 shall not be recognized as confidential and shall be available to the public without restriction

(2) Information and data on a nondomestic user obtained from reports, surveys, applications for wastewater discharge permit, permits and monitoring programs and from the control authority's inspection and sampling activities shall be made available to the public, except as provided by subsection (b) of this section.

(3) Any information provided to or obtained by the control authority shall be made available to the regional administrator or the director of the EPA, or their representative, upon request.

(b) *Information which may be claimed as confidential.*

(1) Information which constitutes a trade secret or is commercial or financial information privileged or confidential by statute or judicial decision, or if it is information which, if released, would give advantage to a competitor, shall be kept in confidence and not disclosed to the public

(2) Any claim of confidentiality shall be made at the time of submission to the control authority. The nondomestic user shall demonstrate to the satisfaction of the control authority that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any request shall be asserted by stamping "confidential business information" on each page containing such information.

(3) When requested and demonstrated by the nondomestic user furnishing a report such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately to governmental agencies for uses related to the NPDES program, the pretreatment program, and in enforcement proceedings involving the person furnishing the report.

(4) If no claim is made at the time of submission, the control authority may make the information available to the public without further notice.

(Code 1961, § 29-51.2; Ord. No. 228-95, § 2(exh. A), 6-12-1995)

Sec. 42-118. Protection of the POTW collection system.

(a) *Protection from damage and tampering.*

(1) No person shall maliciously, willfully or negligently break, damage, deface or tamper with any structure, appurtenance or equipment which is part of the POTW.

(2) No person shall cover any manhole on a public sewer with earth, paving or any structure or otherwise render it inaccessible.

(3) No building shall be located on top of a public sewer.

(4) No unauthorized person shall remove the earth cover from a public sewer so that less than two feet of earth remains over the pipe bells.

(5) No person shall remove the cover (lid) from a manhole or cleanout for any purpose, except as authorized by the control authority.

(b) *Discharge into the collection system.*

(1) Discharge of waste shall be made into the POTW collection only at places designated for discharge.

(2) No person shall discharge, or cause to be discharged, any material into a manhole or cleanout which is part of the POTW.

(3) No person shall discharge, or cause to be discharged, any wastes from nondomestic sources into the sanitary sewer facilities at a residential or other domestic wastewater source.

a. No person shall discharge, or cause to be discharged, any waste into the sanitary sewer which has been transported from another site onto a residential, commercial or industrial site.

b. Contractors, painters, pest control operators and other such persons shall not discharge any process waste into the sanitary sewer at a residential site. Such wastes shall be disposed in accordance with all local, state and federal regulations. Prohibited materials shall include, but are not limited to, paint, washings from paint brushes, solvents and pesticides and herbicides, including washings from pesticide and herbicide containers and applicators.

(c) *Sewer taps into the POTW collection system.*

(1) Sewer taps shall be made only by a certified plumber and shall be made only after all required permits have been obtained.

a. Persons proposing to tap into the POTW collection system shall first complete a usage questionnaire at the TWU engineering department.

b. Taps shall be subject to inspection by the plumbing inspector prior to covering with earth.

c. Taps shall be sealed so as to not allow leaking into or out of the collection system.

(2) Building sewers shall be maintained to prevent leaks or open cleanouts in the sewer where leakage or infiltration or inflow may occur.

(d) *Disconnecting sewers.* Before any dwelling or other building being served by the public sewer is moved or demolished, the building sewer serving the building shall be disconnected at the property line or main and permanently sealed to prevent entrance of stormwater or debris into the public sewer. The plumbing inspector shall be notified at least three days prior to the proposed disconnection. The disconnection and sealing of such line shall be inspected by the plumbing inspector prior to earth covering the replacement. Any line found not sealed shall be sealed by the control authority or the plumbing inspector and a fee, as determined by the control authority, shall be assessed against the owner.
(Code 1961, § 29-51.3; Ord. No. 228-95, § 2(exh. A), 6-12-1995)

Sec. 42-119. Enforcement provisions.

(a) *Applicability.* The remedies provided for in this article are not exclusive. The control authority may take, at any time, any, all or any combination of these actions against a noncompliant user or any other remedy allowed by city ordinance or state statute. Enforcement of pretreatment violations shall generally be in accordance with the control authority's enforcement response plan.

(1) The control authority may take any action against any user as the circumstances warrant.

(2) The control authority shall be empowered to take more than one enforcement action against a noncompliant user.

(3) Exercise of any action by the control authority shall not be a bar to, or a prerequisite for, taking other action against a noncompliant user.

(b) *Publication of users in significant noncompliance.* The control authority shall publish, at least annually, in the largest daily newspaper published in the municipality in which the POTW is located, a list of users which, during the previous 12 months, were in significant noncompliance with any applicable pretreatment standards and requirements, any provisions of this division or the permit, or any order issued hereunder. Significant noncompliance shall be determined by the method currently accepted by Region VI of the EPA and in accordance with current federal regulations.

(c) *Administrative enforcement remedies.*

(1) *Notice of violation.* Whenever the control authority finds that any user has violated or continues to violate any provision of this division, a permit or any order issued hereunder, or any other pretreatment standard or requirement, the control authority, or the authority's representative, may serve upon the user a written notice of violation. Within ten days of the receipt of the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the control authority. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the control authority to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) *Consent order.* The control authority may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a specific time period, also

specified in the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (c)(3) and (c)(4) of this section and shall be judicially enforceable.

(3) *Show cause hearing.* The control authority may order any user which has violated, or continues to violate, any provision of this division or a permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the control authority and show cause why the proposed enforcement shall not be taken. Notice shall be served on the user specifying the time and place for the hearing. The proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed action should not be taken. This notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five days prior to the hearing. Such notice may be served on any authorized representative of the user.

(4) *Compliance order.* Whenever the control authority finds that any user has violated or continues to violate any provision of this division, a permit or an order issued hereunder, or any other pretreatment standard or requirement, the control authority, or the authority's agent, may issue an order to the user responsible for the discharge directing that the user achieve compliance within a specified time period. If the user does not achieve compliance within the time provided, sewer services may be discontinued, unless adequate treatment facilities, devices or other appurtenances are installed and properly operated.

a. Compliance orders may also contain such other requirements as might be reasonable, necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and additional management practices designed to minimize the amount of pollutants discharged to the sewer.

b. A compliance order may not extend the deadline for compliance established for a categorical pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation.

(5) *Cease and desist orders.* Whenever the control authority finds that any user has violated or continues to violate any of the provisions of this division, a permit or an order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the control authority, or the authority's representative, may issue an order to the user directing the user to cease and desist all such violations and direct the user to immediately comply with all requirements and to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatening violation, including halting operations and terminating discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking other action against the user.

(6) *Emergency suspension.* The control authority may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The control authority may also suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW or which presents, or may present, an endangerment to the environment.

a. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the control authority may take such steps as deemed necessary, including immediate severance of the sewer connection or termination of water service, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The control authority may allow the user to recommence its discharge when the user has demonstrated, to the satisfaction of the control authority, the period of endangerment has passed, unless the revocation proceedings set forth in subsection (7) of this section are initiated against the user.

b. A user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement, describing the cause of the harmful contribution and the measures taken to prevent any future occurrences, to the control authority prior to the date of any show cause or termination hearing.

c. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(7) *Termination of sewer service.* In addition to the provisions in this section, any user who violates any of the following conditions shall be subject to termination of sewer service:

a. Violation of conditions of a permit;

b. Failure to accurately report the wastewater constituents and characteristics of the discharge;

c. Failure to report significant changes in operation or wastewater volume, constituents or characteristics prior to discharge;

d. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

e. Violation of the pretreatment standards in section 29-51.

Users shall be notified of proposed termination of its discharge and shall be offered an opportunity to show cause under subsection (c)(3) of this section, why the proposed action shall not be taken.

(d) *Judicial enforcement remedies.*

(1) *Injunctive relief.* When a user has violated, or continues to violate, any provision of this division, a permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority may petition a court of competent jurisdiction for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, order or other requirement imposed by this division on the activities of the user. The control authority may also seek such other action as is appropriate for legal or equitable relief, including a requirement to conduct environmental remediation. The control authority shall have such remedies to collect fees as it has to collect other sewer service charges. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking other action against the user.

(2) *Civil penalties.* Any user who has violated, or continues to violate, any provision of this division, the permit or any order issued hereunder, or any other pretreatment standard or requirement, shall be liable to the control authority for a civil penalty of not more than the maximum allowed under state law, per violation, per day, for as long as the violation continues. In case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.

a. The control authority may recover reasonable attorney's fees, court costs and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the control authority. The control authority shall petition the court to impose, assess and recover such sums.

b. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, compliance history of the user and other factors as justice requires.

c. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against the user.

(3) *Criminal prosecution.* Any user who willfully or negligently violates any provision of this division, the permit or any order issued hereunder, or any other pretreatment standard or requirement, shall, upon conviction, be guilty of a misdemeanor, punishable by a fine in the amount up to and including the maximum allowed by state law. Each day on which a violation occurred, or continues to occur, shall be deemed a separate and distinct violation. In the case of monthly or long-term average discharge limits, fines shall be assessed for each day during the period of violation.

a. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty

of a misdemeanor and be subject to a penalty up to and including, the maximum allowed by state law. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law. Each day on which a violation occurred, or continues to occur, shall be deemed a separate and distinct violation. In the case of monthly or long-term average discharge limits, fines shall be assessed for each day during the period of violation.

b. Any user who knowingly makes false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained, pursuant to this division or the permit or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine up to and including the maximum allowed by state law, per violation, per day.

(e) *Supplement enforcement remedies.*

(1) *Performance bonds.* The control authority may decline to reissue a permit to any user which has failed to comply with the provisions of this division, any previous permit, or any order issued hereunder, unless such a user first files a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the control authority to be necessary to achieve consistent compliance.

(2) *Liability insurance.* The control authority may decline to reissue a permit to any user which has failed to comply with the provisions of this division, any previous permit or any order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(3) *Water supply severance.* Whenever a user has violated, or continues to violate, any provision of this division, a permit or any order issued hereunder, or any other pretreatment standard or requirement, the control authority may sever water service to the user. Service will only recommence, at the user's expense, after the user has satisfactorily demonstrated ability to comply with the provisions of this division, the permit or any order issued hereunder.

(4) *Public nuisances.* Any violation of any provision of this division, the permit or any order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the control authority, or the authority's authorized representative. Any person creating a public nuisance shall be subject to the provisions of the city ordinance governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

(f) *Affirmative defenses to discharge violations.*

(1) *Treatment upsets.* Any upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of this subsection are met.

a. A user who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs or other relevant evidence, that:

1. An upset occurred and the user can identify the cause of the upset;

2. The facility was, at the time, being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

3. The user has submitted the information in subsection (f)(1)b. of this section within 24 hours of becoming aware of the upset. If the information is provided orally, a written submission shall be provided within five days.

b. The following information shall be provided to the control authority in the event of an upset:

1. A description of the indirect discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the anticipated time by which compliance is expected to be restored; and

3. All steps being taken or planned to reduce, eliminate and prevent a recurrence of such an upset.

c. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

d. Users shall have the opportunity for judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

e. Users shall control production of discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement shall apply in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(2) *Prohibited discharge standards.* A user shall have an affirmative defense in any action brought against the user alleging a violation of the prohibitions established in section 42-111(b)(3) and (6) through (10) where it can prove:

a. The user did not know or have reason to know its discharge, alone or in conjunction with a discharge from other sources, would cause interference or pass through; and:

1. A local limit designed to prevent interference or pass through was developed for each pollutant in the user's discharge that caused the interference or pass through and the user was in compliance with such local limit directly prior to and during the interference and/or pass through; or

2. A local limit designed to prevent interference or pass through has not been developed for the pollutants which caused the interference or pass through and the user's discharge directly prior to and during the interference or pass through did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with its NPDES permit requirements and, in the case of interference, was in compliance with applicable requirements for sewage sludge use or disposal.

b. Reserved.

(3) *Treatment bypasses.* A user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. These bypasses are not subject to the provisions of subsections (f)(3)a. through d. of this section.

a. Users who know in advance of the need for a bypass shall submit prior notice to the control authority at least ten days in advance.

b. A user shall submit oral notice to the control authority of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours of becoming aware of the bypass. A written submission shall be provided within five days. The written submission shall contain:

1. A description of the bypass and its cause;

2. The duration of the bypass, including exact dates and times, and, if it has not been corrected, the anticipated time the bypass is expected to continue; and

3. Steps taken or planned to reduce, eliminate and prevent recurrence of the bypass.

c. Bypass of the treatment system is prohibited and the control authority may take enforcement action against a user for a bypass, unless all of the following conditions are met:

1. The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

2. There were no feasible alternatives to the bypass, including the use of auxiliary treatment or retention of the untreated or partially treated wastes, maintenance during periods of normal equipment downtime, or temporarily discontinuing the wastewater generating process. The condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

3. The user submitted notices as required by subsections (f)(3)a. and b. of this section.

d. The control authority may approve the anticipated bypass after considering its potential adverse effects and if the control authority determines the circumstances satisfy those set forth in subsections (f)(3)c.1. through 3. of this section.

(Code 1961, § 29-51.4; Ord. No. 228-95, § 2 (exh. A), 6-12-1995)

Secs. 42-120—42-136. Reserved.

DIVISION 3. GREASE TRAPS, INTERCEPTORS, SEPARATORS, HOLDING TANKS AND TRANSPORTED WASTE

Sec. 42-137. General provisions.

(a) *Purpose and policy.*

(1) *Reasons for establishment.* This division is established to prevent the discharge of grease, oil, flammable substances, sand and other harmful wastes into the sewer systems and the waters of the United States by requiring users to provide a device to intercept and treat these wastes, to set forth uniform requirements for the installation and maintenance of grease traps, interceptors and separators, to regulate the transportation of nonhazardous liquid waste in the territorial boundaries of the city and to regulate the discharge of transported wastes into or at the city publicly owned treatment works (POTW).

(2) *Objectives.* The objectives of this division are:

a. To prevent the introduction of wastewaters containing oil and grease in amounts which may cause stoppages or obstruction of flow, or in any other way prevent or inhibit operation of the POTW, including the sanitary sewer collection system and the treatment plant;

b. To prevent the introduction of pollutants into the POTW which may be incompatible with the POTW;

c. To protect the water quality of streams, creeks and other waterways traversing the city;

d. To enable the city to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge disposal conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject; and

e. To protect the environment and the health, safety and welfare of the public and the POTW workers by regulating the pretreatment, the transport and the disposal of liquid wastes.

(3) *City-operated facilities not required*. Nothing herein shall compel the city to provide any facility where sand, oil, grease or other wastes other than sanitary sewer may be treated or disposed.

(b) *Definitions.*

(1) *Incorporation of definitions by reference.* Unless a provision explicitly states otherwise, terms and phrases as defined in article IV of this chapter shall apply.

(2) *Specialized definitions.* The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Catch basin means a chamber or trench drain which admits drainage from a surface into a sewer drain.

Grease trap or *trap* means a receptacle designed to collect and retain grease and fatty substances normally found in kitchen and similar wastes. A grease trap is installed in the drainage system between the kitchen or other point of production of the waste and the building sewer.

Hazardous waste means a hazardous waste in accordance with title 40 of the Code of Federal Regulations, part 261.3.

Holding tank means a receptacle, not connected to the sanitary sewer, designed to hold objectional waste that is prohibited from being discharged into the sanitary sewer, the contents of which must be hauled to a disposal site.

Incompatible wastes mean wastes which have different processing, storage or disposal requirements.

Interceptor means a receptacle designed and constructed to intercept, separate and prevent passage of sand, grit or other objectional solids into the drainage system to which it is connected. An interceptor may be integrated with a separator for vehicle wash bays or repair areas.

Representative sample means a 24-hour composite sample consisting of at least 12 parts where the discharge is continuous. Where the discharge is not continuous, the sample shall be representative of all discharges occurring in a 24-hour period. Grab samples shall be collected for pH, cyanide, total phenols, sulfides, oil and grease, total petroleum hydrocarbons and volatile organics analyses.

Sampling port means a manhole or other approved device installed in the building sewer specifically designed to facilitate sampling of the wastewater discharge.

Separator or *oil separator* means a receptacle designed to remove oils and grease from wastewater by separation, usually by simple flotation or by chemical addition where the oils or greases are soluble or emulsified. For the purpose of this division, the term "separator" or "oil separator" shall apply to oil separation units employed for vehicle wash facilities.

Separator truck means a truck equipped with a tank or other liquid-holding container designed to separate the grease portion from the waste removed from a grease trap and to return the other liquid portion to the trap.

Septic tank waste means waste from vessels such as septic tanks, chemical toilets, campers and recreational vehicle dump stations that are not connected to the sanitary sewer, but contain wastes which may be treated at a municipal wastewater treatment plant.

(c) *Administration, implementation and enforcement.* Except as otherwise provided herein, the control authority shall administer, implement, and enforce the provisions of this division.

(d) *General requirements.*

(1) *Applicability.*

a. Unless otherwise stated herein, this division shall apply to all users of the city's POTW whether the user discharges to the POTW through a sanitary sewer collection system or transports the waste or has the waste transported to the POTW treatment plant for transfer or disposal and whether such user has been issued a wastewater discharge permit.

b. This division shall apply to the operation of all vehicles for collection and transport of nonhazardous liquid wastes within the territorial boundaries of the city. This division is not intended to regulate the collection and transport of wastes which are hazardous in nature.

c. The following types of establishments may be exempted from the requirements of this division:

1. Private living quarters;

2. Bars and clubs serving drinks only and where no food is prepared;

3. Snow cone and shaved ice stands, provided no other type of food is prepared;

4. Grocery or convenience stores without food preparation, meat cutting or packaging, delicatessens or bakeries;

5. Day care centers who primarily serve microwaved dishes, using single service items;

6. Confectionery stores which sell, exclusively, unpackaged sweets, confections, nuts, ice cream, yogurt and variety food items;

7. Produce markets; and

8. Mobile food establishments in a vehicle or trailer designed to be easily movable and not discharging to the sanitary sewer.

(2) *Prohibited discharges.* In addition to the prohibitions outlined in article IV of this chapter, the following prohibitions shall apply:

a. A user shall not discharge, or cause to be discharged, plastics, paper, nonbiodegradable oils or other nonbiodegradable materials. Such items, when found in grease trap waste, shall be removed prior to cleaning the trap to prevent delivery to POTW or transfer station or disposal site controlled by the control authority.

b. A user shall not discharge or cause to be discharged any waste oil or grease to any drains or grease trap, separator or interceptor. Such waste shall be placed in a container specifically designed to hold such waste and either utilized by industry or disposed at suitable locations.

c. No person shall discharge or cause to be discharged at the POTW treatment works any wastewater (transported waste) having a pH less than 6.0 S.U. nor greater than 9.5 S.U.

(3) *Pretreatment of wastes.*

a. Grease traps, interceptors, oil separators or holding tanks shall be provided for the proper handling of wastes containing grease, flammable wastes, sand and other pollutants which may be harmful to the building drainage system, the public sewer or the POTW treatment works.

b. Any establishment not specifically exempted by this or other ordinances which prepares food for on-site or off-site consumption, shall be equipped with an adequately sized grease trap.

1. Such pretreatment facilities shall be protected from rainwater and runoff. Drainage from areas exposed to rainwater or runoff shall not be connected to the sanitary sewer.

2. Sand interceptors shall be provided for the pretreatment of wastewater from carpet cleaning and water extraction operations.
   (i) Facilities operating vehicles specifically designed for carpet cleaning and extraction operations shall maintain a sand interceptor at the place of business and shall discharge wastewater from the operation through the interceptor at a rate which will ensure efficient removal of the nonbiodegradable sand and grit.
   (ii) Such pretreatment facilities shall be protected from rainwater and runoff. Drainage from areas exposed to rainwater runoff shall not be connected to the sanitary sewer.
   (iii) Such wastewaters shall not be discharged onto public or private property, into any street or gutter or storm drain, into any natural or manmade waterway or into the sanitary sewer at any residence. Such wastewaters shall not be discharged to any sanitary sewer without pretreatment.

c. Vehicle wash facilities, including, but not limited to, automatic and hand wash facilities, detail shops, hand wash bays in service stations and other facilities, and similar installations shall be equipped with sand interceptors and oil separators and shall discharge to the sanitary sewer, except where an appropriate direct discharge permit has been issued by the appropriate regulatory agencies.
   1. Such pretreatment facilities shall be protected from rainwater and runoff. Drainage from areas exposed to rainwater or runoff shall not be connected to the sanitary sewer.
   2. Vehicle washing is prohibited on driveways and other areas which may cause the wastewater to discharge onto the ground surface, into storm drains or roadway gutters, or into any waterway of the United States.

d. Work areas of machine shops or of any facility or part of a facility which manufactures, rebuilds, repairs, overhauls or maintains motors, transmissions, hydraulic systems or similar machinery and areas where fluids are changed shall not have floor drains or other devices draining into the sanitary sewer.
   1. Areas, such as described above, shall be physically separated, either by berm, separate building or other suitable method, from any area having drains connected to the sanitary sewer.
   2. Drainage from areas, such as described above, shall be discharged into a holding tank or shall be absorbed with suitable absorbent and shall be properly disposed.
   3. Floor cleaning wash water from areas such as described above shall be excluded from the sanitary sewer, except where pretreated to within the specifications of this or other applicable ordinance.

e. Steam cleaning and chemical cleaning facilities shall not discharge to the sanitary sewer, unless a facility or process is provided that will consistently produce an effluent that is in compliance with this or other applicable ordinances, particularly in regard to grease, oils, organics and other chemicals.

f. Where pretreatment or flow equalization facilities are provided for any waters or wastes, these facilities shall be maintained in satisfactory and effective operation by the owner or operator at their expense.

(4) *Sampling ports.*

a. The control authority may require any nondomestic user to install a suitable sampling port in the building sewer to facilitate observation, sampling and measurement of the wastes and flows. Sampling ports shall be readily accessible to the control authority at all times.

1. Sampling ports shall be easily accessible and safely located and shall be constructed in accordance with plans approved by the control authority. Sampling ports shall be subject to inspection by the control authority prior to use.

2. An appropriate sampling port shall be installed in the building sewer immediately downstream of the grease trap, interceptor or separator.

(i) The sampling port shall be equipped with an access cover not less than 24 inches in diameter, with a flow channel not less than four inches in width and 12 inches in length.

(ii) Sampling ports shall be installed and maintained by the owner or operator at their expense.

3. Sampling ports shall be constructed to exclude entry and exit of waters not discharged through the building sewer, i.e., to prevent infiltration/inflow and exfiltration/exflow.

b. The control authority may require the installation of a sampling port in the tank of any vehicle used to deliver transported waste to the city POTW. Such sampling port shall be easily accessible and shall facilitate sampling of the tank contents without causing the discharge of any of the contents of the tank.

(5) *Monitoring requirements.*

a. Where required by any permit or order or otherwise ordered by the control authority, the nondomestic user shall obtain representative samples of a wastewater discharge or proposed discharge for analysis. Specified analyses shall be conducted no less frequently than as outlined in the permit or order or other document issued by the control authority.

1. Specific pollutants for which to analyze shall be determined by the control authority.

2. A qualified testing laboratory that adequately demonstrates acceptable quality control/quality assurance shall be employed to conduct analyses. This may be demonstrated through a state, professional or federal program or association.

3. Analyses may be conducted by qualified persons on-site only with prior written approval of the control authority. On-site laboratories conducting monitoring for compliance with this division shall be subject to the same requirements as commercial or contract laboratories.

4. All costs of monitoring shall be borne by the user.

b. The control authority may conduct sampling and analyses of the discharge of any nondomestic user where deemed necessary to ensure compliance with this or other applicable ordinances. The control authority may randomly sample and analyze the discharge from any nondomestic user and conduct surveillance activities in order to identify, independent of information supplied by the user, occasional and continuing compliance or noncompliance with the provisions of this or other applicable ordinance.

c. All costs of analyses, including shipping charges, if any, of samples collected by the control authority shall be billed to the user.

d. All sampling and analyses shall be conducted in accordance with procedures outlined in 40 CFR 136 and amendments thereto, except where a particular method for analysis is prescribed in 40 CFR for a federal category or subcategory or where specified in a permit or other document issued by the control authority. For analysis of pollutants not listed in the Code of Federal Regulations, the method shall be determined by the control authority.

(6) *Recordkeeping requirements.*

a. Any user subject to recordkeeping requirements established in this division shall retain records of all information resulting from activities required by this or other applicable ordinance or regulation for a period of not less than five years.

1. The user shall, upon request, make available for inspection and copying by the control authority, the state commission on environmental quality, the Arkansas Department of Environmental Quality (Department of Pollution Control and Ecology) or the United States Environmental Protection Agency, all records of information obtained pursuant to any activities required by this division and any records of information obtained pursuant to activities undertaken by the user independent of such requirements.

2. Periods of retention shall be automatically extended for the duration of any litigation concerning the user or the city or where the user has been specifically notified of a longer retention time by the control authority, the state

commission on environmental quality, the Arkansas Department of Environmental Quality (Department of Pollution Control and Ecology) or the United States Environmental Protection Agency.

b. The nondomestic user shall maintain records of inspection, pumping and cleaning, and other maintenance activities of grease traps, interceptors, catch basins, holding tanks, including waste oil receptacles, and separators for a minimum of five years. These records shall be made available to the control authority upon request for inspection and copying.

1. Inspection records shall minimally contain the date the facility was inspected, who inspected the facility, the specific condition of the piping and other structures of the facility, and a description of any repairs recommended by the inspector and subsequently made to the facility.

2. Pumping, cleaning and disposal records shall minimally include the date the facility was cleaned, who cleaned the facility, the type and amount of material removed, who disposed the removed materials, the disposal site for the removed materials, an approved completed waste manifest which includes generation, transport and disposal information, and any other information as required by federal, state or local regulations governing such operations.

3. Repair and maintenance records shall include a description of the maintenance or repair, the date of the maintenance or repair, and who performed the maintenance or repair. All repairs shall be made by a licensed plumber.

4. Holding tank disposal records shall minimally contain the date the facility was serviced, the specific type of waste disposed, the amount of waste removed, the name of the person or firm who serviced the facility and the method of final disposal.

c. The user shall maintain records of the cleaning of building sewer lines made necessary by excessive grease buildup. These records shall minimally contain the date and by whom the lines were cleaned, the known or suspected cause of the buildup, and actions taken to prevent recurrence.

(e) *Protection of the POTW collection system.*

(1) *Discharge into the collection system.*

a. Discharge of waste shall be made into the POTW only at places designated for discharge.

b. No person shall discharge or cause to be discharged any substance into a manhole, sewer cleanout or other opening which is part of the POTW, unless specifically authorized by the control authority.

1. Such authorization shall be made on a case-specific basis.

2. Such authorization shall be in writing in the form of a temporary wastewater discharge permit. A fee shall be charged for each temporary permit. The temporary permit fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.
3. Such discharge shall occur at the time and place designated by the control authority.
4. Such discharge shall be metered using a meter provided, or approved by, the control authority. The user shall pay a treatment fee which shall become due upon the completion of the discharge.
5. Such discharge shall not occur without display of the appropriate device as approved and issued by the control authority.

(2) *Discharge of imported wastewater.*

a. No person shall discharge, or cause to be discharged, any waste into the sanitary sewer which has been transported from another site onto a residential, commercial or industrial site except as outlined in subsection (d)(3) of this section.

b. No person shall discharge or cause to be discharged any wastes from nondomestic sources into the sanitary sewer facilities at a residential or other domestic wastewater source.

(Code 1961, § 29-51.5; Ord. No. 63-99, § 1(app. A), 3-22-1999)

Sec. 42-138. Grease traps, interceptors, separators and holding tanks.

(a) *Applicability; removal of pollutants.* This section shall apply to all facilities whose waste discharge contains or may contain grease, oil, sand or other harmful pollutants originating from processes including, but not limited to, vehicle and equipment washing, food preparation and serving, and carpet cleaning and water extraction.

(b) *Grease traps, interceptors, separators and holding tanks.*

(1) *Users required to maintain pretreatment devices.*

a. Grease traps, interceptors, separators or holding tanks shall be provided for the proper handling of wastes containing grease, oil, sand and other harmful pollutants which may interfere with the operation and maintenance of the POTW and shall be constructed and maintained in accordance with the provisions outlined in this Code.

b. All restaurants, institutions, cafeterias or other establishments preparing or serving food, except those specifically exempted in section 42-137(d), shall be required to install and maintain a grease trap for the efficient removal of oil and grease from the wastestream. The design and installation of such devices shall be subject to review and approval by the chief building official, or designee.

c. All vehicle wash areas shall be equipped with interceptors and oil separators for the removal of oils, grease and sand and other solids. The design and installation of such devices shall be subject to review and approval by the control authority.

d. It shall be the responsibility of the user to furnish, operate and maintain such pretreatment devices as necessary to produce an effluent in compliance with this or other applicable ordinances.

e. Holding tanks shall be provided for waste oils and other objectional waste that is prohibited from being discharged into the sanitary sewer. Such holding tanks shall be constructed to prevent leakage and splashing and shall be equipped with secondary containment to prevent spills during operation and cleaning. Such tanks shall be maintained to preclude odor and other nuisances and shall not be connected to the sanitary sewer or in any other way allowed to be discharged to the sanitary sewer.

(2) *Existing facilities.*

a. Existing facilities required by this, or other applicable ordinance, to maintain a grease trap, interceptor or separator not equipped with an adequately sized treatment unit shall, within 18 months of the effective date of the ordinance from which this division is derived, install an adequately sized grease trap, interceptor or separator in accordance with the specifications of this division.

b. Existing facilities required by this, or other applicable ordinance, to maintain a grease trap, interceptor or separator not equipped with the required pretreatment device for the type of business shall, within nine months of the effective date of the ordinance from which this division is derived, install an adequately-sized grease trap, interceptor or separator in accordance with the specifications of this division.

c. In any circumstance where, in the opinion of the control authority, the existing grease trap, separator or interceptor or the absence of a grease trap, separator or interceptor poses a serious threat or an ongoing problem to the sanitary sewer, is a public nuisance, or poses a threat to public health or to the environment, the control authority may require the grease trap, interceptor or separator be installed or replaced on a more stringent compliance schedule.

d. If a food establishment or any other facility requiring a grease trap, interceptor or separator shall cease operation and shall be required to come into compliance with other city codes, then such establishment or facility shall be required to comply with this division before reopening.

(3) *New businesses.* New businesses required by this or other ordinances to maintain a grease trap, interceptor or separator shall install such unit prior to commencement of discharge to the sanitary sewer.

(4) *Request for determination of need.*

a. The nondomestic user may request a determination from the chief building official, or designee, whether a new or upgraded grease trap, interceptor or separator will be required for the user's facility. The control authority may approve alternate treatment technologies for some types of wastes normally treated by a separator.

b. Where a user requests the users facility not be required to install a grease trap, interceptor or separator, the control authority may require data demonstrating the user is able to comply with the limitations outlined in this or other applicable ordinances. The user may be subject to periodic monitoring to demonstrate continued compliance.

c. Where a user requests the use of alternate technology, the control authority may require data demonstrating the user is able to comply with the limitations outlined in this or other applicable ordinances. The user may be subject to periodic monitoring to demonstrate continued compliance.

d. Such approvals shall be made on a case-by-case basis.

e. The decision of the chief building official, or designee, shall be final.

(c) *General and specific specifications.*

(1) *General specifications.*

a. Specifications outlined in this section shall be considered minimum requirements only. It shall be the responsibility of each user to have a grease trap, interceptor or separator designed and installed and maintained that will produce an effluent in compliance with the requirements of this or other applicable ordinances.

1. Grease traps, interceptors and separators shall meet or exceed the more stringent of specifications and requirements set forth in this division and other applicable local, state or federal requirements.

2. An existing grease trap, interceptor, or separator which is upgraded or replaced shall meet or exceed the specifications set forth in this division and other applicable local, state, or federal requirements.

3. Where a nondomestic user required under this division to have a grease trap, interceptor or separator will occupy an existing building, the grease trap, interceptor or separator shall meet or exceed the requirements in this division and other applicable local, state or federal requirements.

b. Grease traps, interceptors and separators shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and capable of withstanding the traffic load where installed.

c. Grease traps, interceptors and separators shall be installed outside the building wherever possible. Where it is impossible to locate a grease trap outside the building, the trap shall be located in a mechanical room or other separate area where no food is stored or processed.

d. Grease traps, interceptors and separators shall be located so as to be readily and easily accessible for cleaning and inspection of the pretreatment device and shall be equipped with easily removable covers.

1. Manhole rings and covers, not less than 24 inches in diameter, shall be installed in the lid of each compartment to facilitate easy access for cleaning and inspection. The manholes shall be placed so that all internal piping is accessible for maintenance and inspection. The cover shall be at or near, but not below, the finished grade.

2. Where an existing interceptor or separator is located inside a vehicle wash bay, the first chamber shall be preceded by a grated catch basin with openings not greater than one-half inch in diameter or shall be equipped with a grated cover with openings not greater than one-half inch in diameter so that no solid material greater than one-half inch may enter the chamber. The cover on the secondary chamber shall be water tight. Where the interceptor or separator is preceded by a grated catch basin, all covers on the separator shall be watertight.

e. Grease traps shall have a total liquid capacity of not less than 750 gallons, unless otherwise allowed in subsection (c)(2)e of this section. Interceptors shall have a total liquid capacity of not less than 50 gallons. Separators shall have a total liquid capacity of not less than 500 gallons. Grease traps and separators shall be constructed with a minimum of two compartments.

1. The primary compartment shall have a detention time at peak flow of not less than 15 minutes.

2. The secondary compartment shall have a detention time at peak flow of not less than five minutes.

f. Plans for new grease traps, interceptors and separators or modifications to existing grease traps, interceptors and separators shall be submitted to the chief building official, or designee, for review.

1. A description of plumbing fixtures draining to the trap, the number of fixture units as determined by the plumbing inspector and the calculations used to determine the proposed capacity shall be included in the submittal.

2. The chief building official shall be the approval authority of the final plans prior to the issuance of any required plumbing or construction permits and subsequent construction.

g. All grease traps, interceptors and separators shall be equipped with an approved sampling port immediately downstream of the treatment facility. Existing facilities without an approved sampling port shall be equipped with an approved sampling port within 24 months of the effective date of the ordinance from which this division is derived.

1. Sampling ports shall be easily accessible and safely located and shall be constructed in accordance with plans approved by the control authority. Sampling ports shall be inspected by the control authority prior to use.

2. Sampling ports shall be installed by the owner at the owners expense and shall be maintained by the owner so as to be safe and accessible at all times.

3. Sampling ports shall be constructed to exclude the entry of stormwater and groundwater and exit of wastewater (prevention of infiltration/inflow, exfiltration/exflow).

h. Grease traps, interceptors, separators and sampling ports shall be installed by a licensed plumber. Completed grease traps, interceptors and separators shall be subject to inspection by the control authority and the plumbing inspector prior to connection to the sanitary sewer.

(2) *Grease trap specifications.*

a. All liquid waste lines in food preparation and dishwashing areas, except lines from restroom facilities and garbage disposals and cooling unit condensate, ice maker and soft drink dispenser drain lines, shall discharge through the grease trap.

b. The minimum size of grease traps shall be determined according to the number of fixture units draining through the trap, but shall, in no case, have a total liquid capacity of less than 750 gallons.

1. The total number of fixture units multiplied by 150 gallons shall determine the minimum total liquid capacity of the trap.

2. The primary chamber shall occupy three-fourths of the total liquid capacity of the trap.

3. The dividing wall between each chamber shall completely divide the chambers (shall extend top to bottom), except where the specific design of the separator provides for underflow, in which case, the wall shall not be greater than 12 inches from the bottom, between the chambers rather than the flow traveling through a pipe.

4. Fixture units shall be defined in accordance with the applicable plumbing code as adopted in chapter 105.

c. Grease traps shall be equipped with double cleanouts on the outside of the trap in both the influent (prior to the trap) and effluent (after the trap) pipes.

d. The influent shall enter each chamber below the static water level in accordance with the specifications outlined in this subsection. The effluent shall discharge from below the static water level of the chamber in accordance with the specifications outlined in this subsection.

1. The influent line into all chambers shall terminate no greater than 18 inches from the bottom of the chamber.
2. The effluent from all chambers shall discharge from the lower 12 inches of the chamber.
3. There shall be no openings in any influent or effluent pipe that will allow liquid to enter or exit the chamber at any point other than the intake or discharge point of the pipe.
4. The static water level shall be maintained throughout the entire trap.

e. Large capacity, passive, outdoor grease traps, as specified in this section, are the preferred method of grease retention. However, in large industrial applications, situations where archeological or historical circumstances prevent the disturbance of the ground or a structure, or where there is an existing commercial establishment as of the effective date of the ordinance from which this section is derived that has no outside wall adjacent to the foundation within 25 feet of its premises or there is another obstacle that, in the opinion of the control authority, prevents the installation of a standard grease trap, then the user may propose alternate treatment technologies.

1. Alternate treatment technologies may include, but are not limited to, dissolved air floatation, system baffling, active devices, automated grease removal, electronic alarms and shut offs or any combination of devices and procedures that, in the opinion of the control authority, protect the public health, the integrity of the POTW and are capable of producing an effluent in compliance with the established maximum allowable discharge limit.
2. Proposals for the installation of alternate treatment technologies shall be made in writing and shall contain specifications and calculations necessary to demonstrate treatment capabilities. The proposal shall be signed by the user's registered professional engineer.
3. Alternate treatment technologies shall be approved by the design engineer of the TWU in writing prior to the commencement of installation. Approval by the design engineer in no way endorses the design, device or its performance, or relieves the user from the responsibility to meet maximum allowable discharge limits.
4. Installed alternate treatment technologies shall consistently produce an effluent in compliance with applicable standards as demonstrated by analyt-

ical data. Additional treatment, where required to meet the maximum allowable discharge limit, shall be installed at the user's expense. Such additional treatment shall be approved prior to installation.

f. The control authority may, at its sole discretion, allow existing users with existing under-sized grease traps, having at least a 500-gallon two-stage grease trap, a trial period specified by the control authority in which to demonstrate that the use of best management practices, housekeeping procedures and increased maintenance of the grease trap will cause the existing grease trap to consistently produce an effluent in compliance with established limitations.

1. The user shall maintain records of procedures, training and exceptional maintenance necessary to demonstrate the conditions of the trial period are being met.

2. The user shall have an appropriate sample port before any trail period may begin.

3. At least six analyses shall be required within the trial period to demonstrate consistent compliance. Samples shall be collected at random times by the control authority. All costs for sampling and analyses shall be borne by the user.

(i) A user who has demonstrated consistent compliance during the trial period may be allowed to continue to operate with the existing treatment device.

(ii) A user who has not been able to demonstrate consistent compliance shall be required to install a properly sized treatment device.

(3) *Interceptor and separator specifications.*

a. Automatic car or truck washes and coin-operated wash bays, drive-in or drive-through wash bays, hand wash bays and other areas where vehicles are washed shall be equipped with an interceptor and a two-stage separator. The interceptor and the separator shall function as separate units.

1. An adequately sized interceptor shall be provided for the removal of sand, grit and other objectional solids from the wastestream.

2. An adequately sized, two-stage separator shall be provided for the removal of oil and grease from the wastestream.

3. Interceptors and separators shall be minimally sized in accordance with the specifications outlined in this section. Minimum sizing for any interceptor or separator may be increased at the discretion of the control authority.

b. Interceptors shall have a minimum detention time of not less than five minutes. The minimum size shall be in accordance with the specifications outlined in this section.

1. Interceptors may be located inside the wash bay and may be equipped with a grated cover, provided the openings in the cover are not greater than one-half inch. When located inside the wash bay, the control authority may require a larger capacity interceptor be installed to facilitate efficient sand and grit removal. Covers shall be easily removable for cleaning and inspection.

2. Where located outside the wash bay, the interceptor shall be equipped with solid, watertight covers on each chamber and shall be preceded by a catch basin, located inside the bay, equipped with a grated cover with openings not greater than one-half inch. Covers shall be easily removable for cleaning and inspection.

3. The inlet and outlet lines shall be designed and installed to provide uniform flow and stilling in the interceptor and to preclude sand from passing through the interceptor.

(i) Where a downpipe is provided at the inlet, the pipe shall extend into the interceptor a distance not less than one-third from the static water level to the bottom.

(ii) The discharge pipe shall extend into the interceptor a distance not less than one-third from the static water level to the bottom.

c. Separators shall be located outside the wash bay and shall be equipped with solid, watertight covers on all chambers. Covers shall be easily removable for cleaning and inspection. The influent shall enter each chamber below the static water level in accordance with the specifications outlined in this subsection. The effluent shall discharge from below the static water level of the chamber in accordance with the specifications outlined in this subsection.

1. The influent line into all chambers shall terminate no greater than 18 inches from the bottom of the chamber.

2. The effluent from all chambers shall discharge from the lower 12 inches of the chamber.

3. There shall be no openings in any influent or effluent pipe that will allow liquid to enter or exit the chamber at any point other than the intake or discharge point of the pipe.

4. The static water level shall be maintained throughout the entire trap.

d. Minimum sizing for interceptors shall be 50 gallons per fixture unit (F.U.) draining into the interceptor, but not less than the minimum sizes outlined below:

Interceptors	*Minimum Size*
Manual hand wash bay or portable washer	50 gallons/F.U., but not less than 50 gallons/bay
Coin-operated self service wash bays	50 gallons/F.U., but not less than 50 gallons /bay
Automatic (drive-in and drive-through)	50 gallons/F.U., but not less than 50 gallons/bay

e. Minimum sizing for separators shall be 150 gallons per fixture unit draining into the separator, but not less than the minimum sizes outlined below.

Separators	*Minimum Size*
Portable washer	Greater of 500 gallons or 150 gallons/F.U.
Single coin-operated wash bay	Greater of 500 gallons or 150 gallons/F.U.
Manual hand wash, single bay only	Greater of 500 gallons or 150 gallons/F.U.
2—4 coin-operated or manual hand wash bays	Greater of 1,000 gallons or 150 gallons/F.U.
4 coin-operated or manual hand wash bays	Greater of 1,000 gallons + 200 gallons/bay >4 or 150 gallons/F.U.
Drive-through wash bay	Greater of 500 gallons/bay or 150 gallons/F.U.

1. The primary chamber of the separator shall occupy three-fourths of the total liquid capacity of the separator.

2. The dividing wall between each chamber shall completely divide the chambers (shall extend top to bottom), except where the specific design of the separator provides for underflow not greater than 12 inches between the chambers rather than the flow traveling through a pipe.

(4) *Holding tank specifications.*

a. Holding tanks shall be constructed and maintained to prevent discharge of waste cooking oils, motor oils and other oils and fluids that are prohibited from being discharged to the sanitary sewer.

b. Holding tanks shall not be connected to the sanitary sewer or in any other way be allowed to discharge to the sanitary sewer.

c. Holding tanks shall be provided with secondary containment and such containment shall be capable of containing not less than 110 percent of the capacity of the holding tank or the capacity of the largest tank plus water from a maximum 24-hour/ten-year rainfall event if exposed to rainwater, whichever is greater.

1. Secondary containment shall be constructed so as to control spills or splashes during operation and maintenance and leaks.

2. Secondary containment shall not be connected to any sanitary sewer drain or storm drain and shall not be allowed to drain onto public or private property or to the waters of the United States.

(d) *Operation and maintenance.*

(1) *Operation and maintenance responsibilities.*

a. Grease traps, interceptors, separators and holding tanks shall be operated in a safe and secure manner at all times.

b. Areas surrounding grease traps, interceptors, separators and holding tanks shall be maintained to facilitate immediate access to the unit for cleaning and for inspection by the control authority at all times.

c. Grease traps, interceptors and separators shall be maintained in continuously efficient operation by the owner or operator at their expense and shall produce an effluent in compliance with this or other applicable ordinances.

d. A user shall not remove any downpipes or otherwise alter a grease trap, interceptor or separator in any way which may allow oil, grease, sand or other objectional materials to pass through the device into the sanitary sewer.

e. Where the utilities must clean associated public sewers caused by inappropriate operation or maintenance, inadequate design or installation, or inappropriate alteration of a grease trap, interceptor or separator, costs of such cleaning shall be billed to the user.

1. In a case where several users are discharging to the same sewer line, all the users shall be equally liable, except where the user provides written proof the users discharge could not have been a contributing factor.

2. Proof shall consist of demonstration of adequate sizing and installation, appropriate cleaning (as documented by manifests and inspection documentation) and valid analysis of a sample of the discharge collected within one week of the sewer cleaning activities. Analysis of samples collected after sewer line cleaning will be accepted only where the grease trap, interceptor or separator has been properly maintained and was not cleaned within 30 days of the sewer cleaning activities.

f. A user shall not increase the use of water or in any other way attempt to dilute the wastestream in lieu of adequate treatment.

g. The addition of hot water or the use of emulsifiers, chemicals or other agents or devices that may cause oil, grease or sand to pass through a treatment facility or into the sanitary sewer collection system is strictly prohibited.

h. Areas surrounding a grease trap, interceptor, separator or holding tank shall be kept clean and free of grease and odors and other materials at all times.

1. Materials shall not be splashed, spilled, allowed to overflow or otherwise placed on the area surrounding a grease trap, interceptor or separator.

2. In the event materials are spilled, splashed, overflowed or otherwise placed on the surrounding area, the generator or owner shall ensure the materials are cleaned from the area and properly disposed.

i. Grease traps, interceptors, separators and holding tanks shall be fully evacuated of all contents during cleaning. If the capacity of the trap, interceptor, separator or holding tank is greater than the capacity of the transport vehicle where full evacuation is not possible in a single load, then the transporter and the generator shall ensure the contents are fully evacuated within 24 hours.

1. No liquid waste shall be returned to the trap, interceptor, separator or holding tank after or during cleaning, either from the same or other trap, interceptor, separator or holding tank.

2. During cleaning, grease residue shall be removed from piping and walls and the piping and walls shall be inspected to ensure the integrity of the device is maintained.

j. Materials removed from traps, interceptors, separators and holding tanks shall be utilized by industry, recycled or disposed at a facility designated by or acceptable to the generator where the owner or operator agrees to receive the wastes and the disposal facility has documentation showing the facility meets all requirements of the state. All wastes shall be disposed in a suitable manner in accordance with applicable federal, state and local laws.

k. Users required to maintain grease traps, interceptors, separators or holding tanks shall establish a system of training designed to provide employees with appropriate instruction on the proper use of such facilities.

1. Such training system shall provide employees at all levels of responsibility with a complete understanding of the operation and maintenance of the pretreatment device and the relation between appropriate waste disposal and efficient operation of the pretreatment device. Such system should include:

(i) The importance and methods of good housekeeping practices;

(ii) Acceptable waste disposal practices, including proper disposal of different types of wastes;

(iii) Procedures for preventing prohibited discharges; and

(iv) The proper response to and notifications in case of spills or other accidental discharges.

2. Periodic training sessions shall be conducted to ensure the employee understands the essential elements of the system. New employees shall be trained immediately upon employment.

(2) *Grease trap treatment products.*

a. Use of grease trap treatment products, including bacteria, designed to digest the grease, is specifically prohibited without prior written consent of the control authority.

1. Acceptance of such products for use may be considered only where a valid screening test, showing the product's ability to treat the waste and to produce an effluent in compliance with this division, has been performed in accordance with the methods outlined by the control authority.

2. Screening tests for grease trap treatment products shall be designed by the control authority.

3. The results of screening tests shall be subject to technical review by the control authority.

4. All costs of screening tests shall be borne by the user whether or not the product is accepted for use.

5. If a product is accepted for use, each user shall obtain written permission from the control authority to use the product.

6. The control authority may revoke permission to use such products where the effluent from the trap or basin in which the product is used fails to meet the requirements of this division.

b. Use of accepted grease trap treatment products shall not relieve the user of minimum cleaning requirements set forth in this division.

c. Use of accepted grease trap treatment products may subject the user to monthly surcharge fees where such usage causes the effluent concentrations to exceed the definition of normal domestic wastewater. Surcharge fees may be levied for biochemical oxygen demand, chemical oxygen demand, total suspended solids or ammonia.

(3) *Inspection and cleaning schedules.*

a. Inspection, cleaning and other necessary maintenance of such facilities shall be conducted as often as needed to ensure the discharge is in compliance with the provisions of this or other applicable ordinances, but not less than once per 90 days.

1. The trap, interceptor or separator shall be cleaned as often as necessary, up to and including daily, to ensure compliance with this or other applicable ordinances.

2. In no case shall the accumulated grease, oil or sand be allowed to occupy more than 25 percent of the capacity of the first stage.

b. The physical condition of the trap, interceptor or separator (piping, internal walls, sidewalls, etc.) shall be inspected by the user each time the facility is cleaned. Repairs, if needed, shall be made prior to further use.

1. Repairs or modifications shall be approved by the plumbing inspector and shall not be made without the appropriate city permits.

2. Inspection shall be conducted by the plumbing inspector after repair and prior to refilling or use. A copy of the inspection tag issued by the plumbing inspector shall be maintained on site by the user and a copy shall be sent to the control authority.

3. Documentation of repairs shall be submitted to the control authority within 30 days of the date of repair or earlier if specified in a notice of deficiency or other control authority-issued document.

c. Grease traps, interceptors and separators shall produce an effluent in compliance with this division at the user's pumping schedule. Schedules inadequate to produce such effluent shall be upgraded to as often as necessary, up to and including daily, or the trap, separator or interceptor shall be upgraded. Upgraded traps, separators or interceptors shall meet all requirements set forth in this or other applicable ordinances.

d. A user shall have any trap, interceptor or separator cleaned when ordered to do so by the control authority. Failure to comply within 48 hours after the request shall be cause for the control authority to precipitate the cleaning and to bill the user for such costs plus any added costs incurred by the utilities.

(4) *Cleaning schedule extensions.*

a. The user may apply to the control authority for an extension of the required cleaning frequency set forth in this division. A user who wishes to apply for a cleaning schedule extension shall notify the control authority, in writing, of the intent to apply for an extension.

b. The control authority may grant an extension on a required cleaning frequency on a case-by-case basis where the user has demonstrated, with defensible analytical results, the specific trap will produce an effluent in consistent compliance with this division, if such an extension is granted.

c. The notification of intent to apply for an extension shall include:

1. Facility information:

(i) The name and address of the facility;

(ii) Name and telephone number of the facility contact;

(iii) Normal business hours; and

(iv) The type of business;

2. Treatment unit information:
   (i) The type of treatment unit and the capacity, in gallons;
   (ii) A brief description of the treatment unit;
   (iii) The times of day the greatest hydraulic and organic loadings to the treatment unit normally occur;
   (iv) The date of the most recent cleaning and inspection of the unit;
   (v) A statement of the physical condition of the unit; and
   (vi) Where applicable, the name of any treatment products used and a copy of the control authority's approval letter for the use of the product;
3. A proposed sampling schedule, including:
   (i) The dates the user proposes to collect the samples;
   (ii) The times each sample will be collected;
   (iii) The name and telephone number of the person who will collect the samples, including qualifications; and
   (iv) The name and telephone number of the laboratory which will analyze the samples;
4. Other information as may be requested by the control authority; and
5. A signed certification statement as outlined in section 42-139(f)(1).

d. The user shall obtain approval of the proposed sampling schedule prior to initiation of the sampling and analyses. The user shall certify the sampling schedule will be carried out as submitted or as approved. The control authority shall reserve the right to modify a sampling schedule as deemed necessary.

e. The user shall be required to provide analytical results for not less than four oil and grease analyses for samples collected during peak flow periods through the unit during the normal working hours of a 24-hour period.
   1. Samples shall be collected at an approved sampling port and shall be collected by a qualified person properly trained in the collection and handling of wastewater samples.
   2. Samples shall be collected 70 to 75 days after the most recent cleaning.
   3. Samples shall be analyzed, separately, by a reputable laboratory using approved analytical procedures.
   4. The user shall submit a written request for a cleaning schedule extension, including:
      (i) A copy of the cleaning and maintenance records for the treatment unit for the previous 12 months;

(ii) A copy of the laboratory analytical reports, including quality control data and appropriate chains of custody; and

(iii) A signed certification statement as outlined in section 42-139(f)(1).

5. Incomplete or unverifiable results shall not be considered.

f. The control authority may grant extensions to the cleaning schedule as follows:

1. A 30-day extension may be granted where the average oil and grease concentration of the analyses is less than 70 percent of the concentration limit and no single concentration exceeded 80 percent of the concentration limit.

2. A 60-day extension may be granted where the average oil and grease concentration of the analyses is less than 55 percent of the concentration limit and no single concentration exceeded 65 percent of the concentration limit.

3. A 90-day extension may be granted where the average oil and grease concentration of the analyses is less than 40 percent of the concentration limit and no single concentration exceeded 50 percent of the concentration limit.

4. In no case shall an extension greater than 90 days be granted.

g. Extensions granted shall begin on the date the samples for which results were submitted were collected as documented on the chain of custody.

h. Where an extension has been granted, the unit shall consistently produce an effluent in compliance with the terms of this or other applicable ordinances. The control authority shall reserve the right to collect and analyze samples of any user's discharge and may revoke, without notice, any extension where the control authority believes it is in the best interest of the proper operation of the POTW.

1. Where an extension has been granted and any sample analysis indicates an exceedance of the oil and grease limitation by 25 percent or more, the user shall immediately clean and inspect the trap and shall return to the original cleaning schedule. Where the user has been required to return to an original cleaning frequency, the user shall be required to submit a new request for extension if desired.

2. Where an extension has been granted and any sample analysis indicates an exceedance of the oil and grease limitation by any magnitude, but less than 25 percent, the user shall immediately clean and inspect the trap and shall increase the established cleaning frequency by at least 30 days.

3. Where an extension has been granted and the utilities must clean associated public sewer lines and the stoppage is traceable to or known or suspected to be caused by the user's facility, the user shall immediately clean and inspect the trap and shall return to the original cleaning schedule. The user will be required to submit a new request for extension if desired.

(Code 1961, § 29-51.6; Ord. No. 63-99, § 1(app. A), 3-22-1999; Ord. No. 157-03, §§ 1—3, 8-25-2003; Ord. No. 008-2012, § 1, 2-27-2012)

Sec. 42-139. Transported liquid wastes.

(a) *Applicability.*

(1) *Transport of liquid waste.*

a. This section shall apply to the transport of liquid waste, including, but not limited to, septic tank waste, grease trap waste, separator waste, landfill leachate, water and wastewater treatment plant sludges, and chemical toilet waste within the territorial and extraterritorial boundaries of the city. This section shall apply to all persons who collect or transport liquid waste whether or not the waste will be delivered to the city POTW for transfer or disposal.

b. This section shall apply to vehicles transporting wastes including, but not limited to, septic tank wastes, portable toilet wastes, grease trap and separator wastes, and sludges from private or other domestic water or wastewater treatment facilities.

(2) *Transport of hazardous waste.* This section shall not apply to the collection or transport of hazardous waste.

(b) *Liquid waste transport permits and registrations.*

(1) *General permit and registration requirements.*

a. The control authority shall be authorized to issue a liquid waste transport permit to any person who operates or wishes to operate a vehicle for the purpose of collecting or transporting liquid waste within the territorial and extraterritorial boundaries of the city. A fee shall be charged for each liquid waste transport permit. The liquid waste transport permit fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

1. Any person operating, or wishing to operate, a vehicle for the purpose of collecting or transporting liquid waste, except hazardous waste, within the territorial and extraterritorial boundaries of the city shall be required to obtain a Class L (liquid waste transport) permit from the control authority prior to operating the vehicle for transporting such wastes.

2. The control authority shall not issue a Class L permit to any person who is not registered in and approved by the state for the collection or transport of wastes. Persons who operate a transport vehicle shall be required to maintain a valid registration from the state in which the vehicle will be operated.

(i) Operators of liquid waste transport vehicles operating in the State of Arkansas shall possess a valid establishment number issued by the appropriate state authority.

(ii) Operators of liquid waste transport vehicles transporting liquid waste in the territorial and extraterritorial jurisdiction of the city shall pos-

sess a valid transporter registration number issued by the state commission on environmental quality, except where such authorization is not required by the state.

3. The control authority shall not issue a Class L permit to any person who wishes to operate a separator truck or other vehicles designed to separate grease from the wastes removed from a grease trap or separator and return liquid to the trap. Such vehicles shall be prohibited from operating within the territorial and extraterritorial boundaries of the city.

b. All liquid waste transporters delivering waste for transfer or disposal to the city POTW shall maintain a valid state-issued transporter registration number issued by the state commission on environmental quality, except where such authorization is not required by the state and shall maintain a valid liquid waste transport permit and a valid wastewater discharge permit.

1. The control authority shall require all transporters of liquid transported waste for delivery to the city POTW to obtain a Class L and a Class NS, Type T permit. Transporters may be credited the fee for the Class L permit where both permits are required.

2. A separate permit shall be issued for each vehicle; however, one application may be filed for a firm with multiple vehicles.

3. The permit shall specify the type of waste authorized for delivery to the POTW.

4. The control authority shall not authorize wastes to be delivered to the POTW which have not been authorized for transport by the state, except where such authorization is not required by the state.

5. Approval for delivery of wastes to the city POTW shall be granted only to those persons, firms or corporations who have met all federal, state and local requirements for collection and transport of liquid wastes.

c. Generators of nondomestic waste who wish to have the waste transported and discharged to the city POTW shall apply to the control authority for permission to conduct such activities.

1. The control authority may require generators of nondomestic transported liquid waste to obtain a wastewater discharge permit.

2. The control authority shall review the application for the discharge of nondomestic transported liquid waste and may allow the disposal of such wastes on a case-specific basis.

(2) *Liquid waste transport permit requirements.*

a. Any person currently operating within the city who is required to obtain a Class L (liquid waste transport) permit shall apply to the control authority on an approved form within 60 days of the effective date of the ordinance from which this division is derived.

1. Any person currently operating within the territorial and extraterritorial boundaries of the city, who is required to obtain a Class L (liquid waste transport) permit shall not operate more than 120 days after the effective date of the ordinance from which this division is derived without a Class L permit, except where the appropriate and complete application was filed on or before 60 days of the effective date of the ordinance from which this division is derived and the permit was not issued through no fault of the applicant.

2. Failure to obtain the required permit within the specified time limit shall subject the operator to the enforcement provisions set forth by this Code.

b. Any person wishing to operate within the territorial and extraterritorial boundaries of the city who is required to obtain a Class L permit shall apply to the control authority on an approved form not less than 90 days prior to the anticipated date of beginning operation. Operation of the vehicle shall not commence prior to the issuance of the appropriate permit.

1. A separate permit shall be issued for each vehicle; however, one application may be filed for a firm with multiple vehicles.

2. The permit shall specify the type of waste authorized for transport in each vehicle and shall be maintained in the permitted vehicle at all times.

c. A permit issued by the control authority excludes the transport of wastes that are hazardous in nature.

d. Any violation of the terms and conditions of a permit shall be deemed a violation of this division and shall subject the permittee to the enforcement provisions set forth by this Code.

e. The permit shall be maintained as an accurate representation of the permittees activities. Failure to maintain the permit as an accurate representation shall be cause for enforcement action.

f. It is the permittees responsibility to be familiar with the contents and requirements of the permit and with all federal, state and local regulations and requirements applicable to the collection, transport and disposal of nondomestic wastes and to comply with those requirements and regulations, whether or not the requirements are contained in the permit.

g. Obtaining a permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state or local law.

(3) *Requirements for liquid waste transport vehicles.*

a. All vehicles used, or proposed to be used, for collecting and transporting liquid waste shall meet or exceed all applicable federal, state and local vehicle requirements for transport of liquid waste and shall be submitted to the control authority for inspection.

b. All pumps, tanks, valves and hoses shall be constructed and maintained so as to prevent leakage, spillage or splashing onto the outer surfaces of the tank or equipment and onto areas surrounding the receptacle being cleaned.

1. Vehicles and equipment used for collection and transport of liquid wastes shall be constructed, operated and maintained to prevent loss of liquid or solid materials and shall be maintained in sanitary condition to prevent health nuisances, such as odors and insect breeding, and safety hazards to the operating personnel and the public.

2. All parts of the truck shall be easily cleanable and shall be constructed to prevent the accumulation of solids or liquids on the vehicle.

3. Racks used for carrying equipment on the vehicle shall be made of metal.

4. The liquid tank shall be made of metal construction throughout that is welded and shall be watertight and splash proof.

(i) The liquid waste tank shall be an integral part of the vehicle used to transport the waste; portable or other temporarily-installed containers are prohibited.

(ii) The tank shall be equipped with a site gauge which shall be maintained in such a manner so it can be determined whether the vehicle is loaded and the volume in the tank.

A. The gauge or other approved measuring device shall accurately measure the contents of the tank at varying depths of material in the tank. The gauge shall not be required to read in gallons or liters, but shall show the percentage of the tank capacity filled.

B. The gauge or other approved measuring device shall be a permanent part of the tank and shall not be removable. Where an external tube gauge is used, valves shall not be installed in the tube or the tank which would allow the tank to contain liquid but not be indicated in the gauge.

(iii) The tank shall be equipped with a leakproof gate valve, minimum of 2½ inches in diameter.

A. If needed, a compatible hose of sufficient length and design to facilitate discharge into the designated point without splashing, spraying or spilling onto the surrounding area shall be provided.

B. Valves shall be prominently marked and shall be easily visible and readily accessible.

c. The liquid waste transport vehicle shall be prominently marked in block letters on both sides of the vehicle as outlined below. All markings shall be permanently affixed and clearly visible from a distance of not less than 50 feet. Where a state or federal regulation requires larger markings, additional markings or specific placement of the markings, that requirement shall prevail.

1. Where the vehicle will be operated in the State of Arkansas, markings shall be placed in letters at least four inches in height on both sides of the tank.

2. Where the vehicle will be operated in the state, and will not be operated in Arkansas, the markings may be placed on the tank or the vehicle. The markings shall be placed on both sides of the tank or vehicle in letters not less than two inches in height.

3. Markings on the liquid waste transport vehicle shall include:

(i) The name and telephone number of the firm or owner;

(ii) The capacity of the tank, in U.S. gallons;

(iii) The Arkansas Establishment Number, where applicable;

(iv) The state transporter registration number, where applicable;

(v) The Class L permit number; and

(vi) The Class NS, Type T permit number, where applicable.

d. Where a federal, state or local authority issues a decal or other authorization sticker to the registrant, the decal or sticker shall be displayed at the designated place on the vehicle at all times.

e. The company name and telephone number, authorization stickers and registration and permit numbers shall be removed from the vehicle, by the permittee, when it is no longer under the control of the permittee. The Class L and Class NS, Type T permit numbers shall be removed when the vehicle is no longer authorized by the control authority to operate or to discharge.

(4) *Inspection of liquid waste transport vehicles.*

a. The control authority shall reserve the right to inspect any liquid waste transport vehicle at any time as deemed necessary and to refuse to issue a permit to or suspend or revoke the permit for any user whose vehicle does not consistently meet minimum federal, state or local requirements.

b. Where the liquid waste transport vehicle must pass a state inspection, the control authority may require the submission of a copy of the inspection report.

1. When requested, the permittee or applicant shall submit documentation to the control authority demonstrating the vehicle has been inspected and accepted for operation by the appropriate state authority. Where the vehicle will be operated in more than one state, the vehicle shall be accepted for operation by all appropriate authorities.

2. If a vehicle fails to pass inspection, the vehicle shall not be used to collect or transport waste until the vehicle is reinspected and passes the inspection.

3. Where a vehicle is altered after passing inspection, the vehicle shall be subject to reinspection by the control authority. It shall be the responsibility of the owner to notify the control authority that such alterations have been made. Failure to notify the control authority of such alterations shall be cause for suspension or revocation of all local permits.

c. The control authority may suspend or revoke local permits of any liquid waste transport vehicle not meeting the requirements set forth in this or other applicable ordinances. Upon proof the vehicle meets the requirements, the control authority may reinstate the permits or require the permittee to submit a new application.

(c) *Disposal of transported liquid wastes.*

(1) *Acceptance of liquid waste for disposal.*

a. Liquid waste shall not be accepted at the POTW except from transporters with all necessary federal, state and local permits, licenses and registrations.

1. Transported liquid wastes may be discharged to the POTW only at the locations designated by the control authority and at such times as are established by the control authority.

2. Any person found to be discharging any waste into the sanitary sewer system except at the designated location, shall be subject to penalties as outlined in this Code.

b. The delivery and disposal of transported waste to the POTW treatment works shall be subject to all applicable requirements established in this or other applicable ordinances.

1. Grease trap, separator, interceptor and holding tank wastes shall not be delivered for disposal into the POTW. If available, food service grease trap wastes may be delivered to a transfer station or other apparatus specifically designed for such waste on the property of the control authority for treatment or holding and transfer to an appropriate disposal or reuse facility.

2. The control authority shall reserve the right to collect, and have analyzed, samples of each transported waste load to ensure compliance with the applicable standards. Costs of such sampling and analyses shall be borne by the permittee.

3. The control authority may require results of analyses of any waste prior to delivery of the waste to the POTW, especially in the case of nondomestic waste. The control authority shall determine the analyses required. Costs of such analyses shall be borne by the permittee.

c. Contents of the liquid waste transport vehicle shall not be discharged without an on-duty POTW operator present.

1. A completed transported waste manifest for each generator and documentation of all required permits shall be presented to the operator prior to discharge.

2. Acceptance or rejection of a waste load shall be based upon standard operating procedures established for the discharge of transported liquid wastes to the POTW.

3. The contents of the liquid waste transport vehicle shall be subject to field analyses such as pH and temperature and visual and odor testing prior to discharge to the POTW.

(i) Transported waste proposed for discharge shall be within the pH range of 6.0 to 9.5 standard units.

(ii) Transported waste proposed for discharge shall have a temperature less than 40 degrees Celsius (104 degrees Fahrenheit).

(iii) Transported waste proposed for discharge shall not have an immoderately oily appearance.

(iv) Transported waste shall not possess any solvent-like, petroleum-like or other odor that is not characteristic of normal domestic waste.

4. All liquid waste transport vehicle discharges shall be subject to random sampling for conventional pollutants (ammonia as nitrogen, carbonaceous or total biochemical oxygen demand, chemical oxygen demand, total suspended solids, total oil and grease) and random sampling for toxic substances and other noncompatible pollutants. Costs of sampling and analyses shall be borne by the permittee.

d. Delivery of any liquid transported waste to the POTW treatment plant found to contain toxic or other noncompatible or prohibited pollutants may result in enforcement action as provided in this Code, including fines, restitution for damages and suspension or revocation of the permit.

e. An appropriate fee shall be paid for each load of transported septic tank or chemical toilet waste, or water or wastewater treatment plant sludge delivered to the POTW treatment plant. This charge shall be in an amount established by the city from time to time and is on file in the city secretary's office or city website, per 1,000 gallons based on the capacity of the vehicle, whether or not the vehicle is filled to capacity at the time of delivery. This charge may be adjusted on an as-needed basis to reflect changes in the cost to treat such waste.

f. An appropriate fee shall be paid for the delivery of nondomestic waste to the POTW treatment plant at a location designated by the control authority. Such charge shall be in an amount established by the city from time to time and is on file in the city secretary's office or city website, per gallon and shall be based on the capacity of the transport vehicle, whether or not the vehicle is filled to capacity at the time of delivery. This charge may be adjusted on an as-needed basis to reflect changes in the cost to treat such waste.

(2) *Rejection of liquid waste loads.*

a. A transported waste load may be rejected for reasons, including, but not limited to, the following:

1. The waste may cause, alone or in conjunction with other wastes, fire or explosion hazards in the POTW treatment plant or has a closed-cup flashpoint of less than 60 degrees Celsius (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21;

2. The temperature of the waste is greater than or equal to 40 degrees Celsius (104 degrees Fahrenheit);

3. The waste may cause corrosive structural damage to the POTW treatment plant;

4. The waste may cause obstruction in flow within the POTW treatment plant;

5. The waste may interfere with normal operation of the POTW treatment plant;

6. The waste may inhibit biological or physical activities within the POTW treatment plant;

7. The waste may be untreatable by the normal treatment process, is incompatible with the treatment processes or the waste is mixed with incompatible wastes;

8. The waste emits any solvent-like, gasoline-like or petroleum-like odor;

9. The waste may pose a hazard to the POTW, the POTW workers, the receiving stream of the POTW, or to the environment;

10. The sample collected from the tank's contents appears to contain abnormal amounts of oils or greases;

11. The pH of the sample collected from the tank's contents is less than 6.0 or greater than 9.5 standard units.

b. In the event the waste is rejected due to unacceptable pH, the permittee may adjust the pH of the waste to within the acceptable range and return the waste to the POTW for disposal.

1. The waste shall be thoroughly mixed after the addition of pH-adjusting agents.

2. Wastes originally rejected for pH shall be subject to pH testing at intervals during the discharge and may be ordered halted if the pH is not properly adjusted.

c. In the event a transported waste load is rejected, the POTW operator shall complete the applicable section on the transported waste manifest or other document as appropriate.

1. The transporter shall sign the applicable statement on the transported waste manifest or other document acknowledging the rejection of the waste for disposal at the POTW.

2. The permittee shall dispose the rejected load in an acceptable and legal manner and shall provide documentation of the final disposal to the control authority prior to subsequent discharges to the POTW.

3. Failure to provide documentation of proper disposal may result in enforcement action, including revocation of the permits.

(3) *Incompatible wastes.*

a. Mixing of incompatible wastes within the same container is prohibited.

1. The transporter shall not mix chemical toilet wastes and septic tank or other type waste in the same load.

2. Transporters shall not use the same container or pumping equipment to collect or transport incompatible waste, grease trap waste, interceptor or separator waste, or other nondomestic waste, and septic tank waste or chemical toilet waste, without first emptying and cleaning the container and equipment of all previously handled wastes.

b. The transporter shall not attempt to deliver liquid wastes which are incompatible with the POTW treatment plant processes for discharge into the POTW.

(4) *Cleanup and notifications of leaks and spills.*

a. In the event of a spill, splash, spray or leak or other unauthorized or accidental discharge of wastes during collection or transport or disposal, the collector or transporter shall take immediate action to contain and clean the discharged or spilled materials in order to protect human health and the environment.

1. If a spill, splash, spray or leak occurs during collection, transport or discharge, the vehicle operator shall immediately clean and properly dispose the spilled, splashed, sprayed or leaked wastes at the operator's expense.

2. Appropriate cleanup action may include, but is not limited to, diking the discharge or spill area, cleaning the spilled or discharged materials, or taking other action, as may be required or approved by federal, state and local officials having jurisdiction, so the waste no longer poses a risk to the public health or the environment.

b. Liquid waste shall be prevented from entering waterways, including sanitary sewers. In the event a waste enters a waterway, the collector or transporter shall take immediate action to minimize the potential for damage to the environment.

1. In the event a liquid waste enters a waterway or otherwise contaminates waters, the spill shall be contained and cleaned so as to prevent further contamination and hazards to health and the environment.

2. All costs of such cleanup and subsequent disposal shall be borne by the collector or transporter.

c. In the event of a spill, splash, spray or leak or other unauthorized or accidental discharge of wastes during collection or transport or disposal, the vehicle operator shall make notifications to authorities as appropriate.

1. Appropriate notification may include, but is not limited to, notifying local law enforcement and health officials or notifications, as may be required by federal, state and local officials having jurisdiction.

2. In the event a liquid waste enters a waterway or otherwise contaminates waters, the spill shall be reported to the appropriate authority as required by state or federal regulations.

3. The vehicle operator may, at the discretion of the control authority, be required to report spills to the control authority.

d. Where a spill, splash, spray or leak occurred during collection, transport or discharge, the owner shall make necessary repairs or modifications to the vehicle prior to subsequent operation of the vehicle.

1. The vehicle shall be subject to inspection by the control authority after such repairs or modifications.

2. Vehicles found not to meet minimum requirements shall not be authorized to operate within the territorial and extraterritorial boundaries of the city.

(d) *Transported waste recordkeeping requirements.*

(1) *Transported waste manifests.*

a. Records shall be maintained for each individual collection, transport and disposal of liquid wastes.

1. Such record shall be in the form of a transported waste manifest issued by the control authority.

2. A separate manifest shall be completed for each generator. In the case of portable toilet waste, multiple toilet units may be manifested on the same document, provided the units are located on the same property and are rented or leased by the same person.

3. The transported waste manifest shall include:

(i) Generator information (completed by the generator at the time the waste is collected):

A. Complete name, street and mailing address, telephone number and signature of the person who generated the waste;

B. Type of facility from which the waste was collected;

C. Type of waste collected;

D. Date the waste was collected;

E. Capacity of the facility from which the waste was collected.

(ii) Transporter information (completed by transporter (driver) on-site and prior to transport:

A. Name, address and telephone number of the transporter;

B. Transporter registration number (and establishment number where the waste was collected in Arkansas), and local permit numbers of the permittee;

C. Amount, in gallons, of waste collected;

D. Date and time the waste was transported;

E. Name and signature of responsible person collecting and transporting the waste.

(iii) Disposer information (completed by disposer at time of delivery of waste for disposal):

A. Name, address and telephone number of the disposer;

B. Identification (site registration number, where applicable, location and operator) of the facility receiving the waste for disposal;

C. Date and time the waste was delivered for disposal;

D. Amount, in gallons, of waste received;

E. Results of field analyses; and

F. Name and signature of the facility representative acknowledging receipt of the waste at the disposal facility.

(iv) Where a waste is delivered to a transfer or holding facility for later transfer, a section shall be included on the manifest which contains such information as:

A. Name of the holding or transfer site;

B. Address and telephone number of the transfer or holding site;

C. Site permit or registration number;

D. Date and time the waste was deposited for holding or transfer;

E. Quantity of waste received;

F. Name and signature of the person accepting the waste for holding or transfer; and

G. Other information as may be required by applicable laws and regulations.

b. Manifesting of transported wastes shall be required whether or not the waste is delivered to the POTW treatment works or any other site controlled or owned by the city.

1. For wastes to be delivered to the city POTW, the transported waste manifest books shall be purchased from the control authority.

(i) The books shall consist of five-part tickets, sequentially numbered, which shall be used to document the generation, transportation and disposal of applicable wastes.

(ii) Writing on all copies shall be easily readable.

(iii) The transporter shall ensure the proper distribution of each part of the manifest.

2. A transporter shall not use any manifest issued by the control authority with the control authority's name, address, logo or permit numbers for waste intended for disposal at any other disposal site.

3. Where the transporter does not deliver wastes to the city POTW for transfer or disposal, manifests other than those purchased from the control authority may be employed.

(i) The manifests shall have a minimum of five parts and shall be approved by the control authority prior to use within the territorial and extraterritorial jurisdiction of the city.

(ii) Manifests not purchased from the control authority shall contain all the required information outlined in section 29-51.7(d)(1)a.3. and shall meet all manifesting requirements of the state.

(iii) In no case shall manifests of less than five copies be approved.

c. The first two sections of the manifest shall be completed at the time of collection and before the vehicle is moved from the generator's property. The remainder of the manifest shall be completed at the time of transfer or disposal as appropriate.

1. The manifest shall be completed and signed by the generator at the time of waste collection.

2. The manifest shall be completed and signed by the transporter at the time of waste transport.

3. The manifest shall be completed and signed by the disposer at the time of disposal.

4. Where the waste is transferred to a holding facility for transfer, the appropriate section shall be completed upon transfer.

d. Appropriate copies of the manifests, unless otherwise stated on the approved manifest, shall be distributed as follows:

1. The fourth copy with the generator information and signature (first section) and the transporter information and signature (second section) completed shall be retained by the generator at the time the waste is collected. The remaining four parts shall be retained in the manifest booklet and shall have all required information completed and signed by the appropriate parties prior to further distribution.

2. The original (first part) with all required information and signatures completed shall be retained by the disposer at the time of disposal.

3. The second part with all the required information and signatures completed shall be returned by the transporter to the generator within 15 days after the waste has been disposed.

4. The transporter shall retain the third copy with all the required information and signatures completed in the transporters files.

5. The fifth part shall be delivered to the control authority within 15 days of the end of the calendar month in which the disposal occurred.

6. Where the waste was deposited at a transfer station, additional parts may be required for appropriate records retention and maintenance.

e. Where the transporter does not deliver transported waste to the city POTW, the permittee shall submit a copy of completed manifests for all wastes collected from any facility whose wastewater is directly or indirectly discharged into the POTW treatment plants to the control authority on a monthly basis.

1. These copies shall be a part of the original manifest. Photocopies are not acceptable.
2. These copies shall be submitted to the control authority within 15 days of the end of the calendar month in which the waste was transported, with all the required information completed and legible.

f. All copies of the manifests shall be retained by the respective recipients for a minimum of five years and shall be made available to the control authority, the state and the EPA upon request for inspection and copying. This period shall be automatically extended for the duration of any litigation concerning the generator, the transporter, the disposer, the transfer station operator or owner, or the control authority, or where any involved party has been specifically notified by the control authority or the state or the EPA of a longer retention period.

(2) *Discrepancies in quantity or type of waste.*

a. A facility which receives waste shall note any significant discrepancies on each copy of the manifest.

1. A significant discrepancy is an obvious difference between the quantity or type of waste designated on the manifest and the quantity or type of waste actually received, which can be discovered by inspection or waste analysis.
2. Significant quantity difference shall include variations greater than ten percent in weight or variations greater than 15 percent in gallons.

b. Upon discovering a significant discrepancy, the transporter shall attempt to reconcile the discrepancy with the waste generator or the owner or the operator of the receiving facility.

1. A report describing the results of the attempt to reconcile discrepancies shall be submitted to the control authority within 15 days of the date of delivery of the waste.
2. This subsection shall not relieve the transporter from obligations to report discrepancies to the appropriate state agency.

(3) *Operating logs.*

a. An acceptable daily log of operation shall be maintained by the transporter, in the transporters vehicle, at all times and shall be made available for inspection and copying by the control authority at any reasonable time.

1. An acceptable log shall document activities associated with the operation of the transport vehicle on a per-day basis, shall be hard bound and have sequentially numbered (preprinted) pages.

2. An acceptable log shall include, minimally:
   (i) Legal name of the operator of the vehicle;
   (ii) Date of operation;
   (iii) Results of daily visual inspection of the vehicle prior to use;
   (iv) Specific types of waste transported;
   (v) Addresses of facilities from which waste was collected and amount of waste collected at each site;
   (vi) Amount of waste transported per load to disposal;
   (vii) Number of discharges (disposals) and final disposal site of the waste;
   (viii) Total amount of waste collected;
   (ix) Total amount of waste transported to disposal;
   (x) Documentation of spills, leaks or other inappropriate discharge, actions taken to cleanup and minimize damage, and repairs or alterations made to the vehicle; and
   (xi) Cleaning activities conducted at end of the workday.

(4) *Records retention periods.*

a. The retention period for all records pertaining to the generation, collection, transport and disposal of transported waste shall be not less than five years.

b. Periods of retention shall be automatically extended for the duration of any litigation concerning the transporter or the city or where the user has been specifically notified of a longer retention time by the control authority, the state commission on environmental quality, the Arkansas Department of Environmental Quality (Department of Pollution Control and Ecology) or the United States Environmental Protection Agency.

(e) *Requirements for generators of transported wastes.*

(1) *Use of registered transporters.*

a. A generator shall not allow liquid waste to be collected by any transporter without a valid state transporter registration number (and Arkansas Establishment Number where the waste is collected in Arkansas) and a Class L permit issued by the control authority.

b. Where disposal will be the POTW treatment plant, the transporter shall additionally possess a Class NS, Type T wastewater discharge permit.

c. Where the waste is not collected in and will not be transported into the state, the transporter will not be required to possess a state transporter registration number.

(2) *Removal of waste from generator's property.*

a. A generator shall not allow liquid waste in combination with hazardous waste to be removed from the premises by a transporter operating under any permit authorized by the control authority.

b. A generator shall not allow wastes to be removed from the generators facility without appropriate manifesting of the waste.

(3) *Disposal of transported waste.*

a. The generator shall inquire as to and approve of the disposal site prior to allowing removal of the waste from the generators property and shall ensure the waste will be properly and legally disposed.

b. The generator, along with the transporter, shall be responsible for improperly disposed wastes.

c. The generator, along with the transporter, may be held liable for increased operating costs or damages to the POTW treatment plant resulting from the discharge of the waste.

(4) *Retention of manifests.*

a. The generator shall retain the generators copies of the completed transported waste manifest at the site the waste was generated for a minimum of five years.

b. The generator shall maintain all records pertaining to the disposal of transported waste at the site the waste was generated for a minimum of five years.

c. All records pertaining to the generation, collection, transport or disposal of transported wastes shall be made available to the control authority for inspection and copying upon request.

(f) *Reporting requirements.*

(1) *General reporting requirements.*

a. Any nondomestic users shall provide appropriate reports to the control authority as the control authority may require in order to protect the POTW, to protect property and person and the environment, and to meet regulatory requirements.

b. All reports shall be submitted to the control authority on or before the date specified by the control authority and shall be certified by the authorized representative of the user.

1. Written reports submitted to the control authority shall be deemed submitted on the date postmarked. For reports which are not mailed, postage paid, into a mailing facility serviced by the United States Postal Service, the date of receipt shall govern.

2. All reports, applications and other related data submitted to the control authority under this division shall include a certification statement signed by the facility's authorized representative. The certification statement shall read as follows:

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

3. All reporting requirements outlined in article IV of this chapter shall apply.

(2) *Specific reporting requirements.*

a. Where a transporter is required to submit an annual report to the Texas Commission on Environmental Quality (TCEQ), the transporter shall submit a copy of the annual report submitted to the TCEQ to the control authority at the same time the report is submitted to the state.

b. A transporter not required to submit an annual report to the TCEQ shall submit an annual report to the control authority outlining activities conducted during the previous reporting period of June 1 through May 31 on or before June 15 of each year.

c. The annual report of activities shall include:

1. The amounts and types of wastes collected during the reporting period;
2. The disposition of such wastes;
3. The name and address of each disposal facility; and
4. The amounts and types of waste delivered to each disposal facility.

(Code 1961, § 29-51.7; Ord. No. 63-99, § 1(app. A), 3-22-1999)

Sec. 42-140. Powers and authorities of control authority.

(a) *Inspection of property and records.*

(1) *Access to property and records.*

a. The control authority shall be allowed ready access, without delay, to all parts of the premises of a nondomestic user for the purpose of inspection, sampling, records examination and copying, surveillance and monitoring during any reasonable time in accordance with this Code.

b. The control authority shall be allowed ready access, without delay, to a liquid waste transport vehicle for the purpose of inspection, sampling, records examination and copying and monitoring during any reasonable time in accordance with this Code.

c. Representatives of the United States Environmental Protection Agency and the state commission on environmental quality and the Arkansas Department of Pollution Control and Ecology shall have the same rights of entry and inspection as described for the control authority in subsections (a)(1)a. and b. of this section.

(2) *Authority to order repairs, upgrades, or replacement.*

a. The control authority shall have the authority to order repairs be made to any liquid waste transport vehicle to ensure compliance with this or other ordinance or applicable regulation.

b. The control authority shall have the authority to order repairs, upgrades or replacement be made to any pretreatment device or sampling port, whether fixed on land or contained in or on a mobile unit.

(b) *Enforcement provisions.*

(1) *Suspension or revocation of permits or authority to discharge.*

a. The control authority may suspend or revoke a Class NS, Type T wastewater discharge permit and/or a Class L permit for any of, but not limited to, the following reasons:

1. Use of nonregistered, unlicensed or unsafe vehicles or nonregistered or unlicensed vehicle operators;

2. Mixing of incompatible wastes for the purpose of deception;

3. Dilution of waste for the purpose of deception;

4. Discharge of wastes without a POTW operator present or prior to approval by the operator;

5. Failure to halt a discharge when ordered to by the operator on duty;

6. Failure to maintain the vehicle as required by federal, state or local laws and regulations, including markings, equipment and overall condition, including the ability to discharge at the designated point in a sanitary manner;

7. Discharge of wastes within the city POTW, except at the designated discharge point;

8. Rejection of more than three loads during the life of the transported waste permit;

9. Failure to document final disposal of a rejected load;

10. Providing false or inaccurate information on the source or composition of the waste;
11. Failure to remain current on charges for transported waste delivery;
12. Loss or failure to renew state certifications, registrations or permits;
13. Failure to maintain correct and accurate records as required by this or other applicable ordinances;
14. Failure to maintain the permit as an accurate representation of the operation;
15. Falsification of any related documents;
16. Failure to provide reports or documentation as required; or
17. Improper operation of the transport vehicle which may pose a threat to human health or the environment.

b. The control authority may suspend or revoke a nondomestic user's authorization to discharge into the sanitary sewer for any of, but not limited to, the following reasons:

1. Failure to install, upgrade, repair or maintain a pretreatment device;
2. Causing or contributing to stoppage or other malfunction in the POTW;
3. Failure to maintain correct and accurate records as required by this or other applicable ordinances;
4. Providing false or inaccurate information to the control authority;
5. Falsification of records for the purpose of deception; or
6. Failure to provide reports as required.

(2) *Vehicle impoundment.*

a. The control authority shall be authorized to cause a transported waste vehicle to be impounded which is being operated in violation of this division and may authorize holding of the vehicle until the violation is corrected.

b. The control authority may suspend or revoke the permits for the impounded vehicle. Upon correction of the violation, the control authority may reinstate the permit or require the permittee to submit a new application.

(3) *Public nuisance.*

a. Any nondomestic source who allows grease trap, separator, interceptor or holding tank wastes or sludges or other prohibited wastes to be deposited into the POTW collection system, whether through discharge, improper installation, improper operation or maintenance of a grease trap, separator, interceptor or holding tank, failure to install an adequately-sized grease trap, separator or interceptor, failure

to provide proper containment or other intentional or unintentional action shall be subject to enforcement actions as provided by this or other applicable laws or regulations. Such actions may be declared a public nuisance.

b. Any person who allows grease trap, separator, interceptor or holding tank wastes or sludges or other prohibited wastes to be deposited into a street, gutter, sanitary sewer or onto public or private property, whether through discharge, improper installation, improper operation or maintenance of a grease trap, separator, interceptor or holding tank, failure to install an adequately sized grease trap, separator or interceptor, failure to provide proper containment, or other intentional or unintentional action shall be subject to enforcement actions as provided by this or other applicable laws or regulations. Such actions may be declared a public nuisance.

(4) *Incorporation of enforcement provisions.* Enforcement provisions outlined in section 42-119 are hereby incorporated by reference.

(Code 1961, § 29-51.8; Ord. No. 63-99, § 1(app. A), 3-22-1999)

Secs. 42-141—42-163. Reserved.

ARTICLE IV. EXTENSION OF WATER AND/OR SEWER MAINS

DIVISION 1. GENERALLY

Secs. 42-164—42-194. Reserved.

DIVISION 2. WATER AND/OR SANITARY SEWER SERVICE POLICY

Sec. 42-195. In general.

(a) *Purpose of article; vested right not to be created.* The intent and purpose of this division is to provide an equitable charge whereby water and/or sanitary sewer service can be provided or standard mains can be constructed to serve property not previously served within the boundaries of the city, or its extraterritorial jurisdiction. This service charge shall present a proportionate distribution of the cost of water and sewer main extensions and shall be uniformly enforced against all property, as required, under the terms of this article and shall be due and payable before service is provided. No person shall acquire any vested rights under the terms and provisions of this division.

(b) *Definitions.* The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Applicant means an individual owner of a lot or tract of land, or owners agent, requesting water or sanitary sewer service to said lot or tract of land which is not intended to be subdivided or developed for resale, rent or lease purposes.

Approach main means that portion of a water or sanitary sewer main extension for which the applicant or developer has paid the total construction cost and which will provide service to adjacent properties over which said applicant or developer has no vested interest or control.

Boundary main means that portion of a water or sanitary sewer main extension for which the applicant or developer has paid the total construction cost and which provides services adjacent to the applicant or developer's property, but which can also provide service to the property on the opposite side of the street, alley or easement and over which said applicant or developer has no vested interest or control.

City, as used in this division, means the City of Texarkana, Texas, and/or the city water utilities department.

Developer means the owner, or agent of the owner, developing a lot or tract of land for resale, rent or lease as residence apartments, businesses, commercial or industrial use.

Director means the director of the city water utilities department, or the directors duly authorized representative.

Engineer means a professional engineer licensed and authorized to practice engineering by the state.

Front footage means the length in feet along the property line of a lot or tract of land which abuts a dedicated street, alley, easement or right-of-way on which water and/or sewer service is received, and on which the pro rata charge is based. In the case where any property abuts more than one street, easement, alley or right-of-way, the front footage will be determined by that side from which the property is served.

Master utility plan means the most current master utility plan for water, sanitary sewer or stormwater.

Person. See *Applicant.*

Standard design criteria means the TWU design and construction criteria as revised or amended.

Texarkana Water Utility Department. See *City*.

(c) *Establishing pro rata charge.* There shall be a service charge due on all property to which water and/or sewer mains are extended to serve after the adoption of this article or when service is provided from an existing pro rata main which was constructed between November 5, 1965, and the adoption of this division. This charge shall be called the pro rata charge for water and/or sewer and shall be due and payable before service is provided. The pro rata charge shall represent a portion of the cost of providing water or sewer facilities to serve the property on which the pro rata charge is paid.

(d) *Determining property frontage.* The front foot charge contained herein shall apply to property fronting on utility mains from which service will be provided. In the case where water and/or sewer service will be provided from a main located in an alley, easement or side street adjacent to said property, the pro rata charge shall be determined by the property frontage as outlined in subsection (c) of this section.

(e) *Irregular shaped lots or tracts of land.* Where lots or tracts of land are so situated or shaped that the property frontage rule creates an inequitable basis for the pro rata charge when compared between it and other lots or tracts of land in the city, then in that event, the city water utilities department shall establish the proper charge in accordance with the intent and purpose of this article. This charge shall be based upon equivalent rectangular lots or tracts using one front foot for each 150 square feet of area or the average frontage of other rectangular lots or tracts which have approximately the same total area.

(f) *Rights under previous ordinances.* The rights of persons entitled to refunds under previous ordinances where the installations have actually been made for water and/or sewer mains shall remain unaffected by this division. All rights and remedies which have accrued in favor of the city under this division shall be and are preserved for the benefit of the city.

(g) *Existing mains exempt.* All property platted into lots or tracts and having existing water and/or sewer mains installed either by the city or by a developer prior to the original pro rata ordinance, dated November 5, 1965, shall be exempt from the pro rata charges when water and/or sewer service connections are to be provided from such existing mains. Where such property is later developed or subdivided and a main extension is required or where such property has never taken service and the existing mains are replaced with larger sized pro rata mains, then the terms of this division shall apply.

(h) *Certain projects of the city.* The pro rata charges may either be waived or required for certain water and/or sewer extension projects of the city. When city funds or other resources are used to pay part or all of the cost of such improvements, the provisions of this subsection may apply to any industrial park or other development projects as may be designated by the city council; provided, however, nothing contained herein shall be construed to eliminate or waive any other charges.

(i) *Connection fee for extension of/from existing pro rata main.* When a water and/or sewer main extension is required to serve any property that will require connecting to an existing pro rata main, the person requesting the extension shall pay a nonrefundable pro rata main connection charge. This charge shall be in addition to any other pro rata charges or main extension costs that are required and shall be as follows:

Each time an extension connection is made at any point on the existing pro rata main, a main connection charge per diameter inch of the extension shall be paid to the water utilities department. If applicable, this payment shall be applied to the existing pro rata main refund contract, otherwise, it shall be deposited in the proper pro rata fund. The main connection charge shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(Code 1961, § 29-52; Ord. No. 214-80, § 2, 7-14-1980)

Secs. 42-196—42-213. Reserved.

DIVISION 3. WATER AND/OR SEWER FOR APPLICANTS (INDIVIDUAL OWNERS)

Sec. 42-214. Pro rata charges for water and/or sewer service.

(a) *Within the city limits.* When a person desires water and/or sewer service to property within the city limits that requires an extension from existing facilities or when the service connection will be made to either an existing pro rata main or a main constructed after the adoption of this division, the person desiring such service shall pay a nonrefundable charge hereafter called the pro rata charge.

(1) When the main is adjacent to the property desiring service, the pro rata charge shall be based on the actual total construction cost, including engineering, across the entire front footage of the property desiring service, and no adjustments or deductions shall be made for crossing street intersections, alleys or property already served.

(2) Where the main is not adjacent to the property desiring service, a payment of the water or sewer pro rata charge shall be based on the estimated total construction cost of the required extension, including engineering. This charge shall be adjusted based on the actual construction cost, including engineering, upon completion of the extension. The payment of the pro rata charge shall entitle the person requesting service to acquire an extension of a water or sewer main a distance equal in length to the frontage on which the pro rata charge is paid. If the footage of pipe required for an extension is greater than a distance equivalent to the frontage on which the pro rata charge is paid, the person desiring service shall pay the actual total construction cost, including engineering, for the footage of pipe which is in excess of that distance equal to the persons frontage. The actual total construction cost shall include extending the main across the

entire frontage of the property desiring service, and no adjustments or deductions shall be made for crossing street intersections, alleys or property already served. That portion of the total cost in excess of the frontage of the property desiring service shall be refundable as provided herein for an approach main.

a. When two or more individuals desire water or sewer service, the mains may be extended a distance equivalent to the combined frontage on which the pro rata charges are paid. When such distance is not adequate to provide service to all the requesting parties, the service requests shall be considered individually and the terms provided herein for approach mains shall apply.

b. Pro rata water and/or sewer mains shall be provided only to property adjacent to, or served by, dedicated streets, alleys or utility easements of record which are consistent with the city's comprehensive and master plans. Easements required for pro rata extensions shall be provided by the applicant who shall bear the full cost of acquisition of same. The cost of acquisition of said easements may be included in the pro rata refund contract with the applicant and said cost to be assessed along the front footage.

(b) *Outside the city limits.* All service connections or main extensions outside the city limits shall conform to the policy adopted by the city council for said connections or extensions. In order to initiate a request for water and/or sewer service connections or main extensions outside the city limits, the person desiring service shall submit to the city water utilities department the following:

(1) A check, cash or money order in an amount equal to the pro rata charge due, including the required tapping fee and deposit;

(2) A letter describing:

a. The type of service being requested (water, sewer or both);

b. The location;

c. Owner;

d. Applicant, if different from the owner;

e. The nature of the use for which the service is being requested;

f. The size of service or extension requested, three-fourths-inch or larger for water, four inches or larger for sewer.

Pro rata charges for water and/or sewer service to property outside the city limits that requires an extension from existing facilities or requires a service connection to an existing pro rata main, or a main constructed after the adoption of this division, shall be computed on the same basis as those charges established in subsection (a) of this section.
(Code 1961, § 29-53; Ord. No. 214-80, § 2, 7-14-1980)

Secs. 42-215—42-236. Reserved.

DIVISION 4. WATER AND/OR SEWER SERVICES FOR DEVELOPERS

Sec. 42-237. Main extensions to serve property being subdivided or platted for development.

When extensions of water and sanitary sewer mains are required to serve any property which is being subdivided or platted in accordance with the subdivision regulations of the city, the owners or subdivision developers of such property shall pay the total cost of the water and sewer extensions necessary to completely serve the property. The extensions required to completely serve the property shall conform to the standard design criteria and master utility plan of the city water utility and shall include the requirements for domestic service and fire protection service to the areas through which the lines extend. It shall be mandatory that sewer service wyes and sewer service lines be installed by and at the expense of the owner or subdivision developer on all sewer main extensions. That portion of the extension cost paid by the owners or subdivision developers for approach mains or boundary mains shall be refundable as provided herein for such mains.
(Code 1961, § 29-54; Ord. No. 214-80, § 2, 7-14-1980; Ord. No. 115-98, § 1, 4-27-1998)

Sec. 42-238. Engineering to be furnished by developer.

(a) The developer shall engage the engineer or engineering firm of the developer's choice, and said engineer shall be duly licensed to perform engineering work in the state. The developer's engineer shall prepare and submit to the city water utilities department the following data for preliminary approval:

(1) One copy of a general area map, plat or sketch, showing general location of area to be served in relation to existing roads, streets and known points and further showing the approximate location of all existing water and wastewater facilities within the general area.

(2) Three copies of a recorded plat or map of the subdivision or area to be served, showing all dedicated streets, easements and rights-of-way within and immediately adjoining the area to be served. Said plat or map shall show contour elevations of the area, based on U.S.C. and G.S. datum, in sufficient detail for preliminary study. Said plat or map shall further show the proposed layout of the water and/or sewer improvements to serve the subdivision or area and shall show adequate details for preliminary study, including proposed main size and grade, where required, proposed location of fittings and appurtenances, including fire hydrants, and location or approximate distance and route to any existing water and/or sewer improvements in the general area.

(3) Three copies of a preliminary cost estimate for the total proposed improvements, including engineering.

(4) Three copies of a letter, signed by the developer, requesting preliminary approval and indicating the developers desire to enter into contract for furnishing said improvements.

(b) The water utilities department shall review the preliminary data submitted, confer with the developer and the developers engineer as required and recommend such changes as are required to meet federal, state and local authority standards.

(c) The developer shall deposit with the water utilities department any funds required by contractual arrangements. Said funds shall be deposited in a construction account.

(d) The developer's engineer shall prepare detailed construction plans and specifications for each segment of the proposed improvements and submit three sets of same for review by the water utilities department prior to construction. No construction shall begin prior to the water utilities department's approval, in writing, of construction plans and specifications.

(e) Upon approval of construction plans and specifications, the developer's engineer shall provide all field work supervision and inspection necessary to ensure that construction complies with approved plans and specifications. The water utilities department shall have the right to perform its own inspection as required to ensure that proper construction techniques are being followed without relieving the developer's engineer of any responsibility.

(f) Proper sterilization techniques shall be followed in construction of water lines and, upon completion of construction, a water utilities representative shall be present during the opening of any valves to fill newly constructed lines from any existing mains and a representative of the water utilities department must be present to supervise the filling, flushing and testing of all newly constructed water mains. Upon completion of flushing and testing, a representative of the water utilities department shall collect samples from the newly constructed lines for bacteriological tests. The valves connecting the newly constructed lines to the existing lines shall remain closed, except for supervised filling, flushing, and testing, until such time as the improvements, as constructed, have been certified by the water utilities department as being acceptable for operation and public use.

(g) Immediately following completion of construction and testing of the improvements, the developer's engineer shall prepare and submit one set of certified reproducible as-built detail plans of the completed project together with two copies of certified final cost estimates, including engineering, for the project and a letter from the developer requesting final approval and acceptance of the improvements for maintenance and operation by the water utilities department. A representative of the water utilities department shall accompany the developer, engineer and contractor during final inspection of the improvements.

(h) The developer and the developers engineer will be notified of final acceptance of the improvements by the water utilities department by letter as soon as practicable following receipt of all required, acceptable data. At this time, the newly constructed improvements shall start

the one-year maintenance period whereby the developer and the contractor shall indemnify the city against any repairs which may become necessary to any part of the work performed in the construction of the extensions arising from defective workmanship or materials used therein, for a period of one year from the date of final acceptance of work. An acceptable maintenance bond shall be provided to the city water utilities department to guarantee that all required repairs or work will be properly and expeditiously corrected after notification by the city water utilities that corrective measures are required.
(Code 1961, § 29-55; Ord. No. 214-80, § 2, 7-14-1980)

Sec. 42-239. Contractor to be furnished by developer.

(a) The property owner or developer of a tract of land being developed and served by water and/or sanitary sewer service shall hire a private contractor to install the complete water or sewer facilities, including mains, approach mains, valves, manholes, hydrants, etc., except work which may be done by the city, such as engineering, paving repair, wet connections, etc., all in accordance with the plans approved by and under supervision of the water utilities department. Payment for the work to be done by the city shall be made prior to the starting of any construction.

(b) The developer shall provide the water utilities department a copy of the contract between the developer and the developer's contractor for the construction of the improvements for the developer's development or shall, at the water utilities department's option, receive sealed competitive bids for such work in order to determine the fair value of the system.

(c) The developer's engineer shall submit two copies of all change orders or contract changes to the water utilities department for approval before any changes or modifications are to be performed by the contractor.
(Code 1961, § 29-56; Ord. No. 214-80, § 2, 7-14-1980)

Secs. 42-240—42-256. Reserved.

DIVISION 5. GENERAL AND MISCELLANEOUS PROVISIONS

Sec. 42-257. Cost of over-sized mains.

(a) When the master utility plan of the city requires the extension of a main of a size that is larger than that determined by the water utilities department as being adequate to completely serve the property or subdivision desiring service, the city may pay the cost in excess of that required to construct the standard or adequate-sized mains, when funds are available.

(b) When funds are not available, the owner or developer shall install, at the owner's or developer's own expense, the required over-sized mains and shall be refunded by the city water utilities department that additional expense for the construction of such mains. This refund

shall be made in ten equal annual payments, without interest, with the first payment to be due on June 1 of the city's fiscal year next following approval and acceptance of the construction by the water utilities department.

(c) Over-sized mains are usually defined as being larger than eight inches in diameter unless a larger size is required to serve the property or subdivision in question. Adequate size of such water and sewer mains shall be as determined by the water utilities department.
(Code 1961, § 29-57; Ord. No. 214-80, § 2, 7-14-1980)

Sec. 42-258. Facilities to be property of city.

At the end of the one-year maintenance period after completion of the water and/or sewer facilities by private contractor and acceptance by the water utilities department, or upon completion by the water utilities department, the facilities so constructed shall become and remain the property of the city and shall be maintained as a part of its water and sewer system.
(Code 1961, § 29-58; Ord. No. 214-80, § 2, 7-14-1980)

Sec. 42-259. Location for service connection.

The water utilities department shall approve the location of all water or sewer service connections and said service shall be provided to property only from dedicated streets, alleys or utility easements.
(Code 1961, § 29-59; Ord. No. 214-80, § 2, 7-14-1980)

Sec. 42-260. Approach main or boundary main contract refunds.

(a) When the cost of an approach main or boundary main is greater than the pro rata charge due on the applicant's or developer's property, then that cost above the pro rata charge shall remain refundable until either 100 percent of the lots served by the approach main have paid their pro rata charge or until the expiration of the refund contract, whichever occurs first.

(b) Pro rata contracts, as provided for herein, shall be executed by the applicant or developer and the city manager. The terms of the contract shall be ten years, and the water utilities shall not be liable for refunds of pro rata charges collected after the term of the contract. No interest shall be paid by the water utilities department for any money on which refunds are due.

(c) Refunds of pro rata charges collected for connections to approach or boundary mains shall be made within 30 days after May 1 and November 1 of each year for all refunds collected during the preceding six months. Refunds shall be payable when the pro rata charge payments have been collected for property on which the refund is based.

(d) When an applicant or developer is entitled to a refund as a result of the pro rata charge due on adjacent property which the applicant also owns, the refund may be credited to the pro rata refund contract without any payment or refunds being made, provided proper records and documentation are maintained to indicate such transactions.

(e) When temporary lines or facilities are constructed to expedite the development of a particular area (such as across easement within the subdivision on which no frontage can be connected, or when facilities are constructed which otherwise are not required in the master utility plan of development for the water utilities system), the developer shall bear the total cost without refund.
(Code 1961, § 29-60; Ord. No. 214-80, § 2, 7-14-1980)

Sec. 42-261. Pro rata funds; deposits, charges and refunds.

(a) There shall be a pro rata water fund and a pro rata sewer fund maintained as a part of the city water utilities.

(b) All monies received for water pro rata payments shall be deposited in the water pro rata fund and all monies received for sewer pro rata payments shall be deposited in the sewer pro rata fund.

(c) Payment of the pro rata or total cost of the extensions, as provided herein, shall authorize the director of the water utilities department to extend sewer service to property, and all charges for work done by the water utilities department to extend water service to property on which the water pro rata has been paid shall be charged to the water pro rata fund and all charges for work done by the water utilities department to extend sewer service to property on which the sewer pro rata has been paid shall be charged to the sewer pro rata fund. All refunds due under the provisions herein provided shall be made from the applicable water or sewer pro rata fund.

(d) At the city's option, the TWU department may budget $10,000.00 per year for the pro rata water fund and/or $10,000.00 per year for the pro rata sewer fund until such time that each or both of the funds can become self-sustaining.
(Code 1961, § 29-61; Ord. No. 214-80, § 2, 7-14-1980)

Sec. 42-262. Connection to water and sewer services required; connections with water mains and sanitary sewer mains shall conform to utility construction standards.

When both water and sewer services are available, connection shall be made to both services. When only water or sewer service is available, connection shall be made to the available service. Connections shall be made within six months of notification of availability of the service. All connections with existing water mains and sanitary sewer mains shall be made as directed by the water utilities department.
(Code 1961, § 29-62; Ord. No. 214-80, § 2, 7-14-1980; Ord. No. 285-89, § 1, 11-13-1989; Ord. No. 251-97, § 1, 8-25-1997; Ord. No. 401-99, § 1, 10-25-1999)

Sec. 42-263. Extension into densely populated areas by city at own expense; payment of pro rata charges by property owners.

Where the city council finds that in densely populated areas and in specific locations, due to the absence of water and/or wastewater service, the public welfare would best be served by

making water and/or wastewater main extensions at its own cost, and after due investigation and consideration in order to avoid and eliminate extremely unhealthful conditions which are contributing factors to epidemics, and where money is available for such purposes, it is the express policy of the city council, when expressed by its resolution, to extend water and/or waste mains into these densely populated areas, without a main extension charge payment being required from the property owners; provided, however, that when mains are extended following such resolution, each property owner shall be required to pay the applicable charges established by this division or the board of directors when such property is connected to the water and/or wastewater main.
(Code 1961, § 29-63; Ord. No. 214-80, § 2, 7-14-1980)

Sec. 42-264. Provisions for deferred payments.

(a) This section shall not apply except in cases of extreme hardship as determined by the water utilities department.

(b) When the owner of a lot or other undivided parcel of land, the area of which does not exceed one acre, and such owner has not secured an extension under this provision within the preceding 12-month period, has duly requested in writing and on forms provided by the water utilities department, to make water or sewer extensions abutting the tract of land described in the application, and said tract of land is connected with city water or sewer service or is to be connected with such service upon the completion of the requested extension; the water utilities director is authorized to determine the applicable pro rata charge payment to be made for such extension, and to provide the extension under the following conditions:

(1) When the owner of said parcel of land has paid to the city a minimum initial payment of 15 percent of the total pro rata charge; and

(2) When the owner of said parcel of land shall have executed a contract with the water utilities department creating a valid lien against the parcel of land described in the application to secure payment of the deferred part of the pro rata charge within 36 months, with minimum monthly payment of $10.00 each, the annual unpaid balance to bear nine percent interest, and further providing for accelerated maturity with customary provisions applicable to default in payments and further providing that the water utilities is authorized to discontinue water service to the described parcel of land and any premises thereon located, if for any reason the water service bill or any deferred pro rata charge payment is not paid when due; said contract to contain such other provisions as the city manager may deem expedient and in the public interest. The city manager is further authorized to prescribe and approve the form or application herein provided for, and the form of contract required and such other instruments and requirements as may be deemed necessary or expedient in making the provisions of this section adequately effective.

(Code 1961, § 29-64; Ord. No. 214-80, § 2, 7-14-1980)

Secs. 42-265—42-291. Reserved.

ARTICLE V. ON-SITE SEWAGE FACILITY REGULATION

Sec. 42-292. State regulations—Adopted.

The city, for the purpose of establishing local enforcement of rules and regulations for the design, construction, malfunction, and repair of on-site sewage facilities, hereby adopts Texas Health and Safety Code ch. 366, titled On-Site Sewage Disposal Systems and Administrative Rules 30 TAC 285.1—285.91, titled On-Site Sewage Facilities, as though fully set out herein in their entireties and as they may be amended and/or revised.
(Code 1961, § 29-75; Ord. No. 390-97, § 10(exh. A), 11-24-1997)

Sec. 42-293. Same—Filing and distribution of copies.

The public works department shall maintain an updated copy of Texas Health and Safety Code ch. 366 entitled On-site Sewage Disposal Systems and Administrative Rules 30 TAC 285.1—285.91, titled On-Site Sewage Facilities at all times and shall procure extra copies for distribution at a reasonable fee.
(Code 1961, § 29-76; Ord. No. 390-97, § 10(exh. A), 11-24-1997)

Sec. 42-294. State-registered professional engineer or registered sanitarian required.

All on-site sewage disposal systems shall be designed by a state-registered professional engineer or a registered sanitarian.
(Code 1961, § 29-77; Ord. No. 390-97, § 10(exh. A), 11-24-1997)

Sec. 42-295. Spray or surface irrigation systems prohibited.

Spray or surface irrigation systems are prohibited as a means of on-site sewage disposal.
(Code 1961, § 29-78; Ord. No. 390-97, § 10(exh. A), 11-24-1997)

Sec. 42-296. Permit required for all on-site sewage disposal systems.

A permit is required to construct, alter, repair, extend or operate an on-site sewage disposal system without regard to the size of the tract of land upon which the system is situated. The permit process includes compliance with application, installer notice, and issuance requirements.
(Code 1961, § 29-79; Ord. No. 390-97, § 10(exh. A), 11-24-1997)

Secs. 42-297—42-325. Reserved.

ARTICLE VI. CROSS CONNECTION CONTROL AND PREVENTION

Sec. 42-326. Cross connection standards.

Every identifiable source of contamination or potential contamination from any contaminant which originates from or is located at a residential or commercial establishment, which is connected to any public water supply or which provides water to the public, shall be equipped with the protection required under the provisions of this article.
(Code 1961, § 29-90; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-327. Applicability.

The rules and regulations set forth herein are intended to limit backflow potential at residential, commercial and industrial facilities as well as all wholesale customers and all other connections to the city potable water system whatsoever. Nothing contained herein shall be construed to prevent the control authority from requiring appropriate backflow prevention, including disconnection from service, for any water service that presents a backflow potential where plumbing code requirements are not sufficient in the control authority's opinion to protect the public water supply.
(Code 1961, § 29-91; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-328. Implementation.

It is the intent of this article that city water utilities and the public works department implement and enforce a cross connection control and prevention program to protect the public water supply of the city. In general, following passage of this article, all commercial customers will be surveyed by mail, followed by a visit, where necessary, by one of the two departments to determine the hazard level. A notification will be mailed to commercial customers of the actions necessary for compliance. A hazard level determination will be made and cross connection devices installed as necessary at the expense of the customer on all new commercial construction prior to providing continuous water service. Customer service inspection, backflow device inspections and testing and proper recordkeeping procedures shall be implemented. All implementation and enforcement responsibilities shall be determined and coordinated by the public works and utilities directors.
(Code 1961, § 29-92; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-329. Interpretation.

This article shall be liberally interpreted to achieve the above-stated policy and purposes.
(Code 1961, § 29-93; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-330. Cross connections prohibited.

(a) No installation of potable water supply, piping, or part thereof shall be made in such a manner that allows used, unclean, polluted, or contaminated water, mixtures, gasses, or other substances to enter any portion of such piping by reason of back siphonage, back-pressure or any other cause.

(b) No person shall install any water-operated equipment or mechanism, or use any water treating chemical or substances, if it is found that such equipment, mechanism, chemical or substance may cause pollution or contamination of the public potable water supply. Such equipment or mechanism may be permitted only when equipped with an approved backflow prevention assembly.

(c) No person shall connect to the public potable water system, any mechanisms or systems designed to return used water to the public potable water system through any measures. An exception to this prohibition is that the control authority may approve installation of mechanisms or systems designed to return used water to the public potable water system, provided such systems have received the approval of TCEQ or the United States Environmental Protection Agency.

(d) No person shall connect to the public potable water system an auxiliary water system without the approval of TCEQ and the control authority.
(Code 1961, § 29-94; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-331. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article. If a word or term used in this article is not contained in the following list, its definition, shall have the meanings or definitions listed in the most recent adopted edition of the Standard Plumbing Code and/or the Manual of Cross Connection Control published by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California. The following definitions shall apply to this article:

Air gap means a physical separation between the free-flowing discharge end of a potable water supply piping and/or appurtenance and an open or nonpressure receiving vessel, plumbing fixture or other device. An approved air-gap separation shall be at least twice the diameter of the supply pipe measured vertically above the overflow rim of the vessel, plumbing fixture or other device but in no case less than one inch.

Atmospheric vacuum breaker backflow prevention device or *atmospheric vacuum breaker* or *AVB* means a device consisting of a float check, a check seat and an air inlet port. A shutoff valve immediately upstream may be an integral part of the assembly. The AVB is designed to

allow air to enter the downstream water lie to prevent back siphonage. This unit may never be subjected to a back pressure condition or have a downstream shutoff valve, or be installed where it will be in continuous operation for more than 12 hours.

Auxiliary supply means any water supply on or available to the premises other than the city's approved public water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural sources, such as, but not limited to, a well, spring, river, stream, used waters or industrial fluids. These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

AWWA means American Waterworks Association.

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of a potable water supply from any source.

Backflow prevention assembly or *assembly* means a device or means to prevent backflow into the potable water system, including reduced pressure backflow assemblies, double-check valve assemblies, atmospheric vacuum breakers, pressure vacuum breaker assemblies or air gap.

Backpressure means a pressure higher than the supply pressure, caused by a pump, elevated tank, boiler, air/stream pressure or any other source to exist at a site in the water system.

Backsiphonage means a form of backflow due to a reduction in system pressure which causes a negative or sub-atmospheric pressure to exist at a site in the water system.

City or *the city* means the City of Texarkana, Texas, or its authorized representative, which, for the purposes of implementation and enforcement of the backflow prevention program, shall normally mean representatives of the public works department or the city water utilities.

Commercial establishment means property or location which is used primarily for manufacture, production, storage, wholesaling or retailing of goods or services which are or may be placed in the flow or commerce or any property or location which is used primarily for the provision of any service; any user classified as a commercial water customer.

Contaminants mean any foreign material, solid or liquid, not common to the potable water supply which would make the water unfit or undesirable for human or animal consumption by posing a health threat.

Contamination means an impairment of the quality of the public potable water supply or a private potable water supply by the introduction or admission of any foreign substance that degrades the quality and which creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids, or waste.

Control authority means the city; normally, for the purposes of the backflow prevention program, the executive director of the city water utilities, the public works director, or their

designated representative who is vested with the authority and responsibility for the implementation of an effective cross connection control program and/or for the enforcement of the provisions of this article.

Cross connection means any actual or potential connection or structural arrangement between a public or private water system through which it is possible to introduce any used water, industrial fluids, gas or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removal sections, swivel or changeover devices and other temporary or permanent devices through which or because of which backflow can or may occur.

Cross connection control device means any approved device placed upon any connection, physical or otherwise, between a potable water supply system and any plumbing fixture or any tank, receptacle, equipment or device, which is designed to prevent nonpotable, used, unclean, polluted and contaminated water or other substances, from entering into any part of such potable water system under any condition or set of conditions.

Cross connection survey means a detailed inspection of a location and disposition of the water lines, including, without limitation, establishing water lines on the premises, the existence of cross connections, the availability of auxiliary or used water supplies, the use of or availability of pollutants, contaminants and other liquid, solid or gaseous substances which may be used industrially for stabilization of water supplies and such other processes necessary to determine the degree of hazard.

Customer service inspections mean an inspection by the city or other individual authorized by this article designed to inspect and detect any actual or potential cross connection hazards and/or potential exceedences of the lead action level in solder or flux, pipes or pipe fittings.

Customer's potable water system means that portion of the privately owned potable water system lying between the point of delivery and the point of use. This system will include all pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey, store or utilize the potable water.

Degree of hazard means the low, medium or high hazard classification that shall be attached to all actual or potential cross connections. The degree of hazard increases with both the probability that backflow will occur and the toxicity or virulence of the substance that may backflow.

High hazard means that level of potential hazard at any facility where the substance which could backflow is hazardous to human health; any actual or potential hazard involving any contaminant or substance that could, if introduced into the potable water supply, cause death, illness, spread disease or have a high probability of causing such effect.

Low hazard means that level of potential hazard at any facility where the substance which could backflow is objectionable, but does not pose an unreasonable risk to health, and there is no reasonable possibility of backpressure in the downstream piping system.

Medium hazard means that level of potential hazard at any facility where the substance which could backflow is objectionable, but does not pose an unreasonable risk to health; any actual or potential hazard involving any pollutant or substance that generally could not be a health hazard, but would constitute a nuisance, or be aesthetically objectionable if introduced into the potable water supply.

Double check detector backflow prevention assembly or *double check detector of DCDA* means an assembly composed of a line-sized approved double check assembly with a bypass containing a specific water meter and an approved double check valve assembly.

Double check valve backflow prevention assembly or *double check* or *DC* means an assembly which consists of two independently acting, approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks.

Fireline tester means an individual properly and currently accredited by TCEQ to test and repair backflow prevention assemblies on firelines only and is employed by an approved fireline contractor and has registered with the control authority.

General tester means an individual properly and currently accredited by TCEQ to test and repair backflow prevention assemblies on any domestic, commercial, industrial or irrigation service, except firelines, and has registered with the control authority.

Licensed installer means an individual who:

(1) Actually connects an irrigation system to a private, public raw or potable water supply; and

(2) Has prequalified and is licensed with TCEQ in accordance with ch. 34 of the Texas Water Code.

Licensed irrigator means an individual who:

(1) Sells, designs, consults, installs, maintains, alters, connects, repairs or services an irrigation system; and

(2) Has prequalified and licensed with TCEQ in accordance with ch. 34 of the Texas Water Code.

Mobile unit means any operation which may have the potential to introduce contaminants into a potable water system from a mobile source. These include, but are not limited to, carpet-cleaning vehicles, water-hauling vehicles, street-cleaning vehicles, liquid waste vehicles, power-wash operations and pest control vehicles.

Nonpotable water means water that does not comply with the TCEQ's rules and regulations governing drinking water.

Nonresidential use means water used by any person other than a residential customer of the water supply and includes all uses not specifically designated as residential by the city water utilities.

Point-of-use isolation means the appropriate backflow prevention within the consumer's water system at the point at which the actual or potential cross connection exists.

Pollutant means any substance that causes or could cause an impairment of the quality of the public potable water supply to a degree which does not create a hazard to the public health, but does adversely and unreasonably affect the aesthetic qualities of such potable waters for domestic use.

Potable water supply means any water supply intended or used for human consumption or other domestic use.

Premises means any piece of property to which water is provided, including all improvements, mobile structures and structures located on it.

Premises isolation means the appropriate backflow prevention at the service connection between the public water system and the water user.

Pressure vacuum breaker backflow prevention assembly or *pressure vacuum breaker* or *PVB* means an assembly which provides protection against backsiphonage, but does not provide adequate protection against backpressure backflow. The assembly is a combination of a single-check valve with an AVB and can be used with downstream resilient seated shutoff valves. In addition, the assembly has suction and discharge gate valves and resilient seated test cocks which allows the full testing of the assembly.

Public water system or supply means any publicly or privately owned water system which supplies water for public domestic use. The system will include all services, reservoirs, facilities and any equipment used in the process of producing, treating, storing or conveying water for public consumption.

Reduced pressure principle backflow prevention assembly or *reduced pressure principle assembly* or *RP assembly* or *RPZ* means an assembly containing two independently acting approved check valves together with a hydraulically operated, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The assembly shall include properly located resilient seated test cocks and a tightly closing resilient seated shutoff valve at the end of the assembly.

Reduced pressure principle detector backflow prevention assembly or *reduced pressure detector* or *RPDA* means an assembly composed of a line-sized approved reduced pressure principle

assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter shall register accurately for very low rates of flow.

Service connection means the point of delivery at which the city loses control of the water; the discharge side of the water meter.

Spill-resistant pressure vacuum breaker or *SVB* means an assembly containing an independently operating, internally loaded check valve and independently operating, loaded air inlet valve located on the discharge side of the check valve. This assembly is to be equipped with a properly located resilient seated test cock and tightly closing resilient seated shutoff valves attached at each end of the assembly.

TCEQ means the Texas Commission on Environmental Quality.

Used water means water supplied by a public water system to a water user's system after it has passed through the service connection.

User means any person or customer whether a property owner, renter or water purveyor where property or water system is connected to the public water supply.

Water purveyor means the utility, private owner, political subdivision or operator of a potable water system supplying at least 15 service connections or servicing at least 25 individuals at least 60 days out of the year.
(Code 1961, § 29-95; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-332. Air gap separation.

Air gaps provide maximum protection from backflow hazards and are the preferable method of backflow prevention at all locations where high hazardous substances are at risk of entering the potable water system. Air may be used in lieu of other backflow prevention assemblies where appropriate design and installation is possible.

(1) An air gap separation shall be at least twice the diameter of the supply pipeline measured vertically above the top rim of the receiving vessel and in no case less than one inch. If splashing is a problem, tubular screens may be attached or the supply line may be cut at a 45-degree angle. The air gap distance is measured from the bottom of the angle. Hoses are not allowed.

(2) Air gap separations shall not be altered in any way without prior approval from the control authority and must be available for inspection at all reasonable times.

(3) Side walls, ribs or similar obstructions do not affect air gaps when spaced from the inside edge of the spout opening a distance greater than three times the diameter of the effective opening for a single, or distance greater than four times the effective opening for two intersecting walls.

(Code 1961, § 29-96; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-333. General intent and requirements.

(a) It is the primary responsibility of the city through its water department known as the TWU to evaluate the hazards inherent in supplying a consumer's water system, i.e., determine whether solid, liquid or gaseous pollutants or contaminants are, or may be, handled on the consumer's premises in such manner as to possibly permit contamination of the public water system. When a hazard or potential hazard to the public water system is found on the consumer's premises, the consumer shall be required to provide premises isolation by installation of an approved backflow prevention device at each public water service connection to the premises in accordance with this article's requirements or where appropriate and approved by the control authority by point of use isolation by installation of an approved backflow prevention device. The type of device shall depend on the degree of hazard involved. The type of protective device required shall depend on the degree of hazard as described in AWWA Manual M-14, or its latest revisions. Where more than one type of protection is possible, the actual method utilized shall be at the discretion of the city after physical inspection of the hazard. General criteria for evaluation are as follows:

(1) All commercial and industrial facilities classified as high hazard shall be separated from the public water system by an RPZ backflow preventer or air gap approved by the cross connection control program. The RPZ device or air gap may be located on the service line side of the meter or, if approved by the control authority, within the plumbing system. If the control authority allows the RPZ device or air gap to be located within the plumbing system, annual inspections (surveys) are required to ensure that additional high hazard fixtures have not been installed within the plumbing system, upstream of the backflow prevention device. ;

Note—Special consideration may be given when retrofitting existing facilities when the installation of an RPZ would result in residual pressures less than 15 psi. All devices must meet the requirements specified in the plumbing code.

(2) All commercial and industrial facilities classified as medium hazard shall be separated from the water system by a double-check valve assembly approved by the cross connection control program, installed as specified above, and shall be inspected (surveyed) every three years, to ensure that no high hazard fixtures have been installed within the plumbing system.

(3) All commercial and industrial facilities classified as low hazard shall be inspected (surveyed) every five years, to ensure that no medium hazard or high hazard fixtures have been installed within the plumbing system. If such devices are found, the facility shall be reclassified to medium hazard or high hazard, as appropriate.

(4) For new or expanded fire protection systems, fire protection lines shall be separated from the public water system by a double-check assembly, unless the system utilizes

antifreeze or other chemicals within the fire protection lines. In such cases, an RPZ backflow preventer or air gap approved by the cross connection control program is required. ;

Note—Special consideration may be given when retrofitting existing facilities when the installation of an RPZ would result in residual pressures less than that necessary to meet fire protection standards.

(b) Circumstances requiring appropriate backflow prevention assemblies include, but are not limited to, the following:

(1) The nature and extent of any activity on the premises, or the material used in connection with any activity of the premises, or materials stored on the premises, could contaminate or pollute the potable water supply.

(2) Premises having any one or more cross connections and the cross connection is protected by an atmospheric vacuum breaker device (AVB).

(3) Internal cross connections are present that are not correctable.

(4) Intricate plumbing arrangements that are present which make it impractical to ascertain whether cross connection exist.

(5) There is unduly restricted entry so that inspections for cross connections cannot be made with sufficient frequency to ensure that cross connections do not exist.

(6) Installation of an approved backflow prevention assembly is deemed to be necessary to accomplish the purpose of these regulations in the judgment of the control authority.

(7) An appropriate cross connection survey report form has not been appropriately filed with the control authority.

(8) A fire suppression system that is connected to the public water supply system.

(9) All new construction if deemed necessary after evaluation by the control authority. The type of assembly required will be determined by the degree of hazard.

(10) When a building is constructed on commercial premises, and the end use of such building is not determined or could change, a reduced pressure principle backflow prevention assembly may be required at the service connection that supplies water for public domestic use.

(11) Any used water return system.

(12) In the event a point-of-use assembly has not had the testing or repair done as required by this article, a premises isolation assembly may be required.

(13) If it is determined that additions or alterations have been made to the plumbing system without obtaining proper permits, premises isolation may be required.

(14) All multistory buildings or any buildings with a booster pump or elevated storage tank.

(15) Retrofitting will be required on all high hazard connections and wherever else the control authority deems necessary to retrofit.

(16) An auxiliary water supply is or has the potential to be connected to the public water supply.

(17) Any premises where there is water or a substance that would be objectionable but not hazardous to health, if introduced into the public water supply.

(18) Any premises where there is any material dangerous to health which may be handled in such a fashion as to create an actual or potential hazard to the public water supply.

(c) The following is a partial list of facilities which may require reduced-pressure-principle RPZ backflow preventers at the service connection. Requirements are based upon the degree of hazard afforded the public water system.

(1) Automatic car washes;

(2) Auxiliary water systems;

(3) Exterminators;

(4) Facilities with commercial boilers or chilled water systems;

(5) Fire systems;

(6) Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes and clinics;

(7) Irrigation systems;

(8) Laboratories (industrial, commercial, medical and school);

(9) Laundries;

(10) Radiator shops;

(11) Restricted, classified or other closed facilities;

(12) Sand and gravel plants;

(13) Wastewater treatment plants, pump stations and stormwater pumping facilities;

(14) Waterfront homes, facilities and industries;

(15) Swimming pools;

(16) Others, as found with high hazards;

(17) Any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-facility cross connection survey; and

(18) Any premises with actual or potential connection to an auxiliary supply.

(d) The following is a partial list of facilities which may require double-check valve assemblies:

(1) Apartments;

(2) Beauty parlors and barbershops;

(3) Doctors and dental offices;

(4) Greenhouses and nurseries;

(5) Hotels and motels;

(6) Laundry and cleaners;

(7) Restaurants and food handlers; and

(8) Service stations.

(Code 1961, § 29-97; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-334. Customer service inspections.

Pursuant to 30 Tex. Admin. Code § 290.46, the control authority shall implement customer service inspections:

(1) A customer service inspection with written certification shall be completed prior to providing continuous water service in each of the following circumstances:

a. Water service to any newly constructed structure or location;

b. Water service to any existing structure or location not previously receiving water service;

c. Any material improvement, correction or addition to a structure's private plumbing facilities;

d. Any existing structure or water service where the control authority has reason to believe that cross connection or other unacceptable plumbing practices exist.

(2) A customer service inspection is not required on:

a. Existing services unless subsection (1)d. of this section applies;

b. Temporary or construction connections;

c. Transfer of service;

d. Mobile homes entering mobile home parks.

(3) Customer service inspections shall be on a form and contain information specified by the control authority.

(4) Customer service inspection shall at a minimum document through written certification the following:

a. No direct connection between the public drinking water supply and a potential source of contamination exist. Potential sources of contamination are isolated from the public water system by an air-gap or an appropriate backflow prevention assembly, in accordance with state plumbing regulations. Additionally, all pressure relief valves and thermal expansion devices are in compliance with state plumbing codes.

b. No cross connection between the public drinking water supply and a private water system or well exists. Where an actual air gap is not maintained between the public water supply and a private water supply, an approved reduced pressure-zone backflow prevention assembly is properly installed. A service agreement shall be maintained according to the utility's rules for annual inspection and testing by a certified backflow prevention device tester.

c. No connection exists which would allow the return of water used for condensing, cooling, or industrial processes back to the public water supply.

d. No pipe or pipe fittings which contains more than eight percent lead exists in the private plumbing facilities installed on or after July 1, 1988.

e. No solder or flux which contains more than two-tenths percent lead exists in the private plumbing facilities installed on or after July 1, 1988.

(5) Customer service inspections may be performed by:

a. Plumbing inspectors licensed by the state board of plumbing examiners;

b. Water supply protection specialists who are licensed by the state board of plumbing examiners;

c. Certified water operators who complete an approved training course and pass an examination;

d. Licensed plumbers, at the discretion of the control authority, may perform customer service inspections on single-family residential units.

(Code 1961, § 29-98; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-335. Installation guidelines and requirements for backflow prevention assemblies.

(a) *General.* To ensure proper operation and accessibility of all backflow prevention assemblies, installation shall be performed by a licensed plumber with a repair certification and the following guideline requirements shall apply to the installation of these assemblies.

(1) Backflow prevention assemblies shall be installed in accordance with the current plumbing code and these regulations. The licensed installer must obtain the required plumbing permits and have the installation inspected by a representative of the control authority.

(2) At those facilities where the control authority requires a backflow prevention assembly be installed at the point of delivery of the water supply, such installation of the assembly must be before any branch in the line and on private property located just inside the boundary between the city right-of-way and the landowner's property. The control authority may specify other areas for installation of the assembly. Assemblies that must be installed or are located in city rights-of-way are the responsibilities of the business or entity that the water line is serving and such installation shall be at the sole discretion of the control authority.

(3) The assembly must be protected from freezing and other severe weather conditions.

(4) All backflow prevention assemblies shall be of a type and model approved by the control authority.

(5) All vertical installations of backflow assemblies must have prior approval by the control authority.

(6) Assemblies that are larger than four inches and installed more than five feet above floor level must have a suitable platform for use by testing or maintenance personnel.

(7) Bypass lines are prohibited. Pipe fittings which could be used for connecting a bypass line shall not be installed.

(8) Premises where an uninterrupted water supply is critical should be provided with two assemblies installed in parallel. They should be sized in such a manner that either assembly will provide the maximum flow required.

(9) Lines should be thoroughly flushed prior to installation. A strainer with blowout tapping may be required ahead of the assembly.

(10) All facilities that require continuous, uninterrupted water service and are required to have a backflow assembly must make provisions for the parallel installation of assemblies of the same type so that testing, repair and maintenance can be performed.

(11) The property owner assumes all responsibilities for any damages resulting from installation, operation and/or maintenance of a backflow assembly. The owner shall be responsible for keeping all backflow prevention assembly enclosures reasonably free of silt and debris.

(12) Upon completion of installation, the control authority shall be notified and all assemblies must be inspected and tested. Testing of new assemblies shall be within ten days of installation. All assemblies must be registered with the control authority and shall provide the date of installation, manufacturer, model, type, size, serial number of the backflow assembly, initial test report.

(b) *Reduced pressure principle backflow prevention assemblies (RPPs or RPS'S or RPZs).* Reduced pressure principle backflow prevention assemblies may be utilized at premises where a substance is handled that would be hazardous to health if introduced into the potable water system. The RPZ is normally used in locations where an air gap is impractical. The RPZ is effective against both backsiphonage and backpressure.

(1) RPZs must be sized to provide an adequate supply of water and pressure for the premises being served. Flow characteristics are not standard. Consult manufacturer's specifications for specific performance data.

(2) The assembly must be readily accessible for testing and maintenance and must be located in an area where water damage to the building would not occur from relief valve discharge. The property owner assumes all responsibility for any damage caused by water discharge from an RPZ assembly. An approved air gap shall be located at the relief valve orifice of RPZ assemblies.

(3) No part of a reduced pressure principle backflow prevention assembly shall be submerged in water or installed in a location subject to flooding. RPZs are typically installed above grade in well drained areas, and shall not be buried or installed in pits or vaults without the express written permission of the control authority. When such devices are installed in vaults or pits which extend below grade level, relief vent openings must terminate in a downward direction at a point not less than 12 inches above grade. An opening shall be provided in the vault or pit wall at one-half the distance between the relief vent opening terminus and bottom of the pit. This opening must drain by gravity to atmosphere and be screened or otherwise protected against the entrance of vector or vermin to the vault or pit. These openings must be at least four in number, each being 2½ times the diameter of the supply piping.

(4) Enclosures shall be designed for ready access and sized to allow for the minimum clearances established below. Removable protective enclosures are typically installed on the smaller assemblies. Daylight drain ports must be provided to accommodate full pressure discharge from the assembly.

(5) Assemblies two inches and smaller shall have at least six-inch clearance on both sides and on top of the assembly, and 12 inches below and behind the assembly. All assemblies larger than two inches shall have a minimum of 12 inches on the back side, 24 inches on the test cock side, and the relief valve opening shall be at least 12 inches plus nominal size of assembly above the floor or highest possible water level. Headroom of six feet zero inches is required in vaults without a fully removable top. A minimum access opening of 36 inches is required on all vault lids.

(6) All RPZ assemblies must be tested in accordance with this article, but in no case less than annually. Tests are the responsibility of the assembly owner. The owner must notify the control authority upon installation of any backflow prevention assembly. The owner shall supply the control authority with copies of all testing results.

(c) *Reduced pressure principle detector backflow prevention assemblies (RPDA* or *RPZDA).* Reduced pressure principle detector backflow prevention assemblies may be utilized in all installations requiring a reduced pressure principle backflow prevention assembly and detector metering.

(1) RPZDAs shall comply with the installation requirements applicable for reduced pressure principle backflow assemblies (RPZ).

(2) The line-sized RPZ assembly and the detector RPZ assembly must each be tested. A separate test report for each assembly must be completed by a certified testing technician.

(d) *Double check valve backflow prevention assemblies (DC).* Double-check valve backflow prevention assemblies may be utilized at premises where a substance is handled that would be objectionable but not hazardous to health if introduced into the potable water system.

(1) DCs must be sized to provide an adequate supply of water and pressure for being served. Consult manufacturer's specifications for specific performance data.

(2) Premises where an uninterrupted water supply is critical should be provided with two assemblies installed in parallel. Assemblies should be sized in such a manner that either assembly will provide the minimum water requirements while the two together will provide the maximum flow required.

(3) The assembly shall be readily accessible with adequate room for testing and maintenance. DCs may be installed below grade, providing all test cocks are fitted with brass pipe plugs. All vaults shall be well drained, constructed of suitable materials, and sized to allow for the minimum clearances established below.

(4) Assemblies two inches and smaller shall have at least six-inch clearance on both sides and on top of the assembly, and, if located in a vault, the bottom of the assembly shall be not more than 24 inches below grade. All assemblies larger than two inches shall have a minimum clearance of 12 inches on the back side, 24 inches on the test cock side, and 12 inches below the assembly. Headroom of six feet zero inches is required in vaults without a fully removable top. A minimum access opening of 36 inches is required on all vault lids. "Y" pattern double-check valve assemblies shall be installed so that the checks are horizontal and the test cocks face upward. These clearance standards apply to all assemblies installed in vaults, enclosures, and meter boxes.

(5) Vertical installations of DCs are allowed only on sizes up to and including four inches that meet the following requirements:

a. Internally spring-loaded check valves;

b. Flow is upward through assembly;

c. Manufacturer states their assembly can be used in a vertical position;

d. Approved by director.

(6) All DCs must be tested in accordance with this article. Tests are the responsibility of the assembly owner. The owner must notify the control authority upon installation of any backflow prevention assembly.

(7) Variances from these specifications will be evaluated on a case-by-case basis. Any deviations must have prior written approval by the control authority.

(e) *Double-check detector backflow prevention assemblies (DCDA).* Double-check detector backflow prevention assemblies may be utilized in all installations requiring a double-check valve assembly and detector metering.

(1) DCDAs shall comply with the installation requirements applicable for double-check valve assemblies (DC).

(2) The line-size DC assembly and the bypass DC assembly must each be tested. A separate test report for each assembly must be completed by the certified tester.

(f) *Pressure vacuum breaker backflow prevention assemblies (PVB).* Pressure vacuum breaker may be utilized at point-of-use protection only and where a substance is handled that would be objectionable but not hazardous to health if introduced into the potable water system. PVBs protect against backsiphonage only and shall not be installed where there is potential for backpressure.

(1) Assembly shall be installed a minimum of 12 inches above highest downstream piping.

(2) PVBs shall not be installed in an area subject to flooding or where damage would occur from water discharge.

(3) The assembly shall be readily accessible for testing and maintenance, with a minimum clearance of 12 inches all around the assembly.

(4) All PVBs must be tested in compliance with this article. Tests are the responsibility of the assembly owner. The owner must notify the control authority of the installation of any backflow prevention assembly.

(5) Variances from these specifications will be evaluated on a case-by-case basis. Any deviations must have prior written approval of the control authority.

(g) *Spill resistance pressure vacuum breaker backflow prevention assemblies (SVB).* Spill resistance pressure vacuum breaker backflow prevention assemblies may be utilized in all installations requiring a pressure vacuum breaker. SVBs shall comply with the installation requirements applicable for pressure vacuum breaker backflow prevention assemblies.
(Code 1961, § 29-99; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-336. Customer responsibility.

(a) *Ownership.* The customer shall purchase, own, repair, maintain and have properly tested all backflow prevention devices installed at the point of delivery to the user's water system or those within the user's water system in accordance with this article and applicable state regulations.

(b) *Installation and costs.* Customers of the public water supply system requiring backflow prevention devices shall pay all costs associated with installation of the appropriate size and type of device through private transactions. New installation shall be completed prior to the final plumbing inspection so that the device can be included as part of the inspection.

(c) *Testing and maintenance.* The user will be responsible for the annual testing as well as any maintenance and/or repair of the backflow prevention assembly by contract with a general tester. The consumer will annually furnish the control authority with a certificate of such satisfactory testing by the anniversary date of the installation of the assembly.

(1) All testing and repair shall be performed by properly certified individuals. The user shall furnish to the control authority, along with the annual testing information, a copy of any information or data related to other testing, repairs, replacement, or maintenance or other work of any type on the backflow prevention assemblies. The user shall keep a copy of all records related to backflow prevention assemblies on the premises for a period of not less than three years.

(2) In instances where the control authority deems the hazard to be great enough, testing may be required at more frequent intervals, costs of which would be borne by the user. Any maintenance fees required as a result of inspections or testing shall be paid by the user. Records of inspections, testing or repairs shall be kept by the control authority and made available to the TNRCC as appropriate.

(d) *Thermal expansion.* It is the sole responsibility of any user who owns or controls property to eliminate the possibility of thermal expansion, if a closed system has been created by the installation of a backflow assembly.

(e) *Pressure loss.* It is the sole responsibility of any user who owns or controls property to have an appropriately sized and installed assembly that will not cause an unacceptable reduction in water pressure.

(f) *Rental properties.* Any person who owns or controls rental property is responsible for the installation, testing and repair of any necessary backflow prevention assemblies on that property.
(Code 1961, § 29-100; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-337. Right-of-way encroachment.

No person shall install or maintain a backflow prevention assembly upon or within any city right-of-way except as provided in this section.

(1) A backflow prevention assembly may be located upon or within any city right-of-way only if the owner proves to the control authority that there is no other feasible location for installing the assembly, and installing it in the right-of-way will not interfere with traffic or utilities. The control authority retains the right to approve the location, height, depth, enclosure, and other requisites of the assembly prior to its installation. All decisions as to the final location of a backflow assembly shall be with the control authority.

(2) All permits and inspections required by this Code to perform work in the right-of-way shall be obtained.

(3) The assembly shall be installed below or flush with the surrounding grade except when it is not practicable to install it in this manner. Any assembly, or portion of an assembly, which extends aboveground shall be located no closer than 18 inches to the face of the curb.

(4) The city shall not be liable for any damage done to, or caused by, an assembly installed in a right-of-way.

(5) A property owner shall, at the request of the city and at the owner's expense, relocate a backflow prevention assembly which encroaches upon any city right-of-way when such relocation is necessary for street or utility construction or repairs for purposes of public safety.

(6) A person commits an offense if the person fails to relocate a backflow prevention assembly located in or upon any city right-of-way after receiving a written order from the control authority.

(Code 1961, § 29-101; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-338. Multiple connections.

Any premises requiring multiple service connections for adequacy of supply and/or fire protection shall be required to install a backflow assembly on each of the additional service lines to the premises. The type of assembly will be determined by the degree of hazard that could occur in the event of an interconnect between any of the buildings on the premises.

(Code 1961, § 29-102; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-339. Fire suppression systems.

(a) All new installations of fire suppression systems which utilize the city's potable water supply shall have installed an approved backflow prevention device according to the degree of hazard.

(b) An approved double-check detector backflow prevention assembly (DCDA) or reduced pressure detector assemblies (RPZDA) shall be the minimum protection for fire sprinkler systems using piping material that is not approved for potable water use and/or that does not provide for periodic flow-through during each 24-hour period, unless a variance has been issued in writing from the control authority. An RPZDA must be installed if any solution other than the potable water can be introduced into the system.

(1) It is the responsibility of all property owners and persons in charge of any premises to abide by the conditions of this article. In the event of any changes to the plumbing system, it is the responsibility of the property owners to notify the control authority. All costs associated with this article and the purchase, installation, testing and repair of a DCDA or RPZDA devices is the responsibility of the property owner and persons in charge of any premises.

(2) Upon the approved installation of the DCDA or RPZDA device, a cross connection test report completed by a licensed fireline tester must be sent to the attention of the control authority or the control authorities representative and include the information required by this article.

(Code 1961, § 29-103; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-340. Fire hydrant protection.

An approved double-check device backflow prevention assembly (DCD) or reduced pressure detector assemblies (RPZDA) shall be the minimum protection for fire hydrant water meters which are being used for a temporary water supply during any construction or other uses which would pose a potential hazard to the public water supply. A RPZDA must be installed if any solution other than the potable water can be introduced into the system.

(1) It is the responsibility of all persons engaging in the use and rental of a fire hydrant water meter to abide by the conditions of this article. All fire hydrant water meter rentals shall meet the current requirements as provided for by the utility customer service division and the utility water distribution division.

(2) Only fire hydrant water meters with approved backflow prevention assemblies are allowed to be used on fire hydrants in the city public water supply system. All fire hydrant meters shall be obtained from the city water utilities unless specific written variance is granted.

(3) A deposit is required to ensure the return of all water meter and backflow assemblies to the utility customer service division. Failure to return the assemblies can result in forfeiture of deposit and/or enforcement action being taken against the responsible party, as allowed for in section 42-350(f).

(4) Nonapproved fire hydrant meters which are found to be in use in the city system will be confiscated and enforcement action taken against the responsible party, as allowed for in the enforcement section of this article.

(5) It shall be a violation of this article for anyone other than employees of the city water utility or the city fire department to open, tamper with or use water from any fire hydrant without the express written permission of the city water utilities.

(Code 1961, § 29-104; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-341. Mobile units.

The connection of a mobile unit to any potable water system is prohibited unless such connection is protected by an air gap or an approved backflow prevention assembly. Prior approval and annual device testing of any backflow prevention assembly must be received from the control authority before connecting to any potable water system.

(Code 1961, § 29-105; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-342. Lawn sprinklers and irrigation piping systems.

(a) Lawn sprinkler systems and irrigation piping systems, whether residential or commercial, shall be equipped with an approved backflow preventer to protect against contamination of the potable water system by a reduced pressure zone backflow preventer. Where combination control valves and backflow preventers are installed the bottom of the valve shall constitute the bottom of the backflow preventer.

(b) New sprinkler or irrigation systems must have an approved reduced pressure principal assembly before the first outlet.

(c) Existing double-check and atmospheric or pressure vacuum breakers on lawn sprinkler installations shall meet the standards by which they were installed. However, they must be replaced with reduced pressure principal assemblies when in need of any repair or change requiring a plumbing permit.

(Code 1961, § 29-106; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-343. Temporary water service.

Temporary or construction water service connections which pose, in the opinion of the control authority, a potential cross connection threat to the public water supply shall be protected by an approved backflow prevention assembly.

(Code 1961, § 29-107; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-344. Right of access.

(a) For the purpose of making any inspections or discharging the duties imposed by this article, the control authority shall have the right to enter upon the premises of any user. Each user, as a condition of the continued delivery to the user's premises of water from the public water supply, shall be considered as having stated the users consent to the entry upon the user's premises of the control authority or the TCEQ for the purpose stated herein.

(b) Duly authorized employees of the control authority bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this article. Persons and occupants of premises which are provided water service by the city, either directly or indirectly, shall allow the representatives of the control authority ready access at all reasonable times to all parts of the premises for the purposes of inspection, testing, records examination, or in the performance of their duties. Where persons or occupants of premises have security measures in force which would require proper identification and clearance before entry into their premises, the persons and occupants of the premises shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the control authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
(Code 1961, § 29-108; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-345. Certified general tester.

(a) Certified general testers for backflow prevention assemblies shall be those persons who have received their certification and renewal as appropriate through the educational and training requirements of the state for the testing, maintenance and repair of backflow prevention assemblies.

(b) All testing of backflow assemblies covered in this article shall be by properly certified persons.

(c) All repair of backflow assemblies covered in this article shall be by properly certified persons.

(d) All certified persons shall provide copies of their certification and any subsequent renewals to the control authority. This list may be made available to users on request.
(Code 1961, § 29-109; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-346. Testing of assemblies.

(a) The user shall have all backflow prevention assemblies inspected and tested in each of the following circumstances:

(1) Within ten days of installation;

(2) Whenever the assembly is moved;

(3) A minimum of once a year;

(4) Premises that have been vacated and unoccupied for one year, prior to reoccupancy;

(5) Immediately after repairs.

(b) All assembly testing shall be performed by a certified general tester, approved by the control authority.

(c) The control authority shall retain the right to inspect and test with its own certified personnel or have inspection and testing done by outside certified personnel any backflow assemblies within its jurisdiction at the cost of the consumer.

(d) The city shall not be liable for damage to a backflow prevention assembly which may occur during testing.

(e) The control authority may cause a water use survey to be conducted at any establishment which is served by a public water supply or which provides water to the public. Such water use survey may be an on-site survey or may require the customer to submit a written survey, or both. Upon determination by the control authority that the establishment falls under the provisions of this article and requires a backflow prevention assembly, the control authority shall issue a notice to abate the condition or order the establishment to install the proper backflow prevention assembly.

(f) It is the responsibility of any person who owns or controls property to have all assemblies tested in accordance with this article. Assemblies may be required to be tested more frequently if the control authority deems necessary.

(g) All results from assembly testing by a certified backflow prevention assembly tester, shall be placed on a form containing all required information concerning installation, testing, and/or repair. It shall be the responsibility of the consumer to provide copies of all forms to the control authority within a reasonable time but in no case greater than 30 days following any inspection or repair.
(Code 1961, § 29-110; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-347. Fees.

(a) There shall be an annual nonrefundable registration fee for each nonresidential backflow prevention assembly device. This fee may appear on the monthly city water/sewer bill and relates solely to the matters covered in this article and is separate from other fees chargeable by the city. The annual nonrefundable registration fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(b) In the event that the control authority tests, or has tested by others, any backflow assembly, all costs shall be passed unto the user and included on the monthly water/sewer bill.
(Code 1961, § 29-111; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-348. Wholesale customers.

Any customer purchasing water for the purpose of resale or distribution shall:

(1) Install an air-gap separation or a reduced pressure backflow assembly at the service connection, certified for operation upon installation and annually thereafter by a certified general tester forwarding the results to the control authority for review and audit.

(2) Implement a plumbing inspection and cross connection control program not less restrictive than that of the city and provide annual program records to the control authority for review.

(Code 1961, § 29-112; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-349. Government customers.

Any premises owned, operated, or occupied by a state, federal, foreign government or agency refusing to comply with the provisions of this article shall install a reduced pressure backflow prevention assembly at each service connection, being certified and tested for proper operation and upon installation and annually thereafter. In those instances where the control authority deems potential or actual hazard to be deleterious to human health-certified inspections and operational testing shall be required semiannually.

(Code 1961, § 29-113; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-350. Noncompliance and enforcement.

(a) In emergency situations when the public potable water supply is being contaminated or is in immediate danger of contamination water service may be immediately discontinued by the control authority.

(b) No water service connection shall be installed on the premises of any user unless the public potable water system is protected as required by this article.

(c) Delivery of water to premises of any user may be discontinued by the control authority if any protective device required by this article has not been installed, or is defective, or has been removed or bypassed. Discontinued water service shall not be resumed until conditions at the consumer's premises have been abated or corrected to the satisfaction of the control authority.

(d) Upon discovery of a violation of this article, written notice shall be given to the user. If violations are not corrected by date and time as stated on notice, water supply will be discontinued and the violation will be referred to the city attorney for further action. Nothing contained herein shall prevent the control authority from immediate termination of service when there is an actual or perceived threat to the public water supply.

(e) Violations. The following is a noninclusive list of offenses:

(1) By failure to maintain backflow prevention assemblies in compliance with this section.

(2) By failure to comply with a repair order issued by the control authority.

(3) If backflow from premises owned by user, operates or manages enters the public water supply system.

(4) By failure to pay any fees required by this article.

(5) By violation of any section of this article.

(6) By failure to install a backflow prevention assembly upon notification by the control authority.

(7) By reconnection of water service to premises discontinued or disconnected under this article, except as directed by the control authority.

(8) By allowing an unregistered tester to perform testing work at their establishment.

(9) By testing a backflow prevention assembly within the city without being registered with the control authority.

(10) By testing a backflow prevention assembly within the public water supply system without being certified by the state.

(f) Penalty.

(1) A person who violates any provision of this article is guilty of a misdemeanor and upon conviction is punishable by a fine of up to $2,000.00 for each act of violation and for each day or part of a day during which the violation is committed, continued or permitted.

(2) In addition to proceeding under the authority of subsection (f)(1) of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person committing any violation of this article.

(3) Water service may be terminated by the control authority where there is an actual or perceived threat to the public water supply. Any failure to comply with the article or violation thereof shall be construed as a potential threat to the public water supply.

(g) Administrative fees. In addition to sanctions and penalties provided for by this article, the control authority is entitled to recover all costs expended in the enforcement of noncompliance with the backflow prevention program and to bill and collect those amounts on the regular monthly water/sewer bill.

(h) Certification and/or registration of any certified water operator, licensed plumber, fireline tester, general tester, water supply protection specialist or plumbing inspector may be reviewed and the ability to perform work or services under this article or any other work related to the public water supply system may be revoked if the control authority determines that the tester:

(1) Has falsely, incompetently, or inaccurately reported assembly reports;

(2) Has used inaccurate gauges;

(3) Has used improper testing procedures;

(4) Has created a threat to public health or the environment; or

(5) Has falsely, incompetently, or inaccurately prepared records or performed work governed by this article.

(Code 1961, § 29-114; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-351. Wells.

In order to protect the public water supply and to assist in protecting groundwater sources, persons owning property served by city water shall register water wells with the control authority upon notice.

(1) The owner of a new well shall provide depth, yield, exact location, casing type and other available data.

(2) Owners of existing wells shall provide available data.

(Code 1961, § 29-115; Ord. No. 217-98, § 1, 7-27-1998)

Sec. 42-352. Article deemed part of contract with customer.

All of the provisions of this article shall be deemed to be incorporated in every contract between the water and sewer systems and its customers, and each customer shall be charged with the knowledge of the provisions of this article and, by applying for and accepting water or sewer services from the water and systems, each customer shall be deemed to have assented to the provisions hereof.

(Code 1961, § 29-116; Ord. No. 217-98, § 1, 7-27-1998)

Chapter 43

RESERVED

Chapter 44

VEHICLES FOR HIRE

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ARTICLE I. IN GENERAL

Secs. 44-1—44-18. Reserved.

ARTICLE II. TOWING SERVICES AND VEHICLE IMPOUNDS

Sec. 44-19. City towing and police impounds provided by contract.

It is the intent of the city to contract with a towing company who will provide towing services for tows related to city business. The city manager is hereby authorized to contract with one tow company for such towing services. The towing company shall be located in the state and within the corporate city limits inclusive of the extraterritorial jurisdiction boundaries. All city towing and police-initiated tows shall be performed pursuant to the terms and conditions of a contract, specifically executed between the city and the towing service company, so designated in the contract. All related services and fees shall be established by the contract pursuant to the authority established by applicable state statutes. The contract shall be approved by city legal staff with input from the police chief or designee, and the director of general services.
(Code 1961, § 33-1; Ord. No. 169-09, § 1(exh. A), 11-23-2009)

Sec. 44-20. Contract administration and enforcement.

The police chief or designee, shall be in charge of the administration and enforcement of the city towing and police impound contract. The police chief shall have the authority to promulgate reasonable policies and procedures so as to carry out the duties of the police department as it relates to the contract and associated towing services. Such duties may include, but are not limited to, providing and reviewing applications for tow service contracts, inspecting tow trucks, inspecting records, inspecting vehicle storage facilities used by contractors for compliance and investigating complaints regarding such towing services.
(Code 1961, § 33-2; Ord. No. 169-09, § 1(exh. A), 11-23-2009)

Sec. 44-21. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consent tows means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody or control of the vehicle. The term "consent tows" does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

Nonconsent tows or *police-initiated tow* means any tow of a motor vehicle that is not a consent tow. The term "nonconsent tow' shall include tows of abandoned vehicles and vehicles seized or impounded by the city.
(Code 1961, § 33-3; Ord. No. 169-09, § 1(exh. A), 11-23-2009)

Sec. 44-22. License and permit required.

(a) A person wanting to operate a towing company or perform towing operations must hold the appropriate license in accordance with the Texas Towing Act.

(b) A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this city, unless the appropriate permit has been issued for the tow truck under the provisions of the Texas Towing Act. Each tow truck requires a separate permit.
(Code 1961, § 33-4; Ord. No. 169-09, § 1(exh. A), 11-23-2009)

Sec. 44-23. Police-initiated tow.

(a) When a police officer determines that any vehicle parked or standing in or on any portion of a street constitutes a hazard, interferes with a normal function of a government agency, or by reason of any catastrophe, emergency or unusual circumstance, the safety of the vehicle, other property or person is imperiled, the officer shall cause the towing service company under contract with the city to be summoned to provide the nonconsent towing service.

(b) When a police officer arrests any person driving or in command of a vehicle and it is necessary to tow or impound the vehicle, the officer shall cause the towing service company under contract with the city to be summoned to provide the nonconsent towing service.

(c) When a police officer deems it necessary and lawful to seize a vehicle as evidence in a criminal case or move the vehicle for subsequent processing or storage, the officer shall cause the towing service company under contract with the city to be summoned to provide the nonconsent towing service and subsequent storage until such time that the case is finally adjudicated.

(d) When a police officer stops a vehicle for an alleged violation of a city ordinance or state traffic law or other law applicable to the operation of a vehicle on the roadway and the vehicle's owner or operator fails to show evidence of financial responsibility as required under ch. 601 of the Texas Transportation Code, as amended, the officer is authorized to impound the vehicle using the towing service company under contract with the city.
(Code 1961, § 33-5; Ord. No. 169-09, § 1(exh. A), 11-23-2009; Ord. No. 2014-095, § 1, 9-8-2014)

Sec. 44-24. Tows of vehicles involved in accidents.

When a police officer has investigated an accident and determined that any vehicle which has been involved in an accident on a public street is unable to proceed safely under its own power,

blocks the roadway, endangers public safety or when the owner or operator thereof is physically unable to drive such vehicle, the officer shall cause a towing company properly registered with the state and permitted with the city to be summoned to provide the towing service.
(Code 1961, § 33-6; Ord. No. 169-09, § 1(exh. A), 11-23-2009)

Sec. 44-25. Removal of debris from accident scene.

Each towing service company called to the scene of an accident by any person and that provides towing service shall completely remove from the street all resulting wreckage or debris, including all broken glass, before leaving the scene. Removal of wreckage will not be considered completed by merely sweeping debris to the curb.
(Code 1961, § 33-7; Ord. No. 169-09, § 1(exh. A), 11-23-2009)

Sec. 44-26. Prohibited at scene, unless called.

No person shall drive a tow truck to or near the site of an accident within the city, unless such person has been called to the site by the owner or operator of the vehicle, by such persons authorized representative, or by the police department.
(Code 1961, § 33-8; Ord. No. 169-09, § 1(exh. A), 11-23-2009)

Sec. 44-27. Solicitation at scene prohibited.

No person shall solicit in any manner, directly or indirectly, on a street, at or near the site of an accident within the city, any business regarding wrecked or disabled vehicles regardless of whether the solicitation is for the purpose of removing, repairing, wrecking, storing, trading or purchasing such vehicle.
(Code 1961, § 33-9; Ord. No. 169-09, § 1(exh. A), 11-23-2009)

Sec. 44-28. Recommendation by city employee prohibited.

No employee of the city at the scene of an accident shall recommend to any person, directly or indirectly, either by word, gesture, sign or otherwise, the name of any particular towing service or vehicle repair company; nor shall any employee influence, or attempt to influence, in any manner the decision of any person in choosing or selecting a towing or vehicle repair service company.
(Code 1961, § 33-10; Ord. No. 169-09, § 1(exh. A), 11-23-2009)

Secs. 44-29—44-59. Reserved.

ARTICLE III. AMBULANCES*

DIVISION 1. GENERALLY

Sec. 44-60. Definitions.

For purpose of this article the following terms shall be construed as follows, except where the context clearly indicates a different meaning:

Ambulance means every motor vehicle built, equipped and attended as required by the laws of the state for the purpose of transporting sick, injured or deceased persons.

Ambulance service means the transportation of sick, injured or deceased persons, including emergency and nonemergency transfer service within the city limits in an ambulance, as defined in this section. The term "ambulance service" shall not include the use of ambulances or other vehicles for the purpose of transporting a deceased person, at the request of a legally authorized person, to a mortuary, nor shall it include the use of an ambulance or other vehicle for the purpose of transporting such deceased person for funeral and burial purposes.

Attendant/driver means a person who is qualified to care for a patient transported by an ambulance and who is also qualified to drive an ambulance as provided by state law.

Contractor means the person selected by the city, pursuant to the request for proposal process, which is awarded the right to provide all ambulance services in this jurisdiction, except those specifically exempted by section 44-81.

Emergency means any circumstances that call for immediate action and in which the element of time in transporting the sick, wounded or injured for medical treatment is essential to the health or life of the person. Such circumstances include, but are not limited to, accidents generally, traffic accidents, acts of violence resulting in personal injury and severe or sudden illness.

Emergency ambulance means any motor vehicle especially designed, constructed, equipped and used for transporting the injured or sick in answer to an emergency call.

Emergency call means any request for ambulance service that is made by telephone or other means of communication in circumstances which are, or have been represented to be, an emergency and requiring immediate ambulance service.

***State law references**—Emergency Health Care Act, Texas Health and Safety Code § 773.001 et seq.; authority of municipality to establish standards for an emergency medical services provider that are stricter than the minimum standards under state laws, Texas Health and Safety Code § 773.051.

Emergency run means the emergency ambulance trip to the place where the emergency exists or from the place of such emergency to a hospital, medical clinic or medical office or other appropriate destination for the patient.

Operator means any individual, firm or corporation engaged in transporting the injured, wounded, sick or dead and using the streets of the city for such purpose.

Street means and includes any street, alley, avenue, boulevard, drive, public way or highway commonly used for the purpose of public travel within the city limits.

Transfer ambulance means any motor vehicle constructed, equipped and used for transferring the injured or sick under circumstances which do not constitute an emergency and which have not been represented as an emergency.
(Code 1961, § 27-42; Ord. No. 397-93, § 1, 10-25-1993; Ord. No. 358-95, § 1, 9-25-1995)

Secs. 44-61—44-78. Reserved.

DIVISION 2. EXCLUSIVE RIGHT TO OPERATE

Sec. 44-79. Granted.

The city has the right to grant an exclusive franchise to operate an ambulance service, as that term is defined in section 44-60, upon and over the public streets, alleys or public ways within the city limits.
(Code 1961, § 27-51; Ord. No. 397-93, § 1, 10-25-1993)

Sec. 44-80. Terms.

The terms and conditions of the exclusive right to operate granted to the franchisee in section 44-79 shall be governed by the terms and conditions set forth in the medical transport agreement and all other attachments, assignments and other related documents executed by and between the city and the franchisee, and its authorized representatives.
(Code 1961, § 27-52; Ord. No. 397-93, § 1, 10-25-1993)

Sec. 44-81. Exempt vehicles.

It shall be a defense to any alleged violation of section 44-82 that the vehicle is being used solely in any of the following manners:

(1) A privately owned vehicle not ordinarily used in the business of transporting persons who are sick, injured, wounded, incapacitated or helpless.

(2) A vehicle rendering service as an ambulance in the event of a major catastrophe or extreme system overload when such condition is declared by the medical director and such assistance has been requested by the communication center.

(3) Any ambulance owned or operated by the federal or state government.

(4) Any transport to a location within the jurisdiction of the city, which transport originated from a point outside the city's jurisdiction where the ambulance service is appropriately licensed and/or permitted to operate.

(5) Wheelchair transport services.

(Code 1961, § 27-53; Ord. No. 397-93, § 1, 10-25-1993; Ord. No. 358-95, § 1, 9-25-1995)

Sec. 44-82. Violations.

It shall be unlawful:

(1) To use, or cause to be used, any ambulance service other than that of the contractor authorized to operate in this jurisdiction by virtue of its contract with the city, except those services described in section 44-81.

(2) For any person, firm or organization to provide ambulance service within this jurisdiction, other than the contractor which contracts with the city.

(Code 1961, § 27-54; Ord. No. 358-95, § 1, 9-25-1995)

Sec. 44-83. Injunction.

The city attorney is hereby authorized to bring civil action to enjoin a person, firm or organization who is in violation of this article. Such violations shall also be subject to prosecution for criminal violations.

(Code 1961, § 27-56; Ord. No. 358-95, § 1, 9-25-1995)

Secs. 44-84—44-100. Reserved.

ARTICLE IV. TAXICABS*

Sec. 44-101. Definitions.

For the purpose of this article, the following words shall have the meanings respectively ascribed to them as follows, except where the context clearly indicates a different meaning:

Limousine means a vehicle that has a manufacturer's rated seating capacity of not more than 15 passengers and that is used for the transportation of persons.

***State law references**—Authority of municipality to license, control and regulate passenger taxicab transportation services designed for carrying no more than eight passengers, Texas Transportation Code § 215.004; authority of home-rule municipality to license, fix the charges or fares made by, or regulate any person who owns, operates or controls any type of vehicle used on the public streets or alleys of the municipality for carrying passengers or freight for compensation, Texas Local Government Code § 215.073.

Taxicab means a chauffeured motor vehicle with a rated passenger capacity of eight or less, used to transport persons for hire, that typically operates on irregular routes, irregular schedules, and on a call-and-demand basis, but not including limousines as defined in this Code.
(Code 1961, § 27-1; Ord. No. 190-88, § 1, 7-11-1988)

Sec. 44-102. Permit—Required.

It shall be unlawful for any person, firm or corporation to drive or operate any taxicab or limousine for pickup and delivery service within the city upon or over any street in the city without first having obtained a permit from the city issued under the terms and provisions of this article.
(Code 1961, § 27-2; Ord. No. 190-88, § 1, 7-11-1988)

Sec. 44-103. Same—Application.

An applicant for a permit under the provisions of this article shall file with the police department of the city, a written application signed by the applicant. The following information is required in the application:

(1) Name, address and telephone number of the applicant, including the trade name (assumed name certificate) by which the applicant does business; the street address of the business; and if incorporated, the name and address of the corporate officers registered with the secretary of state;

(2) Name, local address and telephone number of the business to be permitted;

(3) Proof of insurance as required in section 44-105;

(4) A description of the business services which the applicant intends to offer, including the number and identification of all vehicles for which a permit is sought;

(5) Proof of at least three cars equipped with meters, set to charge as hereinafter required, a cruising light, and a two-way radio licensed and approved by the Federal Communications Commission;

(6) Proof that vehicles are painted in a uniform, distinctive color scheme, with the name of the company affixed and plainly visible on each side of the automobile by letters at least two inches in height. The company number must be visible on each side and on the rear panel of each automobile, and the fares for service are plainly posted near the passenger door on each side of the vehicle;

(7) Proof that an office will be maintained in Texarkana, Arkansas, or Texarkana, Texas, open to the public, with a full-time dispatcher on duty 24 hours a day;

(8) Proof of availability to pickup and deliver passengers on a 24-hour basis; and

(9) Proof that all taxes owed to the city are paid through the current tax year.

(Code 1961, § 27-3; Ord. No. 190-88, § 1, 7-11-1988)

Sec. 44-104. Same—Conditions, terms, fee.

A permit issued under this article:

(1) Is an annual permit which expires 12 months after the date of issuance;

(2) Is effective for a single place of business only;

(3) Vests no property right in the permittee, except to operate a taxicab or limousine service within the city in accordance with the terms and conditions of this article;

(4) Must be openly displayed in vehicles at all times;

(5) Is nontransferable and nonassignable; and

(6) Is subject to a fee in an amount as established by the city from time to time, and is on file in the city secretary's office or city website per vehicle per year.

(Code 1961, § 27-4; Ord. No. 190-88, § 1, 7-11-1988)

Sec. 44-105. Same—Insurance required.

Before any permit is issued to conduct a taxicab or limousine service business, the applicant shall file with the police department of the city, a public liability insurance policy covering at least the period for which the permit is to be issued and shall keep the same in full force and effect during the term of such permit. Such policy shall be written by an insurance company duly authorized to do business in the state, shall be performable within the city limits and shall insure the public against any loss or damage that may result to any person or property from the operation of a taxicab or limousine operating under a permit from the city. The maximum amount of recovery provided for in such policy shall not be less than the following sums: for vehicles carrying one to eight passengers—$15,000.00 for the injury or destruction of property, $25,000.00 for injury or death of any one person, and $50,000.00 for injury or death of any two or more persons in any one accident. For vehicles carrying nine to 15 passengers—$10,000.00 for the injury or destruction of property, $25,000.00 for injury or death of any one person, and $150,000.00 for injury or death of any two or more persons in any one accident. Insurance companies issuing such policies of insurance shall, at the time of issuance of such policies, issue a certificate to the city, specifically providing that the insurance policy will not be cancelled without 30 days written notice first being given to the city. The city shall not be deemed to have assumed any responsibility for the solvency of any insurance company; nor in any manner to have become liable for any sum on account of any such claims or on account of any act or commission of any officer or employee of the city in connection with any matter relating to such taxicabs or limousines, nor shall the lawful liability of the owner or operator be in any manner limited or enlarged by anything in connection with this section or such insurance policies, but persons having any cause of action secured thereby shall be authorized to sue upon such insurance policies without impleading the city.

(Code 1961, § 27-5; Ord. No. 190-88, § 1, 7-11-1988)

State law reference—Amount of insurance required by Motor Vehicle Safety Responsibility Act, Texas Transportation Code § 601.072.

Sec. 44-106. Same—Disqualification of applicants and drivers.

(a) No person shall be eligible for a taxicab or limousine permit who, within ten years or as otherwise stated preceding the date of the application or employment, has been finally convicted in a court of competent jurisdiction of any of the following offenses:

(1) Prostitution;

(2) Driving while intoxicated;

(3) Driving while under the influence of drugs;

(4) Bootlegging, as defined by the Texas Alcoholic Beverage Code § 101.31, as amended, or similar statutes;

(5) Sale, distribution or possession of controlled substances.

(b) No such person, firm or corporation to whom a permit has been issued shall employ anyone as a driver who has been finally convicted in a court of competent jurisdiction of any of the same offenses.
(Code 1961, § 27-6; Ord. No. 190-88, § 1, 7-11-1988)

Sec. 44-107. Same—Increasing number of taxicabs or limousines after issuance.

If at any time the holder of a permit under this article desires to use an additional taxicab or limousine under the existing permit, the holder may do so only after the holder has made application to the police department and has been granted by the police department a permit to use such additional taxicab or limousine, and the holder shall furnish the police department the same information regarding such additional vehicle as required regarding those covered by the original permit.
(Code 1961, § 27-7; Ord. No. 190-88, § 1, 7-11-1988)

Sec. 44-108. Maximum rates of fares.

(a) It shall be unlawful for any person to charge any fare for taxicab services in excess of the schedule of rates adopted by the city council by separate resolution.

(b) A copy of such rate schedule shall be maintained for public inspection in the office of the city secretary.

(c) As many as five passengers shall be transported for one fare, calculated according to the above-defined maximum rate, if picked up at one place and discharged at the same destination. In the event more than one party, each consisting of one or more passengers, desire to be carried to more than one destination, then the fare to the first party discharged shall not be more than the maximum fare as above set out, and the fare for each subsequent party discharged shall be calculated from the point where the party boarded the cab.

(d) The fare for transporting each passenger to or from the city municipal airport and points within the city shall be a minimum fare of $5.00 or the fare as indicated on the meter, whichever is greater. The rule for calculating fares, as set forth in subsection (4) of this section, shall apply to fares being transported from the city municipal airport, except as modified by this section, in order to provide for a minimum fare.

(e) Notwithstanding any rate herein established, no taxicab company operator or driver shall charge or cause to be charged any rate for services in the city, which is greater than the rate applicable for the same services in Texarkana, Arkansas.

(f) As a part of its rate schedule, each permittee is encouraged to offer a senior citizen discount to those persons 55 years of age or older.
(Code 1961, § 27-8; Ord. No. 190-88, § 1, 7-11-1988; Ord. No. 228-90, § 1, 9-10-1990; Ord. No. 195-05, § 1, 7-25-2005)

Sec. 44-109. Meters.

(a) All taxicabs operating within the city limits shall be equipped with meters, which shall register the amount of money which is to be charged for the transporting service, plus any waiting time, such amount not to exceed the amounts displayed on the meter herein required.

(b) It shall be unlawful for any person to operate a taxicab within the city limits without a meter, in working order, which performs the function hereinabove listed. All taxicab meters required in accordance with the provisions of this article shall be maintained in good operating condition and shall be tested and sealed at least once each year in accordance with state weights and measures laws. The city may order a taxicab meter to be tested at any time, and the holder of a permit issued in accordance with the provisions of this article shall make the taxicab meter available for testing when so ordered. The holder of such permit shall pay the cost of testing taxicab meters.
(Code 1961, § 27-9; Ord. No. 190-88, § 1, 7-11-1988)

Sec. 44-110. Parking on streets; driving through alleys.

It shall be unlawful for the holder of any permit issued under the terms of this article or the agent, servant or employee of such permittee to park or leave standing any taxicab or limousine on the streets of the city, except while loading or unloading passengers into and from such taxicab or limousine, or to drive through alleyways instead of streets, except to deliver or pickup passengers at a point in an alley.
(Code 1961, § 27-10; Ord. No. 190-88, § 1, 7-11-1988)

Sec. 44-111. Cruising prohibited.

It shall be unlawful for any driver of any taxicab or limousine to drive or cruise about on the streets of the city seeking passengers who have not theretofore ordered or called for a taxicab or limousine.
(Code 1961, § 27-11; Ord. No. 190-88, § 1, 7-11-1988)

Sec. 44-112. Records required to be kept.

The holder of any permit issued under the terms of this article shall maintain records of all pickups and deliveries of each trip for a period not to exceed 90 days. Such records shall be made available to the police department for inspection upon request.
(Code 1961, § 27-12; Ord. No. 190-88, § 1, 7-11-1988)

Sec. 44-113. Suspension or revocation of permit.

(a) Upon violation of any of the requirements of this article, the chief of police or designee shall conduct a hearing to determine the nature and extent of any violation. Such hearing shall be held after ten days' notice of the time, place, allegations and purpose of the hearing is delivered to the permit holder. Such notice shall be by U.S. mail, certified or registered, return receipt requested, postage prepaid, addressed to the permit holder at the business address shown on the permit holder's application. Such notice shall be deemed received on the third day after mailing.

(b) At the conclusion of the hearing, the chief of police or designee, may suspend or revoke the permit, as is appropriate. If the permit holder is dissatisfied with the action of the chief of police or designee, the chief of police may appeal to the city council. To appeal to the city council, the permit holder shall deliver written notice of the permit holder's intention to appeal to the city secretary within ten days of the rendering of a decision by the chief of police or designee. The city council shall conduct the appeal by a review of the evidence presented before the chief of police or designee.

(c) A suspension or revocation of a permit issued by the City of Texarkana, Arkansas, for like purposes shall result in a like suspension or revocation under this article.
(Code 1961, § 27-13; Ord. No. 190-88, § 1, 7-11-1988)

Chapters 45—99

RESERVED

PART III

LAND DEVELOPMENT CODE

Chapter 100

GENERAL AND ADMINISTRATIVE PROVISIONS

Sec. 100-1. Title.
Sec. 100-2. Applicability of part II, chapter 1.
Sec. 100-3. Fee requirements.
Sec. 100-4. Conflicts.

Sec. 100-1. Title.

Chapter 100, pertaining to building regulations (formerly Code 1994, ch. 14—Buildings and Building Regulations), ch. 100, pertaining to the electrical code regulations (formerly Code 1961, ch. 8—Electrical Code), ch. 100, pertaining to flood damage prevention (formerly Code 1961, ch. 31—Flood Damage Prevention), ch. 100, pertaining to landscaping regulations (formerly Code 1961, ch. 30A—Landscaping), ch. 100, pertaining to minimum drainage criteria (formerly Code 1961, ch. 32—Minimum Drainage Criteria), ch. 100, pertaining to stormwater management (formerly Code 1961, ch. 32A—Stormwater Management), ch. 100, pertaining to street and sidewalk regulations (formerly Code 1961, ch. 24—Streets and Sidewalks), and ch. 100, pertaining to zoning regulations (formerly Code 1961, ch. 30—Zoning), shall comprise and be cited as the "Land Development Code of the City of Texarkana, Texas." This part may also be cited as the "Land Development Code" or the "LDC."

Sec. 100-2. Applicability of part II, chapter 1.

Unless otherwise stated or where the context of the provision clearly shows a different intent, the provisions of chapter 1 under part II, Code of General Ordinances shall apply to the chapters contained in this part.

Sec. 100-3. Fee requirements.

Reasonable fees to offset the costs of administration of this part may be set by resolution of the city council, from time to time, unless state law requires them to be established by ordinance.

Sec. 100-4. Conflicts.

(a) Where general requirements of a provision under the Code of General Ordinances or the Land Development Code conflict with a specific requirement of a provision under the Land Development Code, including, but not limited to, building and construction regulations, subdivisions, landscaping, zoning, flood damage prevention, streets and sidewalks, minimum drainage criteria and stormwater management, then the provision concerning the specific requirement under the Land Development Code shall prevail.

(b) In the event that a provision or requirement under the Code of General Ordinances or the Land Development Code in any way conflicts with another provision or requirement under the Land Development Code, then the more stringent provision or requirement shall prevail.

Chapters 101—104

RESERVED

Chapter 105

BUILDINGS AND CONSTRUCTION*

Article I. In General

Sec. 105-1. Regulation of single-family and duplex industrialized housing.
Sec. 105-2. Permit fees schedule.
Sec. 105-3. Fire limits established.
Sec. 105-4. Contractors bonding and insurance requirements.
Sec. 105-5. Building numbers.
Sec. 105-6. Demolition bond and permit required.
Sec. 105-7. Enforcement and citation authority.
Sec. 105-8. Required.
Secs. 105-9—105-35. Reserved.

Article II. Building, Residential and Energy Technical Codes

Division 1. Generally

Sec. 105-36. Illustrations.
Sec. 105-37. Building code compliance inspection of residences being built within the city's extraterritorial jurisdiction.
Sec. 105-38. National Rifle Association Range Manual, adoption of sections applicable to indoor pistol and rifle ranges.
Sec. 105-39. Rules of construction for technical codes.
Sec. 105-40. Interpretations.
Sec. 105-41. Administrative liability.
Sec. 105-42. Referenced codes and standards.
Sec. 105-43. Conflicts.
Secs. 105-44—105-74. Reserved.

Division 2. Building Code

Sec. 105-75. International Building Code, 2009 edition adopted.
Sec. 105-76. Amendments; modifications; deletions.
Sec. 105-77. Appendices.
Secs. 105-78—105-97. Reserved.

***State law references—**General enforcement authority of municipalities for preservation of health, property and good government, Texas Local Government Code § 54.001 et seq.; International Residential Code adopted as municipal residential building code throughout the state, Texas Local Government Code § 214.212; International Building Code adopted as municipal commercial building code throughout the state, Texas Local Government Code § 214.216.

Division 3. Residential Code

Sec. 105-98. International Residential Code for One- and Two-Family Dwellings, 2009 edition adopted.
Sec. 105-99. Amendments, modifications and deletions.
Sec. 105-100. Appendices.
Secs. 105-101—105-128. Reserved.

Division 4. Energy Code

Sec. 105-129. International Energy Conservation Code, 2009 supplement edition adopted.
Sec. 105-130. Illustrations.
Secs. 105-131—105-158. Reserved.

Article III. Electrical Code

Division 1. Generally

Sec. 105-159. National Electrical Code, 2008 edition adopted.
Sec. 105-160. Amendments, modifications, and deletions.
Sec. 105-161. Object and scope of article.
Sec. 105-162. Electrical inspector—Office created and qualifications.
Sec. 105-163. Same—Appointment and vacancy.
Sec. 105-164. Same—Duties generally.
Sec. 105-165. Same—Not to engage in electrical business.
Sec. 105-166. Same—Right of entry; filing of complaint; delegation of duties.
Sec. 105-167. Who may do electrical work.
Sec. 105-168. Work permit required; exceptions.
Sec. 105-169. Application for initial inspection and permit.
Sec. 105-170. Progress reports to inspector; inspections generally.
Sec. 105-171. Removal of obstructions hindering inspection.
Sec. 105-172. Final inspection and certificate.
Sec. 105-173. Inspection fees.
Sec. 105-174. Installation and construction standards generally.
Sec. 105-175. Work to be done in neat and workmanlike manner.
Sec. 105-176. Approval of apparatus, fittings and material.
Sec. 105-177. Disapproved wiring methods.
Sec. 105-178. Minimum service.
Sec. 105-179. Concealed knob and tube work.
Sec. 105-180. Nonmetallic sheathed cable.
Sec. 105-181. Health care facilities.
Sec. 105-182. Signs—Location and height.
Sec. 105-183. Same—Circuits.
Sec. 105-184. Same—Dangerous signs.
Sec. 105-185. Extensions or additions to existing systems.
Sec. 105-186. Clearance for current to be furnished new or disconnected work.
Sec. 105-187. Defective equipment.

Sec. 105-188. Defective conductors or material.
Sec. 105-189. Article does not affect liability for damages.
Sec. 105-190. Rules of construction for technical codes.
Sec. 105-191. Interpretations.
Sec. 105-192. Administrative liability.
Sec. 105-193. Referenced codes and standards.
Secs. 105-194—105-209. Reserved.

Division 2. Master Electricians and Sign Electricians

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Sec. 105-210. Duty to supervise work.
Sec. 105-211. Responsibility for defective installations.
Secs. 105-212—105-227. Reserved.

Subdivision II. Certificate

Sec. 105-228. Required.
Sec. 105-229. Examining board—Composition; appointment, term of members; general duties.
Sec. 105-230. Same—Appellate authority.
Sec. 105-231. Time limit.
Sec. 105-232. Variations and modifications.
Sec. 105-233. Decisions.
Sec. 105-234. Penalty for violation of subdivision.
Sec. 105-235. Compliance inspections.
Secs. 105-236—105-251. Reserved.

Article IV. Plumbing and Gas Fitting

Sec. 105-252. Rules of construction for technical codes.
Sec. 105-253. Interpretations.
Sec. 105-254. Administrative liability.
Sec. 105-255. Referenced codes and standards.
Sec. 105-256. Plumbing code, fuel gas code and mechanical code; adopted.
Sec. 105-257. Amendments, additions and deletions to plumbing code.
Sec. 105-258. Amendments, modifications, deletions to the fuel gas code.
Sec. 105-259. Amendments, modifications, deletions to the mechanical code.
Sec. 105-260. Plumbing appeals and advisory board.
Sec. 105-261. Election of officers and adoption of rules.
Sec. 105-262. Duties and powers of the board.
Sec. 105-263. Penalty for violation of article.
Sec. 105-264. Landscape irrigators.
Sec. 105-265. Heating and air conditioning license.
Sec. 105-266. Plumbing, gas and mechanical code compliance inspections.
Secs. 105-267—105-282. Reserved.

Article V. Permit to Move Building Over or Across Streets

Sec. 105-283. Definitions.
Sec. 105-284. Required.
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Sec. 105-288. Insurance required of all permit applicants.
Sec. 105-289. Duties of building inspector and other officers.
Sec. 105-290. Duties of permittee.
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Sec. 105-292. Enforcement of article.
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Sec. 105-294. Moving loads of more than five tons in city.
Secs. 105-295—105-310. Reserved.

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Sec. 105-311. Purpose.
Sec. 105-312. Scope.
Sec. 105-313. Declaration.
Sec. 105-314. Definitions.
Sec. 105-315. Enforcement official.
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Sec. 105-317. Poorly maintained property.
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Sec. 105-321. Duties of building official upon determination of substandard building.
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Sec. 105-323. Due process, notice of public hearing, publication and time of notice.
Sec. 105-324. Contents of notice for public hearing.
Sec. 105-325. Burden of proof.
Sec. 105-326. Authorized actions of the commission.
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Sec. 105-328. Civil penalties final.
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Sec. 105-334. Emergency actions.
Sec. 105-335. Remedies and enforcement.
Sec. 105-336. Offenses.
Sec. 105-337. Restrictions on employees.
Sec. 105-338. Liability.

Secs. 105-339—105-354. Reserved.

Article VII. Property Maintenance Standards

Sec. 105-355. Purpose.
Sec. 105-356. International Property Maintenance Code, 2003 edition adopted.
Sec. 105-357. Amendments; modifications; deletions.
Sec. 105-358. Property maintenance definitions.
Sec. 105-359. Substandard apartment complex or multifamily dwelling complex.
Sec. 105-360. Habitability score and abatement.
Sec. 105-361. Apartment complexes requiring extraordinary levels of public safety calls for service.
Sec. 105-362. Notice of requirement to participate in mandatory demand for public safety services reduction program.
Sec. 105-363. Mandatory demand for public safety services reduction program.
Sec. 105-364. Penalty.
Secs. 105-365—105-380. Reserved.

Article VIII. Lead-Based Paint Abatement

Sec. 105-381. Purpose.
Sec. 105-382. Definitions.
Sec. 105-383. Control of interior paint removal.
Sec. 105-384. Control of exterior paint removal.
Sec. 105-385. Prohibited methods of removal.
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Sec. 105-387. Disposal of lead-based paint.
Sec. 105-388. Reporting.
Sec. 105-389. Enforcement.
Sec. 105-390. Penalty.

ARTICLE I. IN GENERAL

Sec. 105-1. Regulation of single-family and duplex industrialized housing.

For the purposes of this section, the terms "industrialized housing" and "modular housing" shall have the same meaning as the term "modular, factory-fabricated or industrialized dwelling" as defined in the city zoning ordinance.

(1) Any owner or authorized agent who intends to construct, erect, install or move any industrialized housing into the city shall first make application to the building official and obtain the required permits. In addition to any other information otherwise required for said permits, the application shall:

a. Have attached a complete set of designs, plans and specifications bearing the Texas Industrialized Building Code Council's stamp of approval for each installation of industrialized housing in the city;

b. Identify each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located and show the taxable value for each such dwelling as determined by the most recent certified tax appraisal roll for the county;

c. Describe the exterior siding, roofing, roof pitch, foundation fascia and fenestration for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located;

d. Describe the permanent foundation and method of attachment proposed for the industrialized housing; and

e. State the taxable value of the industrialized housing and the lot after installation of the industrialized housing.

(2) Before single-family or duplex-industrialized housing construction begins on a building site, all local permits and licenses that are applicable to other single-family or duplex dwellings must be obtained.

(3) For purposes of this section, single-family or duplex-industrialized housing is real property.

(4) All modules or modular components must bear an approved decal or insignia indicating inspection by the state department of licensing and regulation.

(5) Any industrialized housing shall:

a. Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for the county;

b. Have exterior siding, roofing, roof pitch, foundation fascia and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;

c. Comply with city aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage and other site requirements applicable to single-family dwellings; and

d. Be securely fixed to a permanent foundation.

(6) For purposes of subsection (5) of this section, the term "value" means the taxable value of the industrialized housing and lot after installation of the housing.

(7) The inspection procedures established under section R109 "Inspections" of the International Residential Code adopted by the city shall apply to industrialized housing. To ensure compliance of the erection and installation of industrialized housing with mandatory building codes and the state commission of licensing and regulation rules and to ensure compliance of all foundation and other on-site construction with approved designs, plans and specifications, the building official, if not otherwise authorized under the provisions of section R109, will inspect all on-site construction and the attachment of the structure to the foundation to ensure completion and attachment in accordance with the approved design package and any unique foundation system or on-site details and shall:

a. Perform an overall visual inspection for obvious nonconformity to the applicable code, require final inspections along with any tests which are required by the approved installation instructions, on-site construction documentation, and/or the applicable code, and require the correction of deficiencies identified by the tests or discovered in the final inspections;

b. Notify the executive director of the state department of licensing and regulation of any damage to a module or modular component resulting from transportation to, or handling at, the building site which is not corrected by the industrialized builder;

c. Notify the executive director of any noncompliance to, or deviation from, the approved building system or applicable code; and

d. Report to the executive director any violation of the commission's rules.

(8) A person commits an offense if the person:

a. Fails to make an application for permit as required by this section; or

b. Constructs, erects, installs or moves any industrialized housing into the city which does not comply with this section.

(9) Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed $500.00. Each day of violation shall constitute a separate offense.

(Code 1961, § 5-2.3; Ord. No. 173-06, § 1, 7-10-2006)

Sec. 105-2. Permit fees schedule.

(a) Fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(b) Notwithstanding the permit where the owner of a residential subdivision has requested voluntary annexation, building permit fees required shall be waived for a period of three years beginning on the date of city council approval of the annexation ordinance approving the voluntary annexation.

(Code 1961, § 5-5; Ord. No. 001-06, § 5, 1-9-2006)

Sec. 105-3. Fire limits established.

The fire limits of the city are hereby established as follows:

Beginning at the intersection of the south boundary line of Front Street with State Line in the city; thence in a northerly direction with State Line to its intersection with an extension of the south boundary line of Fifth Street; thence in a westerly direction with said south boundary line of Fifth Street to its intersection with an extension of the east boundary line of Cedar Street; thence in a southerly direction with the east boundary line of Cedar Street to its intersection with an extension of the south boundary line of Front Street; thence in an easterly direction with the south boundary line of Front Street to the place of beginning.

(Code 1961, § 5-6; Ord. of 4-28-1953, § 3; Ord. No. 171-89, § 1, 7-10-1989)

State law reference—Authority of city to provide for the establishment and designation of fire limits, Texas Local Government Code § 342.012.

Sec. 105-4. Contractors bonding and insurance requirements.

(a) All persons, partnerships or corporations, before engaging in the business of roofing and siding, shall execute and deliver to the city a surety bond in the sum of $15,000.00 payable to the city and executed by a company authorized to do business in the state. All bonds shall meet the requirements stated herein and shall be conditioned that all roofing and siding work shall be faithfully performed by the principal so that it complies with all the provisions and regulations of the building code and all other laws, rules, regulations and ordinances of the city. All bonds shall be further conditioned that the city will be fully indemnified against all loss and damage resulting from or in any way growing out of work done in an improper or unworkmanlike manner or out of the failure to properly execute and protect any work contracted to be done by the principal.

(b) All persons, partnerships or corporations, before engaging in the business of building construction and/or remodeling, shall execute and deliver to the city a surety bond in the sum of $50,000.00 payable to the city and executed by a company authorized to do business in the state. All bonds shall meet the requirements stated herein and shall be conditioned that all building construction and/or remodeling work shall be faithfully performed by the principal so that it complies with all the provisions and regulations of the building code and all other laws, rules, regulations and ordinances of the city. All bonds shall be further conditioned that the city will be fully indemnified against all loss and damage resulting from or in any way growing out of work done in an improper or unworkmanlike manner or out of the failure to properly execute and protect any work contracted to be done by the principal.

(c) In addition to the bond required in subsection (a) of this section, the city shall require that all persons, partnerships or corporations engaged in the roofing and sliding business in the city shall obtain and have in full force and effect a policy of general liability insurance, written by a company authorized to do business in the state, insuring against claims or actions for bodily injuries and property damage occurring or claiming to have occurred upon or growing out of the roofing or siding business with limits of at least $300,000.00 per occurrence. A certificate of insurance meeting or exceeding these limits must be on file in the inspection department office prior to the issuance of any permit. The insurance coverage shall include a provision that in the event such coverage is cancelled or reduced, the insurance carrier shall notify the inspection department at least ten days prior to such cancellation or reduction in coverage.

(d) In addition to the bond required in subsection (b) of this section, the city shall require that all persons, partnerships or corporations engaged in the building construction and/or remodeling business in the city shall obtain and have in full force and effect a policy of general liability insurance, written by a company authorized to do business in the state, insuring against claims or actions for bodily injuries and property damage occurring or claiming to have occurred or growing out of the building construction and/or remodeling business with limits of at least $500,000.00 per occurrence. A current certificate of insurance meeting or exceeding these limits must be on file in the inspection department office prior to the issuance of any permit. The insurance coverage shall include a provision that in the event such coverage is cancelled or reduced, the insurance carrier shall notify inspection department at least ten days prior to such cancellation or reduction in coverage.

(e) All contractors must supply proof of worker's compensation insurance or of self insurance.

(Code 1961, § 5-10; Ord. No. 339-97, § 5, 10-27-1997)

Sec. 105-5. Building numbers.

(a) *General.* There shall be assigned to each house and other residential, commercial, industrial or public building located on or gaining access to any street, avenue or public way, an official building number.

(b) *Duty of building owner.*

(1) *Owner, owner's agent or occupant to number building.* The owner, owner's agent or occupant of each building, whether new or existing, shall place and maintain the official building number or address number as designated by the public works department in a conspicuous place on the premises. Such number shall be legible and clearly visible from the street upon which it fronts.

(2) *New structures.* The owner or owner's agent proposing to locate any house, building or structure in need of an address in the address service area of the city shall apply to the city for the assignment of the correct number. No building permit shall be issued for structures in need of an address and no mail shall be delivered until the owner or agent has been assigned the correct address. The applicant is encouraged to post a temporary sign displaying the assigned address number at the construction site until such time the permanent number can be displayed.

(4) *Compliance and maintenance.* It shall be the duty and responsibility of every owner, agent of the owner, or occupant of any house/dwelling/structure in the city limits to comply with the provisions and requirements of this section. Further, it shall be the duty and responsibility of the owner, agent of the owner, or occupant of any house/dwelling/structure to continuously maintain such number as to be plainly visible and legible from the street upon which it fronts.

(5) *Cost.* The cost of materials, installation and maintenance of such number shall be paid for by the owner.

(c) *Numbers to be public property.* All building numbers shall be public property and shall be subject to change by the city, with or without notice, at the discretion of the city council. It shall be the duty of the public works department to assign the official building numbers for structures upon application.

(d) *Specifications and locations for numbers.*

(1) An official building number placed pursuant to this section must be least four inches high, and have at least a one-half inch stroke in the main body of the number, and be composed of a durable material and of a color which provides a contrast to the background. The number shall be mounted a minimum of three feet and a maximum of 30 feet in height measured from ground level. Buildings located more than 50 feet from the curb of a street shall have numbers at least five inches in height. For the purpose of this section, durable materials for use in numbering shall include, but not be limited to, wood, plastic, metal, weather-resistant paint, weather-resistant vinyl or weather-resistant numbers designed for outside use on a glass surface. Suitability of materials, size of numbers and locations, in nonstandard circumstances, shall be at the discretion of the public works department.

(2) For single-family residences, the requirement of this section may be met by providing two-inch high numbers on both sides of a U.S. mailbox located near the curb in front of the house, or a freestanding structure approved by the building official with numbers at least four inches in height. Only single freestanding mailboxes on the same side of the street as the structure represented shall be suitable for display of the official building number pursuant to this section.

(3) The numbers shall be conspicuously placed immediately above, on or at the side of the proper door of each building so that the number can be seen plainly from the street on which the number is based. Whenever any building is situated so that the number is not clearly discernible from the street line or vision of the building from the street is otherwise obscured, the number assigned shall be placed near the walk, driveway or common entrance to such buildings, and affixed upon a gatepost, fence, mailbox, post or other appropriate place so as to be easily discernible. Numbers painted or stenciled on the curb shall not be a lawful substitute for the display of address numbers prescribed by this article.

(4) Distinctive names such as 1st Place, Plaza One, or the like, may be used by owners to name business locations. However, businesses so named shall also display the correct assigned address numbers in accord with this article.

(5) The building official may approve currently displayed official building numbers on existing structures at the time of passage of this chapter, if, in the building officials opinion, the numbers are legible and clearly visible from the street upon which the structure fronts.

(e) *Penalty for violation of this section.* Any person violating any of the provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided by this Code. Each day such violation is committed, or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.
(Code 1961, § 5-11; Ord. No. 64-99, § 1(exh. A), 3-8-1999)

Sec. 105-6. Demolition bond and permit required.

(a) *Bond required for demolition permit.* Each application for demolition of a building or structure permit shall be accompanied by a bond, cash, cashier's check or escrow account in the name of the city at a bank with a local branch in the penal sum as follows:

(1) Single-family residence or duplex: $2,500.00.

(2) Commercial and institutional buildings, and multiple-family dwellings. To be established by the chief building official based on the actual estimate to demolish the structure and clear the building site. The applicant for a demolition permit shall have the right to appeal the bond amount established by the chief building official to the building and standards commission.

(3) The bond shall be signed by the applicant and signed as surety by a surety company authorized to do business in the state. The bond shall be conditioned on the applicant completing the demolition work in a satisfactory manner and shall be used to indemnify the city. Failure to remove all debris and material which formerly was a part of the structure or building being demolished shall be considered failure to satisfactorily complete the demolition work for which the permit was issued. In the event of such failure, the city may either complete the demolition work or it may be considered to be charged against the bond herein required.

(4) In case the applicant for a permit under this section is a person, firm, company, partnership, agent or employee, such person, firm, company, partnership, corporation or association shall be required to enter into only one bond as above required, which bond shall be made to cover the activities of all of its agents or employees.

(5) The requirements of a bond as set forth hereinabove shall not apply to an application for a permit to demolish a single-family residence or duplex requested by the property owner, provided that no prior demolition permits have been obtained for the particular building or structure, or that no legal proceedings have been initiated by the city to have the structure declared substandard and demolished, and that the property owner demolishes the building or structure by the owners personal labor or that of the owners employees.

(b) *Demolition permit.* A demolition permit shall be valid for a period of 90 days from the date of its issuance, provided that extensions of time for periods not exceeding 90 days each may be allowed and such extensions shall be in writing by the building official.
(Code 1961, § 5-12; Ord. No. 298-06, § 1, 10-9-2006)

Sec. 105-7. Enforcement and citation authority.

(a) The chief building official and designee are hereby authorized to enforce within the city the provisions of this chapter and the state minimum codes adopted herein.

(b) The chief building official and the official's officers, inspectors and assistants are hereby authorized to issue citations for violations of this chapter. The citations shall contain the following information:

(1) Name of alleged violator;

(2) Location of alleged violation;

(3) Description of alleged violation;

(4) Date violation observed;

(5) Name of issuing officer;

(6) Time and date to appear before court; and

(7) Name and address of municipal court.

Sec. 105-8. Required.

Unless otherwise exempted by this Code, the Land Development Code, or a technical code as adopted by reference in this Code, no person shall construct, develop, reconstruct, alter, change, restore, remove, relocate, demolish or perform any building, construction, electrical or plumbing work as covered by this chapter on any building or structure in the city without first obtaining a building permit as issued by the city.

Secs. 105-9—105-35. Reserved.

ARTICLE II. BUILDING, RESIDENTIAL AND ENERGY TECHNICAL CODES

DIVISION 1. GENERALLY

Sec. 105-36. Illustrations.

Illustrations in the said codes adopted shall not be deemed to represent the only acceptable method of meeting the provisions of the said codes.
(Code 1961, § 5-4; Ord. No. 001-06, § 4, 1-9-2006)

Sec. 105-37. Building code compliance inspection of residences being built within the city's extraterritorial jurisdiction.

The building official shall arrange for a building code compliance inspection when requested by the builder of any single-family, duplex, townhouse or condominium residence structure under construction within the city's extraterritorial jurisdiction. A fee will be assessed for the inspection of each unit designed to house a single family. The fee shall be due and payable to the city prior to the request by the builder for a final inspection. The final inspection report shall not be provided to the builder until the required payment has been received. This section shall not be applicable to apartments or nonresidential structures. The inspection fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.
(Code 1961, § 5-7; Ord. No. 159-79, § 1, 7-23-1979)

Sec. 105-38. National Rifle Association Range Manual, adoption of sections applicable to indoor pistol and rifle ranges.

(a) There is hereby adopted by the city for the purpose of establishing safety and construction standards for indoor pistol and rifle ranges the National Rifle Association's Range Source Book (NRA Range Source Book), 2012 edition; said suggestions being incorporated herein as if fully set forth herein; these suggestions shall be controlling in the construction of all indoor pistol and rifle ranges contained within the corporate limits of the city.

(b) That a copy of said NRA Range Source Book, 2012 edition, suggestions for indoor pistol and rifle ranges shall be kept on file in the office of the chief building inspector with the city.
(Code 1961, § 5-8; Ord. No. 127-85, §§ 1, 2, 4-8-1985)

Sec. 105-39. Rules of construction for technical codes.

(a) Wherever the term "municipality" is used within the technical codes which are adopted by reference in this chapter, it shall be held to mean the city.

(b) Wherever the term "chief appointing authority" is used within the technical codes which are adopted by reference in this chapter, it shall be held to mean city.

(c) Wherever the term "corporation counsel" or "legal counsel" is used within the technical codes which are adopted by reference in this chapter, it shall be held to mean the city attorney for the city.

(d) Where reference is made to the duties of certain officials named within the technical codes which are adopted by reference in this chapter, then that designated official of the city who has duties corresponding to those of the named official in said technical code, shall be deemed to be the responsible official insofar as enforcing the provisions of that technical code are concerned.

Sec. 105-40. Interpretations.

The building official, or designee, is hereby authorized to render interpretations of this Code and the adopted technical codes and to adopt policies and procedures in order to clarify the application of their provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this chapter. Such policies and procedures shall not have the force and effect of law and shall not have the effect of waiving requirements specifically provided for in this Code or in the adopted technical codes.

Sec. 105-41. Administrative liability.

No officer, agent or employee of the city charged with the administration and enforcement of this chapter and acting in good faith without malice in the discharge of those duties, shall render themselves personally liable for any damage that may occur to any person or property as a result of any act required or permitted, or by reason of any act or omission, in the discharge of their duties under this chapter, and they are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of their duties.

Sec. 105-42. Referenced codes and standards.

The technical codes and standards referenced in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and the referenced technical codes and standards, the provisions of this Code shall apply.

Sec. 105-43. Conflicts.

In the event that a provision or requirement under a technical building or construction code adopted by reference under this chapter in any way conflicts with another provision or requirement under the Code of General Ordinances or the Land Development Code, then the more stringent provision or requirement shall prevail.

Secs. 105-44—105-74. Reserved.

DIVISION 2. BUILDING CODE

Sec. 105-75. International Building Code, 2009 edition adopted.

There is hereby adopted by the city for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, that certain building code known as the International Building Code, 2009 edition, save and except such portions as are hereinafter amended, modified or deleted by this division, said code being incorporated herein as if fully set out herein; the provisions thereof shall be controlling in the construction of all buildings and other structures contained within the corporate limits of the city.
(Code 1961, § 5-1; Ord. No. 001-06, § 1, 1-9-2006; Ord. No. 082-2012, § 1, 6-25-2012)

Sec. 105-76. Amendments; modifications; deletions.

The following amendments, modifications and deletions to and from the International Building Code adopted by section 105-75, are hereby made and adopted, such amendments, modifications and deletions being set forth herein with reference to and prefaced by the section number or chapter number of the International Building Code:

Section 101.4.1 Electrical, of the said International Building Code adopted by section 105-75 herein, is hereby amended to read in its entirety as follows: "The provisions of the National Electrical Code (NEC) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto."

Section 103 Department of Building Safety, of the said International Building Code adopted by section 105-75 herein, is hereby amended to be entitled section 103 Inspection Department.

Section 103.1 Creation of enforcement agency, of the said International Building Code adopted by section 105-75 herein, is hereby amended to read in its entirety as follows: "The Inspection Department is hereby created and the official in charge thereof shall be known as the building official."

Section 106.3.3 Phased approval, of the said International Building Code adopted by section 105-75 herein, is hereby amended to read in its entirety as follows: "The building official is authorized to issue a permit for construction of a building shell prior to the receipt finish out documents. The required documents would include site plans with existing and finished grade, drainage, parking, foundation, structural and exterior finish details. It should also include proposed location of plumbing and electrical services and service sizes."

Section 112 Board of Appeals, of the said International Building Code adopted by section 105-75 herein, is hereby amended to be entitled section 112 Building and Standards Commission.

Section 112.1 General, of the said International Building Code adopted by section 105-75 herein, is hereby amended to read in its entirety as follows: "The board known as the Building and Standards Commission, shall serve as the board to which appeals may be taken from decisions of the Building Official related to the International Building Code. All references elsewhere in this said International Building Code to the "Board of Appeals" or "Board" shall be construed to mean the Building and Standards Commission."

Section 115 Unsafe Structures and Equipment, of the said International Building Code adopted by section 105-75 herein, is hereby amended in its entirety to read as follows: "When in the code official's judgment any structure or existing equipment become so unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, so that demolition is necessary, the code official shall apply the provisions of article VI. Unsafe Buildings and Structures of Code of Ordinances to said building or structure."

Chapter 11 Accessibility, of the said International Building Code as adopted by section 105-75 herein, is hereby deleted in its entirety and the *Texas Accessibility Standards (TAS)* are hereby adopted and incorporated in their entirety as if fully set out in the said International Building Code.

Section 1805.1 General, of the said International Building Code adopted by section 105-75 herein, is hereby amended by adding the following sentence: "In addition a minimum of four each No. 5 steel reinforcement bars are required in turned-down footings."

Chapter 27 Electrical, of the said International Building Code adopted by section 105-75 herein, is hereby deleted in its entirety. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of the currently adopted National Electrical Code (NEC).

Section 3103.1.1 Permit required, of the said International Building Code adopted by section 105-75 herein, is hereby amended in its entirety to read as follows: "Temporary structures shall not be erected, operated, or maintained for any commercial purpose without obtaining a permit from the building official. A permit is valid for a period of time not longer than 14 days. A permit may not be granted more than five times in each calendar year for any lot, premises, or location. Permits may not be granted for consecutive periods of time. The building official can approve a one-time seasonal permit for a period not to exceed forty-five (45) days, i.e., Christmas, Valentine's Day, Mother's Day, etc."

(Code 1961, § 5-1.1; Ord. No. 001-06, § 1, 1-9-2006; Ord. No. 173-08, § 1, 8-25-2008; Ord. No. 2014-033, § 1, 3-24-2014)

Sec. 105-77. Appendices.

(a) *Adoption in entirety.* Appendices A, C, D, F, G, H, I and J to said International Building Code adopted by section 105-75 are hereby adopted in their entirety and incorporated as if fully set out herein.

(b) *Deletion in entirety.* Appendices B and E to said International Building Code adopted by section 105-75 are hereby deleted in their entirety.

(Code 1961, § 5-1.2; Ord. No. 001-06, § 1, 1-9-2006)

Secs. 105-78—105-97. Reserved.

DIVISION 3. RESIDENTIAL CODE

Sec. 105-98. International Residential Code for One- and Two-Family Dwellings, 2009 edition adopted.

There is hereby adopted by the city, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress, including permits and penalties, that certain building code known as the International Residential Code for One- and Two-Family Dwellings, 2009 edition, save and except such portions as are hereinafter amended, modified or deleted by this division, said code being incorporated herein as if fully set out herein; the provisions thereof shall be controlling in the construction of all one- and two-family dwellings and other structures therein regulated within the corporate limits of the city.

(Code 1961, § 5-2; Ord. No. 001-06, § 2, 1-9-2006; Ord. No. 082-2012, § 2, 6-25-2012)

Sec. 105-99. Amendments, modifications and deletions.

The following amendments, modifications and deletions to and from the International Residential Code for One- and Two-Family Dwellings adopted by section 105-98, are hereby made and adopted, such amendments, modifications and deletions being set forth herein with reference to and prefaced by the section number or chapter number of the International Residential Code for One- and Two-Family Dwellings:

Section R103 Department of Building Safety, of the said International Residential Code for One- and Two-Family Dwellings adopted by section 105-98 herein, is hereby amended to be entitled section R103 Inspection Department.

Section R103.1 Creation of enforcement agency, of the said International Residential Code for One- and Two-Family Dwellings adopted by section 105-98 herein, is hereby amended to read in its entirety as follows: "The Inspection Department is hereby created and the official in charge thereof shall be known as the building official."

Section R104.10.1 Areas prone to Flooding, of the said International Residential Code for One- and Two-Family Dwellings adopted by section 105-98 herein, is hereby deleted in its entirety.

Section R112 Board of Appeals, of the said International Residential Code for One- and Two-Family Dwellings adopted by section 105-98 herein, is hereby amended to be entitled section R112 Building and Standards Commission.

Section R112.1 General, of the said International Residential Code for One- and Two-Family Dwellings adopted by section 105-98 herein is hereby amended to read in its entirety as follows: "The board known as the Building and Standards Commission, as appointed and established by ch. 2, article VII of the Code of Ordinances, as amended, shall serve as the board to which appeals may be taken from decisions of the Building Official related to the International Residential Code For One- And Two-Family Dwellings, and terms of office, quorums, records, and procedural rules and powers of the said commission shall be as set forth in said article VII, as amended. All references elsewhere in this said International Residential Code for One- and Two-Family Dwellings to the "Board of Appeals" or "Board" shall be construed to mean the Building and Standards Commission."

Section R112.2.2 Criteria for issuance of a variance for areas prone to flooding, of the said International Residential Code for One- and Two-Family Dwellings adopted by section 105-98 herein, is hereby deleted in its entirety.

Section R403.1.3.1 Foundations with stemwalls, of the said International Residential Code for One- and Two-Family Dwellings adopted by section 105-98 herein, is hereby amended to read in its entirety as follows: "Foundations with stemwalls shall be provided with a minimum of four each No. 5 steel reinforcement bars in the footings."

Section R403.1.3.2 Slabs on ground with turned-down footings, of the said International Residential Code for One- and Two-Family Dwellings adopted by section 105-98 herein, is hereby amended to read in its entirety as follows: "Slabs on ground with turned-down footings shall have a minimum of four each No. 5 steel reinforcement bars in the footings."

Section R2903.9.1 Service value, of the said International Residential Code for One- and Two-Family Dwellings adopted by section 105-98 herein is hereby amended to read in its entirety as follows: "Each dwelling unit shall be provided with an accessible main shutoff valve near the entrance of the water service. The valve shall be of a full-open type having nominal restriction of flow. Additionally, the water service shall be valved at the curb or property line in accordance with local requirements."

Part VIII-Electrical, of the said International Residential Code for One- and Two-Family Dwellings adopted by section 105-98 herein including all chs. 33 through 42, is hereby deleted in its entirety. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of the currently adopted National Electrical Code (NEC).

(Code 1961, § 5-2.1; Ord. No. 001-06, § 2, 1-9-2006)

Sec. 105-100. Appendices.

Appendices A, B, C, D, E, F, G, H, I, J, and K to said International Residential Code For One- And Two-Family Dwellings, adopted by section 105-98, are hereby adopted in their entirety and incorporated as if fully set out herein.

(Code 1961, § 5-2.2; Ord. No. 001-06, § 2, 1-9-2006; Ord. No. 082-2012, § 2, 6-25-2012)

Secs. 105-101—105-128. Reserved.

DIVISION 4. ENERGY CODE

Sec. 105-129. International Energy Conservation Code, 2009 supplement edition adopted.

There is hereby adopted by the city, for the purpose of establishing rules and regulations for the safe installation and maintenance of all energy conservation equipment and systems, that certain code known as the International Energy Conservation Code, 2009 edition, save and except such portions as are hereinafter amended, modified or deleted by this division, said code being incorporated herein as if fully set out herein; the provisions thereof shall be controlling in the installation of energy conservation systems therein contained within the corporate limits of the city.

(Code 1961, § 5-3; Ord. No. 001-06, § 3, 1-9-2006)

Sec. 105-130. Illustrations.

Illustrations in the said codes adopted above shall not be deemed to represent the only acceptable method of meeting the provisions of the said codes.
(Code 1961, § 5-4; Ord. No. 001-06, § 4, 1-9-2006)

Secs. 105-131—105-158. Reserved.

ARTICLE III. ELECTRICAL CODE*

DIVISION 1. GENERALLY

Sec. 105-159. National Electrical Code, 2008 edition adopted.

There is hereby adopted by the city, for the purpose of establishing rules and regulations for the safe installation and maintenance of electrical equipment and systems, that certain code known as the National Electrical Code, 2008 edition, save and except such portions as are hereinafter amended, modified or deleted by this article, said code being incorporated herein as if fully set out herein; the provisions thereof shall be controlling in the installation of electrical systems therein contained within the corporate limits of the city.
(Code 1961, § 8-1; Ord. of 3-11-1947, § 1; Ord. No. 5-67, § 1, 1-23-1967; Ord. No. 31-81, § 1, 2-23-1981; Ord. No. 71-84, § 2, 3-12-1984; Ord. No. 290-87, § 1, 12-21-1987; Ord. No. 96-90, §§ 1, 2, 4-23-1990; Ord. No. 003-06, § 1, 1-9-2006; Ord. No. 077-2011, § 1, 5-23-2011)

Sec. 105-160. Amendments, modifications, and deletions.

The following amendments, modifications and deletions to and from the National Electrical Code adopted by section 105-159, are hereby made and adopted, such amendments, modifications and deletions being set forth herein with reference to and prefaced by the section number or chapter number of the National Electrical Code:

Section 110.26(E) Headroom, of the said Electrical Code adopted by section 105-159 herein, is hereby amended by the deletion of the exception.

Section 250-66(B) Connections to Concrete-Encased Electrodes, of the said Electrical Code adopted by section 105-159 herein, is hereby amended in its entirety to read as follows: "The

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***State law references**—National Electrical Code adopted as municipal electrical construction code throughout the state, Texas Local Government Code § 214.214; Texas Electrical Safety and Licensing Act, Texas Occupations Code § 1305.001 et seq.; municipality may regulate electricians by requiring inspections, collecting permit fees for electrical work performed in the municipality and adopting procedures for the administration and enforcement of the National Electrical Code and any local amendments thereto adopted by the municipality, Texas Occupations Code § 1305.201.

size of the grounding electrode conductor of a grounded or underground system shall not be less than given in Table 250-66 and in no case smaller than #6 copper. This provision supersedes the allowance of #8 copper for grounding electrode conductors in Table 250-66."

Section 300.5(D), of said Electrical Code is hereby amended by adding the following: "All underground wiring over 24 volts, nominal, shall be installed in Rigid Metal Conduit, Intermediate Metal conduit, or Rigid Nonmetallic conduit raceways."

Section 300.22(C) Other Space Used for Environmental Air, of the said Electrical Code adopted by section 105-159 herein, is hereby amended by the deletion of the exception.

Section 330.12, of said Electrical Code is hereby amended by adding the following: "Metal-clad cable will only be allowed for connections to movable installations (such as lighting in in-lay ceilings) or where vibration is a consideration and then in lengths not to exceed 6 feet." It will further be allowed in lengths exceeding 6 feet only for the purpose of fishing circuits in existing structures, under cabinets and counters or in new structures where conduit would not be practical (such as locations where wire connections and junction boxes would not be accessible). Home runs will not be allowed in metal-clad cable.

Section 362, of the said Electrical Code is amended by adding the following: "Electrical non-metallic flexible tubing shall not be used for any wiring construction over 24 volts nominal."

Section 680.8(B) Communication Systems, of the said Electrical Code adopted by section 105-159 herein, is hereby amended in its entirety to read as follows: "Communication, radio, and television coaxial cables within the scope of articles 800 through 820 shall be permitted at a height of not less than 14 feet above swimming and wading pools, diving structures, and observation stands, towers, or platforms."

(Code 1961, § 8-1.1; Ord. No. 29-70, § 1, 2-23-1970; Ord. No. 171-72, § 1, 8-28-1972; Ord. No. 176-74, § 1, 7-22-1974; Ord. No. 102-83, § 1, 4-25-1983; Ord. No. 43-84, § 1, 2-13-1984; Ord. No. 003-06, § 2, 1-9-2006; Ord. No. 077-2011, § 2, 5-23-2011)

Sec. 105-161. Object and scope of article.

(a) The purpose of this article is the preservation of life and the protection of the public safety by reducing personal hazard and fire hazard resulting from electrical causes. Therefore, the following provisions are enacted relating to the installation, alteration or repair of all electrical installations on all property and in all buildings and structures now erected or to be erected, changed, constructed, reconstructed, repaired or altered within the city. The intent and purpose of this article is to provide a minimum standard for electrical installations within the city and to regulate the installation, alteration or repair of all electrical installations in or about all premises located within the city.

(b) The provisions of this article shall not apply to the installation or repair of traffic signals by or in conjunction with the state or the city, electrical installations in railway cars, automotive equipment, electrical railway companies, nor to installations used by electrical public utility companies, telephone and telegraph companies, radio transmission stations and television transmission stations in the generation, transmission or distribution of electricity, or for the operation of signals or the transmission of intelligence in the exercise of their function as such agencies and located outdoors or in buildings used exclusively for that purpose, and no provision of this article shall require a permit or inspection of the above mentioned installations. Provided, however, that nothing in this article shall be construed as exempting from the permit and inspection requirements hereof other electrical installations which are used in conjunction with the specialized uses enumerated above.
(Code 1961, § 8-2; Ord. of 3-11-1947, § 2; Ord. No. 5-67, § 2, 1-23-1967; Ord. No. 23-71, § 1, 2-8-1971; Ord. No. 163-96, § 1, 6-14-1996)

Sec. 105-162. Electrical inspector—Office created and qualifications.

There is hereby created the office of electrical inspector. The person chosen to fill the office of electrical inspector shall be of good moral character, shall be possessed of such executive ability as is requisite for the performance of the inspector duties and shall have a thorough knowledge of the standard materials and methods used in the installation of electrical equipment. The inspector shall be well versed in approved methods of construction for safety of persons and property, the statutes of this state relating to electrical work and any orders, rules and regulations issued by the authority thereof, and the provisions of the National Electrical Code. In addition, the inspector shall have had at least five years' experience as an electrical inspector or in the installation of electrical equipment.
(Code 1961, § 8-3; Ord. of 3-11-1947, § 3; Ord. No. 5-67, § 3, 1-23-1967; Ord. No. 171-72, § 2, 8-28-1972)

Sec. 105-163. Same—Appointment and vacancy.

The electrical inspector shall be appointed by the chief appointing authority of the city. If for any reason the office of electrical inspector shall become vacant, the responsibility of such office shall be assumed by the city engineer, until such vacancy is filled.
(Code 1961, § 8-4; Ord. of 3-11-1947, § 3; Ord. No. 5-67, § 4, 1-23-1967)

Sec. 105-164. Same—Duties generally.

It shall be the duty of the electrical inspector to enforce the provisions of this article. The inspector shall, upon application, grant permits for the installation, alteration or repair of electrical equipment, and shall make inspections of electrical installations as provided in this

article. The inspector shall keep complete records of all permits issued, inspections and reinspections made and other official work performed in accordance with the provisions of this article.
(Code 1961, § 8-5; Ord. of 3-11-1947, § 4; Ord. No. 5-67, § 5, 1-23-1967)

Sec. 105-165. Same—Not to engage in electrical business.

It shall be unlawful for the electrical inspector, or for any of the inspector's assistants, to engage in the business of the sale, installation or maintenance of electrical equipment, either directly or indirectly, and they shall have no financial interest in any concern engaged in such business in the city.
(Code 1961, § 8-6; Ord. of 3-11-1947, § 4)

Sec. 105-166. Same—Right of entry; filing of complaint; delegation of duties.

The electrical inspector shall have the right, during reasonable hours, to enter any building or premises in the discharge of the inspector's official duties or for the purpose of making any inspections, reinspections or tests of electrical equipment contained therein, or its installation. The inspector shall have the right to enter any building or premises at any time when it shall appear that the preservation of life or property requires such emergency action. It shall be the inspector's duty to file a written complaint for prosecution in the city court for the violation of any of the provisions of this article. The electrical inspector may delegate any of the inspector's duties to any of the inspector's assistants.
(Code 1961, § 8-7; Ord. of 3-11-1947, § 5; Ord. No. 5-67, § 6, 1-23-1967)

Sec. 105-167. Who may do electrical work.

All electrical work within the scope of this article must be done under the direction of a master electrician or sign electrician; provided, however, that electrical work may be done by a property owner in a building owned and occupied by the owner as the owner's home. All work so performed by any property owner shall be subject to inspection and approval in accordance with the terms of the provisions of this article.
(Code 1961, § 8-8; Ord. of 3-11-1947, § 7; Ord. of 1-30-1950, § 1; Ord. No. 5-67, § 7, 1-23-1967; Ord. No. 176-74, § 1, 7-22-1974)

Sec. 105-168. Work permit required; exceptions.

No installation, or alteration of, or addition to any electrical wiring or equipment within or on any building, structure or premises, publicly or privately owned, shall be commenced, unless the master electrician or sign electrician in charge of the proposed work, or the property owner

doing the owners own work in accord with this article, first secures a permit therefor from the electrical inspector; provided, however, that no permit shall be required for the following classes of work:

(1) Replacement of lamps, fuses or the connection of portable electrical equipment to suitable permanently installed receptacles.

(2) The installation, alteration or repair of electrical equipment for the operation of signals or for the transmission of intelligence by wire by a communication agency.

(3) The installation, alteration or repair of electrical equipment installed by or for an electrical utility for the use of such utility in the generation, transmission and distribution of electricity.

(4) Master electricians and sign electricians shall have the privilege of making minor repairs or alterations, where material and labor does not exceed $25.00, without a permit.

(Code 1961, § 8-9; Ord. of 3-11-1947, § 8; Ord. of 1-30-1950, § 1; Ord. No. 5-67, § 8, 1-23-1967; Ord. No. 176-74, § 1, 7-22-1974)

Sec. 105-169. Application for initial inspection and permit.

(a) Before proceeding with any work for which a permit is required by section 105-168, the master electrician or sign electrician in charge of such proposed work, or a person that is designated in writing filed with the city by the master electrician, or sign electrician to call for said permit or inspection, or the property owner who may be doing the owners own work, shall first file with the electrical inspector an application requesting inspection and a permit therefor. Such application shall be in writing and shall describe the work to be done and shall give the exact street number of the premises on which the work is to be done. In the absence of a street address, the application shall state the legal description of the property upon which the work is to be done.

(b) Where plans and specifications for the proposed work require installation above the minimum standards as set forth in this article, the plans and specifications for such work shall accompany the application for inspection. All applications for inspections shall be accompanied by the inspection fees prescribed by this article.

(c) A permit issued shall be construed to be a license to proceed with the work and shall not be construed as the authority to violate, cancel, alter or set aside any of the provisions of this Code. Nor shall such issuance of a permit prevent the electrical inspector from thereafter requiring a correction of errors in plans or of violations of this Code. Every permit issued shall become invalid, unless the work authorized by such permit is commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for any

six-consecutive-month period after the time the work is commenced, provided that, for cause, one or more extensions of time for periods not exceeding 90 days each may be allowed and such extensions shall be in writing by the electrical inspector.
(Code 1961, § 8-10; Ord. of 3-11-1947, § 8; Ord. of 1-30-1950, § 1; Ord. No. 5-67, § 9, 1-23-1967; Ord. No. 171-72, § 3, 8-28-1972; Ord. No. 176-74, § 1, 7-22-1974; Ord. No. 196-78, § 1, 8-14-1978)

Sec. 105-170. Progress reports to inspector; inspections generally.

(a) Persons responsible for the installation of or addition to any electrical wiring or equipment under terms of this article shall at all times keep the electrical inspector notified of the progress of the work and shall request inspection as the work progresses. Upon receipt of an application requesting inspection, the electrical inspector shall inspect or cause to be inspected such work within 48 hours after receiving the application, Saturdays, Sundays and legal holidays not to be included in this time. After inspecting the electrical wiring covered by any application, the electrical inspector shall leave a tag, which tag shall state that the work has been inspected and approved or that it is not approved and must be held open for correction. If the wiring is to be held open for inspection, no person shall lath, ceil or in any other manner conceal any wiring, until the inspector is informed that such wiring has been approved by the electrical inspector.

(b) All electrical work shall be inspected before it is covered or concealed. All cabinet and panel board covers or trims shall be left off for final inspection and any fitting or cover that conceals any wiring which may hinder the proper inspection of electrical work shall be removed at the request of the electrical inspector at no expense to the city.
(Code 1961, § 8-11; Ord. of 3-11-1947, § 8; Ord. of 1-30-1950, § 1; Ord. No. 5-67, § 10, 1-23-1967)

Sec. 105-171. Removal of obstructions hindering inspection.

The electrical inspector shall have the right to remove or compel the removal of any obstruction, such as lath, plastering, ceiling or flooring, which may hinder a full and complete inspection of wires or apparatus. The inspector may also remove or compel the removal of any conductors which are enclosed in conduit or otherwise inaccessible for complete inspection. When such conductors or appliances are not in accordance with the requirements of this article, or are found to be unsafe to life or property, the inspector shall have the right to condemn such conductors or appliances.
(Code 1961, § 8-12; Ord. of 3-11-1947, § 5)

Sec. 105-172. Final inspection and certificate.

Upon completion and receipt of final inspection papers covering electrical work, the electrical inspector shall make a final inspection and, if such work is found to comply with this

article, a certificate of inspection shall be issued stating that the work has been done according to the provisions of this article and the rules governing the respective class to which it belongs. This certificate shall not relieve the person responsible for the work of the person's responsibility for any defective work that may have been concealed or escaped the notice of the inspector.
(Code 1961, § 8-13; Ord. of 3-11-1947, § 8; Ord. of 1-30-1950, § 1)

Sec. 105-173. Inspection fees.

(a) Fees to be paid for inspections made by the electrical inspector under the provisions of this article shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(b) Any person, firm or corporation, including licensed electricians who do not take out a permit before beginning any work under this article, shall be charged double the permit rate for that work.

(c) In case the electrical inspector is required to make more than one trip from the inspector's office for the purpose of inspecting any work because of a building being locked or because of a wrong address given by the person doing the work, a charge shall be made for each additional trip required of the inspector. The additional trip charge shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(d) On installations where several persons are concerned with the installation of electric conductors or appliances, each party shall be required to pay the fees as established under the provisions of this article for that portion of such work for which each party is concerned.
(Code 1961, § 8-14; Ord. of 3-11-1947, § 9; Ord. No. 55-61, 9-18-1961; Ord. No. 5-67, § 11, 1-23-1967; Ord. No. 176-74, § 1, 7-22-1974; Ord. No. 196-78, § 2, 8-14-1978; Ord. No. 374-80, § 1, 12-8-1980; Ord. No. 295-83, § 1, 10-24-1983; Ord. No. 322-85, § 1, 10-14-1985)

Sec. 105-174. Installation and construction standards generally.

All electrical equipment installed or used, and including all electrical installations of any individual, corporation or utility company, shall be in strict conformity with the provisions of this article, the statutes of the state and any orders, rules or regulations issued by authority thereof, and with approved electrical standards of construction for safety to life and property. Unless by the provisions of this article, by any statute of the state or by any order, rule or regulation issued by authority thereof, a specific type or class of electrical equipment is disapproved for installation or use, conformity with the regulations laid down in the National Electrical Code as published by the National Fire Protection Association and adopted by the city council of the city and incorporated by referencing to this article, shall be prima facia evidence of conformity with approved standards of installation and construction for safety to

life and property. Provided, however, that this section shall not apply to equipment owned and used by any electrical utility company or any communication agency in the generation, transmission or distribution of electricity or for the operation of signals or for the transmission of intelligence.
(Code 1961, § 8-15; Ord. of 3-11-1947, § 6; Ord. No. 5-67, § 12, 1-23-1967; Ord. No. 207-71, § 1, 10-25-1971; Ord. No. 176-74, § 1, 7-22-1974; Ord. No. 283-74, § 1, 12-23-1974; Ord. No. 196-78, § 3, 8-14-1978; Ord. No. 31-81, § 2, 2-23-1981)

Sec. 105-175. Work to be done in neat and workmanlike manner.

All electrical work shall be executed in a neat and workmanlike manner. Slipshod work or work not in keeping with good electrical practice is prohibited.
(Code 1961, § 8-16; Ord. of 3-11-1947, § 7)

Sec. 105-176. Approval of apparatus, fittings and material.

No electrical apparatus, fitting or material shall be used within the city, or within the two-mile extraterritorial jurisdiction limits of the city, unless it is approved by the electrical inspector as complying with the safety requirements of this article; provided, however, that all such apparatus, fittings or material which bear the label of Underwriters' Laboratories, Incorporated, shall be deemed prima facie evidence to satisfy the requirements of this article, and the electrical inspector is authorized to approve such apparatus, fittings and material without requiring further tests thereof to be made.
(Code 1961, § 8-17; Ord. of 3-11-1947, § 6; Ord. No. 5-67, § 13, 1-23-1967)

Sec. 105-177. Disapproved wiring methods.

The following shall constitute disapproved wiring methods for electrical work:

(1) Armored cable (Type BX);

(2) Service entrance cable for meter loops (braided outside neutral);

(3) No aluminum or copper-clad aluminum No. 6 or smaller shall be used.
(Code 1961, § 8-18; Ord. of 3-11-1947, § 6; Ord. No. 5-67, § 14, 1-23-1967; Ord. No. 31-81, § 3, 2-23-1981)

Sec. 105-178. Minimum service.

A minimum service of 100 amperes is to be provided all new electrical installations, except temporary poles, electrical signs and other installations when in the opinion of the electrical inspector such installation shall not be hazardous.
(Code 1961, § 8-19; Ord. No. 171-72, § 4, 8-28-1972)

Sec. 105-179. Concealed knob and tube work.

Concealed knob and tube work shall be used only in the following places and for the following purposes:

(1) Private dwelling outside the fire limits.

(2) Electrical signs.

(3) For wiring temporary installations by written permission from the electrical inspector.
(Code 1961, § 8-20; Ord. of 3-11-1947, § 6; Ord. No. 5-67, § 16, 1-23-1967)

Sec. 105-180. Nonmetallic sheathed cable.

Nonmetallic sheathed cable shall be used only in private dwellings outside the fire limits.
(Code 1961, § 8-21; Ord. of 3-11-1947, § 6)

Sec. 105-181. Health care facilities.

In all health care facility buildings, electrical wiring shall be installed as follows:

(1) Internal wiring shall be installed in metallic raceways or in metallic piping;

(2) External wiring shall be installed in metallic or nonmetallic piping;

(3) Wiring in patient sleeping rooms in nursing homes or residential custodial care facilities shall be installed in metallic or nonmetallic piping.
(Code 1961, § 8-22; Ord. No. 331-88, § 1, 11-14-1988)

Sec. 105-182. Signs—Location and height.

Electrical signs may extend from private property to within 18 inches of the curbline, provided that the sign remains a safe distance from utility wires. No sign shall, at its lowest point, be less than nine feet above the sidewalk. All signs must be supported from poles, structures or buildings located entirely on private property. High-rise signs shall conform with the provisions of section 130-10. It shall be unlawful for any person to attach any sign, device or representation used in the nature of advertisements, announcements or direction on any electrical sign which would reduce the clearance to less than the minimum set forth above. Lighting reflectors for the illumination of a building or sign board shall not project more than eight feet beyond the building line.
(Code 1961, § 8-25; Ord. of 3-11-1947, § 7; Ord. No. 5-67, § 20, 1-23-1967)

Sec. 105-183. Same—Circuits.

Sign circuits must be separate and must not be used for other purposes.
(Code 1961, § 8-26; Ord. of 3-11-1947, § 7; Ord. No. 5-67, § 21, 1-23-1967)

Sec. 105-184. Same—Dangerous signs.

When, upon inspection or reinspection, any electrical sign is found to be in a dangerous or unsafe condition and the owner, or user thereof, fails to place such sign in safe condition after being notified so to do by the electrical inspector within the time limit specified by the inspector, the inspector shall remove such sign at the expense of the owner or user.
(Code 1961, § 8-27; Ord. of 3-11-1947, § 7)

Sec. 105-185. Extensions or additions to existing systems.

Persons making extensions or additions to existing electrical systems shall, before proceeding with such work, ascertain from the electrical inspector if old work must be changed or must be brought up to the requirements of this article.
(Code 1961, § 8-28; Ord. of 3-11-1947, § 8; Ord. of 1-30-1950, § 1)

Sec. 105-186. Clearance for current to be furnished new or disconnected work.

It shall be unlawful for any public service company operating in the city to furnish current to any new building, tent, structure or outdoor wiring of any kind, nature or description without first obtaining a clearance from the electrical inspector, stating that such wiring is approved and a permit has been issued for the use of current. Whenever any service is discontinued to any building or structure for any cause whatever, except nonpayment of bill, a clearance will be necessary before each building or structure can be reconnected.
(Code 1961, § 8-29; Ord. of 3-11-1947, § 8; Ord. of 1-30-1950, § 1)

Sec. 105-187. Defective equipment.

When any electrical equipment is found by the electrical inspector to be dangerous to persons or to property because it is defective or defectively installed, the person responsible for the electrical equipment shall be notified in writing and shall make any changes or repairs required, in the judgment of the electrical inspector, to place such equipment in safe condition, and, if such work is not completed within 15 days or any longer period that may be specified by the electrical inspector in the notice, the inspector shall have authority to disconnect or order the discontinuance of electric service to such equipment. In cases of emergency, where necessary for safety of persons or of property, or where electrical equipment may interfere with the work of the fire department, the electrical inspector shall have the authority to immediately disconnect or cause the disconnection of any electrical equipment.
(Code 1961, § 8-30; Ord. of 3-11-1947, § 5)

Sec. 105-188. Defective conductors or material.

Whenever any electrical conductor or electrical material in or on any building or any electrical conductor on any pole line or any conductor underground becomes or is in a

condition that is dangerous to life and property, the electrical inspector is hereby empowered to condemn, disconnect and cause the owner of such conductor or material to immediately correct the same or have it removed.
(Code 1961, § 8-31; Ord. of 3-11-1947, § 8; Ord. of 1-30-1950, § 1)

Sec. 105-189. Article does not affect liability for damages.

This article shall not be construed to affect the responsibility or liability of any party owning, operating, controlling or installing any electrical equipment for damages to persons or to property caused by any defect therein, nor shall the city or any officer or employee of the city be held as assuming such liability by reason of the inspection or reinspection authorized herein or the certificate of approval issued as herein provided or by reason of the approval or disapproval of any equipment authorized herein.
(Code 1961, § 8-32; Ord. of 3-11-1947, § 13)

Sec. 105-190. Rules of construction for technical codes.

(a) Wherever the term "municipality" is used in within the technical codes which are adopted by reference in this article, it shall be held to mean the city.

(b) Wherever the term "chief appointing authority" is used within the technical codes which are adopted by reference in this article, it shall be held to mean the city.

(c) Wherever the term "corporation counsel" or "legal counsel" is used within the technical codes which are adopted by reference in this article, it shall be held to mean the city attorney for the city.

(d) Where reference is made to the duties of certain officials named within the technical codes which are adopted by reference in this article, then that designated official of the city who has duties corresponding to those of the named official in said technical code, shall be deemed to be the responsible official insofar as enforcing the provisions of that technical code are concerned.

Sec. 105-191. Interpretations.

The electrical inspector is hereby authorized to render interpretations of this Code and the adopted technical codes and to adopt policies and procedures in order to clarify the application of their provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this article. Such policies and procedures shall not have the force and effect of law and shall not have the effect of waiving requirements specifically provided for in this Code or in the adopted technical codes.

Sec. 105-192. Administrative liability.

No officer, agent or employee of the city charged with the administration and enforcement of this article and acting in good faith without malice in the discharge of those duties, shall render themselves personally liable for any damage that may occur to any person or property as a result of any act required or permitted, or by reason of any act or omission, in the discharge of their duties under this article, and they have hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of their duties.

Sec. 105-193. Referenced codes and standards.

The technical codes and standards referenced in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and the referenced technical codes and standards, the provisions of this Code shall apply.

Secs. 105-194—105-209. Reserved.

DIVISION 2. MASTER ELECTRICIANS AND SIGN ELECTRICIANS

Subdivision I. In General

Sec. 105-210. Duty to supervise work.

Every master electrician and sign electrician, or their qualified journeyman, shall direct, superintend and always be present during all electrical installations and repairs under their control within the city and may supervise a maximum of three apprentices at any one time. Nothing in this section, however, is to be construed as relieving the master electrician or sign electrician of any responsibility established under this division for work directed or superintended by a journeyman electrician.
(Code 1961, § 8-40; Ord. of 3-11-1947, § 11; Ord. No. 171-72, § 5, 8-28-1972; Ord. No. 176-74, § 1, 7-22-1974; Ord. No. 175-2011, § 1, 11-14-2011)

Sec. 105-211. Responsibility for defective installations.

Every person holding a certificate under this division shall be responsible for any defect in any construction, insofar as correction thereof is concerned, installed by the person until such time as a certificate of approval has been issued, and also for any defects that may have been concealed by such person and discovered by the electrical inspector, or the inspectors duly

authorized agent, after a certificate of approval has been issued by the electrical inspector approving such construction. After the issuance of the certificate of approval, the person in whose name the meter is contracted shall be responsible for all defects caused by the person.
(Code 1961, § 8-41; Ord. of 3-11-1947, § 11)

Secs. 105-212—105-227. Reserved.

Subdivision II. Certificate

Sec. 105-228. Required.

No person shall engage in the business of installing, repairing or removing electrical wiring without first securing from the state, a master electrician license and electrical contractor license or master sign electrician license and a sign contractor's license.
(Code 1961, § 8-47; Ord. of 3-11-1947, § 10; Ord. No. 176-74, § 1, 7-22-1974; Ord. No. 003-06, § 3, 1-9-2006)

Sec. 105-229. Examining board—Composition; appointment, term of members; general duties.

(a) The examination required of applicants for a certificate under this subdivision shall be given by the electrical examining board. Such board shall be composed of five members as follows: one electrical engineer, two master electricians, one general business man or building contractor, and one councilmember. The members of the board shall be nominated by the mayor and confirmed by a majority vote of the city council, and shall hold office for two years and serve without salary. A chairperson shall be elected from and by the board membership, and meetings shall be called for the purpose of considering any proper matters to come before the board. The city engineer and city electrical inspector shall be ex officio members of the board.

(b) Specific duties of the board shall include, but are not limited to:

(1) Preparation of examination questions for applicants;

(2) Supervising the written examination and grading the same;

(3) Providing standard answers to prepared questions from recognized authorities;

(4) Authorizing the issuance of master electrician and electrical sign manufacturer's certificates; and

(5) Recommending changes to this subdivision, in writing, to the city council.
(Code 1961, § 8-50; Ord. of 3-11-1947, § 11; Ord. of 9-11-1956, § 1; Ord. No. 5-67, § 22, 1-23-1967)

Sec. 105-230. Same—Appellate authority.

In addition to the duties referred to in section 105-229, the electrical examining board shall have authority to hear appeals from decisions of the electrical inspector related to this subdivision.
(Code 1961, § 8-51; Ord. No. 58-73, § 2, 3-12-1973)

Sec. 105-231. Time limit.

(a) Whenever the electrical inspector shall reject or refuse to approve the mode or manner of electrical installation proposed to be followed or materials to be used in the electrical installations of a building or structure, or when it is claimed that the provisions of this Code do not apply, or that an equally good or more desirable form of electrical installation can be employed in any specific case, or when it is claimed that the true intent and meaning of this Code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or the owners duly authorized agent, may appeal from the decision of the electrical inspector to the electrical examining board. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the electrical inspector. A fee shall accompany such notice of appeal. The appeal fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(b) In case of a building or structure which, in the opinion of the electrical inspector is unsafe or dangerous, the electrical inspector may, in the inspectors order, limit the time for such appeal to a shorter period. Appeals hereunder shall be on forms provided by the electrical inspector.
(Code 1961, § 8-51.1; Ord. No. 58-73, § 2, 3-12-1973)

Sec. 105-232. Variations and modifications.

(a) The electrical examining board when so appealed to shall conduct a hearing wherein their primary consideration is the health, safety and general welfare of the citizens of the city. After determining that the health, safety and general welfare of the city or any of its citizens shall not be harmed or endangered in any way, the electrical examining board may vary the application of any provision of this Code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this Code or when, in its opinion, the interpretation of the electrical inspector should be modified or reversed.

(b) A decision of the electrical examining board to vary the application of any provision of this Code or to modify an order of the electrical inspector shall specify in what manner such variation or modification is made, the conditions upon which it is made and the reasons therefor.
(Code 1961, § 8-51.2; Ord. No. 58-73, § 2, 3-12-1973)

Sec. 105-233. Decisions.

(a) Every decision of the electrical examining board shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. It shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the electrical inspector and shall be open to public inspection; a certified copy shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the electrical inspector for two weeks after filing.

(b) The electrical examining board shall, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of the electrical examining board reverses or modifies a refusal, order or disallowance of the electrical inspector, or varies the application of any provision of this Code, the electrical inspector shall immediately take action in accordance with such decision.
(Code 1961, § 8-51.3; Ord. No. 58-73, § 2, 3-12-1973)

Sec. 105-234. Penalty for violation of subdivision.

Any person, firm or corporation violating any of the provisions of this subdivision shall be deemed guilty of a misdemeanor and the person, firm or corporation, or an employee, agent, manager or officer thereof, who is guilty of violating any of the provisions, shall, upon conviction thereof, be fined in any amount not to exceed $500.00 for each offense and every violation of and each and every day's failure or refusal to comply with the said provision will constitute a separate offense and in case of willful or continued violations by any person, firm or corporation as aforesaid, or their agents, employees, servants or officers, the city, acting by and through the board of examiners, shall have power to revoke and repeal any license under which said person, firm or corporation may be acting and revoke all permits, privileges and franchises granted to said person, firm or corporation aforesaid.
(Code 1961, § 8-57; Ord. No. 5-67, § 23, 1-23-1967; Ord. No. 53-88, § 1, 2-22-1988)

Sec. 105-235. Compliance inspections.

The building official shall arrange for an electrical code compliance inspection when requested by the owner or builder of any single-family duplex, townhouse, condominium or house under construction in the city's extraterritorial jurisdiction and outside a legal subdivision. A fee will be assessed for the inspection service of each unit designed to house a single family. The fee shall be due and payable to the city prior to the request by the owner or builder for a final inspection. The final inspection report shall not be provided to the owner or builder until the required payment has been received. This section shall not be applicable to apartments or nonresidential structures. The inspection fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.
(Code 1961, § 8-59; Ord. No. 163-96, § 2, 6-14-1996)

Secs. 105-236—105-251. Reserved.

ARTICLE IV. PLUMBING AND GAS FITTING*

Sec. 105-252. Rules of construction for technical codes.

(a) Wherever the term "municipality" is used within the technical codes which are adopted by reference in this article, it shall be held to mean the city.

(b) Wherever the term "chief appointing authority" is used within the technical codes which are adopted by reference in this article, it shall be held to mean city.

(c) Wherever the term "corporation counsel" or "legal counsel" is used within the technical codes which are adopted by reference in this article, it shall be held to mean the city attorney for the city.

(d) Where reference is made to the duties of certain officials named within the technical codes which are adopted by reference in this article, then that designated official of the city who has duties corresponding to those of the named official in said technical code, shall be deemed to be the responsible official insofar as enforcing the provisions of that technical code are concerned.

Sec. 105-253. Interpretations.

The building official, or designee, is hereby authorized to render interpretations of this Code and the adopted technical codes and to adopt policies and procedures in order to clarify the application of their provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this article. Such policies and procedures shall not have the force and effect of law and shall not have the effect of waiving requirements specifically provided for in this Code or in the adopted technical codes.

Sec. 105-254. Administrative liability.

No officer, agent or employee of the city charged with the administration and enforcement of this article and acting in good faith without malice in the discharge of those duties, shall render themselves personally liable for any damage that may occur to any person or property as a result of any act required or permitted, or by reason of any act or omission, in the discharge of

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***State law references—**Municipality may regulate by ordinance the material, construction, alteration and inspection of any pipe, faucet, tank, valve, water heater or other fixture by or through which a supply of water, gas or sewage is used or carried, Texas Occupations Code § 1301.551; authority of municipal governing body to appoint a plumbing inspector, Texas Local Government Code § 214.011.

their duties under this article and they are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of their duties.

Sec. 105-255. Referenced codes and standards.

The technical codes and standards referenced in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and the referenced technical codes and standards, the provisions of this Code shall apply.

Sec. 105-256. Plumbing code, fuel gas code and mechanical code, adopted.

(a) There is hereby adopted by the city, for the purpose of establishing rules and regulations for the safe installation and maintenance of all plumbing equipment and systems, natural gas piping and appliances and mechanical equipment and systems on all property and all buildings and all structures now erected or hereafter erected, changed, constructed, reconstructed, repaired or altered within the corporate limits of the city and outside the corporate limits in subdivisions within the extraterritorial jurisdiction limits of the city as provided by law those certain codes:

(1) International Plumbing Code, 2009 edition, with appendices;

(2) International Fuel Gas Code, 2009 edition, with appendices;

(3) International Mechanical Code, 2009 edition, with appendices.

(b) Said codes are incorporated herein as if fully set out herein; save and except such portions as are hereinafter amended, modified or deleted by this article. The term "code official" shall mean "building official" where used in the above codes.
(Code 1961, § 20-1; Ord. No. 206-71, § 1, 10-25-1971; Ord. No. 54-72, § 1, 3-13-1972; Ord. No. 168-74, § 1, 7-8-1974; Ord. No. 224-74, § 1, 9-9-1974; Ord. No. 17-77, § 1, 2-14-1977; Ord. No. 239-80, § 1, 8-11-1980; Ord. No. 149-83, § 1, 5-23-1983; Ord. No. 296-87, § 1, 12-21-1987; Ord. No. 164-96, § 1, 6-14-1996; Ord. No. 340-97, § 1, 10-27-1997; Ord. No. 002-06, § 1, 1-9-2006; Ord. No. 076-2011, § 1, 5-23-2011)

Sec. 105-257. Amendments, additions and deletions to plumbing code.

The following amendments, modifications and deletions to and from the International Plumbing Code adopted by section 105-256, are hereby made and adopted, such amendments, modifications and deletions being set forth herein with reference to and prefaced by the section number or chapter number of the International Plumbing Code:

102.9 Requirements not covered by code. Any requirements necessary for the strength, stability or proper operation of an existing or proposed plumbing system, or for the

public safety, health and general welfare, not specifically covered by this Code shall be determined by the code official. Master plumbers and licensed journeyman plumbers may supervise only three apprentices at one time.

Section 108.4 Violation penalties, of the said Plumbing Code adopted by section 105-256 herein, is hereby amended to read in its entirety as follows: "Penalties shall be as set forth in section 105-263 of the Code of Ordinances of the City of Texarkana, Texas."

Section 109 Means of Appeal, of the said Plumbing Code adopted by section 105-256 herein, is hereby amended to read in its entirety as follows: "Any person shall have the right to appeal a decision of the code official to the Plumbing Appeals and Advisory Board as set forth in section 105-262 of the Code of Ordinances of the City of Texarkana, Texas. An appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of construction is proposed. An appeal must be filed within 20 days after notice of the decision of the code official is served."

Section 605.3 Water service pipe, of the said Plumbing Code adopted by section 105-256 herein, is hereby amended to add the following: "*Materials above ground.* Materials for water distribution pipes and tubing shall be brass, copper water tube minimum type K or L, stainless steel water tube minimum grade H, cast iron pressure pipe, galvanized steel, or chlorinated polyvinyl chloride (CPVC) plastic pipe or tubing, cross-linked polyethylene (PEX) tubing all to be installed with approved fittings; except that changes in direction in copper tube (ASTM B88) may be made with bends having a radius of not less than four diameters of the tube, providing such bends are made by use of forming equipment which does not deform or create a loss in cross-sectional area of the tube. PEX to be insulated with closed cell foam pipe insulation in exterior walls and in attics." *Materials below ground.* Inaccessible water distribution piping under slabs shall be copper water tube minimum type K or L, brass, cast iron pressure pipe, all to be installed with approved fittings or bends. Cross-linked Polyethylene tubing (PEX) when sleeved and buried at least 6 inches under frost line, continuous with no connections underground, sleeve must be a minimum 2' or twice the diameter of the PEX, schedule 40 PVC, bends must be long sweep or a combination of fittings to produce the long sweep." Any material subject to corrosion shall be protected when used in corrosive soils."

Section 1003.3.4.1 Grease trap capacity, of the said Plumbing Code adopted by section 105-256 herein, is hereby amended to read in its entirety as follows: "Grease traps shall be sized according to section 42-138 of the Code of Ordinances of the City of Texarkana, Texas."

Appendix A Plumbing Permit Fee Schedule, of the said Plumbing Code adopted by section 105-256 herein, is hereby amended to read in its entirety as follows:

Permit fees shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

Penalty fee: If any person commences any work before obtaining the necessary permits, the permit fee shall be doubled.

Appendix C Gray Water Recycling Systems, of the said Plumbing Code adopted by section 105-256 herein, is hereby deleted in its entirety.

(Code 1961, § 20-2; Ord. No. 206-71, § 1, 10-25-1971; Ord. No. 54-72, § 2, 3-13-1972; Ord. No. 276-74, § 2, 12-9-1974; Ord. No. 17-77, § 2, 2-14-1977; Ord. No. 149-83, § 2, 5-23-1983; Ord. No. 323-85, § 2, 10-14-1985; Ord. No. 296-87, § 2, 12-21-1987; Ord. No. 93-92, § 1, 3-2-1992; Ord. No. 327-95, § 1, 8-28-1995; Ord. No. 340-97, § 2, 10-27-1997; Ord. No. 103-03, § 1, 5-12-2003; Ord. No. 217-05, § 1, 8-22-2005; Ord. No. 002-06, § 2, 1-9-2006; Ord. No. 076-2011, § 2, 5-23-2011; Ord. No. 176-2011, § 1, 11-14-2011)

Sec. 105-258. Amendments, modifications, deletions to the fuel gas code.

The following amendments, modifications and deletions to and from the International Fuel Gas Code adopted by section 105-256, are hereby made and adopted, such amendments, modifications and deletions being set forth herein with reference to and prefaced by the section number or chapter number of the International Fuel Gas Code:

Section 108.4 Violation penalties, of the said Fuel Gas Code adopted by section 105-256 herein, is hereby amended to read in its entirety as follows: "Penalties shall be as set forth in section 105-263 of the Code of Ordinances of the City of Texarkana, Texas."

Section 109 Means of Appeal, of the said Fuel Gas Code adopted by section 105-256 herein, is hereby amended to read in its entirety as follows: "Any person shall have the right to appeal a decision of the code official to the Plumbing Appeals and Advisory Board as set forth in section 105-262 of the Code of Ordinances of the City of Texarkana, Texas. An appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of construction is proposed. An appeal must be filed within 20 days after notice of the decision of the code official is served."

Section 404.1 Prohibited locations, of the said Fuel Gas Code adopted by section 105-256 herein, is hereby amended by adding the following sentence: "Underground gas piping shall not be installed closer than 24 inches to water or sewer piping."

Section 404.9 Minimum burial depth, of the said Fuel Gas Code adopted by section 105-256 herein, is hereby amended to read in its entirety as follows: "Underground piping systems shall be installed a minimum depth of 18 inches below grade, except as provided for in section 404.9.1."

Section 404.14.1 Limitations, of the said Fuel Gas Code adopted by section 105-256 herein, is hereby amended by adding the following sentence: "Plastic piping must be buried at least 18 inches underground for its entire length and may not be used within or under any building or slab but must terminate no closer than two feet to the building or slab. Gas piping must enter the structure above the foundation."

Section 406.4.1 Test pressure, of the said Fuel Gas Code adopted by section 105-256 herein, is hereby amended by amending the first sentence to read as follows: "The test pressure to be used shall be no less than 1½ times the proposed maximum working pressure, but not less than 20 psig, irrespective of design pressure."

(Code 1961, § 20-2.1; Ord. No. 224-74, § 2, 9-9-1974; Ord. No. 17-77, § 3, 2-14-1977; Ord. No. 239-80, § 3, 8-11-1980; Ord. No. 149-83, § 3, 5-23-1983; Ord. No. 323-85, § 2, 10-14-1985; Ord. No. 296-87, § 3, 12-21-1987; Ord. No. 340, § 3, 10-27-1997; Ord. No. 002-06, § 3, 1-9-2006; Ord. No. 076-2011, § 3, 5-23-2011)

Sec. 105-259. Amendments, modifications, deletions to the mechanical code.

The following amendments, modifications and deletions to and from the International Mechanical Code adopted by section 105-256, are hereby made and adopted, such amendments, modifications and deletions being set forth herein with reference to and prefaced by the section number or chapter number of the International Mechanical Code:

Section 108.4 Violation penalties, of the said Mechanical Gas Code adopted by section 105-256 herein, is hereby amended to read in its entirety as follows: "Penalties shall be as set forth in section 105-263 of the Code of Ordinances of the City of Texarkana, Texas."

Section 109 Means of Appeal of the said Mechanical Code adopted by section 105-256 herein, is hereby amended to read in its entirety as follows: "Any person shall have the right to appeal a decision of the code official to the Plumbing Appeals and Advisory Board as set forth in section 105-262 of the Code of Ordinances of the City of Texarkana, Texas. An appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of construction is proposed. An appeal must be filed within 20 days after notice of the decision of the code official is served."

Section 603.6.1.1 of the said Mechanical Code is amended as follows: "There shall be no flexible duct allowed over the length of 6 (six) feet, in the air conditioning and furnace system except for return air. These pieces will connect trunk lines or plenums to grills."

Appendix B Recommended Permit Fee Schedule of the said Mechanical Code adopted by section 105-256 herein, is hereby amended to read in its entirety as follows:

"Permit fees. The permit and inspection fees herein provided shall be paid to the city before the issuance of a permit and before any work has started. The fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office and city website."

(Code 1961, § 20-2.2; Ord. No. 17-77, § 4, 2-14-1977; Ord. No. 239-80, § 4, 8-11-1980; Ord. No. 149-83, § 4, 5-23-1983; Ord. No. 296-87, § 4, 12-21-1987; Ord. No. 340-97, § 4, 10-27-1997; Ord. No. 002-06, § 4, 1-9-2006; Ord. No. 076-2011, § 4, 5-23-2011)

Sec. 105-260. Plumbing appeals and advisory board.

(a) *Organization of board.* There is hereby created a seven-member plumbing appeals and advisory board which consists of:

(1) A licensed master plumber.

(2) A licensed journeyman plumber.

(3) A building contractor.

(4) The city engineer.

(5) The city health officer.

(6) A licensed architect.

(7) A heating and air conditioning contractor or registered mechanical engineer.

(b) *Ex-officio member.* The plumbing inspector shall be an ex-officio, nonvoting member of said board.

(c) *Appointment and terms of office.* Members of the board and their successors shall be appointed by the mayor and confirmed by the city council and shall hold office for terms of four years, or until their successors are appointed and have qualified; except, the members of the board first appointed shall hold office, two for two years and two for four years as determined by the mayor in making said appointments.

(d) *Alternate selection.* If a licensed architect or registered engineer is not available, the mayor may appoint such other lay person as the mayor deems qualified to serve as a representative of the general public.

(e) *Eligibility to serve.* The city engineer and the city health officer shall be eligible to serve only so long as they hold office.

(f) *Compensation.* All members shall serve without compensation.
(Code 1961, § 20-3; Ord. No. 206-71, § 1, 10-25-1971; Ord. No. 59-74, § 1, 2-25-1974)

Sec. 105-261. Election of officers and adoption of rules.

The members of the board shall meet as soon after their appointment as practicable for the purpose of organization. The board shall formally elect a chairperson, vice-chairperson and secretary from its members and may adopt such rules as it deems necessary for the orderly conduct of its affairs. A full and complete record of the proceedings of said board shall be kept. A majority of the board shall constitute a quorum for the transaction of business. The city shall furnish a recording secretary when needed.
(Code 1961, § 20-4; Ord. No. 206-71, § 1, 10-25-1971)

Sec. 105-262. Duties and powers of the board.

(a) *Right of appeal.* Any person, firm or corporation aggrieved by any interpretation of this Code or by any decision or ruling by the plumbing inspector under this Code shall have the right to make an appeal in writing to the plumbing appeals and advisory board. The plumbing appeals and advisory board shall be the body referred to in section 105-260 of the city.

(b) *Hearings by the board.* Within a period of ten days from the filing of the appeal, the board shall hear the appeal together with the testimony of all parties concerned, and it shall render a decision thereon within three working days thereafter. In hearing such an appeal, the board shall not have the power to waive or set aside the requirements of this Code, except as may be specifically approved elsewhere in this Code, but the board shall have the power to interpret its provisions. An exception is hereby granted to authorize the board to grant a variance from the plumbing code requirements as to specific material to be used for water lines within a building, in those cases where tests conducted on a water sample from a specific building site conducted by a certified testing laboratory satisfactory to the director of public works show the water to have a detrimental effect on both copper and galvanized piping is used at that site.

(c) *Advisory responsibility of the board.* The board shall submit to the city council such recommendations for the improvements and revision of this Code as it may, from time to time, deem necessary and proper in light of the development of new materials, methods or techniques which would result in a better and more economical installation. All requests for use of materials or methods not covered in this Code shall be fully supported by factual evidence, or price approval, from a recognized testing agency or such impartial qualified authority acceptable to the board.
(Code 1961, § 20-5; Ord. No. 206-71, § 1, 10-25-1971; Ord. No. 224-74, § 3, 9-9-1974; Ord. No. 224-82, § 1, 10-11-1982; Ord. No. 002-06, § 5, 1-9-2006)

Sec. 105-263. Penalty for violation of article.

(a) Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed $500.00, except for such violations of any provisions of this article that govern public health and sanitation, upon conviction, shall be fined in an amount not to exceed $2,000.00. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such thereunder.

(b) If any person commences any work on a plumbing installation before obtaining the necessary permit from the city, the person shall be subject to a penalty in the amount of 100 percent of the regular fees prescribed herein, which penalty shall be in addition to the regular fee charged.

(Code 1961, § 20-6; Ord. No. 206-71, § 2, 10-25-1971; Ord. No. 207-75, § 1, 9-8-1975; Ord. No. 54-88, § 1, 2-22-1988; Ord. No. 340-97, § 4, 10-27-1997)

Sec. 105-264. Landscape irrigators.

(a) *License and bond required.* Before any person, firm or corporation shall engage in the business of contracting for and/or installing, maintaining, enlarging or repairing landscape irrigation systems, for which permits are required, within the corporate limits of the city, or outside the corporate limits, but within subdivisions in the extraterritorial jurisdiction of said city as prescribed by law, they shall first obtain the proper license from the state and deposit with the city a good and sufficient bond in the sum of $2,000.00, conditioned that the person, firm or corporation so engaged in the landscape irrigation business will faithfully observe all laws pertaining to plumbing and landscape irrigation systems; further, that the city shall be indemnified and saved harmless from all claims arising from accidents and damage of any character whatsoever caused by the negligence of such person, firm or corporation engaged in the landscape irrigation business, or by any unfaithful or inadequate work done either by themselves or their agents or employees. This bond will be to indemnify the city or any party damaged, for all loss and damage which any person, firm or corporation may sustain because of landscape irrigation work done in an improper or negligent manner. Nothing in this Code shall prevent a homeowner from installing or maintaining a landscape irrigation system on property owned and occupied by a homeowner as the homeowner's home as long as the work is done by the homeowner. Such privilege does not convey the right to violate any of these provisions of this Code, nor is it to be construed as exempting any such property from obtaining a permit and paying the required fee therefor. An individual shall not install a landscape irrigation system or be issued a permit on property owned but not occupied by the individual, unless the individual is a landscape irrigator licensed by the state.

(b) *Restrictions and limitations.* Any person holding a certificate of registration as a licensed landscape irrigator or licensed installer shall not be required to comply with any other licensing requirements of the city in order to perform connections to private or public raw or potable

water systems or for the installation of pressure vacuum breakers or other approved backflow prevention devices. Licensed landscape irrigators or licensed installers shall not engage in other plumbing work unless they hold the proper plumbing licenses.

(c) *Issuance of permits.* Permits will be issued for landscape irrigation systems only after two sets of plans and specifications for the system have been submitted for approval and approval obtained from the city engineer, or the engineers designated representative.

(d) *Permit and inspection fees.* Permit and inspection fees will be as set forth in section 105-257 under plumbing fees.

(e) *Minimum standards and specifications.* Unless otherwise exempted by this Code, the Land Development Code, or a technical code as adopted by reference in this Code, any work undertaken in the business of contracting for and/or installing, maintaining, enlarging or repairing landscape irrigation systems must be performed in accordance with the minimum standards and specifications for designing, installing and operating irrigation systems as prescribed under state law (Texas Occupations Code § 1903.053) and the rules adopted by the Texas Commission on Environmental Quality (30 TAC ch. 344, subchapter F—Standards for Designing, Installing and Maintaining Landscape Irrigation Systems).
(Code 1961, § 20-7; Ord. No. 207-75, § 2, 9-8-1975; Ord. No. 257-79, § 1, 8-13-1979; Ord. No. 340-97, §§ 6, 7, 10-27-1997)

State law reference—Authority of municipality a population of 20,000 or more to require an installer of an irrigation system to hold a state-issued license and obtain a permit from the municipality before installing a system within the municipality, Texas Local Government Code § 551.006.

Sec. 105-265. Heating and air conditioning license.

(a) No person shall engage in the business of installing, altering and/or repairing of air conditioning, heating, mechanical, refrigeration and/or ventilation systems within the jurisdiction of this article, unless such person is property licensed in accordance with the air conditioning and refrigeration contractor license law of the state.

(b) Current contractor's license issued by the city may be renewed in January 1988, for one year ending December 31, 1988. After that date, all heating and air conditioning or refrigeration contractors will be required to hold a state license.

(c) Any person desiring a journeyman certificate shall make application to the plumbing inspector accompanied by a fee. The plumbing inspector, with the approval of the plumbing appeals and advisory board, shall grant the applicant an air conditioning journeyman's certificate, provided the applicant proves that the applicant has three years or more experience, qualifying the applicant to hold a journeyman air conditioning certificate, and/or by examination, indicates that the applicant has satisfactory knowledge concerning detailed provisions of the standard mechanical code.

(d) Renewal. Annual renewal fees for air conditioning journeyman certificates shall be paid on or before January 31. After this date, a delinquent fee shall be charged. Journeyman certificates that are not renewed within 90 days after expiration date shall be automatically cancelled, and in order to receive another certificate, the applicant shall be required to register in accordance with subsection (c) of this section.

(e) Contractors shall register each new air conditioning apprentice with the inspection department in writing within 14 days of employment and shall register all apprentices in their employ by January 31 of each year.

(f) Duty of work supervisor. Every master H/A contractor, or the contractor's qualified journeyman, shall direct, superintend and always be present during all installations and repairs under the contractors control within the city and extrajurisdiction. Nothing in this section, however, is to be construed as relieving the master contractor of any responsibility established under this article for work directed or superintended by a heating and air journeyman.

(g) The fees described in this section shall be in amounts as established by the city council from time to time and is on file in the city secretary's office or city website.
(Code 1961, § 20-8; Ord. No. 238-75, § 1, 10-13-1975; Ord. No. 149-83, §§ 5—7, 5-23-1983; Ord. No. 296-87, § 5, 12-21-1987; Ord. No. 340-97, § 8, 10-27-1997)

State law reference—Authority of municipality to issue an air conditioning and refrigeration contractor license, Texas Occupations Code § 1302.301 et seq.

Sec. 105-266. Plumbing, gas and mechanical code compliance inspections.

The building official shall arrange for plumbing, gas or mechanical code compliance inspections when requested by the owner or builder of any single-family duplex, townhouse, condominium or house under construction in the city's extraterritorial jurisdiction and located outside a legal subdivision. A fee for each code will be assessed for the inspection service of each unit designed to house a single family. The fees shall be due and payable to the city prior to the request by the owner or builder for a final inspection. The final inspection report shall not be provided to the owner or builder, until the required payment has been received. This section shall not be applicable to apartments or nonresidential structures. The inspection fees described in this section shall be in amounts as established by the city council from time to time and is on file in the city secretary's office or city website.
(Code 1961, § 20-9; Ord. No. 164-96, § 2, 6-14-1996)

Secs. 105-267—105-282. Reserved.

ARTICLE V. PERMIT TO MOVE BUILDING OVER OR ACROSS STREETS

Sec. 105-283. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein, except where the context clearly indicates a different meaning:

Building means a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property and used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes.

Building inspector means the building inspector of the city.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.
(Code 1961, § 5-25; Ord. No. 60-61, § 1, 10-16-1961)

Sec. 105-284. Required.

No person shall move any building over, along or across any highway, street or alley in the city without first obtaining a permit from the building inspector.
(Code 1961, § 5-26; Ord. No. 60-61, § 2, 10-16-1961)

Sec. 105-285. Application.

(a) *Required.* A person seeking issuance of a permit under this article shall file an application for such permit with the building inspector.

(b) *Form and filing.* The application shall be made in writing upon forms provided by the building inspector and shall be filed in the office of the building inspector at least 48 hours before the building is to be moved.

(c) *Contents.* The application shall set forth the following:

(1) A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior;

(2) A legal description of the lot from which the building is to be moved, giving the lot, block and tract number, if located in the city;

(3) A legal description of the lot to which it is proposed such building be removed, giving lot, block and tract number if located in the city;

(4) The portion of the lot to be occupied by the building when moved;

(5) The highways, streets and alleys over, along or across which the building is proposed to be moved;

(6) Proposed moving date and hours;

(7) Any additional information which the building inspector shall find necessary to a fair determination of whether a permit shall be issued.

(d) *Accompanying papers—Tax certificate.* The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of any entanglements and that all taxes and any city charges against the same are paid in full.

(e) *Same—Certificate of ownership or entitlement.* The applicant, if other than the owner, shall file with the application, a written statement or bill of sale signed by the owner or other sufficient evidence that the applicant is entitled to move the building.

(f) *Same—Statements from power utility companies and property owners.* The permit applicant shall secure and file with the building inspector written statements from all telephone and power utility companies, all private individuals or businesses and all governmental agencies which own or maintain along the proposed moving route any power lines, signs, structures, shrubbery or real property that is subject to removal, alteration, injury or trespass by any building or structure moved on the city streets or public right-of-way. Such statements shall specify that suitable arrangements have been made with such telephone or power utility companies, private individuals, businesses and governmental agencies regarding the proposed moving of the building or structure over, across, under or around such property so owned or maintained.
(Code 1961, § 5-27; Ord. No. 60-61, § 3, 10-16-1961; Ord. No. 50-67, § 1, 4-24-1967)

Sec. 105-286. Fees.

(a) The application for a permit under this article shall be accompanied by a permit fee, the amount of such fee to be as established by the city from time to time and on file in the city secretary's office or city website.

(b) The city engineer may permit buildings in excess of 28 feet, but not exceeding 32 feet to be moved over and across city streets only if the following conditions are met:

(1) Streets and highways over which the structure is to be moved are of sufficient widths to permit such passage with minimum risk to public and private property.

(2) The chief of police shall concur with the city engineer's decision and shall determine the time during which the building may be moved. Said time set forth by the chief of police shall take precedence over section 105-290(1).

(3) A bond shall be furnished prior to the initiation of moving. Said bond, approved as to form by the city attorney, executed by a bonding or surety company authorized to do business in the state in the amount of $10,000.00, conditioned upon the assurance that this and other applicable ordinances and laws will be complied with. Such bond shall be payable to the city and shall be conditioned on payment for any expense or damage to

public or private property; and payment of any expenses, damages or losses resulting from any malfeasance, misfeasance, nonfeasance or negligence in connection with any of the activities upon which a house moving permit applied for is granted.

(c) Each permit issued hereunder will provide for two hours of escort by police department vehicle. Each additional hour or part thereof will be charged for at a rate per hour for so long as the building or structure is located on any city street, alley or other public right-of-way. No exceptions will be made in the hourly charge for any mechanical breakdown or for any other delay not within the control of the building inspector or the inspector's agent. Overnight parking on public right-of-way without an officer on duty may be permitted; provided, however, that satisfactory arrangements are made in advance and the applicant has the approval of the street superintendent and the chief of police. The rate shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(d) If it is necessary to move a building or structure at any time other than that stipulated in section 105-290(1), then an additional charge will be assessed, in addition to any of the above charges. The additional charge shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.
(Code 1961, § 5-28; Ord. No. 6061, § 3, 10-16-1961; Ord. No. 2-62, § 1, 1-15-1962; Ord. No. 50-67, § 2, 4-24-1967; Ord. No. 85-76, § 1, 5-10-1976)

Sec. 105-287. Deposit required of applicant to cover expenses incurred by city.

Upon receipt of an application for a permit under this article, it shall be the duty of the building inspector to procure from the inspection department, an estimate of the expense that will be incurred in removing and replacing any property belonging to the city or any other property of the city, the removal and replacement of which will be required by reason of the moving of the building through the city, together with the cost of materials necessary to be used in making such removals and replacements. Prior to issuance of the permit, the building inspector shall require of the applicant a deposit of a sum of money equal to twice the amount of the estimated expense.
(Code 1961, § 5-29; Ord. No. 60-61, § 4, 10-16-1961)

Sec. 105-288. Insurance required of all permit applicants.

Before any permit shall be issued by the city to move any building or structure over, upon, along or across any street, alley or other public right-of-way, the person making application for such permit shall furnish to the building inspector proof that the vehicles to be used by such person to move such building or structure are covered by a liability insurance policy issued by an insurance company authorized to do business in the state in a form approved by the city attorney. Such insurance policy shall provide coverage in the minimum amount of $300,000.00 for personal injuries or death to any one person, $300,000.00 for personal injuries or death in

any one accident and $50,000.00 property damage liability for any one accident. The purpose of such insurance policy shall be the protection of the city and its officers and employees and property, in the event of death, injury or property damage suffered by the city or any person as a result of the moving of any building or structure over, along, upon or across any street, alley or other public right-of-way within the corporate limits of the city. Such policy of insurance shall list the city as a coinsured and shall not be cancelled without the city's approval.
(Code 1961, § 5-30; Ord. No. 60-61, § 5, 10-16-1961; Ord. No. 50-67, § 3, 4-24-1967; Ord. No. 339-97, § 4, 10-27-1997)

Sec. 105-289. Duties of building inspector and other officers.

(a) *Inspection.* The building inspector shall inspect the building and the applicant's equipment to determine whether the standards for issuance of a permit under this article are met.

(b) *Standards for issuance.* The building inspector shall refuse to issue a permit if the inspector finds:

(1) That any application requirement or any fee or deposit requirement has not been complied with.

(2) That the building is too large to move without endangering persons or property in the city. Each instance shall be reviewed on a case-by-case basis.

(3) That the building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the city.

(4) That the building is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the city.

(5) That the applicant's equipment is unsafe and that persons and property would be endangered by its use.

(6) That zoning or other ordinances would be violated by the building in its new location.

(7) That for any other reason, persons or property in the city would be endangered by the moving of the building.

(8) That the permit applicant has failed to pay any past permit fees or charges owed to the city.

(c) *Fees and deposits—Disposition.* The permit applicant shall pay all fees and deposits due to the city to the office of tax assessor-collector.

(d) *Same—Return upon nonissuance.* Upon the refusal to issue a permit hereunder, the building inspector shall cause all fees and deposits to be returned to the applicant, except for an amount which shall be retained as an administrative fee. Fees or deposits shall not be returned for any reason other than the refusal of the building inspector to issue a permit. The

administrative fee which shall be retained by the building official shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(e) *Designation of streets to be used.* The building inspector shall prepare a route list of designated streets over which the building will be moved. The building inspector shall have the list approved by the chief of police and the street superintendent and shall reproduce the list upon the permit in writing. In making their determinations, the street superintendent and the chief of police shall act to ensure maximum safety to persons and property in the city and to minimize congestion and traffic hazards on public streets.
(Code 1961, § 5-31; Ord. No. 60-61, § 6, 10-16-1961; Ord. No. 50-67, § 4, 4-24-1967; Ord. No. 85-76, § 2, 5-10-1976)

Sec. 105-290. Duties of permittee.

Every permittee under this article shall:

(1) *Use designated streets; hours for moving.* Move a building only over streets designated for such use in written permit between the hours of 9:00 a.m. and 12:00 midnight and between 1:00 p.m. and 4:00 p.m., unless other arrangements are made in advance as set forth in section 105-286.

(2) *Notify of revised moving time.* Notify the building inspector in writing of a desired change in moving date and hours as proposed in the application.

(3) *Notify of damage.* Notify the building inspector in writing of any and all damage done to property belonging to the city, or any corporation, governmental agency or person within 24 hours after the damage or injury has occurred.

(4) *Display lights and barricades.* Cause red lights to be displayed during the nighttime on every side of the building while standing on a street, in such manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such manner as to protect the public from damage or injury by reason of the removal of the building.

(5) *Remove building from street.* Remove the building from the city streets by 4:00 p.m. the same day the moving began, unless arrangements have been made in accordance with the provisions of section 105-286.

(6) *Comply with governing law.* Comply with the building code, the fire prevention code, the zoning ordinance and all other applicable ordinances and laws upon relocating the building in the city. When any structure which is equipped with a system of plumbing consisting of pipe and/or fixtures is moved within the city limits, or to any location outside the city and within two miles of the corporate limits of the city where water and sewer mains are available, before connecting to water or sewer, the structure shall be

equipped with such piping and fixtures to comply with the plumbing code of the city and all permits for such structures shall apply as to any new structure built within the city limits.

(7) *Officer to accompany.* Move a building within the city only when such building is escorted by a police officer of the city.

(8) *Clear old premises.* Remove all rubbish and materials and fill all excavations to existing grade at the original building site so that the premises are left in a safe and sanitary condition.

(9) *Notify utility companies.* Notify the water, gas and electric service companies to remove their services prior to securing a permit.

(10) *Minimum support requirements.* Move any building or structure over, upon, along or across any public street, alley or other public right-of-way only when such building or structure is supported by at least one pneumatic tire for each 100 square feet of floor space being so moved.

(11) *Maintain proper clearance.* Maintain proper clearance between all buildings and structures being moved hereunder and all power lines as is provided in the recommendations of the National Electrical Safety Code as such recommendations exist at the time such building or structure is moved.

(Code 1961, § 5-32; Ord. No. 60-61, § 7, 10-16-1961; Ord. No. 50-67, § 5, 4-24-1967)

Sec. 105-291. Permittee liable for expense above deposit.

The permittee under this article shall be liable for any expense, damages or costs in excess of the deposited amount or securities.

(Code 1961, § 5-33; Ord. No. 60-61, § 8, 10-16-1961)

Sec. 105-292. Enforcement of article.

The building inspector, the police department and the department of public works shall enforce and carry out the requirements of this article.

(Code 1961, § 5-34; Ord. No. 60-61, § 8, 10-16-1961)

Sec. 105-293. Penalty for violation of article; continuing violations.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined $200.00. Each day such violation is committed, or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

(Code 1961, § 5-35; Ord. No. 60-61, § 9, 10-16-1961)

Sec. 105-294. Moving loads of more than five tons in city.

(a) It shall be unlawful for any person to haul, move or transport any load of more than five tons on, over or across any paved street of the city, without first securing a permit from the city engineer or designee. It shall also be unlawful to violate any condition or requirement of said permit, including, but not limited to, failing to take the designated route, failing to plank the streets or failing to protect the streets.

(b) The city engineer or designee, shall not issue said permit if the route requires travel over a load zoned paved street of the city, except in the following instances:

(1) Such vehicle subject to said permit is being driven or operated to or from the place of employment of the driver or to fulfill a local commercial obligation to a buyer or seller at a given destination, evidenced by a bill of sale or invoice; and

(2) A route over a load zoned paved street was the only route available to fulfill the obligations listed in subsection (b)(1) of this section.

(c) This section shall not apply to any vehicle moving over a state or federal highway in the city in intrastate or interstate commerce.

(d) Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, in addition to any civil liability for damages caused to the streets of the city, and, upon conviction thereof, shall be fined in any sum not less than $500.00 nor more than $1,000.00 per violation per vehicle.
(Code 1961, § 13-15; Ord. of 7-27-1926, §§ 1, 2; Ord. No. 104-2012, § 1, 7-30-2012)

Secs. 105-295—105-310. Reserved.

ARTICLE VI. UNSAFE BUILDINGS AND STRUCTURES*

Sec. 105-311. Purpose.

It is the purpose of this article to:

(1) Provide a just and practical method to vacate, secure, repair or demolish all buildings or structures which may endanger the life, limb, health, morals, property, safety or welfare of the resident, occupant or the general public.

***State law references**—Authority of governing body to appoint building and standards commission to hear and determine cases regarding the materials or methods used to construct a building or improvement and any dangerously damaged or deteriorated buildings or improvements, Texas Local Government Code § 54.031 et seq.; municipal authority regarding substandard buildings and structures, Texas Local Government Code § 214.001 et seq.

(2) To correct undesirable conditions on any property caused by accumulations of refuse, vegetation or other matter that creates breeding and living places for insects and rodents.

(Code 1961, § 5-51; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-312. Scope.

This article shall apply to all property, substandard buildings or structures and imminently dangerous buildings or structures, as herein defined, and shall apply equally to all property, new structures and existing structures.

(Code 1961, § 5-52; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-313. Declaration.

All substandard buildings and structures are hereby declared to be public nuisances and illegal and shall be vacated, secured, repaired, demolished or the occupants relocated, as herein provided. Property with accumulations of refuse, vegetation or other matter as defined herein that creates breeding and living places for insects and rodents are hereby declared public nuisances and illegal and must be immediately mowed and cleared of all such refuse.

(Code 1961, § 5-53; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-314. Definitions.

The following terms shall have the following meanings:

Building means any structure or part thereof, erected for the support, shelter or enclosure of persons, animals or property of any kind which has enclosing walls for 50 percent of its perimeter. For the purpose of this Code, each portion of a building separated from other portions by a firewall shall be considered as a separate building.

Building official means the supervisor of the inspection department of the city, or the supervisors designated representative.

Code enforcement officer means any city employee, other than peace officers, designated by the city manager or designee, to enforce the provisions of city ordinances.

Commission means the building and standards commission of the city as established in chapter 2, article III, division 2, Building and Standards Commission of this Code.

Department means the inspection department of the city.

Garbage means kitchen refuse, ordinarily including only food stuffs or related material.

Imminent danger means a condition in which a building or structure presents a considerable risk, danger or peril and where accidents or injuries are likely to occur.

Junked vehicle means a vehicle that is self-propelled, or was manufactured to be self-propelled, or any part thereof, in ordinary public view, which remains inoperable for a continuous period of ten days.

Litter means any garbage, refuse or rubbish as defined herein and all other waste material which creates a potential danger to public health, safety and welfare if not deposited in an authorized receptacle.

Owner means any person, agent, firm or corporation, having a legal or equitable interest in the building, structure or property.

Refuse means any rubbish, trash, garbage, litter, weeds or junked vehicle.

Rubbish means all solid waste consisting of combustible and noncombustible waste, including, but not limited to, paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, or any part thereof.

Substandard building means any building or structure that has been determined by the building official or the commission to be unsafe or uninhabitable as provided herein or under other applicable ordinances of the city; and/or the cost of repair of any building or structure exceeds 50 percent of its value as appears on the tax rolls of the city and/or the county central appraisal district.

Unsecured building means any building or structure that currently has no legitimate occupant or tenant which has missing or unlocked doors or windows or other unsecured openings into the building or structure through which unauthorized persons can enter.

Weeds mean herbage in excess of 12 inches tall.
(Code 1961, § 5-54; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-315. Enforcement official.

(a) The provisions of this article shall be enforced by the building official or designee, or by a code enforcement officer.

(b) The building official, building official's officers, inspectors and assistants and the code enforcement officer are hereby authorized to issue citations, subpoenas and summons for violations of this article.
(Code 1961, § 5-55; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-316. Substandard building conditions.

The following conditions shall be utilized by the building official and the commission in determining whether a building or structure should be declared a substandard building:

(1) The building, structure or any part thereof is liable to partially or fully collapse.

(2) The building, structure or any part thereof was constructed or maintained in violation of any provision of the city's building code or any other applicable ordinance or law of the city, county, state or federal government.

(3) Any wall or other vertical structural members list, lean or buckle to such extent that a plumb line passing through the center of gravity falls outside the middle third of its base.

(4) The foundation or the vertical or horizontal supporting members are 25 percent or more damaged or deteriorated.

(5) The nonsupporting coverings of walls, ceilings, roofs or floors are 50 percent or more damaged or deteriorated.

(6) All buildings or structures of which the floors, walls, ceilings and all supporting members are not capable of bearing imposed loads safely.

(7) The building, structure or any part thereof has been damaged by fire, water, earthquake, wind, vandalism or other cause to such an extent that it has become dangerous to the public health, safety and welfare.

(8) The building, structure or any part thereof has inadequate means of egress as required by the city's building code.

(9) The building or structure does not have adequate light, ventilation or sanitation facilities as required by the city's building code and plumbing code.

(10) All buildings or structures not wired so as to provide in operating condition electrical circuits sufficient to safely carry a load imposed by normal use of appliances and fixtures.

(11) All buildings or structures which constitute or in which are maintained a fire hazard as that term is defined by the ordinance of the city.

(12) All buildings or structures in noncompliance with the requirements of the city's building code, electrical code, plumbing code, fire code or other applicable codes of the city such that said buildings or structures constitute a menace or hazard to the public health or safety.

(13) All buildings or structures so dilapidated or substandard as to be unfit for human habitation and a hazard to the public health, safety and welfare.

(14) All buildings or structures so deteriorated or constructed or permitted to be constructed as to constitute a menace to the health or safety, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects, reasonably calculated to spread disease, including such conditions hazardous to safety as inadequate bracing or use of deteriorated materials.

(15) All buildings or structures, regardless of their structural condition, which are unoccupied by their owners, lessees or other invitees and are unsecured from unauthorized entry to the extent they could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children.

(Code 1961, § 5-56; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-317. Poorly maintained property.

The following conditions shall be considered by code enforcement officers in determining if a property is not maintained in accordance with all applicable city ordinances. The owner of property is subject to pay damages in accordance with this article when the person's property is poorly maintained in violation of any provision of chapter 22, Garbage, Litter, Vegetation and Solid Waste or any other ordinance related to the accumulation of refuse, vegetation or other matter that creates breeding and living places for insects and rodent.

(Code 1961, § 5-57; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-318. Minimum standards.

The minimum standards that shall determine the condition of property or the suitability of a building or structure for continued use or occupancy, regardless of the date of construction, are those found in the city's adopted building, electrical, plumbing, gas, mechanical, existing buildings, fire prevention codes and any city ordinance regarding the proper maintenance of property.

(Code 1961, § 5-58; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-319. Requirements not covered.

Any requirement necessary for the strength or stability of an existing or proposed building or structure, or for the safety or health of the occupants thereof, not specifically covered by this article, shall be determined by the building official.

(Code 1961, § 5-59; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-320. Right of entry for inspection.

(a) The building official or code enforcement officer is hereby authorized to make such inspections and may enter a building, structure or premises at all reasonable times to make an inspection or enforce any of the provisions of this article.

(b) When entering a building, structure or premises that is occupied, the building official or code enforcement officer shall first present proper identification and request entry.

(c) No person, owner or occupant of any building, structure or premises shall fail, after proper identification, to permit entry into any building, structure or onto any property by the building official or code enforcement officer for the purpose of inspections pursuant to this article.

(d) If entry is refused or if the owner or person in control of the property can not be located, the building official or code enforcement officer shall have every remedy provided by law to secure entry, including a search warrant issued by the municipal judge for administrative code violations.
(Code 1961, § 5-60; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-321. Duties of building official upon determination of substandard building.

(a) *Post substandard building placard.* Upon determination by the building official that a building or structure is substandard, a placard shall immediately be placed on the building or structure declaring it to be substandard. The placard shall state: "This Building is Substandard and its Use or Occupancy Has Been Prohibited by the Building Official." No building or structure which has been posted as substandard shall be occupied without prior written approval from the building official.

(b) *Exercise due diligence in determining the identity and address of the owner and lienholder, if any, of the building or structure.* Due diligence includes a search of the county real property records, appraisal district records, records of the secretary of state if the property owner is a corporation, partnership or other business association, the county-assumed name records, city tax records and utility records.

(c) *Provide notice to owner and lienholder.* A notice of substandard building report shall be prepared by the building official upon determination that a building or structure is substandard. The notice of substandard building shall be a detailed report documenting the conditions determined to have rendered the building or structure substandard under the provisions of this article. The notice of substandard building report shall also state that use or occupancy of the building or structure has been prohibited by the building official. The notice of substandard building report shall also include notice to the owner or person in control of the building or structure that they are subject to a civil penalty of up to $1,000.00 per day for each day that the property is in violation of the ordinance in accordance with Texas Local Government Code subch. B, Municipal Health and Safety Ordinance, section 54.017, Civil Penalty. The notice of substandard building shall be mailed to the owner and lienholder, if any, of the building or structure within ten days of the building or structure being posted as substandard.

(d) *Secure the substandard building.* If a building or structure determined to be substandard by the building official is an unsecured building, the owner of the building or structure shall secure the building or structure within ten days of receiving notice from the building official to do so. Notice to secure the building or structure may be sent as part of the notice of substandard building. Upon receipt of a notice to secure, each and every accessible means of entry must be secured. The securing of windows, doors or any other opening allowing access to an unsecured building shall be done with such materials and in such a manner as to effectively bar entrance to the structure. The use of cardboard, tar paper, window and door screens or any other material that will not effectively prevent entrance shall not be sufficient to meet the requirements of this article. If the owner of the building or structure fails to respond to the notice and fails to secure the building or structure, then the city may secure the building or structure at the expense of the owner.

(e) *Disconnect public utilities.* The building official may request public utilities be disconnected from a building or structure that the official has determined is substandard. Once utility services to a building, structure or premises are disconnected pursuant to this article, they shall not be reconnected without prior written approval from the building official.

(f) *Request public hearing before the commission or court.* The building official shall request a public hearing before the commission or before the civil municipal court on any building or structure that the official has determined is a substandard building.
(Code 1961, § 5-61; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-322. Duties of code enforcement officer upon determination of property in violation of city ordinance.

(a) *Exercise due diligence in determining the identity and address of the owner and lienholder, if any, or the property.* Due diligence includes a search of the county real property records, appraisal district records, records of the secretary of state if the property owner is a corporation, partnership or other business association, the county-assumed name records, city tax records and utility records.

(b) *Provide notice to property owner and lienholder.* If a code enforcement officer determines that property is maintained in violation of a city ordinance, then the code enforcement officer shall prepare a detailed written report documenting the conditions which have caused the property to be in violation of city ordinance, a reference to the specific ordinance which has been violated and the actions necessary to bring the property into compliance with the ordinance. The report shall also include notice to the owner or person in control of the property that they are subject to a civil penalty of up to $1,000.00 per day for each day that the property is in violation of the ordinance in accordance with Texas Local Government Code subch. B, Municipal Health and Safety Ordinance, section 54.017, Civil Penalty. The report shall be sent to the owner and lienholder, if any, of the property within ten days after it is determined that the property is in violation of the ordinance.

(c) *Request public hearing before the commission or court.* The code enforcement officer shall request a public hearing before the commission or before the civil municipal court regarding any property maintained in violation of a city ordinance.
(Code 1961, § 5-62; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-323. Due process, notice of public hearing, publication and time of notice.

(a) The commission shall issue a notice of the public hearing to the owner of the building, structure or property. The owner shall be served notice at least ten calendar days prior to the hearing date. The notice may be served either personally or by certified mail with return receipt requested. The executed return receipt shall be prima facie evidence of service. Additionally, a notice of the public hearing shall be posted on or near the front door of the building or structure if the hearing pertains to a building or structure.

(b) The notice shall be published in a newspaper of general circulation in the city one time on or before the tenth calendar day before the date fixed for the hearing.

(c) Notice shall also be provided to each mortgagee and lienholder, if any, in the same manner as described in subsection (b) of this section.

(d) Notice may also be filed in the official public records of real property in the county clerk's office.
(Code 1961, § 5-63; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-324. Contents of notice for public hearing.

The contents of the notice for public hearing must include:

(1) The name and address of the owner of the affected property, if that information can be determined from a reasonable search of the instruments on file in the county clerk's office, a legal description of the affected property and a description of the proceedings;

(2) An identification of the building or structure, a description of each condition which renders the building or structure substandard as determined by the building official and a statement that the city may perform the required work to abate the violation and place a lien on the property if it does so; and

(3) A statement that the owner, lienholder or mortgagee, as applicable, will be required to submit at the hearing proof of the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work.

(Code 1961, § 5-64; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-325. Burden of proof.

(a) *City's burden of proof.* The building official shall present all cases before the commission. Other city staff may participate in the presentation of cases when the city deems appropriate. The city shall present evidence of conditions that render a building or structure substandard or in violation of this article or present evidence that property is inadequately maintained in violation of a city ordinance.

(b) *Owner's burden of proof.* In a public hearing to determine whether a building or structure complies with the standards set out in this article, the owner, mortgagee or lienholder has the burden of proof to demonstrate the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work. The owner of property must provide evidence of significant improvements which demonstrate that the building is no longer substandard and complies with all applicable city codes and ordinances.
(Code 1961, § 5-65; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-326. Authorized actions of the commission.

Following due process, required notice and a public hearing, the commission may undertake any of the following actions, or a combination of such actions:

(1) Declare a building or structure unsafe or substandard in accordance with the standards set out in this article.

(2) Declare, in an appropriate case, the availability of the reclamation procedure in section 105-332 for a building or structure declared to be substandard in accordance with the standards set out in this article.

(3) Order the demolition or removal of buildings or structures found to be in violation of this article.

(4) Order property to be appropriately maintained and cleared of all refuse, vegetation or other matter that creates breeding and living places for insects and rodents.

(5) Order, in an appropriate case, the immediate vacation of persons or the immediate removal of property found on private property, enter on private property to secure the vacation or removal if it is determined that conditions exist on the property that constitute a violation of this article.

(6) Issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the city, to enforce and carry out the lawful orders or directives of the commission.

(7) The commission may order a continuance of its proceedings for a period not to exceed 60 calendar days upon a showing of good cause by the owner, lienholder or mortgagee.

(8) The commission may, by order, adopt such appropriate rules of procedure to conduct its proceedings not inconsistent with this article.

(Code 1961, § 5-66; Ord. No. 067-2010, § 1(exh. A), 4-26-2010; Ord. No. 187-2010, § 1, 11-22-2010)

Sec. 105-327. Civil penalty.

In accordance with the Texas Local Government Code subch. B, Municipal Health and Safety Ordinance, section 54.036 and section 54.017, if the owner of a building, structure or

property fails to comply with all aspects of this article or fails to comply with an order from the commission, the commission shall determine the amount of the civil penalty to be assessed per day, not to exceed $1,000.00 per day for each day that the building, structure or property is in violation of a city ordinance or $5,000.00 per day for violations related to point source effluent limitations or the discharge of a pollutant.
(Code 1961, § 5-67; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-328. Civil penalties final.

(a) An assessment of a civil penalty by the commission, as provided in this article, is final and binding and constitutes prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the city for final judgment.

(b) To enforce any civil penalty as assessed hereunder, a certified copy of the commission's order establishing the amount and duration of the civil penalty shall be filed with the district clerk's office or with the clerk of the county court at law. No other proof is required for a district court to enter final judgment on said penalty.
(Code 1961, § 5-68; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-329. Appeal.

The owner, lienholder or mortgagee shall have the right to appeal the decision of the commission to district court. A notice of appeal must be filed with the district court clerk within 30 calendar days from the date the commission's order is mailed to the owner, lienholder and mortgagee, as provided herein. If the commission's decision is not appealed within the required period, the decision of the commission is, in all things, final and binding.
(Code 1961, § 5-69; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-330. Permits.

Each order requiring the repair, removal or demolition of a building shall require that a permit for such repair or demolition be obtained by the owner prior to commencing work by the order.
(Code 1961, § 5-70; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-331. Performance of work and acceptable materials.

(a) Work to restore a substandard structure shall be performed in an expeditious and workmanlike manner in accordance with the requirements of this article and all other applicable ordinances of the city and accepted engineering practice standards.

(b) All building materials are subject to review and approval of the building official.
(Code 1961, § 5-71; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-332. Reclaiming substandard building or structure.

The owner, lienholder or mortgagee of record may reclaim a building or structure determined to be substandard by commission order only under the procedure established in this section.

(1) No later than ten business days after their receipt of the commission order, on a form provided by the city, the owner, lienholder and mortgagee of record shall submit to the city in writing their joint request to reclaim the substandard building or structure, their joint waiver of judicial review and appeal under section 105-329, section 2-89 and applicable law, and their joint agreement to the legality of the commission order and that substantial evidence supports the commission order.

(2) No later than 20 business days after receipt of the commission order, the owner, lienholder, or mortgagee of record shall submit to the city the following:

a. Signed construction contract with general contractors registered in the state for repair of each and every substandard condition;

b. A written scope of work for repair of each and every substandard condition, including a reasonable timetable with benchmarks for completion of work, approved in writing by the chief building official;

c. Documentation proving a line of credit, building bond or other proof that the owner, lienholder or mortgagee has the financial ability to complete the repairs within the allotted time; and

d. If applicable, a contract of sale or deed evidencing any change or expected change of ownership of the building or structure.

(3) The chief building official has limited authority to issue permits for reclamation repairs only for a period not to exceed the scope of work timetable approved in writing by the chief building official under subsection (2)b. of this section. There shall be no extensions of such permits. Amending the scope of work timetable after issuance of permits shall not provide grounds for an extension.

(4) Enforcement of the commission order is suspended during reclamation under this section. Civil penalties, if ordered, shall not accrue during the period of suspension.

(5) Upon expiration of permits issued under this section, if the chief building official determines that the owner, lienholder or mortgagee of record has:

a. Brought the building or structure into compliance with applicable city codes and ordinances, the city shall file with the county clerk a notice of compliance with the commission order; or

b. Not brought the building or structure into compliance with applicable city codes and ordinances, the city shall notify the owner, lienholder and mortgagee of record of that fact and the effective date of lifting the suspension of enforcement of the commission order.

(Code 1961, § 5-72; Ord. No. 067-2010, § 1(exh. A), 4-26-2010; Ord. No. 187-2010, § 2, 11-22-2010)

Sec. 105-333. Abatement actions by the city and lien for cost.

(a) If a building or structure is not vacated, secured, repaired, removed or demolished, in accordance with an order of the commission, the city may vacate, secure, remove or demolish the building on its own initiative.

(b) If the city incurs expenses under this section, the city may add the expenses to any lien the city has against the property, unless it is a homestead as protected by the state constitution. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the city for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the county clerk's office. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the city and the balance due.

(c) If the property owner agrees to transfer ownership of the property to the city and the city takes ownership of the property, then the city may waive expenses incurred for the demolition of a building or structure or otherwise bringing the building or property into compliance with city ordinance.

(d) If the notice is given and the opportunity to repair, remove or demolish the building is afforded to each mortgagee and lienholder as authorized herein, the lien is a privileged lien subordinate only to tax liens.

(Code 1961, § 5-73; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-334. Emergency actions.

In cases where the condition of a building constitutes an imminent danger to the health, life or safety of any person, unless immediately vacated, repaired or demolished, the building official may cause such immediate securing, vacation, repair or demolition to the extent necessary to alleviate the imminent danger. Notice that such emergency action has been taken shall be mailed to the owner listed on the ad valorem tax roll to the address therein provided and the cost of the action shall be added to the ad valorem taxes.

(Code 1961, § 5-74; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-335. Remedies and enforcement.

(a) *Nonexclusive.* The remedies and penalties set out herein are intended to be nonexclusive; that is, they shall not be construed to exclude the city from seeking any and all remedies at law or equity to which the city may be entitled under state law or otherwise, and the remedies as set out herein, shall be considered in addition to and cumulative of such remedies as set out under state law.

(b) *Municipal court remedies preserved.* Remedies set out in this article shall not affect or be construed to affect the ability of the city to proceed under the jurisdiction of the municipal court.
(Code 1961, § 5-75; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-336. Offenses.

(a) It shall be unlawful and a violation of this article for any person to:

(1) Fail or refuse to comply with a lawful order of the building official or the commission;

(2) Obstruct or interfere with the implementation of any actions required by the building official or orders of the commission;

(3) Remove a posted substandard building placard without the permission of the building official;

(4) Fail to secure a substandard building as required by this article; or

(5) Enter a posted substandard building, except for the purpose of inspection, securing, repair or demolition of the substandard building.

(b) Proof of a culpable mental state is not required for conviction of an offense or violation under this article. It is the intent of the city to dispense with the requirement of any culpable mental state in prosecutions filed hereunder.
(Code 1961, § 5-76; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-337. Restrictions on employees.

An officer or employee connected with the department, including a member of the commission, shall not have a financial interest in the furnishing of labor, material or appliances for the construction, alteration, demolition, repair or maintenance of a building, or in the making of plans or specifications therefor, unless they are the owner of such building. Such officer or employee shall not engage in any work which is inconsistent with their duties or with the interest of the department. Nothing contained herein shall prohibit a member of the commission from having such financial interests in buildings which are not the subject of a hearing before the commission.
(Code 1961, § 5-77; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Sec. 105-338. Liability.

Any officer, employee, or member of the commission charged with enforcement of this article, acting for the city in the consequent scope of their office or employment, shall not thereby render themselves liable personally, and they are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the consequent scope of this office or employment. Any suit brought against any officer, employee or member of the commission because of such act performed by them in the enforcement of any provision of this article shall be defended by the city, at the city's expense, until the final determination of the proceedings.
(Code 1961, § 5-78; Ord. No. 067-2010, § 1(exh. A), 4-26-2010)

Secs. 105-339—105-354. Reserved.

ARTICLE VII. PROPERTY MAINTENANCE STANDARDS

Sec. 105-355. Purpose.

The purpose of this article is to protect the health, safety, morals and welfare of the occupants of any other structure by increasing compliance with property maintenance standards as prescribed by the city's adopted building codes and property maintenance codes, or other provisions set forth by law. The purpose of this article is also to require reasonable measures to reduce crime on all property in the city. Appropriate property maintenance and crime mitigation on all properties in the city are essential to making the city safe, sanitary and promoting the general welfare of the public.
(Code 1961, § 5-80; Ord. No. 098-2010, § 1(exh. A), 6-28-2010)

Sec. 105-356. International Property Maintenance Code, 2003 edition adopted.

There is hereby adopted by the city, for the purpose of regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and providing for permits and penalties, that certain building code known as the International Property Maintenance Code, 2003 edition, save and except such portions as are hereinafter amended, modified or deleted by this article, said code being incorporated herein as if fully set out herein; the provisions thereof shall be controlling in the condition and maintenance of all property, buildings and structures contained within the corporate limits of the city.
(Code 1961, § 5-81; Ord. No. 098-2010, § 1(exh. A), 6-28-2010)

Sec. 105-357. Amendments; modifications; deletions.

The following amendments, modifications and deletions to and from the International Property Maintenance Code adopted by section 105-356, are hereby made and adopted, such amendments, modifications and deletions being set forth herein with reference to and prefaced by the section number or chapter number of the International Property Maintenance Code:

Section 103 Department of Property Maintenance Inspection, of the said International Property Maintenance Code adopted by section 105-356 herein, is hereby amended to be entitled section 103 Inspection Department.

Section 103.1 General, of the said International Property Maintenance Code adopted by section 105-356 herein, is hereby amended to read in its entirety as follows: "The Inspection Department is hereby created and the official in charge thereof shall be known as the code official."

Section 107.2 Form is amended to read as follows:

Such notice prescribed in section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code."

Section 110 Demolition, of the said International Property Maintenance Code adopted by section 105-356 herein, is hereby amended in its entirety to read as follows: "When in the code official's judgment any building or structure is dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, so that demolition is necessary, the code official shall apply the provisions of Article VI Unsafe Buildings and Structures of Code of Ordinances to said building or structure."

Section 111 Means of Appeal, of the said International Building Code adopted by section 105-75 herein, is hereby amended to read in its entirety as follows:

"111.1 General. The board known as the Building and Standards Commission, shall serve as the board to which appeals may be taken from decisions of the Building Official related to the International Property Maintenance Code. All references elsewhere in this said International Property Maintenance Code to the "Board of Appeals" or "Board" shall be construed to mean the Building and Standards Commission."

"111.2 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under the code shall have the right to appeal to the

Building and Standards Commission, provided that a written application for appeal is filed within 20 days after the day the decision, notice, or order was served by the code official. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted therein have been incorrectly interpreted, the provisions of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means."

(Code 1961, § 5-82; Ord. No. 098-2010, § 1(exh. A), 6-28-2010)

Sec. 105-358. Property maintenance definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apartment complex means a multifamily property that contains four or more dwelling units that are leased or offered for lease and are not independently owned. The term "apartment complex" may also be referred to herein as "complex" and shall have the same meaning.

Chief appointing authority or *appointing authority,* as used in the said International Code adopted above, means an appointment by the city manager.

Code official, as used in the said International Code adopted in section 105-356, shall be held to mean the building official of the city.

Corporation counsel or *legal counsel*, as used in the said International Code adopted in section 105-356, shall be held to mean legal counsel for the city.

Municipality, as used in the said International Code adopted in section 105-356, shall be held to mean the city.

Repair of substandard buildings means the complete rework, remodeling or rehabilitation of a structure to the point when the work is complete, the buildings shall comply with all of the provisions of the most recently adopted construction and maintenance standards, including amendments, based on the type of construction and occupancy of the structure. This shall include, but is not limited to, requirements for fire sprinkler systems, fire-resistant rated construction, energy conservation, exiting, accessibility, sanitation, plumbing, mechanical, electrical, structural and zoning requirements.

Substandard building means any building or portion of a building, including any dwelling unit, guestroom or suite of rooms, or the premises on which such structures are located, in which there exists any of the conditions listed in this division to an extent that endangers the life, limb, health, property, safety or welfare of the public, or the occupants of such building, shall be deemed and hereby is declared to be a substandard building.

(Code 1961, § 5-83; Ord. No. 098-2010, § 1(exh. A), 6-28-2010)

Sec. 105-359. Substandard apartment complex or multifamily dwelling complex.

(a) An apartment complex or multifamily dwelling complex, which has been deemed to be substandard is also deemed to be a public nuisance and illegal and the owner is subject to fines and other sanctions as provided for in this article and as set forth in this chapter. Substandard apartment complexes shall be either vacated, secured, repaired, demolished or the occupants relocated, as provided herein.

(b) Information regarding city ordinance violations, property maintenance code violations, and other related information may be collected and analyzed by the city to determine if the apartment complex is deemed substandard. The following system shall be used by the chief building official or designee, to determine if an apartment complex or multifamily dwelling complex is substandard:

(1) The chief building official or designee, is hereby authorized to inspect any apartment complex or multifamily dwelling complex at any time. The inspection shall include access to any areas necessary to inspect any of the general safety considerations listed below. General safety considerations include:

a. Inadequate sanitation—Four points.

b. Structural hazard—Three points.

c. Hazardous conditions—Four points.

d. Faulty weather protection—Two points.

e. Fire hazard—Four points.

f. Faulty materials of construction—Two points.

g. Inadequate maintenance—Three points.

h. Inadequate exits—Four points.

i. Inadequate fire protection or firefighting equipment—Three points.

j. Improper occupancy—One point.

k. Hazardous or unsanitary premises—Three points.

l. Prohibited storage of items or materials—One point.

m. Overcrowding—Three points.

n. Miscellaneous code violation not covered above—One point.

(2) The chief building official or designee, shall use the points prescribed in subsection (1) of this section and calculate the total points for all violations observed. Scores may be added for all violations observed during all inspections for any 12-month period. The total for all violations observed in a 12-month period divided by the total number of units at the complex shall be the habitability score.

(Code 1961, § 5-84; Ord. No. 098-2010, § 1(exh. A), 6-28-2010)

Sec. 105-360. Habitability score and abatement.

When the habitability score for any 12-month period exceeds 5.0, the entire apartment complex shall be deemed as substandard. All apartment complexes which are determined after inspection by the building official to be substandard are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures and public hearing before the building and standards commission as set forth in this chapter.
(Code 1961, § 5-85; Ord. No. 098-2010, § 1(exh. A), 6-28-2010)

Sec. 105-361. Apartment complexes requiring extraordinary levels of public safety calls for service.

(a) The police department will analyze calls for police services at anytime as determined necessary by the council, city manager or the chief of police to determine levels of calls for service at apartment complexes within the corporate city limits to evaluate and determine those locations that are requiring extraordinary levels of public safety service.

(b) The apartment complex demand for public safety responses shall be evaluated by the total number of calls for service and the nature of those calls for service in any six-month period. When, in the opinion of the police department and/or other public service providers, it is believed the demand for services is unreasonable when compared to the call for service history experienced by other similar locations in the city and that this demand for services has thus deprived other citizens of an equitable level of public safety service, intervention may be warranted in accordance with the sanctions set forth in this article.

(c) When an apartment complex requires an unreasonable demand for public safety services as described in subsection (b) of this section, the chief of police shall forward a report and any appropriate documentation describing such conditions to the city manager, who shall submit the report and any supporting documentation to the city council. The city council may after reviewing the information, require the apartment complex to participate in a mandatory demand for public safety services reduction program and may require reimbursement to the city for the unreasonable and disproportionate expenditure of city resources.

(d) Upon the city council's decision, the police department shall provide written notice to the owner, operator or property manager of the apartment complex. After receiving notice as required by section 105-362, the owner, operator or property manager of the apartment complex may file a written appeal with the city secretary not later than ten days after receiving notice of the requirement to participate in the mandatory demand for public safety services reduction program.

(e) If the appeal of the owner, operator or property manager of the apartment complex is based on changes in an apartment complex's occupancy rate, then the owner, operator or property manager of the apartment complex shall, at the time of filing the appeal, also file with

the city secretary a copy of a current and valid lease for every occupied dwelling unit in the apartment complex. If a written request for an appeal hearing is filed with the city secretary within the ten-day limit, the city council shall hear the appeal. The city secretary shall set a date for the hearing within 60 days after the date the appeal is filed.

(f) A hearing by the city council may proceed if a quorum of the city council is present. The city council shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply. Any dispute of fact must be decided on the basis of a preponderance of the evidence presented at the hearing.

(g) In deciding the appeal, the city council is limited to the issue of whether the apartment complex's calls for public safety services have exceeded a reasonable level of services. The city council shall affirm their decision if the city council finds that the apartment complex's calls for public safety services has exceeded a reasonable level of service or may reverse its decision if the city council finds upon hearing all evidence that the calls for service are reasonable as compared to the history of calls for service experienced by other similar locations in the city.

(h) The city council's decision must be by a majority vote. Failure to reach a majority vote will leave the prior decision unchanged. The decision of the city council after this appeal hearing shall be final, and no rehearing may be granted.
(Code 1961, § 5-86; Ord. No. 098-2010, § 1(exh. A), 6-28-2010)

Sec. 105-362. Notice of requirement to participate in mandatory demand for public safety services reduction program.

(a) Upon a decision of the city council, the police department shall provide written notice to the owner, operator or property manager of each apartment complex designated to participate in the mandatory demand for public safety services reduction program.

(b) The notice must include the following information:

(1) The name and address of the apartment complex;

(2) A statement that the apartment complex is required to participate in a mandatory demand for public safety services reduction program, including a description of the fee and other requirements of the program;

(3) An explanation of the reimbursement calculations for city services which the apartment complex may be required to pay;

(4) A statement that a mandatory inspection of the apartment complex premises will be conducted by the police department at a scheduled date and time; and

(5) The process for appealing the city council's decision requiring an apartment complex to participate in a mandatory demand for public safety services reduction program.

(Code 1961, § 5-87; Ord. No. 098-2010, § 1(exh. A), 6-28-2010)

Sec. 105-363. Mandatory demand for public safety services reduction program.

(a) The mandatory demand for public safety services reduction program required by the city council shall be administered by the police department.

(b) An apartment complex that is required by the city council to participate in the mandatory demand for public safety services reduction program may, at the discretion of the city council, be required to pay a program fee to defray the costs incurred by the police department in administering and enforcing the mandatory demand for public safety services reduction program. A separate program fee is required each time an apartment complex is required to participate in the program. The program fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(c) An apartment complex that is required by the city council to participate in the demand for public safety services reduction program may, at the discretion of the city council, also be required to reimburse the city for emergency services, staff time, equipment or other city resources in excess of a reasonable and expected level of service. This reimbursement expense shall be calculated by the police department or other person so designated by the city manager.

(d) An apartment complex that is required by the city council to participate in the demand for public safety services reduction program shall also, at a minimum:

(1) Hold at least one crime watch meeting per quarter on premises in cooperation with the city police department.

(2) Permit a minimum of two inspections of the apartment complex by the police department. The first inspection to evaluate what changes and improvements to the premises and operations of the apartment complex will assist in reducing the demand for public safety services at the apartment complex. The second inspection will be conducted for the purposes of determining whether the complex is in compliance with this article.

(e) At the discretion of the police department, additional remedial measures may be required of the apartment complex. The additional measures will be reasonable and based on public safety risk factors and based on the "reasonable person doctrine." Additional measures may include any or all of the following:

(1) *On-site security personnel.* Require the presence of on-site security personnel licensed by the Texas Private Securities Act, Texas Occupations Code chapter 1702, or certified peace officers.

(2) *Security lighting.* Security lighting provided, maintained, and operated so that it adequately illuminates all parking areas, walkways, stairs, steps, doorways, and garbage storage areas to such a degree that the facial features of a person at least five feet tall are distinguishable from a distance of 35 feet.

(3) *Landscaping.* No bush or shrub on the premises of the apartment complex may be taller than 3½ feet. No tree on the premises of the apartment complex may have a canopy lower than six feet above the ground.

(4) *Locked common areas.* All enclosed common areas of the apartment complex, including, but not limited to, laundry rooms, club rooms, and fitness rooms, must be kept locked and may only be accessed with a key, key card, key pad or similar device.

(5) *Key control plan.* A description of the plan and procedures for storing and accessing keys, key cards, and key codes to dwelling units, enclosed common areas and other facilities of the apartment complex must be filed with the chief of police.

(6) *Fencing.* The perimeter of the premises of a designated apartment complex must be enclosed with a fence that is at least six feet high, unless a lower height is required by city ordinance.

(7) *Pay phones.* All pay phones on the premises of the apartment complex must be blocked to incoming calls or removed from the premises.

(f) An apartment complex must remain in the mandatory demand for public safety services reduction program for at least six months or until the apartment complex's calls for public safety service are reduced to a reasonable amount as determined by the chief of police.

(g) Designation of an apartment complex for participation in the mandatory demand for public safety services reduction program and application of the requirements of this article are binding upon all subsequent owners or other transferees of an ownership interest in the apartment complex.
(Code 1961, § 5-88; Ord. No. 098-2010, § 1(exh. A), 6-28-2010)

Sec. 105-364. Penalty.

A violation of any provisions of this article or failure to comply with any requirements under this article shall be deemed to be a misdemeanor and, upon conviction of such violation, such violation shall be punishable by a fine not to exceed $2,000.00. Each day on the provisions of this article are violated shall constitute a separate offense.
(Code 1961, § 5-89; Ord. No. 098-2010, § 1(exh. A), 6-28-2010)

Secs. 105-365—105-380. Reserved.

ARTICLE VIII. LEAD-BASED PAINT ABATEMENT

Sec. 105-381. Purpose.

The purpose of this article is to control lead hazards in residential dwellings, child-occupied facilities, commercial structures and animals, including establishing standards for inspections and providing penalties for violation of the provisions hereof.
(Code 1961, § 5-90; Ord. No. 092-09, § 1, 7-27-2009)

Sec. 105-382. Definitions.

The following words, terms, phrases and their derivations shall have the following meaning for the purpose of this article, except where the context clearly indicates a different meaning:

Abatement means activities designed to permanently remove and eliminate lead-based paint hazards.

Certified dust sampling technician means a person who has successfully completed an accredited sampling technician course or successfully completed an accredited refresher dust sampling technician course.

Certified renovator means a person who has successfully completed an accredited renovator training course or successfully completed an accredited refresher renovator training course or has completed an EPA, HUD or EPA/HUD model renovation training course.

Child-occupied facility means a building, or portion of a building, constructed prior to 1978, visited by the same child under the age of six years on at least two different days within any week. The term "child-occupied facilities" may include, but are not limited to, day care centers, preschools and kindergarten classrooms.

Direct physical supervision requires that a person with a city lead abatement permit remain on the job site at all times when power-assisted equipment is being used.

Exempt structure means a structure built after 1978 or a structure for which a certificate of exemption has been issued.

Hazard means any source of lead contained in an exposed surface or exposed coating of any structure.

Owner means a holder of any legal or equitable estate in the premises, where alone or jointly with others and whether in possession or not, and includes, but is not limited to, tenant or renter.

Power-assisted equipment includes, but is not limited to, sandblasting, waterblasting, power-assisted sanders and power-assisted wire brushes.

Process means the manner of removal of a source of lead or abatement of the same.

Source of lead means any surface or applied surface coating, which contains a quantity of lead more than six-hundredths of one percent lead by weight calculated as lead metal in the total nonvolatile content of a liquid coating, or one-half of one percent lead in the dried film of a coating previously applied, or more than seven-tenths of one milligram of lead per square centimeter (0.7mg/cm2) of surface when tested by a radioisotope x-ray fluorescent analyzer (XRF), or by a lab licensed by the Environmental Protection Agency or the state.

Surface means the outermost materials of which a building is constructed, including, but not limited to, plaster, putty, wood, plasterboard, concrete, brick and metal.
(Code 1961, § 5-91; Ord. No. 092-09, § 1, 7-27-2009)

Sec. 105-383. Control of interior paint removal.

(a) *Limit access.* Cover belongings that cannot be moved, cover floors, close windows, doors and HVAC vents.

(b) *Public access.* Instruct residents to stay away from work area. Do not allow small children or pets near work area. Place a barrier or tape across entrances. Post a warning sign. Do not allow eating, drinking or smoking in the work area.

(c) *Remove and cover belongings.* Cover furniture and objects in protective sheeting.

(d) *Flooring.* Cover floors with protective sheeting at least five feet on all sides of area, second smaller layer if using chemical strippers. Place a tack pad at the edge of the protective sheeting, lay protective sheeting on frequently used walking paths to outdoors and bathrooms.
(Code 1961, § 5-92; Ord. No. 092-09, § 1, 7-27-2009)

Sec. 105-384. Control of exterior paint removal.

(a) Unless structure is exempt, it shall be an offense for a person, or the owner of a structure, to remove or to allow or authorize a person to remove exterior paint from a structure by a process not in accordance with this article.

(b) Drop cloths. Drop cloths shall be used for the removal of exterior paint, regardless of the method of removal.

(1) Drop cloths shall be secured at the base of the work area of the structure;

(2) Drop cloths shall extend 20 feet from the structure, or to the property line, whichever is less. With the consent of adjacent property owners, drop cloths shall extend onto adjacent property if the property line of the work site is less than 20 feet;

(3) If a building has three stories or more, drop cloths shall extend an additional five feet for each story greater than two;

(4) All vegetation and soil shall be covered with drop cloths in accordance with subsections (b)(2) and (3) of this section;

(5) After completion of work each day, the drop cloths shall be carefully rolled up and disposed of, and all paint or paint dust residue shall be removed from the premises, adjacent property and public right-of-way, to the extent reasonably possible. All window sills or other ledges shall be brushed off; all debris and work areas shall be swept and wiped with water and a detergent, or mopped with water and a detergent. It is recommended that a detergent containing phosphate be used.

(c) All windows in the structure shall be kept closed during the paint removal process, except when working on windows or window areas.

(d) No work shall be conducted during rains, when the wind speed exceeds 15 miles per hour or other weather conditions which the chief building official, or designee, determines to be unsafe for such work.

(e) Only individuals who are certified renovators, certified dust sampling technicians, who obtain a city lead abatement permit, or works under the direct physical supervision of a person with such a permit may remove paint using power-assisted equipment. Direct physical supervision requires the person with the city permit to remain on the job site at all times when power-assisted equipment is being used.

(f) If the method of paint removal is by power-assisted equipment, only methods taught in a city-approved, Environmental Protection Agency-approved or state-approved course shall be used.

(Code 1961, § 5-93; Ord. No. 092-09, § 1, 7-27-2009)

Sec. 105-385. Prohibited methods of removal.

The following methods of removal are prohibited by this article:

(1) Open-flame burning or torching.

(2) Machines that remove lead-based paint through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, unless such machines are used with HEPA exhaust control.

(3) Operating a heat gun above 1,100 degrees Fahrenheit.

(Code 1961, § 5-94; Ord. No. 092-09, § 1, 7-27-2009)

Sec. 105-386. Permits.

(a) *Interior paint removal.* A permit is not required for interior paint removal.

(b) *Exterior paint removal.* A permit shall be required if the removal is by power-assisted equipment. A separate permit shall be required for each location or work site. To obtain a permit for the removal of paint, a person shall file with the city, an application that provides the following information:

(1) Name.

(2) Home address.

(3) Business address.

(4) Home telephone number.

(5) Business telephone numbers.

(6) Facsimile number.

(7) Proof of satisfactory completion of a city-approved course of training in lead abatement. A copy of the course completion must be kept on file at the chief building official or designee's office.

a. Upon receipt of a completed application and the payment of the applicable permit fee, the chief building official, or designee, shall issue the permit to the applicant.

b. A permit issued under this section is nontransferable and shall expire in 180 days from the date of issuance.

(c) *Certificate of exemption.* To exempt a structure from the requirements of this section, an owner may apply for a certificate of exemption to be issued by the chief building official, or designee department. If an owner wishes to obtain a certificate of exemption, the owner must furnish the city proof that the structure has been inspected by a lab licensed by the environmental protection agency or the state and that the results of the test or lab analysis do not indicate a source of lead. The costs of such test or lab analysis shall be at the owner's expense. Upon receipt of the test or lab analysis showing the exterior source of lead has been abated, the city shall deliver to the owner, in recordable form, a certificate of exemption.
(Code 1961, § 5-95; Ord. No. 092-09, § 1, 7-27-2009)

Sec. 105-387. Disposal of lead-based paint.

(a) Lead-based paint shall be disposed of in accordance with local, state and federal regulations for disposing of hazardous waste.

(b) All repair, renovation or remodeling waste which contains lead-based paint shall be disposed of according to local waste disposal regulations. No person shall reuse or recycle such waste for residential purposes.

(c) The method of dust collection shall be conducted in such a manner that allows a minimal release into the environment.
(Code 1961, § 5-96; Ord. No. 092-09, § 1, 7-27-2009)

Sec. 105-388. Reporting.

Any health care provider or veterinarian receiving notification of an elevated blood lead level, as defined by the Center for Disease Control, shall report to the Texarkana-Bowie County Family Health Center, the existence or circumstances of each case within 30 days.
(Code 1961, § 5-97; Ord. No. 092-09, § 1, 7-27-2009)

Sec. 105-389. Enforcement.

It shall be the duty of the city inspection department to enforce the provisions of this article.
(Code 1961, § 5-98; Ord. No. 092-09, § 1, 7-27-2009)

Sec. 105-390. Penalty.

Any person violating any provision of this article shall be deemed guilty of a class C misdemeanor and, upon conviction thereof, shall be punished by a fine set in accordance with state law. Each day a violation of this article continues shall constitute a separate offense. Both owners and contractors may be liable for penalties under this article.
(Code 1961, § 5-99; Ord. No. 092-09, § 1, 7-27-2009)

Chapters 106—109

RESERVED

Chapter 110

FLOOD DAMAGE PREVENTION*

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***State law references—**Flood Control and Insurance Act, Texas Water Code § 16.311 et seq.; authorizing municipalities to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program, Texas Water Code § 16.315.

ARTICLE I. IN GENERAL

Sec. 110-1. Title.

This chapter shall be known and cited as the "Flood Damage Prevention Ordinance."
(Code 1961, § 31-1; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-2. Statutory authorization.

The legislature of the state has, in the Flood Control Insurance Act, Texas Water Code § 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.
(Code 1961, § 31-2; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-3. Findings of fact.

(a) The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
(Code 1961, § 31-3; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-4. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

(7) Ensure that potential buyers are notified that property is in a flood area.

(Code 1961, § 31-4; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-5. Methods of reducing flood losses.

In order to accomplish its purposes, this chapter uses the following methods:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Code 1961, § 31-5; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-6. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows, active processes of erosion, sediment transport and deposition and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appeal means a request for a review of the city's interpretation of any provision of this chapter or a request for a variance.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the one percent annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of

flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AO, AH, A1—30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1—30, VE or V.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means the elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for zones A, AE, AH, A1—A30, AR, V1—V30 or VE that indicates the water surface elevation resulting from the flood that has a one percent chance of equaling or exceeding that level in any given year. Also called the base flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a nonbasement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

Existing construction means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. The term "existing construction" may also be referred to as existing structures.

Existing manufactured home park or *subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the

construction of streets, and either final site grading or the pouring of concrete pads, is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or *subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk-premium zones applicable to the community.

Flood insurance study (FIS). See *Flood elevation study*.

Flood protection system means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Floodplain or *floodprone area* means any land area susceptible to being inundated by water from any source. See *Flooding*.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances such as a floodplain ordinance, grading ordinance and erosion control ordinance and other applications of police power. The term "floodplain management" describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See *Regulatory floodway*.

Functionally dependent use means a use, which cannot perform its intended purpose, unless it is located or carried out in close proximity to water. The term "functionally dependent" includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    a. By an approved state program as determined by the Secretary of the Interior; or

    b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor;

provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NGVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area. See *Area of special flood hazard*.

Start of construction, for other than new construction or substantial improvements under the coastal barrier resources act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance means a grant of relief by a community from the terms of a floodplain management regulation (for full requirements see section 60.6 of the National Flood Insurance Program regulations).

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in sections 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Code 1961, § 31-6; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Secs. 110-7—110-30. Reserved.

ARTICLE II. GENERAL REGULATIONS

Sec. 110-31. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.
(Code 1961, § 31-7; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-32. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, The Flood Insurance Study (FIS) for Bowie County, Texas and Incorporated Areas, dated October 19, 2010, with accompanying flood insurance rate maps dated October 19, 2010, and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter.
(Code 1961, § 31-8; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-33. Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this chapter.
(Code 1961, § 31-9; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-34. Compliance.

No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this chapter and other applicable regulations.
(Code 1961, § 31-10; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-35. Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another chapter, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Code 1961, § 31-11; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-36. Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the city council; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.
(Code 1961, § 31-12; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-37. Warning and disclaimer or liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.
(Code 1961, § 31-13; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Secs. 110-38—110-62. Reserved.

ARTICLE III. ADMINISTRATION

Sec. 110-63. Designation of the floodplain administrator.

The city engineer is hereby appointed the floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance—National Flood Insurance Program regulations) pertaining to floodplain management.
(Code 1961, § 31-14; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-64. Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter.

(2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this chapter.

(4) Review permits for proposed development to ensure that all necessary permits have been obtained from those federal, state or local governmental agencies, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334, from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 110-66.

(6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with section 110-32, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of article IV of this chapter.

(9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements or other development, including fill, shall be permitted within zones A1—30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed

development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(10) Under the provisions of 44 CFR ch. 1, section 65.12 of the National Flood Insurance Program regulations, a community may approve certain development in zones A1—30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by section 65.12 of the NFIP regulations.

(Code 1961, § 31-15; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-65. Permit procedures.

(a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by the administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation, in relation to mean sea level, of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation, in relation to mean sea level, to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 110-92(2);

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(5) Maintain a record of all such information in accordance with section 110-64(1).

(b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(Code 1961, § 31-16; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-66. Variance procedures.

(a) The board of adjustment, created by the city council, shall hear and render judgment on requests for variances from the requirements of this chapter.

(b) The board of adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.

(c) Any person aggrieved by the decision of the board of adjustment may appeal such decision in the courts of competent jurisdiction.

(d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this chapter.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to, and surrounded by, lots with existing structures constructed below the base flood level, providing the relevant factors in section 110-65(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted above and the intent of this chapter, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (section 110-4).

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(j) Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

a. Showing a good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or chapters.

(3) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

(1) The criteria outlined in subsections (a)—(i) of this section are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Code 1961, § 31-17; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Secs. 110-67—110-90. Reserved.

ARTICLE IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 110-91. General standards.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Code 1961, § 31-18; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-92. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 110-32, section 110-64(8) or section 110-93(c), the following provisions are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in section 110-65(a)(1) is satisfied.

(2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record

of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

(3) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(4) *Manufactured homes.*

a. Require that all manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. Require that manufactured homes that are placed or substantially improved within zones A1—30, AH, and AE on the community's FIRM on sites:

1. Outside of a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with zones A1—30, AH and AE on the community's FIRM that are not subject to the provisions of this subsection (4) be elevated so that either:

1. The lowest floor of the manufactured home is at one foot above the base flood elevation; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(5) *Recreational vehicles.* Require that recreational vehicles placed on sites within Zones A1—30, AH, and AE on the community's FIRM either:

a. Be on the site for fewer than 180 consecutive days;

b. Be fully licensed and ready for highway use; or

c. Meet the permit requirements of section 110-65(a), and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(Code 1961, § 31-19; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-93. Standards for subdivision proposals.

(a) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with sections 110-3, 110-4, and 110-5.

(b) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of section 110-33; section 110-65; and the provisions of article IV of this chapter.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 110-32 or section 110-64(8).

(d) Base flood elevation data, with the establishment of a floodway, shall be generated by a detailed engineering study for all zone A areas, within 100 feet of the contour lines of zone A areas, and other streams not mapped by FEMA, as indicated on the community's FIRM.

(e) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(f) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
(Code 1961, § 31-20; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-94. Standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in section 110-32, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to one foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

(2) All new construction and substantial improvements of nonresidential structures:

a. Have the lowest floor (including basement) elevated to one foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

b. Together with attendant utility and sanitary facilities are designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, the structure is level and is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 110-65, are satisfied.

(4) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
(Code 1961, § 31-21; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-95. Floodways.

Located within areas of special flood hazard, established in section 110-32, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

(3) Under the provisions of 44 CFR ch. 1, section 65.12, of the National Flood Insurance Program regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by section 65.12.

(Code 1961, § 31-22; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Sec. 110-96. Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $2,000.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Each day a violation occurs is a separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Code 1961, § 31-24; Ord. No. 123-2010, § 1(exh. A), 8-23-2010)

Chapters 111—114

RESERVED

Chapter 115

LANDSCAPING REGULATIONS

Sec. 115-1. Purpose.
Sec. 115-2. Scope.
Sec. 115-3. Enforcement.
Sec. 115-4. Definitions.
Sec. 115-5. Mandatory requirements.
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Sec. 115-7. Tree preservation/credit (optional).
Sec. 115-8. Maintenance.
Sec. 115-9. Permits.
Sec. 115-10. Exceptions.

Sec. 115-1. Purpose.

The primary purpose of this chapter is to create and establish certain regulations pertaining to landscaping within the city. These regulations provide standards and criteria for new landscaping which are intended to promote the value of property, enhance the welfare and improve the physical appearance of the city.
(Code 1961, § 30A-1; Ord. No. 319-2000, § 1(exh. A), 12-18-2000)

Sec. 115-2. Scope.

All standards and criteria contained within this chapter are deemed to be minimum standards and shall apply to all new construction, including parking lots, or a change in use from residential to nonresidential, occurring within the city. Exceptions: all single-family residential dwellings and duplexes shall be exempt as well as any manufacturing facility without an office building.
(Code 1961, § 30A-2; Ord. No. 319-2000, § 1(exh. A), 12-18-2000)

Sec. 115-3. Enforcement.

The provisions of this chapter shall be administered and enforced by the building official or designee.
(Code 1961, § 30A-3; Ord. No. 319-2000, § 1(exh. A), 12-18-2000)

Sec. 115-4. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings herein ascribed to them, except where the context clearly indicates a different meaning:

Caliper is the diameter of a tree measured from six inches above the ground for trees up to four inches in diameter, 12 inches above the ground for trees having a diameter of four to 12 inches, and 4½ feet above the ground for trees having a diameter larger than 12 inches.

Foundation planting is a planting bed consisting of some and/or any of the following: small trees, shrubs, groundcover and annual/perennial plants along the exterior walls of a building. This bed must be at least two feet in width along and adjacent to any exterior walls of a building or a porch that has a street side view.

Grass/ground cover means types of plant material used to cover the soil, which can be seeded, sodded, hydro-mulched or planted as individual plants (groundcover). Area must be completely covered within four weeks after planting (50 square foot minimum).

Irrigation system means an assembly of component parts permanently installed for the controlled distribution and conservation of water for the purpose of irrigating any type of landscape vegetation in any location or for the purpose of dust reduction or erosion control.

Planter boxes means prefabricated or constructed containers used for planting of blooming annual flowers, shrubs, trees, etc., that can be portable and placed anywhere on the property or built on top of the ground. Must be a minimum of one foot by two feet in size.

Street view means the area of a property that can be seen and viewed from the street or that has public access due to a drive or roadway.
(Code 1961, § 30A-4; Ord. No. 319-2000, § 1(exh. A), 12-18-2000)

Sec. 115-5. Mandatory requirements.

(a) Caliper of all new trees planted must be a minimum of 1½ inches.

(b) All plant material, except trees, must be a minimum of one-gallon container size.

(c) All planting areas such as beds or islands must have landscape material (such as mulch and rocks) around plants.

(d) Automatic irrigation systems or hose bib connections must be installed in order to provide water to all planted or grassed areas. Irrigation systems must be operational at the time of inspection.

(e) View angles shall not be obscured.

(f) Trees planted should not interfere with overhead utilities or utility easements, rights-of-way and cause no other obstructions (present or future).

(g) All refuse and outside storage areas must be screened from street or public view. The screening must be a minimum of six feet in height and may either be provided by evergreen plant material or a solid wall or fence.
(Code 1961, § 30A-5; Ord. No. 319-2000, § 1(exh. A), 12-18-2000)

Sec. 115-6. Elective requirements.

(a) In addition to mandatory requirements, landscape plans must earn a minimum of 60 points by using the required electives in a project. All plants and landscape plantings must have a street view to receive points (see table below).

	Points
Irrigation system	20
Grass/groundcover (minimum area 50 square feet) (Maximum 20 points)	10
Small tree (each, see plant list)	5
Large tree (each, see plant list)	10
*Planter box (each) (Up to 40)	10
Parking/landscape islands	10
Landscape around signage	10

	Points
Foundation planting	20
Existing tree credit (see chart)	up to 30

*In the case of space limitations, this item can be appealed to the director of public works.

(b) Points will be allowed for landscaping in the ROW.

(c) Total points must equal or exceed 60.

(Code 1961, § 30A-6)

Sec. 115-7. Tree preservation/credit (optional).

(a) To protect a building site and reserve trees that are deemed historic or specimen (caliper a minimum of four inches) trees and that are to remain at the finished site. These trees would count in a landscaping plan and will be protected from the construction of the site. Tree credits will be granted according to caliper size, street view and overall health.

Tree Credits	*Points*
Caliper of 4"—6"	2
Outside of street view	1
Caliper of 6"—12"	5
Outside of street view	3
Caliper of 12"—18"	10
Outside of street view	5
Caliper of 18" and up	15
Outside of street view	10

(b) If a tree for which credit was received dies, it must be replaced with a tree equal to the number of points received, as shown on the approved landscaping plan, if necessary to maintain the minimum 60-point requirement.

(Code 1961, § 30A-7; Ord. No. 319-2000, § 1(exh. A), 12-18-2000)

Sec. 115-8. Maintenance.

All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning or trimming, fertilizing, weeding, watering and other such activities common to the maintenance of landscaping. Plant materials which die shall be replaced with plant material of similar variety and size within 30 days weather permitting.

(Code 1961, § 30A-8; Ord. No. 319-2000, § 1(exh. A), 12-18-2000)

Sec. 115-9. Permits.

(a) No permits shall be issued for building, paving, grading or construction until a qualifying landscape plan is submitted. In the event that the proposed project is in a planned development district, a landscape plan is required as part of the site plan approval process by the city council.

(b) Prior to the issuance of a certificate of occupancy for any building or structure all landscaping requirements shall be in place.

(c) If the building official determines that it would be impractical to plant trees, shrubs, grass or to lay turf, due to the season of the year, a temporary certificate of occupancy may be issued. All landscaping required by the landscaping plan must be installed within six months of the date of the issuance of the certificate of occupancy or penalties shall be applied.
(Code 1961, § 30A-10; Ord. No. 319-2000, § 1(exh. A), 12-18-2000)

Sec. 115-10. Exceptions.

(a) When out parcels of a substantially developed shopping center (such as Central Mall) are built/developed, the out parcel shall be exempt from the landscaping requirements since the shopping center has already met the points required by the landscaping ordinance.

(b) Site plans previously approved by the building official prior to the adoption of this chapter shall not be required to meet the provisions of this chapter.
(Code 1961, § 30A-11; Ord. No. 319-2000, § 1(exh. A), 12-18-2000)

Chapters 116—119

RESERVED

Chapter 120

MINIMUM DRAINAGE CRITERIA

Sec. 120-1. General requirements.
Sec. 120-2. Street drainage.
Sec. 120-3. Cross drainage; bridges and culverts.
Sec. 120-4. Channels.
Sec. 120-5. Designation of the Q_{100} flood boundary.
Sec. 120-6. Easement requirements.
Sec. 120-7. Required submittal data.
Sec. 120-8. Appeals.
Sec. 120-9. Waiver of drainage regulations.
Sec. 120-10. Incorporation of provisions into chapter 135; applicability as provided by state statutes.
Sec. 120-11. Withholding of permits to enforce provisions.
Sec. 120-12. Definitions.

Sec. 120-1. General requirements.

(a) Volume I, Storm Drainage Design Criteria and Floodplain Study, prepared by Henningson, Durham and Richardson, Inc., is hereby adopted as an accepted criteria manual to be used for drainage calculations. Other criteria and methods of calculation may be utilized if approved by the city engineer.

(b) The runoff coefficient ("C" factor) should be based on full residential development of the drainage area or existing development, whichever results in the greatest design "Q." If the zoning and land use in the drainage area is toward development which would produce a higher or lower "C" factor, this "C" factor should be used for design calculations upon approval of the city engineer.

(c) Compliance with the minimum requirements of this chapter in no way shall be construed as relieving the property owner of any liability which the owner may incur as a result of damage to downstream or upstream properties resulting from the development of the site.
(Code 1961, § 32-1; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-2. Street drainage.

The following are criteria for street drainage:

Street Classification	*Design Storm*	*Runoff Depth and Ponding Width*
Residential	Q_2	Depth should not exceed curb or roadway centerline elevation. Six-inch standard and four-inch and six-inch mountable curbs acceptable.
		Minimum x-slope equals 0.02/feet/feet
		Maximum x-slope equals six-inch crown
Residential collector	Q_2	One 12-foot lane shall remain clear during design storm
Collector	Q_2	One 12-foot lane shall remain clear during design storm

Street Classification	*Design Storm*	*Runoff Depth and Ponding Width*
Arterial	Q_2	One 12-foot lane on each side of the street centerline shall remain clear during design storm

Note: For closed sanitary sewer systems and inlets at street low point, sag or sump and the downstream storm sewer, the design frequency shall be Q_{10} for all street classifications.
(Code 1961, § 32-2; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-3. Cross drainage; bridges and culverts.

(a) The following are criteria for cross drainage of bridges and culverts:

Street Classification	*Design Storm*	*Runoff Depth and Other Requirements*
Residential and residential collector	Q_5	Q_{10} storm shall not produce inundation greater than two inches at the street centerline
Collector	Q_{10}	—
Arterial	Q_{25}	—

(b) Cross drainage structures shall be Class III reinforced concrete pipe or Class "A" concrete box culvert, or approved equal.
(Code 1961, § 32-3; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-4. Channels.

(a) The following are criteria for drainage channels:

(1) Q_{10}

Type of Channel	*Design Storm*	*Maximum Side Slope*	*Other Requirements*
Concrete or sanitary sewer	Q_{10}	N/A	Extended from back of curb to the building line. Sanitary sewer may be a substitute.

(2) Q_{10} 10 cfs:

Type of Channel	*Design Storm*	*Maximum Side Slope*	*Other Requirements*
Grass Lined Earthen Channel	Q_{10}	4:1	Minimum four feet wide by six-inch thick concrete pilot channel or six feet wide if curbed for V six fps
Concrete Lined	Q_{10}	1.5:1	As approved
Box Culvert	Q_{25}	N/A	—
Sanitary Sewer	Q_{25}	N/A	Class III RCP or other approved material
Other Approved	Q_{10}	As approved	As approved

(b) Due to owner desire and/or technical reasons, a natural drainageway may be preserved, provided the following criteria are met:

(1) An application for the preservation of a natural channel shall be submitted to the public works director prior to approval of the preliminary plat or site plan.

(2) Limits of the Q_{100} flood boundary are determined and indicated on the final plat or site plan and no improvements shall be constructed within that established boundary unless plans for such improvements have been approved by the city engineer.

(3) In general, no easement will be required and maintenance shall rest with the property owner.

(Code 1961, § 32-4; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-5. Designation of the Q_{100} flood boundary.

(a) For all cross drainage and other significant drainageways, whether publicly or privately maintained:

(1) The limits of the 100-year flood boundary shall be determined.

(2) Minimum floor-slab elevations, which are at least one foot above the Q_{100} flood boundary elevation shall be calculated for each individual lot within a platted subdivision or each structure for an individual site plan.

(b) This information shall be indicated on the following:

(1) Subdivision plats, before they are filed for record.

(2) Individual site plans.

(Code 1961, § 32-5; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-6. Easement requirements.

(a) For drainageways serving an area of less than 100 acres, the minimum requirements shall be:

(1) Private drainageways shall be utilized to control drainage and indicated on final plat or site plan.

(2) 100-year flood boundary indicated on final plat or site plan per section 120-5.

(3) Drainageway maintenance shall be the responsibility of the property owners.

(4) No drainage easement required.

(b) For drainageways serving an area of 100 or more acres, the minimum requirements shall be:

(1) Adequate drainage easements through the development site shall be dedicated to the public. In instances where there are existing easements, such easements shall be modified as necessary to accommodate the required channel section and conform to all requirements in this subsection.

(2) Such drainage easements shall be initially cleared of any obstructions which would prevent routine maintenance of the drainageway by motorized equipment. No obstruction, including trees, is to be placed in the drainage easement which would prevent routine maintenance of the drainageway by motorized equipment. No fence or similar barrier is to be placed within the drainage easement.

(3) Drainage easements shall be of sufficient width to provide for the designed channel section, including adjacent areas for the maintenance of the channel.

a. Earth channels shall be constructed to provide for:

1. A maximum side slope of 4:1.

2. A minimum 12-foot maintenance way along one side of the channel can be maintained utilizing equipment with a 20-foot maximum reach. Where such equipment cannot maintain a channel, a minimum 12-foot maintenance way shall be provided along both sides of the channel.

3. Grass shall be established on the flowline and sideslopes and shall have sufficient growth to maintain the design shape and grade. Sodding, soil retention blanket, hydromulching or some effective combination thereof will allow for immediate acceptance as established grass.

b. Concrete channels shall be constructed to provide for:

1. A maximum side slope of 1.5:1.

2. Adequate easement widths (same as for earth channels) and/or access facilities designed and constructed, free of obstructions, so that routine maintenance can be accomplished with motorized equipment.

c. Other type channel improvements: as approved by the city engineer.

(Code 1961, § 32-6; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-7. Required submittal data.

(a) A drainage area map with site drainage and/or off-site drainage areas shown, where applicable.

(b) The areas, time of concentration, runoff coefficients and rainfall intensities used to calculate runoff indicated on the drainage area map. In lieu of this, the designer may submit a copy of drainage calculations performed.

(c) Minimum floor-slab elevations and limits of Q_{100} flood boundary where required, indicated on plats which are to be filed for record or on individual site plans, whichever is applicable.

(d) If adequate drainage easements do not exist, the designer shall submit acceptable instruments of dedication for required easements.

(e) Size, location and typical section for all drainage facilities.

(f) Plan-profile of all channels, ditches and sanitary sewers will be required.

(g) Cross-sections of all channels will be required.

(h) Certification by a state-registered professional engineer or architect, qualified by education and experience in the field of hydrology and hydraulics, that all requirements of the criteria have been met.

(Code 1961, § 32-7; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-8. Appeals.

Any person contesting any disapproval and/or interpretation and/or application of any rule, standard, regulation, determination, requirement of necessity set forth in this chapter by the city engineer, shall have the right to appeal such decision to the director of public works. Any person so appearing who is in disagreement with the decision of the director of public works, shall within ten days of that decision, file an appeal with the city manager. The appeal should state what areas, in the opinion of the person adversely affected, the decision of the director of public works disagrees with provisions or the intent of this chapter. It shall be the duty of the city council to hear any such appeal within 30 days from the date received by the city manager.

(Code 1961, § 32-8; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-9. Waiver of drainage regulations.

The director of public works, after consultation with the city engineer, is authorized to waive compliance with any part of this policy in those instances wherein it is neither technically reasonable nor feasible or where it is technically impossible to comply with such part. This waiver authority shall be strictly construed.
(Code 1961, § 32-9; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-10. Incorporation of provisions into chapter 135; applicability as provided by state statutes.

The provisions of this chapter are hereby incorporated into and made a part of chapter 135, Subdivision Regulations, of this Code and as such are applicable to and enforceable within platted subdivisions in the extraterritorial jurisdiction area of the city as well as within the city limits.
(Code 1961, § 32-10; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-11. Withholding of permits to enforce provisions.

The director of public works shall withhold the issuance of certificate of compliance, electrical, plumbing and/or building permits or issuance of certificate of occupancy as deemed necessary to enforce the provisions of this chapter based on policy as follows:

(1) For all subdivision type developments the drainage plan shall be submitted for approval along with the street plans for such subdivision. For industrial, commercial or institutional subdivision type developments wherein individual site development may vary in size and amount of impervious cover, the drainage plan shall be submitted with calculations based on a "C" factor of 0.75 minimum for full development. Construction of required drainage improvements shall be accomplished in conjunction with the street construction and both street and drainage facilities must be constructed to a level of completion adequate to function effectively at their design capacity prior to issuance of any permits. If stage development is proposed, each stage must be designed and constructed to the extent necessary to ensure effective functioning independent of future planned stages, prior to permit issuance.

(2) For singular site type developments, the drainage plan shall be submitted along with the site and construction plans for total development. Construction of required drainage improvements shall be accomplished in conjunction with the site development and shall be constructed to a level of completion adequate to function effectively at the design capacity prior to the issuance of any certificate of occupancy connected with such site development.

(Code 1961, § 32-11; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Sec. 120-12. Definitions.

For the purposes of this chapter, the words and phrases below shall have the following meanings, except where the context clearly indicates a different meaning:

Channel means a natural or manmade (i.e., improved channel, sanitary sewer, box culvert) feature that provides for the conveyance of rainfall runoff or stream flow in a concentrated form exclusive of street drainage and cross drainage.

Cross drainage means any structure, such as pipe, box culvert or bridge, utilized for transporting water in a subsurface manner across a public or private street or driveway.

Private drainageway means any eligible channel (less than 100-acre drainage area) or cross drainage for a private street, that the developer, by choice, elects to designate as private as opposed to dedicating an easement. All maintenance responsibility shall rest with the individual property owner or owner's association.

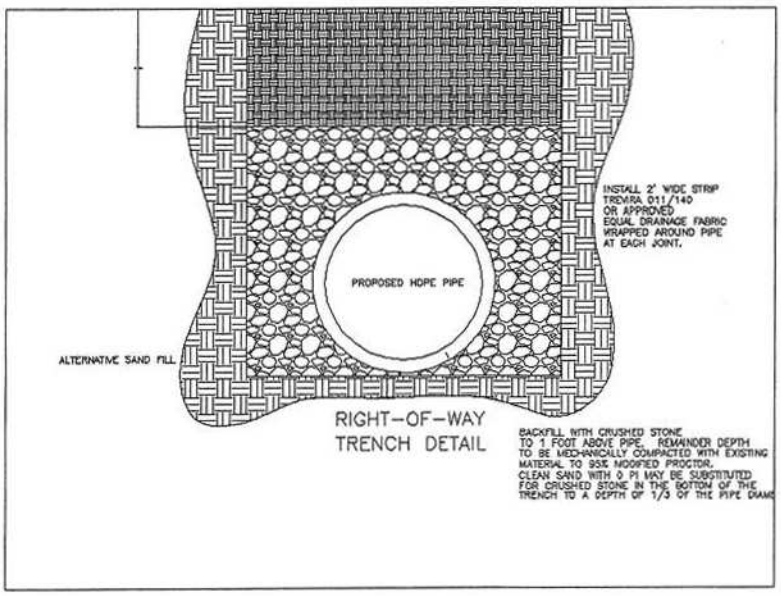
Q means the volume of stormwater discharge calculated on various storm frequencies. (i.e., Q_2, Q_5, Q_{10}, Q_{25}, etc.)

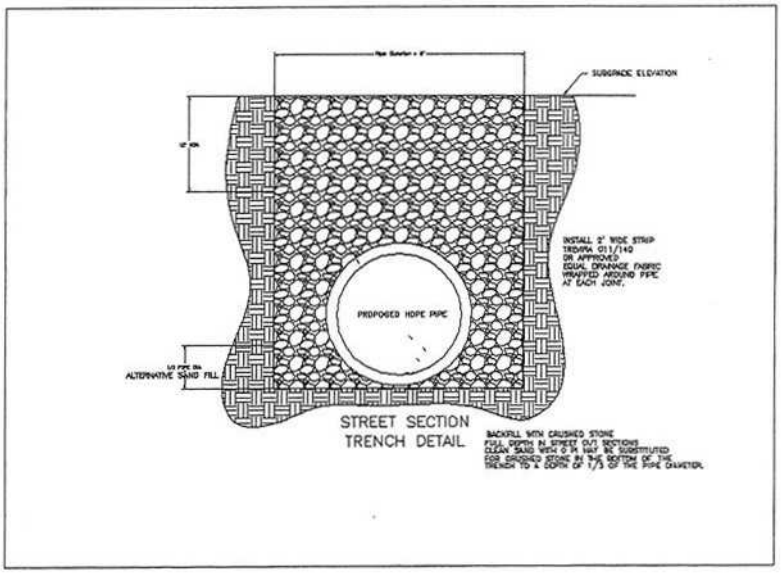
Sanitary sewer means a pipe system utilized for the conveyance of water, generally below the ground surface, comprised of Class III concrete pipe or other approved material. A sanitary sewer may be utilized for street drainage, cross drainage or channel purposes. As an alternative, HDPE pipe meeting the H-20 loading requirement and special backfill requirements (see HDPE detail) may be used with approval by the city engineer.

Significant drainageway means any manmade feature, regardless of size, flow or any natural feature providing for conveyance of water flows in a channel type format with a Q_{25} flow rates of two cfs or greater on any portion of the feature.

Street drainage means that rainfall runoff that travels to the street and then parallel with the street to a release point. This drainage is carried at the curb on urban section streets and in parallel ditches on rural section streets.

Street low point, sag or sump means the lowest point in the profile of a street which normally coincides with the natural low at which point street drainage is discharged.





(Code 1961, § 32-13; Ord. No. 079-07, § 1(exh. A), 4-23-2007)

Chapters 121—124

RESERVED

Chapter 125

STORMWATER MANAGEMENT*

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Sec. 125-2. Administration.
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Sec. 125-61. Stormwater discharges associated with construction activity, including industrial activity.
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Article IV. Nuisances, Right of Entry, Enforcement and Appeals

Sec. 125-89. Nuisances.
Sec. 125-90. Violations deemed a public nuisance.
Sec. 125-91. Administrative enforcement remedies.
Sec. 125-92. Administrative reconsideration and appeal.
Sec. 125-93. Penalty.
Sec. 125-94. Right of entry.

***State law reference—**Authority of local government which owns or operates a disposal system to enact and enforce ordinances and rules to control and regulate the type character, and quality of waste discharged to the disposal system and to require pretreatment of waste to be discharged to the system, Texas Water Code § 26.176.

Sec. 125-95. Injunctive relief.
Sec. 125-96. Compensatory action.
Sec. 125-97. Criminal prosecution.
Sec. 125-98. Remedies nonexclusive.
Sec. 125-99. Computing time periods.
Sec. 125-100. Adoption of ordinance.

ARTICLE I. IN GENERAL

Sec. 125-1. Purpose/intent.

The purpose of this chapter is to provide for the health, safety and general welfare of the citizens of the city through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Texas Pollutant Discharge Elimination System (TPDES) permit process. This chapter will also prevent damage to the environment and minimize public and private losses due to erosion and sedimentation in all areas. The objectives of this chapter are to:

(1) Protect human life, health and property;

(2) Maintain flood control and storm drainage projects and cleaning sediment out of storm drains, streets, sidewalks and watercourses;

(3) Minimize negative impacts to adjacent properties due to erosion and sedimentation;

(4) Minimize negative impact to public streets and bridges, storm sewer systems and drainageways;

(5) Minimize damage due to drainage and erosion to public facilities and infrastructure, such as water and gas mains, electric service, telephone and sewer lines;

(6) Help maintain a stable tax base and preserve land values;

(7) Preserve the natural beauty and aesthetics of the community;

(8) Control and manage stormwater runoff and the sediment load in that runoff from points and surfaces within subdivisions;

(9) Establish a reasonable standard of design for development that prevents potential flood and erosion damage;

(10) Reduce the pollutant loading to streams, ponds and other watercourses;

(11) Prohibit illicit connections and discharges to the municipal separate storm sewer system;

(12) Establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter; and

(13) Facilitate compliance with state and federal standards and permits by owners and operators of industrial and construction sites within the city by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the city.

(Code 1961, § 32A-1; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-2. Administration.

Enforcement and administration of this chapter shall be the responsibility of such offices or officers as designated by the director of public works. The director may appoint such inspectors and assistants as necessary to assist in the performance of these duties. The director shall also be responsible to address other stormwater issues as they relate to the city's compliance with its small MS4 stormwater permit as issued by TCEQ to the city.
(Code 1961, § 32A-2; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-3. Related ordinances.

In addition to this chapter, the city has other ordinances, regulations and specifications possibly affecting water quality. In the event of an irreconcilable conflict between this chapter and any other ordinances of the city, the most restrictive ordinance shall govern.
(Code 1961, § 32A-3; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-4. Incorporation of federal and state statutes, rules and regulations.

A reference within this chapter to a federal or state statute, rule or regulation includes all amendments to such statute, rule or regulation made after the adoption of the chapter.
(Code 1961, § 32A-4; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-5. Acronyms.

The following abbreviations, when used in this chapter, shall have the designated meanings:

(1) BMP—Best management practices;

(2) CFR—Code of Federal Regulations;

(3) CGP—Construction general permit, TXR150000;

(4) CWA—Clean Water Act;

(5) EPA—U.S. Environmental Protection Agency;

(6) ESCP—Erosion and sediment control plan;

(7) FR—Federal Register;

(8) HHW—Hazardous household waste;

(9) mg/l—Milligrams per liter;

(10) MS4—Municipal separate storm sewer system;

(11) NOI—Notice of intent;

(12) NOT—Notice of termination;

(13) NPDES—National Pollutant Discharge Elimination System;

(14) ppb—Parts per billion;

(15) PST—Petroleum storage tank;

(16) RPE—Registered professional engineer;

(17) RQ—Reportable quantity;

(18) SWO—Stop work order;

(19) SWPPP or SWP3—Stormwater pollution prevention plan;

(20) TAC—Texas Administrative Code;

(21) TCEQ—Texas Commission on Environmental Quality;

(22) TPDES—Texas Pollutant Discharge Elimination System;

(23) TPH—Total petroleum hydrocarbons;

(24) USC—United States Code.

(Code 1961, § 32A-5; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-6. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural stormwater runoff means any stormwater runoff from orchards, cultivated crops, pastures, range lands and other nonpoint source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR 122.24.

Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. The term "best management practices" also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage areas.

Classified segment means and refers to a water body that is listed and described in appendix A or appendix C of the Texas Surface Water Quality Standards, at 30 TAC § 307.10.

Clean Water Act (CWA) means the Federal Water Pollution Control Act (33 USC § 1251 et seq.), and any subsequent amendments thereto.

Common plan of development or sale means a construction activity that is completed in separate stages, separate phases or in combination with other construction activities. A common plan of development or sale is identified by the documentation for the construction

project that identifies the scope of the project and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests or other similar documentation and activities.

Construction means the disturbance of soils associated with clearing, grading or excavation activities, as well as other construction-related activities (e.g., stockpiling of fill material, demolition). These activities may be subject to requirements of TPDES General Permit No. TXR150000 (construction general permit).

Contaminated means containing a harmful quantity of any substance.

Contamination means the presence of or entry into a public water supply system, the MS4, of any substance which may be deleterious to the public health and/or the quality of the water.

Cosmetic cleaning means cleaning done for cosmetic purposes. The term "cosmetic cleaning" does not include industrial cleaning, cleaning associated with manufacturing activities, hazardous or toxic waste cleaning, or any cleaning otherwise regulated under federal, state or local laws.

Day or *days* means calendar days, unless otherwise stated.

Director means the city's director of public works, or the director's designee responsible for the administration and enforcement of this chapter.

Discharge means any addition or introduction of any pollutant, stormwater or any other substance whatsoever into the municipal separate storm sewer system (MS4).

Discharger means any person who causes, allows, permits or is otherwise responsible for a discharge, including, without limitation, any operator of a construction site or industrial facility.

Environmental protection agency (EPA) means the United States Environmental Protection Agency, or any duly authorized official of said agency.

Erosion and sediment control plan (ESCP) means a set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a particular site during the period in which preconstruction and construction-related land disturbance, fills and soil storage occur, and before final improvements are completed.

Facility means any facility, including construction sites, required by the Federal Clean Water Act to have a permit to discharge stormwater associated with industrial activity.

Fire code means the "Fire Prevention and Protection" chapter of the city Code.

Fire department means the fire department of the city, or any duly authorized representative thereof.

Fire protection water means any water and any substances or materials contained therein, used by any person, other than the fire department, to control or extinguish a fire.

Harmful quantity means the amount of any substance that will cause pollution of the MS4, or that will cause lethal or sublethal adverse effects on representative, sensitive aquatic monitoring organisms belonging to the city, upon their exposure to samples of any discharge into waters in the MS4.

Hazardous materials means any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Illegal discharge means any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in section 125-33.

Illicit connections. The term "illicit connections" are defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances which allow any nonstormwater discharge, including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the city; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by the city.

Industrial activity means activities subject to TPDES general permits as defined in part II, section A, paragraph 1 of TPDES General Permit No. TXR050000.

Mobile commercial cosmetic cleaning means power washing, steam cleaning and any other mobile cosmetic cleaning operation, of vehicles and/or exterior surfaces, engaged in for commercial purposes.

Municipal separate storm sewer system (MS4) means the system of conveyances, including sidewalks, roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels or storm drains, owned and operated by the city and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Federal Clean Water Act.

Nonpoint source means any source of any discharge of a pollutant that is not a point source.

Nonstormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Notice of change (NOC) means written notification from the permittee to the executive director of TCEQ providing changes to information that was previously provided to the agency in a notice of intent.

Notice of intent (NOI) means the notice of intent that is required by the TPDES stormwater multisector general permit, the TPDES stormwater construction general permit or any similar general permit to discharge stormwater associated with industrial or construction activity that is issued by the EPA or the TCEQ.

Notice of termination (NOT) means a written submission to the executive director of TCEQ from a permittee authorized under a general permit requesting termination of coverage under the applicable general permit.

NPDES permit means a permit issued by the EPA, or by the state under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

Operate means drive, conduct, work, run, manage or control.

Operator means the person associated with a large or small construction activity that is either a primary operator or secondary operator as defined below:

(1) *Primary operator* means the person associated with a large or small construction activity that meets either of the following two criteria:

a. The person that has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or

b. The person that has day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a stormwater pollution prevention plan (SWP3) for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).

(2) *Secondary operator* means the person whose operational control is limited to the employment of other operators or to the ability to approve or disapprove changes to plans and specifications. The term "secondary operator" is also defined as a primary operator and must comply with the permit requirements for primary operators if there are no other operators at the construction site.

Permittee means the MS4 operator authorized under the TPDES general permit TXR040000, an operator authorized under the TPDES general permit TXR150000 or TPDES general permit TXR050000. The authorization may be gained through submission of a notice of intent, by waiver or by meeting the requirements for automatic coverage to discharge stormwater runoff and certain nonstormwater discharges.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The term "person" includes all federal, state and local governmental entities.

Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. The term "point source" does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Pollution means the alteration of the physical, thermal, chemical or biological quality of, or the contamination of, any water of the state or water of the United States, that renders the water harmful, detrimental or injurious to humans, animal life, vegetation or property, or to the public health, safety or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Premises means any building, lot, parcel of land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into groundwater, subsurface soils, surface soils, the municipal separate storm sewer system (MS4), the water of the state or the waters of the United States.

Special construction sites means any construction activity (e.g., clearing, grading, excavating, etc.) greater than 5,000 square feet and less than one acre of land.

Storm drainage system means facilities by which stormwater is collected and/or conveyed including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and manmade or altered drainage channels, reservoirs and other drainage structures.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snow melt.

Stormwater discharge, associated with industrial activity, means the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial facility. For the purpose of the industrial general permit, the term "stormwater discharge" includes, but is not limited to, stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material or byproducts used or created by the facility; material handling areas; refuse/waste disposal areas; sites used for the application or disposal of process waste waters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms), intermediate products and final products; similar areas where stormwater can contact pollutants related to industrial activity; and areas where industrial activity have taken place in the past and significant materials remain and are exposed to stormwater. For the purposes of this definition, the term "material handling areas" include storage, loading and unloading, transportation or conveyance of any raw material, intermediate product, final product, byproduct or waste product. The term "stormwater discharge" includes discharges from facilities described under the industrial general permit that are operated by federal, state or municipal entities. The term "stormwater discharge" excludes areas located at industrial sites that are separate from the facility's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with stormwater drained from areas of a facility that are covered by the industrial general permit. For the complete regulatory definition, including the categories of industrial activity, see 40 CFR 122.26(b)(14).

Stormwater pollution prevention plan (SWPPP or SWP3) means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable.

Texas Commission on Environmental Quality (TCEQ) means the environmental agency for the state.

Texas Pollutant Discharge Elimination System (TPDES) general permit means a permit issued to authorize the discharge of waste into or adjacent to water in the state for one or more categories of waste discharge within a geographical area of the state or the entire state as provided by Texas Water Code § 26.040.

Total suspended solids (TSS) means solids that either float on the surface, or are in suspension in water, wastewater or other liquids, and which are generally removable by a laboratory filtration device. TSS is expressed in milligrams per liter.

Uncontaminated means not containing a harmful quantity of any substance.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Water of the state means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, wetlands, marshes, inlets, canals inside the territorial limits of the state and all other bodies of surface water, natural or artificial, navigable or nonnavigable, and including the bed and banks of all watercourses and bodies of surface water that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

Waters of the United States means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; all interstate waters, including interstate wetlands; all other waters the use, degradation or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR 122.2; but not including any waste treatment systems, treatment ponds or lagoons designed to meet the requirements of the Federal Clean Water Act.

Wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances, does support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Working days (or business days) means Monday through Friday, excepting legal holidays.
(Code 1961, § 32A-6; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Secs. 125-7—125-30. Reserved.

ARTICLE II. ILLICIT DISCHARGES

Sec. 125-31. Applicability.

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands within the city limits, unless explicitly exempted by the city or an authorized enforcement agency.
(Code 1961, § 32A-7; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-32. General prohibitions.

A person commits an offense if the person introduces, or causes to be introduced, into the MS4 any discharge that is not composed entirely of stormwater.
(Code 1961, § 32A-8; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-33. General prohibition exemptions.

(a) It is an affirmative defense to any enforcement action for a violation of section 125-1 that the discharge was composed entirely of one or more of the following categories of discharges:

(1) A discharge authorized by and in full compliance with, an NPDES and/or TPDES permit (other than the NPDES and/or TPDES permit for discharges from the MS4);

(2) A discharge or flow resulting from firefighting activities (firefighting activities do not include washing of trucks);

(3) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the fire code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;

(4) A discharge from a fire hydrant flushing;

(5) Incidental discharges from water line pressure release valves;

(6) Uncontaminated runoff or return flow from landscape irrigation, lawn irrigation and other irrigation utilizing potable water, groundwater or surface water sources;

(7) Uncontaminated water used for dust control purposes;

(8) A discharge or flow from a diverted stream flow or natural spring;

(9) A discharge or flow from uncontaminated pumped groundwater or rising groundwater;

(10) Uncontaminated groundwater infiltration (as defined as 40 CPA 35.2005(20)) to the MS4;

(11) Uncontaminated discharge or flow from a foundation drain, crawl space footing drain or sump;

(12) A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;

(13) A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter or any other source of pollutant;

(14) A discharge or flow from a riparian habitat or wetland;

(15) A discharge or flow from cold water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, surfactant, emulsifier, dispersant or any other harmful cleaning substance;

(16) Stormwater runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber, filter or any other source of pollutant;

(17) Dechlorinated swimming pool discharges;

(18) A discharge or flow from individual residential car washing activities;

(19) Agricultural stormwater runoff;

(20) A discharge or flow from water line flushing, excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life;

(21) A discharge or flow of uncontaminated stormwater pumped from an excavation;

(22) Other allowable nonstormwater discharges listed in 40 CFR 122.26(d)(2)(iv)(B)(1);

(23) Nonstormwater discharges that are specifically listed in the TPDES multisector general permit (MSGP) or the TPDES construction general permit;

(24) Other similar occasional incidental nonstormwater discharges, unless the TCEQ develops permits or regulation addressing these discharges;

(25) Discharges specified in writing by the city as being necessary to protect public health and safety;

(26) Dye testing is an allowable discharge, but requires a verbal notification to the city prior to the time of the test; and

(27) Any nonstormwater discharge permitted under a TPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the TCEQ, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted from the director for any discharge to the storm drain system.

(b) No affirmative defense is available under subsection (a) of this section if the discharge or flow in question has been determined by the director to be a source of a pollutant to the MS4 or to the waters of the United States, written notice of that determination and to cease the discharge has been provided to the discharger and the discharge has continued after the expiration of the time given in the notice to cease the discharge. The director's determination that a discharge is a source of a pollutant may be reviewed in any administrative or judicial enforcement proceeding.

(c) Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

(d) A person commits an offense if the person introduces, or causes to be introduced, into the MS4 any harmful quantity of any substance.
(Code 1961, § 32A-9; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-34. Specific prohibitions and requirements.

The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by this chapter.

(1) No person shall recklessly introduce, or cause to be introduced, into the MS4 any discharge that causes or contributes to causing the city to violate a water quality standard, the city's TPDES permit or any other discharge permit for discharges from its MS4.

(2) It shall be a violation of this chapter for any person to intentionally deposit, discharge, dispose, drain, dump, emit, empty, leak, leach, pump, pour, spill, throw or otherwise introduce or cause to be introduced into the MS4, or any storm sewer manhole, catchbasin, private drain, ditch, street, gutter, creek, stream, tributary or any other drainage device which connects with or drains into the MS4, any of the following described materials or substances within the city limits:

a. Any oil, antifreeze or any other motor vehicle fluid;

b. Any industrial waste;

c. Any direct discharge of concrete truck washout water;

d. Any hazardous waste, including hazardous household waste;

e. Any domestic sewage or septic tank waste, grit trap waste or grease trap waste;

f. Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, maintenance facility or automotive-related facility; or from any washing, cleaning or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment, by a business that operates more than two such vehicles;

g. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent or any other harmful cleaning substance;

h. Any wastewater from commercial floor, rug or carpet cleaning;

i. Any commercial runoff or wash-down water from any animal pen, kennel or fowl or livestock containment area;

j. Any filter backwash from a swimming pool or fountain, without the backwash first being filtered through a water-filtering device;

k. Any wastewater from street washing or other cosmetic cleaning that contains any soap, detergent, solvent, degreaser, emulsifier, dispersant or any other harmful cleaning substance; or any wastewater from the wash-down or other cleaning of any pavement where any spill, leak or other release of oil, motor fuel or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material has been previously removed;

l. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter or the blow down from a boiler;

m. Any substance or material that will damage, block or clog the MS4;

n. Any intentional disposal of garbage, rubbish, grass clippings, leaves or other vegetation into any gutter, street, sidewalk, inlet or other drainage device that connects with or drains into the MS4;

o. Super chlorinated potable water from water line flushing and disinfection;

p. Any acid waste materials or alkaline waste materials;

q. Any water or waste containing fats, oils, grease, free-floating or insoluble oil;

r. Any gasoline, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas;

s. Any noxious, malodorous, poisonous or reactive substance which, either singularly or by interaction with other substances or by its accumulation in the MS4 becomes injurious or potentially injurious to human, plant or animal life or property;

t. Any fire protection water containing oil or hazardous substances or materials that the fire code in this Code requires to be contained and treated prior to discharge, unless treatment adequate to remove pollutants occurs prior to discharge (this prohibition does not apply to discharges or flow from firefighting by the fire department);

u. Any water from a water curtain in a spray room used for painting vehicles or equipment;

v. Any contaminated runoff from a vehicle wrecking yard;

w. Any release from a petroleum storage tank (PST); any leachate or runoff from soil contaminated by a leaking PST; or any discharge of pumped, confined or treated wastewater from the remediation of any such PST release, unless the discharge is in compliance with all state and federal standards and requirements and does not contain a harmful quantity of any pollutant;

x. Any pavement wash water from a service station, unless such wash water has passed through a properly functioning and maintained, grease, oil and sand interceptor before discharge into the MS4;

y. Any harmful quantity of concrete, asphalt, sediment, silt, earth, soil or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable;

z. Pesticides, herbicides and fertilizers regulated as follows:

1. No person shall use or cause to be used any pesticide, herbicide or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide or fertilizer to enter the MS4 or waters of the United States;

2. No person shall dispose of, discard, store or transport a pesticide, herbicide or fertilizer or a pesticide, herbicide or fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide or fertilizer to enter the MS4 or waters of the United States;

3. Any license, permit, registration certification or evidence of financial responsibility required by state or federal law for sale, distribution, application, manufacturer transportation, storage or disposal of a pesticide herbicide or fertilizer must be presented to the director or the directors delegate and any city law enforcement officer for examination upon request;

4. No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation;

aa. Used oil regulated as follows:

1. It shall be a violation of this chapter for a person to:

(i) Intentionally discharge or dispose of used motor vehicle fluids, including motor oil and antifreeze, into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater or watercourse;

(ii) Knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or directly dispose of used oil on land or in a landfill; or

(iii) Intentionally apply used oil to a road or land for dust suppression, weed abatement or other similar use that introduces used oil into the environment;

2. All businesses that change motor oil for the public and municipal waste landfills are encouraged to serve as publicly used oil collection centers as provided by of the Texas Health and Safety Code § 371.024;

bb. Erosion control regulated as follows:

1. It is unlawful for any person having control of real property in the city to suffer or permit soil, rock, mud or debris to wash, slide or otherwise be moved from the real property onto any adjacent property, street, alley, utility facility, right-of-way or easement through erosion;

2. Any person in control of real property shall:

(i) Prevent soil, mud, rock or debris from being deposited on or transported through erosion to any adjacent property, street, alley, utility facility, right-of-way or easement;

(ii) Inspect the property and acquaint oneself with the conditions existing; and

(iii) Remedy any condition that might allow soil, mud, rock or debris to wash, slide or otherwise be transported to any adjacent property, street, alley, utility facility, right-of-way or easement through erosion.

(Code 1961, § 32A-10; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-35. Watercourse protection.

Any person owning property through which a watercourse passes and such person's lessee, if any, shall keep and maintain that part of the watercourse within the property free of trash, debris and other obstacles that would pollute, contaminate or retard the flow of water through the watercourse. In addition, the owner and lessee, if any, shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse. The property owner and lessee, if any, shall provide protection against stream bank erosion by maintaining existing vegetation adjacent to watercourses.

(Code 1961, § 32A-11; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-36. Suspension of MS4 access.

(a) Suspension due to illicit discharges in emergency situations. The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger

to the environment, the health or welfare of persons or the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States or to minimize danger to persons.

(b) Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its MS4 access. The violator may petition the city for a reconsideration and hearing.

(c) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the city.
(Code 1961, § 32A-12; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Secs. 125-37—125-60. Reserved.

ARTICLE III. STORMWATER MANAGEMENT PROCEDURES

Sec. 125-61. Stormwater discharges associated with construction activity, including industrial activity.

(a) *Applicability.* This chapter applies to all facilities and construction sites, including special construction sites, located within the city limits or otherwise subject to the regulatory authority of the city that have stormwater discharges associated with regulated industrial and/or construction activity by TPDES or NPDES permit requirements, and/or other construction activities determined by the city to pose a hazard to the quality of water flowing through the MS4. This includes the construction of an entry/exit location, drill pad site, utility and other construction activities as required for exploration and/or extraction of natural gas, other petroleum products or any other minerals within city limits.

(b) *Access to facilities.*

(1) The director is authorized by section 125-94 to enter and inspect all facilities and construction sites subject to regulation under this chapter.

(2) Site owners and/or operators shall allow the director ready access to all parts of public and private premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES or TPDES permit to discharge stormwater and the performance of any additional duties as defined by state and federal law.

(3) The director shall have the right to set up on any permitted construction site or facility such devices as are necessary in the opinion of the director to conduct monitoring and/or sampling of the facility's or construction site's stormwater discharge.

(4) Any temporary or permanent obstruction to safe and easy access to the site to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the director and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(5) Unreasonable delays in allowing the director access to a permitted construction site or facility are a violation of a stormwater discharge permit and of this article. A person who is the owner and/or operator of a facility and/or construction site with an NPDES or TPDES permit, or site qualified to be covered by an NPDES or TPDES permit, to discharge stormwater associated with construction activity or industrial activity commits an offense if the person denies the director reasonable access to the permitted facility or construction site for the purpose of conducting any activity authorized or required by this chapter.

(6) If the city has been refused access to any part of the premises from which stormwater is discharged, and the director is able to demonstrate probable cause to believe that there may be a violation of this chapter or any state or federal discharge permit, limitation or requirement, or that there is a need to inspect or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

(c) *Damage to stormwater control measures.* It is a violation of this chapter for any person to damage, or allow to be damaged, any temporary or permanent stormwater control measures, through the persons actions or inaction without promptly restoring the control measure to an effective and efficient state.

(d) *Nonpermitted discharges prohibited.* A person who is the owner and/or operator of a construction site commits an offense if the person discharges, or causes to be discharged, stormwater associated with construction activity without first having obtained a NPDES or TPDES permit to do so, unless a permit is not required by a state or federal requirement.

(e) *Compliance with permit.*

(1) A facility or construction site shall be operated in strict compliance with the requirements of the subject TPDES permit to discharge stormwater associated with industrial or construction site activity.

(2) A person commits an offense if the person operates a facility or construction site in violation of the requirements of the subject NPDES/TPDES permit to discharge stormwater associated with industrial or construction site activity.

(f) *Stop work order (SWO).*

(1) Whenever the director finds that any operator of a facility, has violated, or continues to violate, any provision of this chapter, or any permit or order issued thereunder, the director may order that a stop work order be issued to the operator, posted at the facility and distributed to all city departments and divisions whose decisions affect any activity at the site.

(2) Whenever the director determines that the operation of a construction site has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, as it may pertain to the operation of the construction site, the director may order that a SWO be issued to the owner and/or operator, posted at the site and distributed to all city departments and divisions whose decisions affect any activity at the site.

(3) Unless express written exception is at issuance, the stop work order shall prohibit any further construction activity at the entire site and shall bar any further inspection or approval by the city.

(4) A person receiving an order under this section may file a written notice of appeal with the director, no later than the tenth day after receipt of the order. Such notice shall include an explanation as to why the person believes the enforcement action should not be taken.

(5) Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(Code 1961, § 32A-13; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-62. Stormwater discharges from industrial activity.

(a) *General provisions.* All operators of:

(1) Municipal landfills;

(2) Other treatment, storage, or disposal facilities for municipal waste, including, but not limited to, transfer stations and incinerators;

(3) Hazardous waste treatment, storage, disposal and recovery facilities;

(4) Industrial facilities that are subject to section 313 of title III of EPCRA; and

(5) Industrial or commercial facilities that the director reasonably determines are contributing a substantial pollutant loading to the MS4, which are sources of stormwater discharges associated with industrial activity;

Shall comply with the following requirements:

(1) Any operator requiring coverage for stormwater discharge associated with industrial activity under the TPDES general permit for stormwater discharges associated with industrial activity (Industrial General Permit No. TXR050000) shall submit a signed

copy of its notice of intent (NOI) to the director contemporaneously with submittal of the original NOI to the TCEQ. If industrial activity is already underway, the NOI shall be submitted to the director, or an authorized representative, within 30 days from the effective date of this chapter.

(2) If relevant information provided in the NOI changes, a notice of change (NOC) must be prepared and implemented in accordance with the requirements of the industrial general permit or any individual or group TPDES permit issued for stormwater discharges from the facility. A copy of the NOC must be provided to the director within 14 days of discovery of the change.

(3) Where all stormwater discharges associated with industrial activity that are authorized by this chapter, and by the TPDES permit for those discharges from industrial activities are eliminated, or where the operator of stormwater discharges associated with industrial activity at a facility changes, the operator of the facility shall submit to the director a notice of termination (NOT) that includes the information required for notices of termination by part II.C.6 of the industrial general permit.

(4) The city's MS4 permit requires that all industrial facilities listed in section 125-6 be subject to site inspections no less frequently than once per permit term (five years). The director retains the authority to inspect these industrial facilities as often as deemed necessary to ensure permit compliance and safety of the MS4 and surface waters of the United States.

(5) Qualified personnel are required to inspect the facility according to the requirements of the Industrial General Permit part III.B. A copy of the report and all documentation must be submitted to the director.

(6) Industrial or commercial facilities that the director determines are contributing a substantial pollutant load to the MS4 shall submit self-monitoring data to the city on an annual basis. Submittal date of self-monitoring data shall be determined by the director.

(7) An industrial facility may submit a "no exposure" certification to the city in lieu of self-monitoring; however, any facility operating under a "no exposure" certification is subject to periodic facility inspections (not less than once per permit term (five years) to verify the facilities "no exposure" exemption). The inspection may be waived by the city for facilities that participate in the TCEQ's small business and local government assistance compliance commitment program.

(8) The director retains the authority to conduct inspections on any industrial facility subject to the TCEQ's TPDES multisector general permit or has been deemed to be, or has potential to be, contributing a substantial pollutant load to the MS4 in order to determine compliance and ensure safety of the MS4 and waters of the United States.

(9) Operators must submit monitoring results to the director upon the director's request for discharges subject to the semiannual or annual monitoring requirements of part III of the TCEQ industrial general permit TXR050000.

(10) Copies of the NOI, NOC, NEC, NOT may be delivered to the director either in person or by mailing it to:

Stormwater Management Division

P.O. Box 1967

Texarkana, Texas 75504

(11) A person commits an offense if the person owns or operates a construction site or industrial facility that is discharging stormwater associated with a regulated construction or industrial activity without having submitted a copy of the notice of intent to do so to the city.

(b) *Facilities operating with a TPDES or NPDES individual permit.*

(1) The facility shall operate in accordance with all requirements of the appropriate TPDES or NPDES individual permit.

(2) Upon inspection of the facility, the director may notify the operator or owner at any time that facility operations do not meet the requirements of the appropriate TPDES or NPDES individual permit or any additional requirements imposed by or under this section or other city ordinances. Such notification shall be in writing and shall identify those provisions of the permit or ordinance that are not being met, and clearly identify the changes necessary to meet such requirements. Within 30 calendar days of such notification from the director, the operator or owner shall make the required changes and submit to the director a written certification that the changes have been implemented. If compliance is not achieved to the city's satisfaction, the city may, in its discretion, report the noncompliance to the EPA and/or the TCEQ, and/or the city may itself undertake any enforcement action authorized by sections 125-91 or 125-93. Exercise of the city's option for consultation under this subsection shall not be a bar against, or prerequisite for, taking any other enforcement action against any owner or operator of the facility.

(3) Copies of all sampling data and analyses reports required by the appropriate TPDES or NPDES individual permit shall be submitted to the director at the same time that such reports are submitted to the EPA or TCEQ, unless otherwise notified in writing by the director.

(c) *Requirements to prevent, control and reduce stormwater pollutants by the use of best management practices.*

(1) The city will adopt requirements identifying best management practices for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the United States.

(2) The owner and/or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES or TPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWP3) as necessary for compliance with requirements of the NPDES or TPDES permit.

(3) The director may require an owner and/or operator of a regulated facility to modify its BMPs if, in the best professional judgment of the director, the BMPs do not provide effective protection from accidental discharge of prohibited materials or other wastes from entering into the municipal stormwater drainage system or waters of the United States.

(4) The director may require any operator of a facility to modify the facility's stormwater pollution prevention plan if in the best professional judgment of the director, the SWP3 does not comply with the requirements of the facility's NPDES or TPDES permit or this chapter to discharge stormwater associated with industrial activity.

(5) The deficiencies in a facilities' BMPs will be communicated in writing, and the director will provide the owner and/or operator a reasonable amount of time, not to exceed 60 days, to make the necessary changes in the BMPs. permit time requirements for controlling pollutants in runoff shall remain applicable.

(Code 1961, § 32A-13.1; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-63. Construction stormwater management.

(a) *General provisions; construction related violations.* No person shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any terms of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this chapter is committed, continued or permitted, shall constitute a separate offense. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of such restoration. Violations include, but are not limited to, the following:

(1) Construction not conducted in accord with the requirements of this chapter shall be a deemed a violation of this chapter;

(2) Construction not initiated or terminated within the time frame authorized by the director by notice, permit or license when such authorization is required by this chapter, shall be a violation of this chapter;

(3) It shall be a violation of this chapter to not comply with requirements for timely application for a stormwater permit and requirements for a stormwater pollution prevention plan and/or an erosion and sediment control plan;

(4) Conducting any land disturbing or construction activity without an approved erosion control plan for the location where the violation occurred;

(5) Failing to install erosion control devices or to maintain erosion control devices throughout the duration of land disturbing activities, in compliance with the approved erosion control plan for the location where the violation occurred;

(6) Failing to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices as specified in an approved erosion control plan for the location where the violation occurred;

(7) A person commits an offense if the person owns or operates a construction site or industrial facility that is discharging stormwater associated with a regulated construction or industrial activity without having submitted a copy of the notice of intent to do so to the city.

(b) *Establishment of stormwater permit.* A stormwater permit is required to ensure conformance with the requirements of this chapter prior to any land disturbing activity, including but not limited to, clearing, dredging, grading, excavating, transporting, storing, stockpiling, mining, disposing and filling of soil, earthen materials or land.

(c) *Regulatory permits.* It shall be the private property owner's, developer's or builder's responsibility to secure all regulatory permits associated with development drainage improvements and/or any land disturbing activities. These include, but are not limited to, the U.S. Corps of Engineer 404 permits, TCEQ permits and the U.S. Environmental Protection Agency discharge permits.

(d) *Construction sites.*

(1) *Applicability/site limits.* This chapter shall apply to all areas of land within the city limits. The erosion control provisions of this chapter do not apply to land under active agricultural use. As soon as construction or modification to the lands under active agricultural use is proposed so that the use of land will change from agriculture to any other use, then the provisions of this chapter shall be applicable to the once exempted land. Subsection (g)(6) of this section explains this exemption in greater detail. A construction site is the location and all the areas wherein construction activity, which is all or part of a common development or project, are occurring, proposed to occur, or

have occurred, irrespective of whether that construction is in compliance with this chapter, irrespective of whether that construction activity is ongoing or temporarily suspended for any purpose and irrespective of whether the director has granted authorization to undertake the construction activity. For purposes of this chapter, a construction site shall encompass:

a. All land and surface water areas where the construction activities of any type, including all areas of land surface disturbed by or as a consequence of the construction activities or other activities in support of the construction activities, are undertaken as part of a common plan of development or project;

b. All areas of land to be disturbed by construction of a common plan of development or project, irrespective of whether such construction is undertaken or planned to be undertaken in one phase or stage or different phases or stages and irrespective of whether such construction is undertaken or planned to be undertaken at different, separate or simultaneous times;

c. All areas of land where the land is to be disturbed by construction of a common plan of development or project, irrespective of whether untaken at contiguous or separate locations within the general area encompassed by the common plan of development or project, provided such boundary lies on or is within the boundary of property collectively owned or leased by one or more parties undertaking any or all of the construction activities; and

d. All areas of ongoing, temporarily suspended, yet-to-be undertaken and completed construction encompassing the totality of the construction activities, irrespective of whether any or all the construction activities are within compliance with this chapter.

(2) *Redefining of construction site limits.* The director shall have the right to redefine, for purposes of compliance with this chapter, the limits of a construction site in the extent and amount necessary and sufficient in the judgment of the director to prevent the actual or potential discharge of pollutants from the construction site to the MS4 or waters of the U.S. to the maximum extent practicable, provided the limits so defined lies on or within the boundary of property collectively owned or leased by one or more operators undertaking any or all of the construction activities at the site.

(3) *Cessation of construction site.* A construction site shall, for the purposes of this chapter, cease to be a construction site only at such time that all requirements for closure of the construction site as specified by this chapter have been met.

(e) *Operators and applicants.*

(1) *Operator responsibility.* A construction operator shall be fully responsible for compliance with all requirements of this chapter for construction activities, as may be applicable to the type of construction activities being conducted, proposed to be

conducted or that have been conducted by the operator at a construction site, including, but not limited to, making application for a stormwater permit, preparing a stormwater pollution prevention plan and/or ESCP and performing closure of the construction site.

a. All secondary operators and primary operators with control over construction plans and specifications must:

1. Ensure the project specifications allow or provide that adequate BMPs are developed to meet the requirements of this chapter and part III of the construction general permit;

2. Ensure that the SWP3 indicates the areas of the project where they have control over project specifications, including the ability to make modifications in specifications;

3. Ensure all other operators affected by modifications in project specifications are notified in a timely manner so that those operators may modify their best management practices as necessary to remain compliant with the conditions of this chapter and the construction general permit;

4. Ensure that the SWP3 for portions of the project where they are operators indicates the name and site-specific TPDES authorization numbers for permittees with the day-to-day operational control over those activities necessary to ensure compliance with the SWP3 and other permit conditions. If the party with day-to-day operational control has not been authorized or has abandoned the site, the person with control over project specifications is considered to be the responsible party, until the authority is transferred to another party and the SWP3 is updated.

b. *Change in operator.*

1. In the event that the operator of the construction site changes, all or in part, any and all stormwater permits and stormwater pollution prevention plans for construction yet to be completed, must name the new and continuing operators' names. Any permits, plans or notices that have been issued or approved by the city for the construction to the original operator must be reissued or reapproved, as appropriate, with the names of the new operators in the same manner as the original operator, such reissuance or reapproval being obtained no later than ten working days after such change.

2. If there is a transfer of ownership from the applicant to an owner occupant of a residential lot covered by a TPDES permit than a final inspection will be required. The applicant will also be required to submit documentation that the resident has been made aware of the requirements for proper stabilization of any remaining unstabilized portion of the residential lot.

(2) *Applicant.* For the purpose of any applications for construction activities that may be required by this chapter, an applicant is the person making such application and is an operator at the property upon which construction is proposed or is taking place.

(3) *Division of responsibility.* In the event the operator of a construction site is more than one legal entity, the applicant shall be considered responsible and held liable for complying with this chapter.

(f) *Construction activities.*

(1) *Types of construction activities.* Construction activities are those activities which result in any land disturbing activity or exposure of raw soil on a temporary or permanent basis and may include, but are not necessarily limited to, one or more of the following activities or practices when such activities are done for the purposes of:

a. Smoothing;

b. Clearing;

c. Removing trees and vegetation;

d. Configuring or shaping the land surface or subsurface;

e. Modifying drainage, drainage patterns, drainage conveyances or drainage facilities;

f. Removing, replacing, expanding, altering, destroying or demolishing existing structures, surfaces or facilities;

g. Preparing the land for construction of roads, highways, curbs, gutters, drainage devices, vehicle parking, buildings, structures, walls, roofs, floors, pads, foundations, tanks, basements, pipes or utilities.

(2) *Construction conduct.*

a. Any construction at a construction site shall be performed so as to reduce, to the maximum extent practicable, the discharge of sediments and other pollutants from the construction site.

b. An owner and/or operator of a construction site shall maintain on-site and make available for inspection by the director, any notice permit or license for construction and any pollution control plan that may be required by this chapter or other state or federal regulation.

c. A stormwater pollution prevention plan and/or an erosion and sediment control plan shall be submitted to, and approved by, the director prior to commencement of any construction activity at a construction site for which a stormwater permit is required.

d. The director shall require that a construction site of any size conform to any and all conditions of this chapter for construction activities if the director determines

that such requirements are necessary to prevent a significant discharge of pollutants to the city's MS4 or waters of the United States or are necessary because of imminent harm to the public or the environment.

(3) *Closure and final stabilization of construction sites.*

a. *Closure activities.* Construction activities at a site, for the purposes of this chapter, shall not be complete until proper closure of the site has been accomplished. Until such time proper closure has been achieved, the operator of the site is subject to all applicable requirements for conduct and completion of construction activities at the construction site. Any operator of a construction site shall complete all construction activities at a construction site in compliance with the requirements of this chapter for proper closure.

b. *Proper closure.* Proper closure includes, but is not limited to, the following:

1. Final stabilization of the site;

2. Removal of all construction surplus and residual materials, supplies, packaging, drums, cans and containers;

3. Removal of all surplus and residual soaps, cleaners, pastes, mastics, solvents, materials for soil amendment or preparation and similar construction materials;

4. Removal of all excess, surplus and unused construction vehicle maintenance fluids, including lubricants, fuels, brake fluids and coolants;

5. Removal of all wastes, trash and debris;

6. Removal of any waste bins, enclosures, drums or similar containers which are not intended to serve as permanent waste storage containers at the site;

7. Removal of all temporary stormwater pollution control devices, structures and materials;

8. If not intended for removal in county-approved plans or specifications for the site and to the extent a construction operator, or their activities, are responsible for the damage or loss of function or capacity of stormwater conveyances and appurtenances:

(i) Repair or replacement of damaged stormwater conveyances and appurtenances;

(ii) Repair or replacement of damaged drainage works and facilities; and

(iii) Restoration of proper function and capacity of stormwater conveyances.

(4) *Inactive construction sites.* A construction site for which active and ongoing on-site construction activities have halted for a period of 30 continuous calendar days and for

which proper closure actions as required by this chapter have not been conducted, shall be considered in violation of this chapter, unless the construction site owner and/or operator has demonstrated to the satisfaction of the director that:

a. Such lack of active and ongoing on-site construction activity is a result of only temporary suspension of activities; and

b. Site conditions are and will be maintained in a condition satisfactory to prevent the discharge of pollutants to the city's MS4 or waters of the United States to the maximum extent possible during the period of temporary suspension of construction activities.

(g) *Stormwater permit.*

(1) *Applicability.*

a. Unless specifically exempted in writing, a stormwater permit must be obtained from the director prior to commencement of any construction, development, excavating, grading, regrading, landfilling, berming, paving, diking, clearing and grubbing or any land disturbing activities made to any property within the city. A separate permit is required for each separate, noncontiguous site or lot. The permit application and required submittal documents, when applicable, shall include a copy of the permit coverage and/or site notice for small or large construction sites issued from the TCEQ. Approvals shall be secured per size of development from the city and TCEQ, as applicable prior to starting any clearing or earth work. It is the developer's responsibility to determine if other permits are required and to secure them.

b. In addition, no stormwater permit will be issued for land disturbing activity that would require the uncovering or disturbance of 5,000 square feet or more of land without the approval of an erosion and sediment control plan by the director.

(2) *General provisions.*

a. A stormwater permit application shall be submitted to the director using appropriate forms as provided.

b. A stormwater permit authorizes a construction owner and/or operator to conduct construction activities. Obtaining a stormwater permit does not relieve an owner and/or operator of complying with any and all applicable requirements of this chapter, exclusive of those dealing with construction.

c. Application for a stormwater permit shall require the submission of a stormwater pollution prevention plan (SWP3) and/or an erosion and sediment control plan developed in accordance with the requirements of subsection (h) of this section

and the construction general permit to the director for review, such plan shall provide information that will reduce the discharge of pollutants from the site to the maximum extent practicable.

d. The stormwater permit must be obtained from the director at least two working days prior to commencement of construction. Only that construction activity which is described in the stormwater permit can be undertaken.

e. The stormwater permit shall be posted at the construction site, and no construction activity can occur prior to the date of commencement, or after the date of termination, authorized by the stormwater permit.

f. Construction must be started no later than 180 calendar days after the date of commencement of constructions specified in the stormwater permit. Failure to begin construction within the specified time frame will render the stormwater permit void.

g. If for any reason the stormwater permit is suspended, revoked, terminated or voided, construction activity at the site shall immediately cease.

(3) *Contents of a stormwater permit.*

a. The address or other description of location of the construction site.

b. Name and address of the construction site owner, developer and/or operator, either property owner or lessee, and name and address of general construction contractor, if different from property owner or lessee, and name and address of any consulting firm retained by the applicant.

c. Name, address and business telephone number of the construction site owner and/or operator's on-site representative.

d. Earliest date of commencement of construction activity.

e. Proposed dates of termination of construction activity, completion of final stabilization activities and closure of the site.

f. Practices to be employed for site stabilization during the course of the construction.

g. Description of means by which the site is to be stabilized during suspension of construction activity for periods of 14 or more days and permanently stabilized by the time of completion of construction activities.

h. Any other information the director may deem necessary, whether or not required of any other owner and/or operator making application for a stormwater permit.

i. Certification by the applicant for the stormwater permit that the information provided on the stormwater permit application is true and accurate.

j. The approved stormwater permit shall contain certification by the applicant that all land clearing, construction, development and drainage will be done according to the stormwater pollution prevention plan and/or erosion and sediment control plan or previously approved revisions. Any and all stormwater permits may be revoked at any time if the construction of stormwater management facilities is not in strict accordance with approved plans.

k. In addition to the plans and permits required from the city, applicants shall obtain all state and federal permits for the proposed development. The applicant shall also be responsible for determining the existence and limits of any wetlands and/or floodways as may be applicable and be responsible for securing permits and approvals from the U.S. Army Corps of Engineers and Federal Emergency Management Agency as required.

(4) *Amendment to stormwater permit.*

a. If the activity authorized by the permit is not completed according to the approved schedule and permit conditions, the director shall be notified. For revisions resulting in a schedule extension of more than 30 days, or if deviations from the permit conditions are expected to occur, approval of a permit modification is required by the director.

b. If the application for amendment to a stormwater permit requires a change in the stormwater pollution prevention plan and/or erosion and sediment control plan in order for the SWP3 and/or erosion and sediment control plan to remain true and accurate should construction be undertaken in accordance with the amendment, an appropriately modified SWP3 and/or erosion and sediment control plan shall also be provided at the time of application for amendment to the director.

c. Application for amendment to a stormwater permit can be made at any time ten or more working days prior to the time identified in the stormwater permit for completion of construction activities, provided the person making application is not in violation of this chapter.

(5) *Late filing of amendment to a stormwater permit.*

a. If application for amendment to a stormwater permit is made less than two working days prior to the time for which the activities or conditions described by the amendment are to occur, exist or come about, and such activities or conditions are not authorized by the stormwater permit prior to application for amendment, the application shall be deemed to be a late filing of stormwater permit amendment.

b. A late filing of stormwater permit amendment shall meet all the same conditions and requirements as an application submitted more than two working days prior

to the time for which the activities or conditions described by the amendment are to occur, exist or come about, and include other such information the director may require.

c. Construction to be undertaken in accord with a late filing of stormwater permit amendment shall not be undertaken, until such amendment is approved by the director.

d. Approval by the director of a late filing of stormwater permit amendment shall not relieve the applicant from any or all administrative enforcement remedies, judicial enforcement remedies, enforcement actions or other remedies allowed by this chapter.

(6) *Exemptions.* The following activities are exempt from requirements of this chapter:

a. Land use for agricultural purpose;

b. Land where timber extraction takes place, provided that it is to be reseeded as timber land;

c. Existing commercial and industrial structures where additional structural improvements are less than 5,000 square feet;

d. Any activity directly related to the planting, growing and harvesting of agricultural crops;

e. Action taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms or other hazards;

f. Customary and incidental routine grounds maintenance, landscaping and home gardening which does not require a platting, replatting or building permit and which does not affect stormwater drainage on or through the site;

g. Installation, maintenance and repair of any underground public utility lines when such activity occurs on an existing hard-surface road, street or sidewalk, provided, the activity maintains pollution control and is confined to the area of the road, street or sidewalk which is hard-surfaced; and

h. Construction, repair or rebuilding of tracks of a railroad company.

(7) *Review and approval process.*

a. The director will review each application for a permit to determine its conformance with the provisions of this local regulation. Within ten working days after receiving an application, the city shall, in writing:

1. Approve the application for the permit;

2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation and issue the permit subject to these conditions; or
3. Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

b. If the permit application, final stormwater pollution prevention plan and/or erosion and sediment control plan and maintenance agreement are approved by the director, all appropriate land disturbance activity permits shall be issued.

c. Failure of the director to act on original or revised applications under this chapter within ten calendar days of receipt, shall authorize the applicant to proceed in accordance with the plans as filed, unless such time is extended by agreement between the applicant and the city.

(8) *Permit duration.* A construction sites permit is terminated automatically when all of the requirements listed under subsection (f)(3) of this section are met. Unless revoked or otherwise modified, permit coverage will automatically terminate two years after the permit issuance date. If continued, the permit is needed beyond the termination or expiration date, a new stormwater permit must be issued.

(h) *Requirements and standards for site development.*

(1) *Construction sites defined.*

a. Large construction sites include any construction activity that will result in the disturbance (e.g., clearing, grading, excavating, etc.) of five or more acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than five acres of land.

b. Small construction sites include any construction activity that will result in the disturbance (e.g., clearing, grading, excavating, etc.) of one acre and less than five acres of land. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres of land.

c. Special construction sites include any construction activity that will result in the disturbance (e.g., clearing, grading, excavating, etc.) of 5,000 square feet of land and less than one acre.

(2) *Site-specific stormwater submittal and planning requirements.*

a. *General provisions.*

1. Except as provided in subsection (b) of this section, a site-specific stormwater pollution prevention plan is required for all new development, redevelop-

ment, residential, commercial and industrial developments that disturb one acre or more, and on sites that disturb less than one acre when the site is part of a larger development.

(i) For the purpose of this section, the area of the development must include all land of a common plan of development, regardless of the amount of land that will be affected by the specific development activity.

(ii) A stormwater pollution prevention plan is not required when a portion of a previously developed tract of land is redeveloped, unless the redevelopment will result in the conversion of more than one acre from a porous surface to an impervious surface.

2. The stormwater pollution prevention plan must be prepared at the time of submission of the NOI or construction site notice.

3. The plan must include an erosion and sediment control plan that describes the implementation of best management practices (BMPs), which will be used to reduce the pollutants in stormwater discharges associated with construction and post-development runoff.

4. A site-specific erosion and sediment control plan is required for all new development, redevelopment, residential, commercial and industrial developments that disturbs 5,000 square feet or more. Minimum requirements for the ESCP can be found in subsection (h)(3)b.2. of this section or in the construction general permit.

5. Implementation of the pollution control measures detailed in the SWP3 and ESCP is required. Inspection of the status of the pollution control measures will be performed by city personnel, during normal construction inspections and at other times when construction activities may be conducted.

6. These documents may be delivered to the director either in person or by mailing it to:

Stormwater Management Division

City of Texarkana, Texas

220 Texas Blvd.

Texarkana, Texas 75501

b. *Development of sites one acre or more.*

1. A stormwater pollution prevention plan is required for all construction projects where one or more acres will be disturbed during development. Developments of sites that disturb one acre or more within the city limits must prepare a stormwater pollution prevention plan that satisfies EPA or TCEQ regulations and the NPDES or TPDES construction general permit.

2. A copy of the stormwater pollution prevention plan, including the ESCP, must be provided to the city's director upon request.

3. A copy of the notice of intent (NOI) (sites greater than five acres) and/or construction site notice (sites one to five acres) provided to EPA or TCEQ must be provided to the director at least 48 hours prior to any land disturbing activity.

4. If relevant information provided in the NOI changes, a notice of change (NOC) must be prepared and implemented in accordance with the requirements of the construction general permit or any individual or group TPDES permit issued for stormwater discharges from the facility or construction site. A copy of the NOC must be provided to the director within 14 days of discovery of the change.

5. A copy of the approved TCEQ TPDES permit.

6. Prior to the submittal of a notice of termination (NOT), the operator of the construction site shall first notify the director to request an inspection of the construction site for approval of final stabilization. After final inspection approval, the operator of the construction site shall submit to the TCEQ and the director, a notice of termination (NOT) that includes the information required by part II section F of the construction general permit.

7. A copy of the notice of termination (NOT) if the current measures are insufficient or construction activity has been completed (sites greater than five acres) submitted to the EPA or the TCEQ must be provided to the director.

8. All projects under this category must meet the requirements in subsection (h)(3) of this section.

9. The area of the development will be based upon any or all of the following: platted lots, site plan of the development, phased-in name of the development and/or ownership of the property or, if not platted, based upon the area of the tract owned by the developer, including all contiguous property owned by the same person. Disturbance of a partial area of a tract is not a condition that will cause a change of the category in development size.

c. *Development of sites less than one acre, if part of a larger development.*

1. All projects under this category must meet the requirements in subsections (h)(2)b. and (h)(3) of this section.

2. The area of the development will be based upon any or all of the following: platted lots, site plan of the development, phased-in name of the development and/or ownership of the property or, if not platted, based upon the

area of the tract owned by the developer, including all contiguous property owned by the same person. Disturbance of a partial area of a tract is not a condition that will cause a change of the category in development size.

d. *Development of sites less than one acre, if not part of a larger development (special construction sites).*

1. An erosion and sediment control plan, as described in subsection (h)(3)b.2. of this section, is required for new development, redevelopment, commercial construction, industrial construction, multifamily residential construction and development of a residential subdivision within the city's jurisdictional area where 5,000 square feet of acreage will be disturbed, when the site is not part of a larger development of an acre or more. The area of the development will be based upon platted lots, site plan of the development, phased-in name of the development and/or ownership of the property or, if not platted, based upon the area of the tract owned by the developer, including all contiguous property owned by the same person.

2. Post on-site the copy of the construction site notice and city's stormwater permit.

3. Submit a copy of the site notice and ESCP plan prior to construction to the director.

4. Maintain ESCP on-site and inspect stormwater controls weekly.

5. Contractors are required to implement an erosion control plan that establishes best management practices (BMPs) to reduce runoff.

6. The erosion control plan may include any measures as required to comply with pollution control measures specified in subsection (h)(3)b.2. of this section.

(3) *Stormwater pollution prevention plan requirements (SWP3).*

a. *General provisions.*

1. A stormwater pollution prevention plan (SWP3), if required by subsection (h)(2) of this section, shall be submitted for review in accordance with NPDES or TPDES permit requirements and this chapter. Any operator desiring TPDES permit coverage shall submit to the director a stormwater permit application, on a form provided by the city stormwater management division, along with a copy of the SWP3 and/or the erosion and sediment control plan. Should the plan review process exceed ten business days, construction activities may commence under the submitted SWP3. Once the plan review is complete, any necessary changes will be made to the SWP3 at the project site. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued, until approval of this plan is

obtained. The SWP3 must be developed to address discharges and potential sources of pollution, which may reasonably be expected to affect the quality of stormwater discharges associated with industrial, construction and development activities.

2. The stormwater pollution prevention plan (SWP3) shall describe and ensure the implementation of best management practices (BMPs) required by this chapter, which will be used to reduce the pollutants in stormwater discharges associated with construction and post-construction runoff, and ensure compliance with the terms and conditions of a TCEQ or EPA stormwater permit.
3. The city may deny approval of any building permit, certificate of occupancy, grading permit, subdivision plat, site development plan, permit to allow land disturbing activities or any other city approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the management practices described in the plans or observed upon a site inspection by the city are determined not to control and reduce the discharge of sediment, silt, earth, soil and other materials associated with clearing, grading, excavation and other construction activities to the maximum extent practicable.
4. Qualified personnel (provided by the operator of the construction site) shall inspect disturbed areas of any construction site that have not been finally stabilized, areas used for storage of materials, including waste disposal that are exposed to precipitation, structural control measures and locations where vehicles enter or exit the site, concrete truck washout, etc. In accordance with the inspection schedule included in the stormwater pollution prevention plan (SWP3) for the site. All erosion and sediment control measures and other identified best management practices shall be observed in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the MS4. Based on the results of the inspection, best management practices shall be maintained, repaired or revised as appropriate, and as soon as is practicable and maintenance, repair or revision activities noted in the SWP3 for the site.
5. The city may require changes be made to an owner and/or operator's SWP3 if, in the best professional judgment of the director, the SWP3 does not comply with the requirements of the owner and/or operator's NPDES or TPDES permit or this chapter to discharge stormwater associated with construction activities.
6. The deficiencies in an owner and/or operator's SWP3 will be provided in writing, and the director will give the owner and/or operator a reasonable amount time, not to exceed 14 days, to make the necessary changes in the SWP3.

7. Any stormwater pollution prevention plan required by federal or state regulation shall be retained on site during all phases of construction and a copy must be submitted to the director. Failure to produce such required SWP3s shall be grounds for issuance of a SWO.

8. The director may request and receive in a timely fashion, at the time of or after application for a stormwater permit, a copy of any SWP3 required by federal or state regulation for discharge of stormwaters from a construction site. Failure to provide such requested pollution control plan within a timeframe specified by the director shall be grounds for a SWO.

9. The director may require additional information, plans or specifications to be provided in an SWP3 for a construction site if the director determines such additional information, plans or specifications are necessary to prevent the discharge of pollutants to the MS4 or waters of the United States.

10. The SWP3 must be prepared by a professional engineer licensed to practice in the state.

b. *Contents of the stormwater pollution prevention plan (SWP3).* The SWP3 must include, at a minimum, the information described below:

1. A site or project description, which includes the following information:

(i) A description of the nature of the construction activity;

(ii) A list of potential pollutants and their sources;

(iii) A description of the intended schedule or sequence of activities that will disturb soils for major portions of the site;

(iv) Description of the existing vegetation at the site, including coverage;

(v) The total number of acres of the entire property and the total number of acres where construction activities will occur, including off-site material storage areas, overburden and stockpiles of dirt and borrow areas that are authorized under the permittee's NOI;

(vi) Data describing the soil or the quality of any discharge from the site;

(vii) A map showing the general location of the site (e.g., a portion of a city or county map);

(viii) A detailed site map indicating the following:

A. Drainage patterns and approximate slopes anticipated after major grading activities;

B. Areas where soil disturbance will occur;

C. Locations of all major structural controls either planned or in place;

D. Locations where temporary or permanent stabilization practices are expected to be used;

E. Locations of construction support activities, including off-site activities, that are authorized under the permittee's NOI, including material, waste, borrow, fill or equipment storage areas;

F. Surface waters, including wetlands, either at, adjacent to or in close proximity to the site;

G. Locations where stormwater discharges from the site directly to a surface water body or a municipal separate storm sewer system; and

H. Vehicle wash areas.

Where the amount of information required to be included on the map would result in a single map being difficult to read and interpret, the operator shall develop a series of maps that collectively include the required information;

(ix) The location and description of support activities authorized under the permittee's NOI, including asphalt plants, concrete plants and other activities providing support to the construction site that is authorized under the construction general permit;

(x) The name of receiving waters at or near the site that may be disturbed or that may receive discharges from disturbed areas of the project;

(xi) A copy of this TPDES general permit; and

(xii) The notice of intent (NOI) and acknowledgement certificate for primary operators of large construction sites, and the site notice for small construction sites and for secondary operators of large construction sites.

2. Erosion and sediment control guidelines and plan requirements.

(i) *General description of best management practices (BMPs)*. The responsible party of any construction site within the city shall implement measures necessary to control erosion, sedimentation, debris and stormwater pollution. The responsible party is responsible for the maintenance and performance of the temporary control measures until permanent measures are in place. The description must identify the general timing or sequence for implementation of BMPs relevant to each phase of site development such as, before clearing and grading

activities begin, during all phases of construction and post-construction/ post development. At a minimum, the description must include the following components:

A. Erosion and sediment controls must be designed to retain sediment on-site to the extent practicable with consideration for local topography, soil type and rainfall;

B. Control measures must be properly selected, installed and maintained according to the manufacturer's or designer's specifications;

C. Controls must be developed to minimize the off-site transport of sediment, litter, construction debris and construction materials;

D. Ensuring that existing vegetation is preserved where feasible and that disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased. Stabilization measures may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation and other appropriate measures;

E. Final stabilization must be achieved prior to termination of permit coverage.

(ii) *Erosion and sediment control plan requirements.*

A. The ESCP shall include the following:

a) Project name;

b) Project type (residential, new development or redevelopment, commercial, industrial, road, etc.);

c) Project location;

d) Drainage plan;

e) Names and addresses of the developer, owner, surveyor, engineer, contractors, subcontractors and anyone else who will be responsible for project implementation;

f) Name of the individual responsible for long-term maintenance of the project. This includes a maintenance plan and schedule for all temporary and permanent stormwater practices;

g) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure and buildings; and final grading and

landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, dates when stabilization measures are initiated and establishment of permanent vegetation;

h) All erosion and sediment control measures necessary to meet the objectives of this chapter throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season;

i) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application and kind and quantity of mulching for both temporary and permanent vegetative control measures.

B. Construction phase control measures. Temporary control measures. The following includes, but is not an exhaustive list of examples of temporary pollution control measures that can be used to control erosion and sedimentation:

a) *Structural controls.*

i) Silt fences may be utilized, where necessary, to retain the sediments from disturbed areas within the site and decrease the velocity of sheet flows.

ii) Straw bales may be utilized, where necessary, to retain sediments from disturbed areas within the site and decrease the velocity of sheet flows. Straw bales are particularly useful in paved areas where silt fences cannot be erected.

iii) Stabilized construction entrances shall be designed to reduce the amount of soil tracked off the construction site by vehicles leaving the site. A stabilized construction entrance should be utilized, if necessary, to control tracking. The responsible party shall ensure that vehicles entering and leaving the construction site use the stabilized construction entrance. The owner or operator of a vehicle entering or leaving a construction site may not track soil off the construction site.

iv) Vegetative buffer strips, of appropriate size, should be maintained, where necessary and practical, to aid in reducing the velocity of stormwater and in trapping sediments in the stormwater leaving the site. A vegetative buffer will usually suffice as a structural control until final stabilization is accomplished.

v) Inlet protection barriers must be installed around all inlets until the area immediately surrounding the inlet is paved or stabilized.

b) *Waste controls.* Waste disposal must be accompanied in a manner so that no solid wastes, including building materials, hazardous substances, oil or packaging leave the site, except for disposal at an appropriate, approved solid waste management facility, in conformance with the Texas Solid Waste Disposal Act. To the extent practicable, no solid waste, including personal waste, building materials, hazardous substances or oil may be allowed to enter the city's municipal separate storm sewer system, the city's streets or the navigable waters of the United States. Building materials include, but are not limited to, uncovered stockpiles of soil, sand, dry cement, lumber, bricks, packaging or other products used in construction. The general contractor and/or builder, who are issued the building permit, are responsible for the conduct of all subcontractors with regards to disposal of wastes generated by the construction activities at the site.

c) *BMPs*. Soil stockpiles, or other BMPs installed, must be stabilized or covered at the end of each workday.

d) *Dust control.* Reasonable measures shall be taken to control dust, particulate matter and windblown debris.

e) *Hazardous material storage.* Chemicals, paints, solvents, fertilizers and other toxic materials must be stored in waterproof containers. Except during applications, the contents must be kept in trucks or in storage facilities. Runoff containing such materials shall be collected, removed from the site and disposed of at an approved solid waste or chemical disposal facility.

f) *Concrete trucks.* The responsible party may not allow the owner or operator of a concrete truck to wash out or discharge surplus concrete or drum wash water at a construc-

tion site, unless the surplus concrete or drum wash water in concrete trucks is discharged at a facility on the construction site that will retain all concrete wash waters or leachates, including any wash waters or leachates mixed with stormwater. Concrete wash waters and leachates may not be allowed to enter the municipal separate storm sewer system, city streets, the waters of the United States or groundwaters.

g) *General good housekeeping measures.* Providing general good housekeeping measures to prevent and contain spills of paints, solvents, fuels, septic waste and other hazardous chemicals and pollutants associated with construction, and to ensure proper cleanup and disposal of any such spills in compliance with state, federal and local requirements.

h) *Alternative procedures.* The responsible party may adopt alternative procedures, such as regularly scheduled street cleaning in the immediate vicinity of the construction site, instead of adopting temporary structural controls for erosion under subsection (h)(3)b.2.(ii)B.a) of this section. If alternative procedures are used, the responsible party shall include those provisions in its TPDES stormwater pollution prevention plan, erosion and sediment control plan or the plans submitted for a stormwater or building permit, if a TPDES stormwater pollution prevention plan is not required.

C. Timely maintenance of vegetation, erosion and sediment control measures and other best management practices, in good and effective operating condition. This includes applying effective stabilization measures for disturbed areas within 14 days when construction activities have temporarily or permanently ceased. Areas where construction activities will begin again within 21 days are not required to install stabilization measures.

a) Off-site runoff shall be safely diverted away from construction areas to the extent it is practical to do so;

b) Sanitary waste facilities shall be maintained so that they do not create a hazard to the environment. Sanitary facilities should not be placed over any paved surfaces;

c) Installation of structural measures during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been com-

pleted. Structural measures should be placed on upland soils to the degree attainable. Such installed structural measures may include, but are not limited to, the following: stormwater detention structures, including wet ponds; stormwater retention structures; flow attenuation by use of open vegetative swales and natural depressions; other velocity dissipation devices; infiltration of runoff on site; and sequential systems which combine several practices. Operators of construction sites are responsible for the installation and maintenance of stormwater management measures prior to final stabilization of the site and are not responsible for maintenance after stormwater discharges associated with construction activity have terminated.

D. Final pollution control measures (post construction). These measures stabilize construction sites where either of the following conditions are met:

a) All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

b) For individual lots in a residential construction site by either:

i) The homebuilder completing final stabilization as specified in subsection (h)(3)b.2.(ii)D. of this section; or

ii) The homebuilder of single-family homes establishing final stabilization for an individual lot by sodding the front yard with a vegetative cover with a minimum of 70 percent density (no bare spots) and installing a perimeter of sod for the remaining portions of the yard to prevent soil erosion.

c) For construction activities on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface

water and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of subsection (h)(3)b.2.(ii)D. of this section.

d) Once final stabilization has been achieved, the responsible party shall notify the director of engineering, building official or designated representative that final stabilization has been achieved.

e) Erosion control structures must be provided where necessary to control erosive velocities in unlined channels or swales leaving the site.

f) Sediment traps must be provided on the site, as necessary, to control sedimentation from concentrated stormwater discharges into an environmentally sensitive area. Individual assessments must be made on a site-specific basis. However, a rock rubble low berm must be installed around an outfall that discharges directly into an environmentally sensitive area, unless this requirement is waived by the director of engineering because the responsible party has installed another type of sediment trap that provides equal or better protection.

E. Nonstructural control measures. The use of nonstructural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices.

(4) *Post-construction control measures.*

a. On areas that undergo new development or redevelopment, site construction resulting in the disturbance of one acre or more total land area, post-construction control measures in the form of structural and/or nonstructural practices are required. A description of any measures that will be installed during the construction process to control pollutants in stormwater discharges that may occur after construction operations have been completed must be included in the SWP3 and/or ESCP. Permittees are only responsible for the installation and maintenance of stormwater management measures prior to final stabilization of the site or prior to submission of an NOT.

b. Post-construction phase control measures shall be incorporated to preserve predevelopment hydrologic regimes. Post-construction stormwater pollutant loading should not exceed preconstruction pollutant loading. Preconstruction refers to the site immediately before the planned land disturbance and development activities occur.

c. Post-construction phase control measures include, but are not limited to:

1. *Velocity dissipation measures.*

(i) *On-site.*

A. Vegetated swales.

B. Check dams.

C. Vegetated filter strips.

(ii) *Off-site.*

A. Surrounding local topography.

B. Concrete-lined drainage channels.

2. *Predevelopment peak flow preservation.*

(i) *On-site.*

A. Detention basins/ponds.

B. Constructed wetlands.

C. Bioretention.

D. Wet basins.

(ii) *Off-site.*

A. In-line detention.

B. Outfall pump systems.

3. *Low impact development standards.*

(i) Minimization of the width or size of:

A. Roads/streets.

B. Sidewalks.

C. Cul-de-sacs.

D. Parking lots.

(ii) Open-space design.

(iii) Roof drainage control.

(5) *Maintenance requirements.*

a. All protective measures identified in the SWP3 and/or ESCP must be maintained in effective operating condition. If, through inspections or other means, the permittee determines that BMPs are not operating effectively, then the permittee shall perform maintenance as necessary to maintain the continued effectiveness of stormwater controls, and prior to the next rain event if feasible. If maintenance prior to the next anticipated storm event is impracticable, the reason shall be documented in the SWP3 and/or maintenance must be scheduled and accom-

plished as soon as practicable. Erosion and sediment controls that have been intentionally disabled, run-over, removed or otherwise rendered ineffective must be replaced or corrected immediately upon discovery.

b. The responsible party shall maintain and ensure adequate performance of the temporary pollution control measures, until permanent pollution control measures are in place.

c. Whenever the temporary or permanent pollution control measures do not keep soil, sediment and debris on the construction site, such as excessive tracking of dirt off site by vehicles and runoff of sediments from the site over sidewalks and into the streets and gutters, etc., the responsible party shall remove the soil, sediment and debris from streets, sidewalks and inlets, as necessary, return the soil and sediment to the areas to be stabilized and properly dispose of the debris. If the permittee does not own or operate the off-site conveyance, then the permittee must work with the owner or operator of the property to remove the sediment.

d. The responsible party is responsible for the maintenance of any permanent pollution control measures located on the site, unless the owner has dedicated the permanent pollution control measure to the city and has provided the city with any easements necessary to allow access to the permanent pollution control measure and to conduct any required maintenance activities.

e. Commitment of long-term maintenance of on-site post-construction control measures.

f. For new and significant redevelopment projects that require on-site control post-construction control measures such as detention ponds, constructed wetlands, bioretention systems, or the like, the developer shall be required to make a long-term commitment to the city for maintenance of the said control measures.

1. An affidavit, supplied by the city, signed by the developer, or the person who will be responsible for the maintenance of the control measures, must be submitted to the director no later than two calendar days after the date of termination of construction and will serve as a legal commitment to the city.

2. Once an affidavit has been submitted to the director, the director may require that a maintenance agreement be issued to ensure the maintenance is performed according to the said legal commitment.

(6) *Inspection of controls.*

a. The city shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the SWP3 and/or erosion and sediment control plan as approved. Plans for grading, stripping, excavating and filling work bearing the

stamp of approval of the city engineer, shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the director at least two working days before the following:

1. Start of construction and installation of erosion and sediment control measures (all applicable BMPs).
2. Completion of final construction (final stabilization).

b. The contractor or responsible party shall inspect all pollution control measures every seven days (on a specifically defined day) and within 24 hours following a rainfall of five-tenths inches or greater at the site and maintain a record of each inspection.

c. Stabilized areas shall be inspected once every 30 days.

d. The inspection reports are to be considered part of the contractor's stormwater pollution plan (SWP3) and/or ESCP, and as such, are subject to the same record retention schedule and availability requirements of the SWP3.

e. The inspection reports, as well as the entire SWP3 and/or ESCP, shall be made available for inspection by a representative of the city during normal business hours.

(7) *Revisions/modifications.*

a. The permittee must revise or update the SWP3 and/or ESCP whenever the following occurs:

1. A change in design, construction, operation or maintenance that has a significant effect on the discharge of pollutants and that has not been previously addressed in the SWP3;
2. Changing site conditions based on updated plans and specifications, new operators, new areas of responsibility and changes in BMPs; or
3. Results of inspections or investigations by site operators, operators of a municipal separate storm sewer system receiving the discharge, authorized TCEQ personnel, or a federal, state or local agency approving sediment and erosion plans indicate the SWP3 is proving ineffective in eliminating or significantly minimizing pollutants in discharges authorized under this chapter or the construction general permit.

b. The SWP3 and/or ESCP shall accurately reflect site conditions and the construction activities proposed to be undertaken. Revisions necessary to maintain an accurate and up-to-date SWP3 and/or ESCP shall be made in a timely fashion, but in no case, later than two working days after the occurrence of conditions or activities requiring such revisions.

c. If the conditions or activities described by a SWP3 and/or ESCP revision could be reasonably expected to result in an increase in the actual or potential discharge of pollutants from the site, such revision must be approved by the director prior to implementation of the proposed revision at least two working days prior to the implementation of activities described by the revision.

d. The director shall have ten working days to approve or reject a revision to a stormwater pollution prevention plan or ESCP after submittal of a proposed revision. If the director does not issue an approval or rejection of the revision within the acceptable time frame, the revisions shall be assumed to be approved.

(8) *Violation.* It is a violation of this chapter if a discharge occurs from a construction site containing materials other than stormwater and such discharge and/or materials are allowed to accumulate within the MS4 and such accumulation persists for a period beyond three days, unless greater time is allowed by the director. This includes discharges of sediment, to include off-site tracking vehicles entering and exiting the site, paints, solvents, cleaners, windblown debris or other materials associated with the construction activity at the site.

(Code 1961, § 32A-14; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-64. Spill or leak reporting and cleanup.

(a) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(b) Notification shall not relieve the responsible person of any expense, loss, damage or other liability which may be incurred as a result of the release, including any liability for damage to the city, to natural resources or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty or other liability which may be imposed pursuant to this chapter or to state or federal law.

(c) Spills or leaks of polluting substances discharged to or having the potential to be indirectly transported to the MS4 shall be contained, controlled, collected and removed promptly. All affected areas shall be restored to their preexisting condition. Any costs of the containment, control, collection, removal or restoration incurred by the city shall be reimbursed to the city by the person associated with the spill or leak.

(d) Any person operating a vehicle that causes or results in an accidental discharge or release to the MS4 shall be responsible to reimburse the city for any incurred costs resulting from any testing, containment, cleanup, abatement, removal and disposal of contamination.
(Code 1961, § 32A-15; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-65. Citizen reports of violations.

(a) All citizens are encouraged to report to the city any spills, releases, illicit connections, other instances of anyone discharging pollutants into the MS4, and any other violation of this chapter of which they become aware.

(b) The city will designate an individual or office within the department of public works to receive all such citizen reports by telephone, in writing, and in person. A written record of each citizen report will be prepared and kept on file for a period of three years, and a copy of the city's record of the report will be furnished to the reporting citizen upon request. Also upon request, the city will inform the reporting citizen of any action undertaken by the city in response to the citizen's report.
(Code 1961, § 32A-16; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Secs. 125-66—125-88. Reserved.

ARTICLE IV. NUISANCES, RIGHT OF ENTRY, ENFORCEMENT AND APPEALS

Sec. 125-89. Nuisances.

(a) An actual or threatened discharge to the MS4 that violates, or would violate, this chapter is hereby declared to be a nuisance.

(b) A line conveying sewage, or designed to convey sewage, that is connected to the MS4 is hereby declared to be a nuisance.

(c) Allowing accumulation of litter, yard waste or other solid waste to enter the MS4 is hereby declared to be a nuisance.

(d) Intentional acts causing damage to a temporary or permanent stormwater control measure is hereby declared to be a nuisance.
(Code 1961, § 32A-17; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-90. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety and welfare and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.
(Code 1961, § 32A-18; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-91. Administrative enforcement remedies.

(a) Notification of violation. When the director finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, the city may serve upon that person a written notice of violation. Within ten days of the receipt of this notice, the alleged violator shall submit to the director in writing:

(1) An explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, including specific required actions; or

(2) An explanation of any denial of a violation or any contention that no corrective action is necessary. Submission of an explanation or plan in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the notice of violation.

Nothing in this section shall limit the authority of the city to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.

(b) Emergency cease and desist orders.

(1) When the director finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation has caused or contributed to an actual or threatened discharge to the MS4, waters of the state or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the director may issue an order to the violator directing it immediately cease and desist all such violations and directing the violator to:

a. Immediately comply with all subchapter requirements; and

b. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and terminating the discharge.

(2) Any person notified of an emergency order directed to it under this section shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the

director may take such steps as deemed necessary to prevent or minimize harm to the MS4, waters of the state or waters of the United States, or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection or other municipal services. The city may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this chapter. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the director within five days of receipt of the emergency order, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(c) Nuisance abatement.

(1) Unless specifically stated otherwise, any nuisance, as defined within this chapter, is hereby declared a nuisance if it exists within the corporate limits of the city or within 5,000 feet of such limits. The director may give notice to cease, abate, remove or otherwise remedy a nuisance immediately to:

a. The owner of property upon which a nuisance is located or from which a nuisance originated or is emanating. If the person creating, allowing or maintaining the nuisance is not the owner of the property, notice shall also be given to such person.

b. Any person creating, allowing or maintaining a nuisance.

(2) The notice must be given:

a. Personally to the owner/person in writing; or

b. By letter addressed to the owner/person at the owner's/person's post office address and sent certified mail, return receipt requested. However, if personal or certified mail service cannot be obtained or the owner's/person's post office address is unknown, notice may be given:

1. By publication in a newspaper of general circulation within the city at least twice within ten consecutive days;

2. By posting the notice on or near the front door of each building on the property to which the nuisance relates; or

3. By posting the notice on a placard attached to a stake driven into the ground on the property to which the nuisance relates.

(3) The notice may order the owner/person to undertake and implement any appropriate action:

a. To remediate and/or abate any adverse effects of the nuisance upon the MS4, the waters of the state, the waters of the United States or any other aspect of the environment; and/or

b. To restore any part of the MS4, the waters of the state, the waters of the United States or any other aspect of the environment that has been harmed.

(4) Remediation, abatement and restoration action may include, but not be limited to:

a. Monitoring, assessing and evaluating the adverse effects and determination of the appropriate remediation, abatement and/or restoration action;

b. Confinement, removal, cleanup, treatment and disposal of any discharged or released pollution or contamination;

c. Prevention, minimization and/or mitigation of any damage to the public health, welfare or the environment that may result from the nuisance; and

d. Restoration or replacement of city property or natural resources damaged by the nuisance.

(d) The notice may direct that the remediation, abatement and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this section does not relieve the violator of liability for any violation, including any continuing violation.

(e) If the owner/person does not comply with the notice within ten days of service, the director may enter any public or private property containing the nuisance and do any work necessary to abate the nuisance, except the demolition of buildings.

(f) If the director deems immediate abatement of the nuisance is necessary to protect the environment or the public health, safety or welfare from an imminent and substantial endangerment, the director may, without complying with the notice provisions of this section or without waiting the ten-day period, enter the subject property and do, or cause to be done, any work necessary to abate the nuisance and remediate and restore the environment. After abating the nuisance, the director may inform the owner/person in a notice sent certified mail, return receipt requested, that if the owner/person commits another violation of the same kind or nature that poses a danger to the environment or to the public health and safety on or before the first anniversary date of the original notice, the city may without further notice correct the violation at the owner's expense and assess the expense against the owner's property.

(g) All costs incurred by the city to abate a nuisance and remediate and restore the environment, including the cost of giving notice as required, shall be initially paid by the city and charged to the owner of the property.

(h) To obtain a lien against the property, the director causing the abatement shall file a statement of expenses with the county clerk of the county. The lien statement shall state the name of the owner, if known, and the legal description of the property. The lien shall be security for the costs incurred and interest accruing at the rate of ten percent on the amount due

from the date of payment by the city. The lien is inferior only to tax liens and liens for street improvements. A lien may not be filed against real estate protected by the homestead provisions of the state constitution.
(Code 1961, § 32A-19; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-92. Administrative reconsideration and appeal.

(a) *Reconsideration.*

(1) Any person subject to an emergency cease and desist order under section 125-91(b) or a stop work order under section 125-61(f) may petition the city to reconsider the basis for the order within ten days of the affected person's notice of issuance of such an order.

(2) Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or review of the order.

(3) In the petition, the petitioner must state the provisions of the order objected to, the reasons for the objections, any facts that are contested, the evidence that supports the petitioner's contest, any alternative terms of an order that the petitioner would accept and whether the petitioner requests a hearing on the petition.

(4) Any stop work order shall be stayed pending the city's reconsideration of the petition, unless the city expressly makes a written determination to the contrary. Any emergency cease and desist order under section 125-91(b) shall not be stayed pending the city's reconsideration, unless the city expressly and in writing stays the emergency order.

(5) Within 15 days of the submittal of a petition for reconsideration, the city shall either:

a. Grant the petition without hearing and withdraw or modify the order accordingly;

b. Deny the petition without hearing if the city determines no material issue of fact is raised; or

c. Set a hearing on the petition and provide the petitioner, or any authorized representative of the petitioner, with written notice of the hearing setting at least ten days prior to the hearing by either personal delivery or by registered or certified mail, return receipt requested.

(6) Hearing; director's report and recommendation; city order.

a. The director shall be the presiding officer at the hearing, have authority to issue notices in the name of the city requesting the attendance and testimony of witnesses and the production of evidence and shall receive evidence. The petitioner and the city are entitled to present oral and documentary evidence and to

cross examine witnesses. Upon request and prepayment of the reasonable charges, a transcript or audio recording of the hearing shall be made available to the petitioner.

b. Within 30 days of the hearing, the director shall submit to the city, with a copy to the petitioner, a report of the hearing and recommendation to the city for action to be taken on the petition.

c. The city shall issue an order accepting, rejecting or modifying the director's report and recommendation and may issue further orders and directives as the city deems necessary and appropriate.

(b) *Appeal to city council.*

(1) Within ten days of the date of the city's order on the petition for reconsideration, the petitioner may appeal the city's order to the city council by filing a written appeal with the city secretary. Failure to file a timely written appeal to the city secretary shall be deemed a waiver of further administrative review.

(2) In the written appeal, the appellant must state the provisions of the order objected to, the reasons for the objections, any determinations of the director or city that are contested, the evidence that supports the appellant's contest, any alternative terms or an order that the appellant would accept and whether the appellant requests an oral presentation on the appeal.

(3) Absent a resolution of the city council stating otherwise, the city's order shall not be stayed pending the appeal to the city council.

(4) The city shall place consideration of the appeal on an agenda for a city council meeting so that the appeal is considered within 30 days of the date of filing. The appellant shall be notified at least 15 days in advance of the date and time the city council will meet and consider the appeal. If requested in the written appeal, the appellant shall have the right to present oral argument to the city council. The city manager and director shall respond to the oral argument presented.

(5) The city council may issue a final decision on the appeal or may defer a final decision, until the next regularly scheduled city council meeting. The city council may also remand the appeal to the director to reopen the hearing and receive additional evidence.

(6) The appellant may challenge any final decision by the city council in a court of competent jurisdiction.

(Code 1961, § 32A-20; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-93. Penalty.

(a) *Civil remedies.* Pursuant to Texas Local Government Code § 54.012(5), the provisions of subch. B of ch. 54 of the Texas Local Government Code are hereby implemented for any violation of this chapter, any such violation being classified by the Texas Penal Code as a Class C misdemeanor, so that the city may seek civil penalties and injunctive relief under the provisions of subch. B of ch. 54.

(b) *Criminal penalties.*

(1) Except as otherwise provided in this chapter, any person who has violated any provision of this chapter or any order issued hereunder, shall be strictly liable for such violation regardless of the presence or absence of a culpable mental state and shall, upon conviction, be subject to a fine of not more than $2,000.00 per violation, per day or any greater fine authorized by law. Each day, or portion of a day, for which a violation occurs shall constitute a separate violation.

(2) Any person who has knowingly made any false statement, representation or certification in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this chapter or any order issued hereunder, or who has falsified, tampered with or knowingly rendered inaccurate any monitoring device or method required under this chapter shall, upon conviction, be subject to a fine of not more than $2,000.00 per violation, per day or any greater fine authorized by law. Each day, or portion of a day, for which a violation occurs shall constitute a separate violation.

(3) In determining the amount of any fine imposed hereunder, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the violator, the compliance history of the violator, the knowledge, intent, negligence or other state of mind of the violator and any other factor as justice requires.

(c) *Civil suit under the Texas Water Code.* Whenever it appears that a violation or threat of violation of any provision of Texas Water Code § 26.121, or any rule, permit or order of the Texas Water Commission, has occurred or is occurring within the jurisdiction of the city, exclusive of its extraterritorial jurisdiction, the city, in the same manner as the Texas Water Commission, may have a suit instituted in a state district court for the injunctive relief or civil penalties or both authorized in Texas Water Code § 26.123(a), against the person who committed, or is committing, or threatening to commit, the violation. This power is exercised pursuant to Texas Water Code § 26.124. In any suit brought by the city under this subsection, the Texas Water Commission is a necessary and indispensable party.
(Code 1961, § 32A-21; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-94. Right of entry.

(a) The director may enter premises or vehicles regulated by this chapter at all reasonable times, whenever it is necessary to make an inspection to enforce any of the provisions of this chapter, to inspect permits and records required by this chapter, to collect air, water, waste or wastewater samples, or whenever probable cause exists to believe that a violation of this chapter or other environmental laws exists on such premises.

(b) The director shall first present credentials and demand entry if the premises are occupied. If the premises are unoccupied, the director shall make a reasonable attempt to locate the owner or person in control of the premises and demand entry.

(c) Where premises have security measures in force which require proper identification and clearance before entry, the person in control of the premises shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director or authorized representative will be permitted to enter without delay for the purpose of performing specific responsibilities.

(d) If entry is denied or if a person in control cannot be located, the director shall have every recourse provided by law to secure entry. Such recourse shall include the right to obtain a search warrant under the guidelines of the Texas Code of Criminal Procedure; and for the purposes of same, any person with enforcement authority under this chapter is hereby declared to be a health officer.
(Code 1961, § 32A-22; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-95. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the city may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
(Code 1961, § 32A-23; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-96. Compensatory action.

In lieu of enforcement proceedings, penalties and remedies authorized by this chapter, the city may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.
(Code 1961, § 32A-24; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-97. Criminal prosecution.

Any person that violates or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law and shall be subject to a criminal penalty of up to $2,000.00 per violation per day as authorized by state law and section 125-93. The city may recover all attorneys' fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.
(Code 1961, § 32A-25; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-98. Remedies nonexclusive.

The remedies provided for in this chapter are not exclusive of any other remedies that the city may have under state or federal law or other city ordinances. The city may take any, all or any combination of these actions against a violator at any time, regardless of timelines identified in this subchapter, to gain compliance with this chapter and any state or federal regulations. The city is empowered to take more than one enforcement action against any violator. These actions may be taken concurrently.
(Code 1961, § 32A-26; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-99. Computing time periods.

When computing any period of time for any deadline as provided in this chapter, if the last day of the period so computed is a Saturday, Sunday or legal holiday, the period of time runs until the end of the next day which is not a Saturday, Sunday or legal holiday.
(Code 1961, § 32A-27; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Sec. 125-100. Adoption of ordinance.

The ordinance from which this chapter derives shall be in full force and effect January 1, 2013, after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this chapter are hereby repealed.
(Code 1961, § 32A-28; Ord. No. 092-2012, § 1(exh. A), 7-23-2012)

Chapters 126—129

RESERVED

Chapter 130

STREETS AND SIDEWALKS*

Article I. In General

Sec. 130-1. Permit to construct sidewalks and curbs.
Sec. 130-2. Sidewalks and curbs to conform to established grades; duty of city engineer to furnish grades.
Sec. 130-3. Construction of sidewalks by property owners.
Sec. 130-4. Repairing, grading, etc., sidewalks by property owners.
Sec. 130-5. Encumbrances and obstructions on streets, sidewalks and other public rights-of-way.
Sec. 130-6. Removal.
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Article II. Rental Charge for Utility Poles, Lines, Etc.

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Sec. 130-52. Penalties.

***State law references—**General authority of home-rule municipalities concerning highways, streets and alleys, Texas Transportation Code § 311.001; general authority of home-rule municipality regarding sidewalks, Texas Transportation Code § 311.004; use of municipal streets and sidewalks for public convenience and amenities, Texas Transportation Code § 316.001 et seq.

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Article III. Excavations

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ARTICLE I. IN GENERAL

Sec. 130-1. Permit to construct sidewalks and curbs.

It shall be unlawful for any person to construct any concrete sidewalk or any curb within the city, without first having obtained a permit therefor from the city council. Such permit may be either a special permit for each job or a general permit for all such work to be done by the person to whom the permit is issued.
(Code 1961, § 24-1; Penal Code 1909, art. 29, § 2)

Sec. 130-2. Sidewalks and curbs to conform to established grades; duty of city engineer to furnish grades.

All sidewalks and curbs constructed in the city shall be so constructed as to conform to the established grade and lines of the streets, sidewalks and alleys of the city, which shall be obtained from the city engineer before the work is begun. It shall be the duty of the city engineer, in person or by an assistant, to determine and mark the established grade, or, in case there is no established grade, the natural and probable grade of any sidewalk or alley, upon the request of the owner of any abutting lot or part of a lot or block, within four days from the request of the owner of such lot or part of a lot or block.
(Code 1961, § 24-2; Civil Code 1909, art. 15, § 1; art. 29, § 5)

Sec. 130-3. Construction of sidewalks by property owners.

(a) *Generally.* It shall be the duty of every person owning any lot, or part of a lot or block, adjoining or abutting any public street or highway in the city to grade and construct sidewalks in front of and alongside of the lot or part of the lot or block owned by the person, at the persons own expense, when notified to do so as provided in subsection (b) of this section.

(b) *Resolution of council.* Whenever the city council shall determine and require, by resolution, that sidewalks shall be built upon any street or any part thereof, such resolution shall define the street or part thereof along and upon which the same shall be built, and shall prescribe the material of which the sidewalk shall be constructed, and the dimensions thereof. The publication of such resolution in any newspaper published in this city shall be sufficient notice to all owners of property fronting or abutting upon such street or part thereof to build the sidewalk as required herein.

(c) *Time of commencement and completion of work.* It shall be the duty of the owner of any property fronting or abutting upon any street upon which sidewalks are ordered to be built by resolution of the city council, as provided in subsection (b) of this section, to commence the work of constructing such sidewalks within 30 days after the publication of the resolution and to have the same completed within 90 days therefrom.

(d) *Material and dimensions.* Sidewalks constructed under this section shall be built of such material and shall be of such dimensions as may be required by the city council.
(Code 1961, § 24-3; Penal Code 1909, art. 29, §§ 1, 17, 18)

Sec. 130-4. Repairing, grading, etc., sidewalks by property owners.

(a) *Resolution of council.* When any sidewalk within the city shall be in a dilapidated condition or in need of repair or is not on the official grade, the city council may, by resolution, order such repairs, cutting, filling or other work to be done as may be necessary. Such resolution shall describe the sidewalk upon which the work is to be done and the nature and character of the work.

(b) *Notice to owners.* Whenever any work is ordered to be done by resolution of the city council, as provided in subsection (a) of this section, it shall be the duty of the owner of any property fronting or abutting on such sidewalk to perform such work when notified thereof. Such notice shall be served by a police officer by delivering a copy of the resolution, signed by the city secretary, to the owner or to the owner's agent or to the party in possession of the premises. In case the owner is absent from the city, or is a nonresident and has no agent in the city who is known as such to the city secretary or officer serving the notice, the notice may be served by causing the same to be published in some newspaper published within the city for five consecutive issues.

(c) *Time for commencement and completion of work.* It shall be the duty of the owner of the property fronting or abutting upon any sidewalk ordered to be repaired or graded, as provided in this section, to commence the work of repairing or grading the same within ten days after the service of the notice in accordance with subsection (b) of this section and to have the same completed within 20 days thereafter.

(d) *Failure of owner to perform work.* If the owner of any property fronting or abutting on any sidewalk ordered to be repaired or graded shall fail to begin the repairing or grading of the same within the time specified in subsection (c) of this section or fail to have the same completed within the time specified in subsection (c) of this section, the city council shall have the power and authority to cause such work to be done at the expense of the city. The expense of such work shall constitute a lien on the property of the owner failing or refusing to do the work and such lien shall be enforceable as provided by law.
(Code 1961, § 24-4; Penal Code 1909, art. 29, §§ 13, 14, 20)

Sec. 130-5. Encumbrances and obstructions on streets, sidewalks and other public rights-of-way.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alley means a minor way that is used primarily for installation of public utilities and for vehicular service access to the backside or the side of the property otherwise abutting the street.

Easement means a right held by the city to be used for access, drainage or the placement of utilities such as, but not limited to, water, sewer, gas, telephone, cable television and electrical lines.

Franchise means a grant of authority by the city to utilize the public right-of-way under certain specific terms and conditions given by ordinance.

Noncertificated telecommunications provider means an entity who has not been issued a certificate of convenience and necessity, certificate of operating authority or service provider certificate of operating authority to offer local exchange telephone service.

Right-of-way means any strip or area of land, including, surface, overhead or air space, or underground or subsurface space that is used, or intended to be used, or dedicated to be used wholly or in part as a public street, alley or as the location of public walkways and utility or drainage facilities or installations.

Sidewalk means the concrete or asphalt surfaced portion of a street between either the curbline or roadway and the adjacent property line intended for pedestrian use.

Street means the entire width between the boundary lines of every right-of-way, other than an alley, publicly maintained when any part of it is opened to the public for vehicular use.

(b) *Other definitions.* Definitions not expressly described herein are to be determined in accordance with customary usage in municipal planning and engineering practices.

(c) *Unlawful activities.* The following activities, uses, conditions or occurrences on the public right-of-way shall be deemed unlawful:

(1) Operating any machinery having tracks, feet or pulling lugs over or along any paved streets or alleys.

(2) Hauling of gravel, brick, sand, concrete, ready mix concrete or mortar in such a manner to scatter or waste these substances onto any streets, alleys or sidewalks.

(3) Dropping, spilling or leaking out of any tank or vessel, whether connected with a motor vehicle or otherwise, any gasoline or other oil or petroleum-based substance on to any street, alley or sidewalk.

(4) Discharging any odorous water, sewage, wastewater, waste oils, kitchen grease, kitchen slop water, mop water or other offensive or hazardous substance onto any public right-of-way.

(5) Placing, storing, constructing, installing or maintaining any structure, building, object, vehicle, device, fence, wall or other material on or within any public right-of-way. Trees and other living, domesticated vegetation located within the parkway area of a paved street and mailboxes are exempt from this prohibition. Provided, however, the city, or

its authorized agents, shall not be required to replace any obstruction on or within any public way that must be removed during the course of maintenance, construction and/or reconstruction on or within the public way.

(6) Casting, placing or storing any animal, offal, garbage, trash, refuse or debris into or upon any street, alley, sidewalk, street gutter or other public right-of-way.

(7) Constructing or placing any temporary or permanent structure within, on or over any public utility or drainage easement, except for franchised utilities, other public facilities associated with drainage, or as provided herein. The property owner may place removable section type fencing, asphalt or concrete paving, or landscaping within any dedicated public utility easement. Provided, however, that the city or any franchised utility of the city shall not be required to replace anything that must be removed during the course of maintenance, construction or reconstruction within any public utility or drainage easement.

(d) *License to encumber right-of-way or easements.* The following shall control the consideration of requests for encumbrances on, over, under or through public rights-of-way or easements.

(1) The right to encumber the public right-of-way may be granted only by license and every grantee of a license shall agree to indemnify and hold the city harmless from any and all damages to persons or property or both, arising in any manner out of the use of licensed premises. Each applicant for a license shall submit a nonrefundable deposit to cover the expenses of the processing costs associated therewith. The total deposit shall be credited toward the issuance of the first year license fee, should the applicant be approved for a license. The application must be accompanied by plans or drawings showing the area to be used and a statement of the purpose for which the right-of-way is to be used. The applicant is responsible for the establishment of the fair market value in the areas of consideration for license. Fair market value may be established by use of the county appraisal district records for adjacent properties. The nonrefundable deposit shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(2) No individual, person, firm or corporation shall be granted a license for an encumbrance of the public right-of-way that would adversely affect the public health, safety or welfare of the citizens of the city.

(3) Subject to the exemptions set forth in subsection (e) of this section, no license shall be issued or granted for an encumbrance of the public right-of-way for less than a three-foot width.

(4) Subject to the exemptions set forth in subsection (e) of this section, a licensee shall pay a license fee depending upon the amount of right-of-way encumbered as set out below. In no event shall a license fee be less than $200.00 for a period of one year.

a. For a private license authorizing a surface encroachment at the ground level, the annual license fee shall be 100 percent of the fair market value times the square footage of encumbrance.

b. For a private license authorizing an air space encroachment above the ground level, the annual license fee shall be ten percent of the fair market value times the square footage of encumbrance.

c. For a private license to encumber subsurface area, the annual license fee shall be ten percent of the fair market value times the square footage of encumbrance.

(5) Said license fee for each licensee may be subject to annual review by the city council and is subject to change.

(6) The total deposit shall be credited toward the license fee for the issuance of the first year if a license should be granted. Any individual, person, firm or corporation wishing to encumber the public right-of-way in any manner shall submit a license application and required deposit to the director of public works. Upon receipt and normal review by various city departments and public utility companies of such application, the director of public works shall forward the request to the city manager for approval.

(7) Any license granted hereunder shall be drafted by the city attorney's office.

(8) In the event any individual, firm, person or corporation is denied a license, they shall have the right to appeal such denial to the city council by filing a written notice of appeal with the city secretary no later than five days from their receipt of notice of the denial of the request.

(9) The city council shall hear the applicant's request within 30 days of notice of appeal and shall determine whether or not to uphold the denial, to grant the request as presented or to modify it.

(e) *Exemptions.*

(1) Any applicant who wishes to encumber public rights-of-way for installation of a private water line, with a diameter of one inch or less, and for a distance of not more than 300 feet; a private sewer line with a diameter of four inches or less, and for a distance of not more than 300 feet; and an overhead line for a distance of not more than 300 feet; or for an encroachment by a building, is hereby exempt from the annual license fee and shall be subject to a one-time license fee . An applicant who wishes to encumber the public right-of-way adjacent to the applicants' private property for the purpose of installation of a private lawn sprinkler or irrigation system is hereby exempt from the license fee requirements of this chapter. However, neither the city nor any franchised utility shall

be responsible or liable for damages or expenses resulting from the maintenance or operations of utilities in said right-of-way. The license fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(2) Noncertificated telecommunications providers shall be subject to an annual fee, per lineal foot, of an amount as established by the city from time to time and is on file in the city secretary's office or city website.

(3) Any applicant who is approved for a license to encumber public right-of-way for the placement of an ornamental device, is hereby exempt from the annual license fee and subject to a one-time license fee. The license fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(f) *No obstruction of public property.* The applicant shall not, unnecessarily or for an unreasonable period of time, obstruct or interfere with the public use of any streets, roads, highways, alleys or public ways owned or controlled by the city.

(g) *Repair of damages.* Applicant shall repair any and all damages caused by the applicant to any real property owned or controlled by the city and shall restore such real property to substantially its condition immediately before the incident causing such damage. The applicant shall commence such repairs immediately upon completion of the work or activity in which the applicant was involved at the time the damage occurred and shall complete such repairs to the satisfaction of the city for one-year from the date of surface of said street, road, highway, alley or public way is broken for such construction or maintenance work, after which time, responsibility for the maintenance shall become the duty of the city. The city may, from time to time, adopt reasonable ordinances regulating such work.

(h) *Conduct of work and activities.* The applicant shall use reasonable care in conducting its work and activities in order to prevent injury to any person and unnecessary damage to any real or personal property.

(i) *Use of alleys.* The applicant shall attempt to utilize the alleys of the city insofar as is reasonably practical in conducting its work and activities hereunder. Notwithstanding the foregoing, however, the applicant may, when approved by city, utilize the streets and any other public ways owned or controlled by the city to perform such work and activities.

(j) *Changes in encroachments.* Applicant shall (at the applicant's expense), upon written request from the city, change the location, position, route, depth or height of any encroachment or other components of the encroachment if and when such change becomes reasonably necessary because of a change in the grade of any street, road, highway, alley, public way or other real property owned or controlled by the city or because of any change in the location of, or in the manner of maintaining, constructing, laying, repairing, removing, replacing, install-

ing or operating, any pavement, curbs, gutters or underground or aboveground wires, cables or water or sewer pipes owned or controlled by the city. The city's written request for such change must set forth, in detail, all of the essential elements and specifications of the requested change.

(k) *Maps of encumbrances.* The applicant shall, at all times, keep on file with the city engineer a map showing the current location of all encumbrances and other components of the applicant's facilities located in the city.

(l) *Jurisdiction.* Any agreement shall be construed under and in accordance with the laws of the state, and all obligations of the parties hereunder are performable in the county.

(m) *Conflicts.* In the event of any conflict between the provisions of this section and any other provision of this Code or other ordinances, this section shall control. Provided, however, that nothing in this section shall effect the right of a holder of a lawfully granted franchise.

(n) *Penalty.* That any person found guilty of violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject to the fine as prescribed by law for Class C misdemeanors and that each day of any such violation shall be a separate offense.
(Code 1961, § 24-5; Ord. of 11-8-1920, § 1; Ord. No. 359-91, § 1, 12-9-1991; Ord. No. 254-2000, § 1, 8-28-2000; Ord. No. 293-06, § 1, 10-9-2006)

Sec. 130-6. Removal.

Any obstruction or encroachment upon any sidewalk, street, alley or other public thoroughfare of the city as specified in section 130-5, shall be removed by the owner or person in charge thereof, and upon failure to do so, the city, through its agents, shall remove said obstruction or encroachment and dispose of the same.
(Code 1961, § 24-6; Ord. of 11-8-1920, § 2; Ord. No. 39-70, § 2, 3-9-1970)

Sec. 130-7. Structural interference with view of street intersection.

It shall be unlawful for any person to place or maintain any sign, display or any structure at street intersections in such a manner that the view of intersecting traffic is obstructed, hindered or obscured, or to place or maintain any sign, display or any structure in such a manner as to hinder or obscure the vision of operators of motor vehicles, or pedestrians upon the streets, sidewalks or alleys of the city.
(Code 1961, § 24-6.1; Ord. No. 39-66, § 1, 5-9-1966)

Sec. 130-8. Signs and awnings—Permit.

Any person desiring to erect or place an overhanging sign or awning over or across any sidewalk or over or across any public property in the city shall first apply for and secure a permit

to do so from a city inspector. If such sign complies with the provisions of the building code, and, if in the judgment of the city inspector, such sign or awning can be safely erected or placed, the inspector shall issue the permit.
(Code 1961, § 24-7; Ord. of 9-25-1922, § 2; Ord. No. 49-67, § 1, 4-24-1967; Ord. No. 39-70, § 3, 3-9-1970)

Sec. 130-9. Same—Use of public property.

The supports and guys of all signs and awnings which are not publicly owned shall be placed on private property and such supports and guys shall comply with the provisions of the building code which has been adopted by reference by the city in this Code.
(Code 1961, § 24-8; Ord. of 9-25-1922, §§ 1, 4; Ord. No. 49-67, § 2, 4-24-1967)

Sec. 130-10. High-rise signs.

(a) High-rise signs, as defined herein, are signs of any kind which exceed 30 feet in height as measured from the ground level to the topmost part of the structure, and shall include, signs attached to or placed on buildings or structures not specifically built for supporting such signs. High-rise signs are also defined as any sign of sufficient height and proximity to existing electrical power lines that they could fall or be blown down upon any electrical line of more than 300 volts to ground.

(b) Before any permit is issued for such sign, a construction plan shall be submitted to the city engineer by the applicant for the permit. The specifications and design of such sign must bear the seal and signature of a registered professional engineer in the state certifying that the design and specifications meet or exceed the minimum requirements as set forth in the building code which has been adopted by reference by the city in this Code. Failure to furnish such certification upon request shall constitute grounds for refusal of the permit.

(c) No guys on any type structure that extend over any electrical power line 300 volts to ground shall be permitted.
(Code 1961, § 24-8.1; Ord. No. 49-67, § 3, 4-24-1967; Ord. No. 11-65, § 1, 2-8-1976)

Sec. 130-11. Use of streets and sidewalks for business purposes.

It shall be unlawful for any person to use any part of any sidewalk, street or alley in the city for the purpose of merchandizing or conducting any trade or business.
(Code 1961, § 24-9; Ord. of 5-12-1927, § 1)

Sec. 130-12. Inspection of utility poles, lines, etc.

The city fire chief, building inspector, electrical inspector, police officers and other persons designated by the city shall have power and it shall be their duty to examine and inspect, from time to time, all telegraph, telephone, electric light or other poles, gas pipe lines, pipes and other

fixtures in the public places within the city for the purpose of seeing that they are in a safe and suitable condition, and, whenever any such item is found to be unsafe or unsuitable for the purpose for which it is used, the person using, possessing or maintaining the same shall be notified and required to place the same in a safe and suitable condition.
(Code 1961, § 24-11; Ord. of 7-13-1943, § 11)

Sec. 130-13. Deposit of litter, trash, etc., on streets and sidewalks—Prohibited.

It shall be unlawful for any person to throw, place or in any wise deposit any litter, trash, refuse or garbage upon the sidewalks, streets, street rights-of-way, highways or highway rights-of-way within the city.
(Code 1961, § 24-12; Ord. No. 36-59, § 1, 6-9-1959)

Sec. 130-14. Same—Signs authorized.

The city engineer's office is hereby authorized to place signs at locations within the city designated by the chief executive officer or the city council to give notice of the provisions of section 130-13.
(Code 1961, § 24-13; Ord. No. 36-59, § 3, 6-9-1959)

Sec. 130-15. Going upon or interfering with street or sidewalk being paved, repaired, etc.

It shall be unlawful for any person to drive, ride, walk or otherwise go upon or in any other manner interfere with any sidewalk, street or alley, or part thereof, which is being paved, repaired or constructed.
(Code 1961, § 24-14; Ord. of 6-9-1919, § 1)

Sec. 130-16. Removal of lanterns, barricades, etc., from site of street or sidewalk construction.

It shall be unlawful for any person to remove any lanterns, barricade or other warning device or obstruction placed to prevent the public from going onto and upon any sidewalk, street or alley or other public place which is being paved, repaired or constructed.
(Code 1961, § 24-15; Ord. of 6-9-1919, § 2)

Sec. 130-17. Breaking, defacing, etc., street name signs.

It shall be unlawful for any person to willfully, maliciously or negligently break, knock down, throw down or in any way deface or otherwise injure any board, plate or card carrying or having upon it the name or designation of any street or public way in the city.
(Code 1961, § 24-16; Ord. of 5-24-1949, § 1)

Sec. 130-18. Trees, shrubs and other plants—Clearance over sidewalks.

It shall be unlawful for any person to permit any tree, shrub, vine, palm or any other plant of any description or kind to be grown, maintained or cultivated on any property owned by the

person or under the owner's control in such a manner that any portion of such tree, shrub, vine, palm or other plant overhangs or protrudes upon or over any sidewalk, unless there is a full ten-foot clearance between the surface of all portions of the sidewalk and the overhanging tree, limb, shrub, vine, palm or plant.
(Code 1961, § 24-17; Ord. of 5-27-1941, § 1)

Sec. 130-19. Same—Clearance over streets.

It shall be unlawful for any person to permit any tree, shrub, vine, palm or other plant of any description or kind to be grown, maintained or cultivated on property owned or controlled by the person in any manner so as any portion of such tree, vine, shrub, palm or plant hangs over or protrudes upon any street or highway in the city, unless there is a full 12-foot clearance between the surface of all portions of such street or highway and the overhanging tree, limb, shrub, vine, palm or plant.
(Code 1961, § 24-18; Ord. of 5-27-1941, § 2)

Sec. 130-20. Same—Location between curb and sidewalk.

(a) It shall be unlawful for any person to plant, maintain or cultivate any tree, shrub, vine, palm or plant of any description or kind which is more than three feet in height between the sidewalk and the curb of any public street or highway in the city at a lesser distance than 20 feet from the corner of any block of any such public street or highway, such measurement to be computed at the point of intersection of two lines extended parallel with the curbline of the street or avenue intersecting and causing such corner. Shade trees growing between the sidewalk and the curb of any public street or highway on or before May 27, 1941, shall not be affected by the terms of this section, until the city council passes a resolution declaring that the growing of the trees constitutes a public nuisance or hazard and orders the same removed by the owner, occupant, lessee or person in charge of such property, within five days from the date the notice is given.

(b) All trees between the curb and sidewalk shall be planted in a uniform line and in line with the trees already planted and growing.
(Code 1961, § 24-19; Ord. of 3-29-1922, § 1; Ord. of 5-27-1941, § 3; Ord. of 6-10-1941, § 1)

Sec. 130-21. Same—Interference with traffic.

It shall be unlawful for any person to maintain any shrubbery or trees at street intersections in such a manner that the view of intersecting traffic is obstructed, hindered or obscured, or to maintain any trees or shrubbery having overhanging limbs or extending branches that obstruct, hinder or obscure the vision of operators of motor vehicles or pedestrians upon the streets, sidewalks or alleys of the city.
(Code 1961, § 24-20; Ord. of 6-23-1953, § 7)

Secs. 130-22—130-45. Reserved.

ARTICLE II. RENTAL CHARGE FOR UTILITY POLES, LINES, ETC.

Sec. 130-46. Imposed; amount; when payable.

Upon August 1 of each and every year, every person occupying or using the streets, highways, easements, alleys, parks or other public places in the city with poles, pipes and for other fixtures shall, as a condition to such further occupancy, pay to the city annually for such privileges, a rental equal to not less than three percent of the gross receipts received by such person, association, organization or corporation from its business conducted in the corporate limits of the city for the preceding year, which sums shall be paid to the city.
(Code 1961, § 24-26; Ord. of 7-13-1943, § 3; Ord. of 10-26-1943, § 1; Ord. No. 241-89, § 1, 9-25-1989)

Sec. 130-47. Report of gross receipts of payor.

Every person using or maintaining any telegraph, telephone, electric light or other poles, gas and water pipe lines, pipes and other fixtures in any of the streets, highways, easements, alleys, parks or other places within the corporate limits of the city shall, on August 1 of each year, file with the city secretary a sworn report showing the gross receipts from the business conducted by such person or within the corporate limits of the city for the preceding year, ending the June 13.
(Code 1961, § 24-27; Ord. of 7-13-1943, § 1)

Sec. 130-48. Examination of books and records of payor.

The city council may, when it sees fit, have the books and records of any person required to pay the rental charge imposed by this article examined by a representative of the city to ascertain whether the statement filed in accord with section 130-47 is accurate, but nothing in this section shall be construed to prevent the city from ascertaining the facts by any other method.
(Code 1961, § 24-28; Ord. of 7-13-1943, § 2)

Sec. 130-49. Receipt for payment.

Upon receipt of the rental charge imposed by this article, the city secretary shall deliver to the person paying the same a receipt therefor, which receipt shall authorize such person to use and occupy the streets, highways, easements, alleys, parks and other public ways of the city in carrying on its business for 12 months from August 1st.
(Code 1961, § 24-30; Ord. of 7-13-1943, § 4)

Sec. 130-50. Charge is not a tax, but is additional to taxes.

The rental charge provided for in this article is not charged as a tax, but is made for the privilege, enjoyed by the persons upon whom it is imposed of using the streets, easements, alleys and other public ways of the city in the conduct of their businesses, and such charge is additional to all ad valorem and franchise taxes and to all taxes of every nature imposed on such persons.
(Code 1961, § 24-31; Ord. of 7-13-1943, § 5)

Sec. 130-51. Article does not grant franchise; cancellation of privilege and refund of rental.

This article does not grant a franchise to any utility or person to use the streets, easements, alleys and other public ways and shall never be so construed by the court or otherwise. The city reserves the right to cancel the privilege granted under this article and refund the unearned rentals paid to the city.
(Code 1961, § 24-32; Ord. of 7-13-1943, § 7)

Sec. 130-52. Penalties.

(a) Every person who shall operate any business without the payment of the rentals provided for in this article shall be subject to the general penalty as described in section 1-5, and for each and every day that such person shall conduct such business using and occupying the streets, easements, alleys or other public ways of the city without such payment, a fine may be recovered by the city in a court of competent jurisdiction by a suit filed therein.

(b) Every person, and the local manager or agent of such person, failing or refusing to make the report required by section 130-47, or failing or refusing to allow the examination provided for in section 130-48 shall, upon conviction thereof, be fined and every day's failure or refusal shall be deemed a separate offense.
(Code 1961, § 24-33; Ord. of 7-13-1943, §§ 9, 10)

Secs. 130-53—130-77. Reserved.

ARTICLE III. EXCAVATIONS*

Sec. 130-78. Permit—Required.

(a) It shall be unlawful for any person to cut into, dig up, excavate, tunnel, undermine or in any manner break up the surface of any street, sidewalk, curb and gutter or alley in the city, unless such person shall first obtain a permit therefor from the building inspection division.

***State law reference—**Underground Facility Damage Prevention and Safety Act, Texas Utilities Code § 251.001 et seq.

(b) In the event of an emergency in which a sewer main, conduit or other utility facility in or under any street bursts, breaks or otherwise is in such condition as to immediately endanger the property, lives, health or safety of any person, the person owning or controlling such facility shall be permitted to immediately go in and repair the break for the protection of the property, life, health and safety of individuals; provided, however, such person owning or controlling such facility shall immediately apply for an excavation permit not later than the end of the next succeeding business day during which the building inspection division office is open for business and shall not proceed with permanent repairs without first obtaining an excavation permit as provided for in this article.
(Code 1961, § 24-39; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-79. Same—Application.

An application for a permit required by section 130-78 shall give the following information:

(1) The name, address and phone number of the applicant;

(2) The exact location on the street or alley of the excavation or tunneling;

(3) The nature and purpose of the work and the dimensions of the cut or break in the pavement or surface of the street, curb and gutter or alley;

(4) The date of proposed commencement of the work;

(5) The date of proposed completion of the work;

(6) The type of surface and base, if known, of the street and to what level of completion the applicant proposes to perform repair work; and

(7) Such other information as the inspection division may require.
(Code 1961, § 24-40; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-80. Same—Amount of deposit required of applicant.

At the time of the issuance of the permit under this article, the applicant shall deposit with the city a sum of money for the costs of labor and materials necessary to restore the street, alley, curb, gutter or sidewalk to a like condition prior to the cut, break or excavation. The amount of said deposits shall be as follows:

(1) *Type I. Gravel-surfaced streets and alleys*—$10.00 for each square yard or any fraction thereof.

(2) *Type II. Asphalt on gravel base*—$15.00 for each square yard or any fraction thereof.

(3) *Type III. Concrete or brick (no asphalt)*—$20.00 for each square yard or any fraction thereof.

(4) *Type IV. Asphalt on brick, concrete or soil cement*—$28.00 for each square yard or any fraction thereof.

(Code 1961, § 24-41; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-81. Same—Deposit refund or additional charge.

(a) Upon completion of the permitted excavation and backfilling, as specified in section 130-92, the permittee shall notify the building inspection office of such completion. An inspection of the excavation site shall be made by city personnel to determine the actual cut dimensions and the amount and type of work and material required for the city to complete repairs. Depending on results of inspection, the final charge and resultant amount of refund or extra charge shall be computed as follows:

(1) *Type I. Gravel-surfaced street or alley.*

a. *Condition A.* No additional work or material required: Full deposit refund.

b. *Condition B.* Additional work and/or material required for the city to complete repair: Final charge of $10.00 per square yard or any fraction thereof based on field-measured surface cut dimensions.

(2) *Type II. Asphalt on gravel base.*

a. *Condition A.* No additional work or material required: Full deposit refund.

b. *Condition B.* Additional work, additional gravel base material and asphalt replacement material required for the city to complete repairs: Final charge of $15.00 per square yard or any fraction thereof based on field-measured surface cut dimensions.

c. *Condition C.* Additional work and asphalt replacement material only required for the city to complete repairs: Final charge of $10.00 per square yard or any fraction thereof based on field-measured surface cut dimensions.

(3) *Type III. Concrete or brick surface (no asphalt).*

a. *Condition A.* No additional work or material required: Full deposit refund.

b. *Condition B.* Additional work and replacement concrete material required for city to complete repair: Final charge of $20.00 per square yard or any fraction thereof based on field-measured cut dimensions.

(4) *Type IV. Asphalt on brick, concrete or soil cement.*

a. *Condition A:* No additional work or material required: Full deposit refund.

b. *Condition B:* Additional work, replacement concrete base material and asphalt replacement material required for city to complete repair: Final charge of $28.00 per square yard or any fraction thereof based on field-measured surface cut dimensions.

c. *Condition C.* Additional work and asphalt replacement material only required for the city to complete repairs: A final charge of $10.00 per square yard or any fraction thereof based on field-measured surface cut dimensions.

(b) Following satisfactory completion of repair work, the permittee will be mailed a statement detailing final charge computations and resultant refund or extra charge amounts due and/or payable within 30 days of statement date.
(Code 1961, § 24-41.1; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-82. Same—Insurance required of applicant.

(a) Prior to the issuance of a permit under this article, the applicant shall furnish to the building inspection division satisfactory evidence in writing that the applicant has in force and will maintain in force, during the performance of the excavation work and during the period of the excavation permit, public liability insurance in the sum of not less than $50,000.00 for any one person and $100,000.00 for any one accident, and property damage insurance of not less than $50,000.00, such insurance to be issued by an insurance company authorized to do business in this state.

(b) It shall be the permittees responsibility to maintain the site in such condition that the public is protected, until final repairs are complete.
(Code 1961, § 24-42; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-83. Same—Fee for permit.

A fee shall be paid to the city, in addition to all other charges, fees or deposits, for the issuance of a permit under this article. This fee shall be for the purpose of defraying the cost of the issuance of permits and obtaining proper placards, administrative costs and costs of inspection. The permit fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or website.
(Code 1961, § 24-43; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-84. Same—Issuance, contents, display, etc.

(a) In the event an applicant is granted a permit under this article, the inspection division shall issue a placard, which shall be plainly written or printed in English and reading substantially as follows:

Excavation Permit No. _____

City of Texarkana, Texas

Place: _____

Issued: _____

(date)

Expires: _____

(date)

(b) The applicant shall display the permit in a conspicuous place at the site of the work.

(c) It shall be unlawful for any person to exhibit such placard at or about any excavation not covered by such permit, or to alter or misrepresent the number of the permit or the date of issuance or the date of expiration thereof.
(Code 1961, § 24-44; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-85. Notice to police and fire departments if street closed.

If, in the course of work performed under a permit issued under this article, it becomes necessary to obstruct the passage over a street completely, it shall be the duty of the permittee to inform the fire department and the police department of such temporary closing and to make necessary arrangements with the street division superintendent concerning barricades, detours, signing, flagmen, etc. The permittee shall be responsible for providing such traffic control to the superintendent's satisfaction.
(Code 1961, § 24-45; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-86. Barricades.

(a) Every person to whom a permit is issued under this article shall erect proper barricades at the site of the work covered by the permit to inform the public that the street, sidewalk, curb and gutter or alley is being excavated and to prevent the unobstructed passage therein and to route traffic around the excavation with a minimum of interference. Acceptable warning signs shall be placed on such barricades, and all barricades shall be illuminated at night, and all lights shall be kept burning from sunset to sunrise.

(b) It shall be the responsibility of the permittee to maintain the proper barricading and signing at the site, until notified by the city that final repair has been satisfactory completed.
(Code 1961, § 24-46; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-87. Bridges required in certain instances.

Where traffic must cross open trenches at intersections and driveways, suitable bridges shall be provided by the person to whom the permit was issued under this article.
(Code 1961, § 24-47; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-88. Means of ingress and egress for residents to be provided.

Streets, driveways or alleys affected by work under a permit issued under this article shall at all times be maintained in a condition which will provide easy ingress and egress to the residents living thereon.
(Code 1961, § 24-48; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-89. Use of cleated equipment.

No person performing work under a permit issued under this article shall use equipment with cleats, without pads on any surfaced street.
(Code 1961, § 24-49; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-90. Trench walls.

Whenever any excavation is made on a surfaced street, the trench walls shall be substantially vertical, with a maximum width at the top no greater than 24 inches more than the outside diameter of the pipe. The trench walls shall be sufficiently braced to prevent material under the undisturbed pavement from sluffing.
(Code 1961, § 24-50; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-91. Protection of sewers.

Where sanitary sewers are encountered in making an excavation under this article, every effort shall be made to keep them undamaged. Should the sanitary sewer be damaged, it shall be completely cleaned and restored to its original condition. Where the grades on sanitary sewer lines are such that they must pass through storm sewers, a satisfactory concrete box shall be installed with a clean out manhole, and the sanitary sewer shall be laid through the box with cast iron pipe as directed by the city engineer.
(Code 1961, § 24-51; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-92. Backfilling, base repair and surface repair.

(a) *General.* Backfilling of excavations shall be the responsibility of the permittee. Base and concrete surface repair may be performed by the permittee or by the city at the city's option. Backfilling shall be accomplished as soon as practicable.

(b) *Materials and methods for backfilling.* Material used for backfilling may be that material excavated or other similar material, provided that the material used for backfilling is free of vegetation or other deleterious matter, contains no rock, broken concrete or broken asphaltic pieces larger than three inches maximum dimension in any plane, and is of such character and moisture content that it will stabilize when compacted. The backfill material shall be placed in six-inch loose lifts, and each lift shall be thoroughly compacted to prevent excessive settlement.

This procedure will be continued, until the excavation is totally filled, unless base repairs and/or surface repair is to follow immediately, in which case the backfill procedure may stop at the elevation such base repair will start.

(c) *Materials and methods for base repair.*

(1) *Gravel base.* Material used for repair of existing gravel base streets and alleys shall meet the minimum specifications for Type B, Grade 3, flexible base material, as detailed in Item 248 of the Texas State Department of Highways and Public Transportation, 1982 edition, Standard Specifications for Construction of Highways, Streets and Bridges. A minimum of ten inches, compacted depth, base material shall be placed in two equal lifts, with each lift thoroughly compacted. Where asphalt surface repair is to immediately follow base repair, the top two inches of base material may be omitted to allow for placement of the asphalt.

(2) *Concrete, brick and soil cement base with asphalt surface.* Material used for repair of existing concrete, brick and soil cement base without asphalt surface streets and alleys shall meet the minimum specification for Class C, 3600 psi, 28-day strength concrete, as detailed in Item 421 of the Texas State Department of Highways and Public Transportation, 1982 edition, Standard Specifications for Construction of Highways, Streets and Bridges. A minimum of eight-inch depth shall be placed and broom-finished at an elevation to allow placement of a two-inch depth asphalt surface course. The concrete base shall be protected from heavy loading and allowed to cure a minimum of three days prior to placement of asphalt surface and opening for traffic.

(3) *Concrete or brick base and surface.* Material used for repair of existing concrete or brick base and surface streets and alleys shall meet the minimum specifications noted in subsection (c)(2) of this section. A minimum of eight-inch depth shall be placed and broom-finished to match the existing undisturbed surface profile around the excavation. The concrete shall be protected from heavy loading and allowed to cure a minimum of three days prior to opening for traffic.

(Code 1961, § 24-53; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-93. Valve boxes, manholes, etc., to be brought to finished grade.

All valve boxes, manholes and the like shall be brought to the true finished grade of paved streets by persons making excavations under this article.

(Code 1961, § 24-54; Ord. No. 10-88, § 1, 1-25-1988)

Sec. 130-94. City and employees not liable for damages.

This article shall not be construed as imposing upon the city or any official or employee, any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder, nor shall the city or any

official or employee thereof be deemed to have assumed any such responsibility or liability by reason of inspections authorized herein, or the issuance of any permit, or the approval of any excavation work.
(Code 1961, § 24-55; Ord. No. 10-88, § 1, 1-25-1988)

Secs. 130-95—130-116. Reserved.

ARTICLE IV. ACCESS DRIVEWAYS

Sec. 130-117. State regulations—Adopted.

The pamphlet known as the "Access Management Manual," published July 2011, by the Texas Department of Transportation, is hereby adopted by the city council as though set out herein in full.
(Code 1961, § 24-61; Ord. of 4-27-1954, § 1; Ord. No. 40-65, § 1, 5-10-1965)

Sec. 130-118. Same—Filing and distribution of copies.

The city secretary shall maintain a copy of the pamphlet "Access Management Manual," adopted by section 130-117, on file in the secretary's office at all times, and the secretary shall procure extra copies for distribution at a reasonable fee.
(Code 1961, § 24-62; Ord. of 4-27-1954, § 5)

Sec. 130-119. Curbs for new driveways.

Commercial access driveways within the city under construction on April 27, 1954, or altered, repaired or rebuilt after such date, and any commercial access driveways built after such date anywhere within the city limits shall be provided with a curb not less than ten feet from the corner of the intersection streets' right-of-way, such curb shall conform to that line established for curbs for each of the intersection streets.
(Code 1961, § 24-63; Ord. of 4-27-1954, § 2; Ord. No. 40-65, § 2, 5-10-1965)

Sec. 130-120. Minimum construction requirements.

That portion of access driveway constructed upon public street rights-of-way (i.e., from curbline or pavement edge to street right-of-way line) shall meet the minimum criteria for use classification as follows:

(1) Driveways providing singular access from the street to a single residential unit shall be constructed of Class "A" (3,000 psi test) concrete. Minimum slab thickness shall be four inches, if reinforced with six inches by six inches by ten gauge welded wire mesh or its equivalent, or five inches if nonreinforced. Subgrade shall be well compacted, and an expansion joint shall be installed at the right-of-way line. Where existing curb, gutter and/or street pavement must be removed to allow proper construction, the limits of the

area to be removed shall be saw-cut or scored in an approved manner, and the removal accomplished so as to provide a neat line and a vertical face exposed. The use of alternate materials and methods will be considered, provided a detailed design by a registered professional engineer is submitted, including the engineer's certification that the alternate proposed will provide equal or greater strength and durability than those specified above.

(2) Driveways providing access from a street to a parking lot; to a private drive or street serving multiple-residential units; to educational, medical or religious facilities; to public or private office facilities and to any retail, commercial or industrial type facilities shall be constructed of Class "A" (3,000 psi test) concrete on a well compacted subgrade. Minimum slab thickness shall be five inches, if reinforced with six inches by six inches by six gauge welded wire mesh, or six inches if nonreinforced. Removal of existing curb, gutter and/or street pavement shall conform to the requirements set forth in subsection (1) of this section, as will consideration of use of alternate materials and methods of construction.

(3) All driveways shall be constructed to maintain or improve the drainage conditions in the area of the driveway. Gutter line grade shall be carefully maintained and driveway construction shall be such that storm flow is maintained in the gutter. Where driveways cross drainage ditches or swales, the city engineer's office shall determine pipe size or capacity requirements for driveway culverts or swale sections as conditions dictate. In general, the minimum pipe size allowed will be 18 inches in diameter. Fifteen-inch diameter pipe may be allowed only in instances where larger diameter pipe is not needed and could not function properly due to conditions. In general, the minimum culvert length shall be the paved driveway width, plus two foot shoulders each side if vertical headwalls are constructed. Otherwise, add a minimum additional two feet length each side for each one foot depth from top of driveway to bottom of ditch to provide a maximum 2:1 end slope on backfill. Culvert pipe shall be of approved reinforced concrete construction. Alternate pipe material that will be considered, includes metals and plastics which are designed to carry H-15 loadings, are coated or treated to withstand corrosion, and provided that ends are protected by headwalls or concrete sloped end treatment. In general, the location of the culvert pipe in relation to the street pavement edge shall be a minimum of three feet for shoulder width plus three feet for each foot of ditch depth to provide a maximum 3:1 front slope for the ditch. Adjacent ditch lines shall be transitioned and reshaped as necessary to accommodate the culvert location. The driveway over the culvert pipe should be swaled where possible to provide overflow capability.

(4) Construction and maintenance of the access driveway is the responsibility of the owner of the property served. When requested, the city may, at its option, assist in the

construction or reconstruction of driveway culverts only to the extent of installing and backfilling the culvert pipe furnished by the property owner and reshaping adjacent ditches.

(Code 1961, § 24-63.1; Ord. No. 11-88, § 1, 1-25-1988)

Sec. 130-121. Curbs for existing driveways.

At access driveways existing in the city prior to April 27, 1954, should the city council find, by resolution with notice to the property owner, lessee and any person having any interest in the property, that the lack of curbing at the corner of intersecting streets constitutes a traffic hazard and that curbing is necessary to the public convenience for the control of traffic, the city council may order the city engineer to erect a proper curb on the right-of-way, at the expense of the city.

(Code 1961, § 24-64; Ord. of 4-27-1954, § 4)

Sec. 130-122. Parking aprons for angle parking between curb or pavement edge and property line.

Permits for the construction of parking aprons for angle parking between the curb or pavement edge and the property line shall be issued only for city streets classed as secondary or minor and only under the following conditions:

(1) The parking apron shall extend the full length of the block from curb radii to curb radii of adjoining side streets.

(2) The parking apron shall be constructed of Class "A" (five sack, 3000 psi test) concrete, reinforced with six inches by six inches by six welded wire mesh. The apron slab shall be a minimum of six-inch thickness and shall be placed on a prepared, well compacted subbase. An integral concrete curb shall be constructed along the edges of the parking apron which do not connect to the street proper. Said curb shall be six inches minimum thickness and extend a minimum vertical distance of six inches above the parking slab.

(3) The grantee shall construct and maintain an unobstructed pedestrian walk along and adjoining the curb of the parking apron for the length thereof. The walk shall be constructed of Class "A" concrete (five sack, 3,000 psi test), it shall be a minimum of four feet wide and four inches thick and shall be poured on a prepared, well compacted subbase.

(4) Drainage shall be maintained by the installation of drainage tile where necessary and/or by grading the parking apron to drain to existing gutters, catchbasins or drainageways.

(Code 1961, § 24-64.1; Ord. No. 40-65, § 3, 5-10-1965)

Sec. 130-123. Plans and specifications; compliance with article; permit required; fees.

(a) *Application for permit.* Any person desiring to construct an access driveway or single parking apron connecting to any street or highway within the corporate limits of the city shall make application for a permit from the department of public works of the city. The applicant for such permit shall submit plans and specifications covering the work proposed showing all dimensions, property lines, sizes and other pertinent information necessary for review. Such information may be included on plat plans presented for building permits in case of new construction. In the event such work is contemplated along a state highway, two sets of plans and specifications will be required.

(b) *Permit required.* A valid permit to construct access driveways and/or angle parking aprons will be required in addition to building permits.

(c) *Fees set.* The fee for the issuance of a permit to construct access driveways or parking aprons along any street or highway in the corporate limits of the city shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website. The issuance of this permit shall relieve the grantee of the grantees obligation to secure a curb cut permit as required in article III of this chapter.

(d) *Compliance with article.* The city engineer shall require all plans and specifications to be submitted to the engineer by either the contractor, property owner or other person having an interest in the property, who applies for a building permit, to show compliance with this article, and should the person applying for a building permit refuse to comply with this article, the permit shall not be issued. If the plans and specifications show a compliance with this article and the permit is issued, and the construction fails to comply with this article, the city engineer shall immediately notify the contractor, owner or person authorizing the building and construction, and the chief executive officer of the city and, if necessary, the chief executive officer may instruct the city attorney to institute proceedings in any court to require compliance with this article, or cessation of the work until the article is complied with.
(Code 1961, § 24-65; Ord. of 4-27-1954, § 3; Ord. No. 40-65, § 4, 5-10-1965; Ord. No. 11-88, § 2, 1-25-1988)

Secs. 130-124—130-144. Reserved.

ARTICLE V. STREET IMPROVEMENT STANDARDS

Sec. 130-145. Required adherence.

All street and alley improvements constructed within the city limits or within its jurisdiction shall be constructed in conformance with the terms and provisions of this article.
(Code 1961, § 24-70; Ord. No. 142-06, § 1, 6-26-2006)

Sec. 130-146. Definitions.

For the purpose of this article, the following words and phrases used in this article shall have the following meanings, except where the context clearly indicates a different meaning:

Arterial street means a street designed to facilitate rapid and heavy traffic movements and which primarily provides vehicular circulation to various sections of the city and which, as a secondary function, provides direct access to abutting property.

Collector street means a street used primarily for circulation within a neighborhood to carry traffic from minor streets to arterial streets or to carry traffic through or adjacent to commercial, industrial or high-population density areas.

Consulting engineer means a professional engineer or engineering firm authorized to practice in the state and engaged by the city or by any developer to design and supervise improvement projects.

Developer means any private individual or group of individuals requesting or implementing public improvements.

Director of public works means the director of public works of the city and the county.

Planning and zoning commission means the planning and zoning commission of the city and the county.

Residential street means a street used primarily for access to abutting residential property.

All other words and phrases used in this article shall have the generally accepted meanings consistent with their usage by the engineering profession or the legal profession, whichever is applicable.
(Code 1961, § 24-71; Ord. No. 142-06, § 1, 6-26-2006)

Sec. 130-147. Governing standard specifications for materials and methods of construction.

All applicable sections of that certain publication titled Standard Specifications for Road and Bridge Construction, adopted in 2004 by the Texas Highway Department, and including all applicable approved revisions thereof, a copy of which publication shall be on file in the office of the city secretary, are hereby adopted as the standard specifications for materials and methods of construction for streets within the city. All materials used in city street and alley construction shall conform in all respects to the applicable provisions of such publication.
(Code 1961, § 24-72; Ord. No. 142-06, § 1, 6-26-2006)

Sec. 130-148. Right-of-way.

Prior to construction of any street improvement, which is to be operated and maintained by the city, the following right-of-way widths shall have been dedicated to the public by duly recorded formal instrument:

(1) *Arterial streets.* Eighty to 100 feet or as established by the provisions of the master plan of the city and by the provisions of the urban transportation study.

(2) *Collector streets.* Not less than 60 feet.

(3) *Urban section residential streets.* Not less than 50 feet.

(4) *Rural section residential streets.* Not less than 60 feet.

(5) *Residential or commercial alleys.* Not less than 20 feet.

(Code 1961, § 24-73; Ord. No. 142-06, § 1, 6-26-2006)

Sec. 130-149. Pavement widths and street section.

(a) *Urban section street.* In general, all street improvements constructed within the city's jurisdiction shall be of urban cross section with curb and gutter and shall be designed and constructed to the following minimum widths measured back to back of curb:

(1) *Arterial streets.* Forty-eight feet minimum width.

(2) *Collector streets.* Thirty-seven feet minimum width.

(3) *Residential streets.* Thirty-one feet minimum width.

(4) *Boulevard streets.*

a. Residential—Two 20 feet minimum width lanes;

b. Collector—Two 25 feet minimum width lanes.

(5) *Cross or circular streets.* Residential streets not exceeding 400 feet in length between intersections nor serving more than four lots between intersections may be constructed to minimum 28 feet in width.

(6) *Residential collector streets.* Urban streets designated as residential collector shall be constructed to a residential street width of 31 feet, up to a point which is a minimum of 150 feet from the edge of pavement of any arterial or collector street which it is intersecting. A transition from 31-foot width to 37-foot width will be accomplished in 50 feet of street length with the 37-foot width carried the remaining 100 feet to the intersection.

(b) *Rural section streets.* Where all lots within a subdivision are platted having a land area of three-fourths acre (32,670 square feet) or more and having minimum frontage of 125 feet on any adjacent street, rural section streets will be allowed. In instances where there are lots platted within a subdivision having a land area of one-half acre (21,780 square feet) or more and having minimum frontage of 100 feet on any adjacent street, the city planning and zoning commission may authorize and approve rural section street construction at the time of plat approval. In these instances, minimum widths shall be as follows:

(1) *Arterial streets.* As determined necessary on an individual basis.

(2) *Collector streets.* A total minimum crown width, measured from outside edge of shoulder to outside edge of shoulder of 36 feet with a minimum pavement surfaced width of 24 feet.

(3) *Residential streets.* A total minimum crown width, measured from outside edge of shoulder to outside edge of shoulder of 30 feet with a minimum pavement surfaced width of 24 feet.

(4) *Residential collector streets:* Rural streets designated as residential collector shall be constructed to the rural residential width set forth in subsection (b)(3) of this section, up to a point which is a minimum of 150 feet from the edge of pavement of any arterial or collector street which it is intersecting. A transition from total crown width of 30 feet with pavement surfaced width of 24 feet to a total crown width of 36 feet with pavement surfaced width of 24 feet shall be accomplished in 50 feet of street length with the 36-foot crown width and 24-foot pavement width carried the remaining 100 feet to intersection.

(c) *Alley section.* Alley improvements may be constructed of such cross section as determined best for the particular location and as approved by the city engineer. Minimum pavement surfaced widths shall be 12 feet, edge to edge.

(d) *Cul-de-sac.* The minimum outside pavement diameter for the cul-de-sac or closed-end turnaround, shall be 100 feet, whether urban or rural section. The minimum pavement width around the cul-de-sac shall be 31 feet back-to-back of curb for urban section improvements and 28 feet edge-to-edge of pavement for rural section improvement, with any resultant center unpaved island construction with curb and gutter around its perimeter.
(Code 1961, § 24-74; Ord. No. 142-06, § 1, 6-26-2006)

Sec. 130-150. Standard cross-sectional shapes.

(a) *Street crown.* All street sections shall be constructed with a cross section that will provide minimum transverse slopes as follows:

(1) Three percent for residential and residential collector streets.

(2) Two percent for major collector and arterial streets from centerline to gutterline or centerline to outside edge of shoulder.

On residential and residential collector streets the cross slope may transition to a three percent slope from gutterline to gutterline for cross-drainage purposes where allowed by the city engineer. This transition shall occur over a 200-foot length of street.

(b) *Monolithic concrete curb.* A concrete curb constructed monolithically with a concrete street slab shall be six inches in height above gutter elevation, have a two-inch top width, a three-inch radius top to face, a three-inch face at 30 degrees to vertical, thence a four-inch radius face to gutter low point, for a total curb width at gutterline of 9.5 inches.

(c) *Concrete curb and gutter section.* Concrete curb and gutter sections constructed independently shall be a minimum 24-inch width, minimum 12-inch height, and the curb shape shall conform to that described in subsection (b) of this section for monolithic curb.

(d) *Mountable curb.* A mountable curb may be utilized in lieu of the curb section defined in subsection (b) or (c) of this section at the developer's option. The design of said mountable curb shall be as shown in section 130-155 or as approved by the city engineer.

(e) *Parallel drainage, rural street section.* Where rural section street construction is allowed under this chapter or where existing rural section border streets abut a subdivision proposed for development, the street drainage within or abutting such subdivision shall be designed and constructed to meet the following minimum criteria:

(1) Drainageways parallel with streets, which carry only the runoff from such street and the abutting property, shall carry a minimum Q_2 design storm with no overflow. In those instances where such drainageway becomes a part of a larger drainage channel carrying runoff from a significant drainage area, it shall meet the requirements of section 120-4.

(2) The street drainageways shall be shaped, graded and improved in such manner that erosion will be controlled and side slopes will not exceed 4:1 front slope and 3:1 back slope to facilitate safety and maintenance.

(3) Street and drainage plans submitted shall include notes designating culvert pipe or culvert box size required for future access driveways along such streetside drainageways to comply with design capacity calculations for the various sections thereof. Minimum allowable pipe size shall be 15-inch diameter and culverts shall be located no closer than 26 feet to the centerline of the street.

(4) In instances where topography or other factors dictate that a streetside drainageway has a vertical depth greater than three feet, measured from top of front slope to flowline, the side slopes must be steeper than allowed above, or where erosion cannot be controlled otherwise, such drainageway shall be lined with concrete or other materials in a manner approved by the city engineer.

(5) All cross-drainage structures under rural section streets shall be constructed with approved headwalls or sloped concrete-lined end sections as shown in section 130-155.

(Code 1961, § 24-75; Ord. No. 142-06, § 1, 6-26-2006)

Sec. 130-151. Minimum standards of structural design and construction.

(a) *Roadbed soils.* Roadbed soils with a plasticity index (P.I.) of 20 or greater shall not be considered acceptable subgrade material. Such high P.I. material must be stabilized in an approved manner or replaced with a minimum of 18-inch thick approved subbase material. The design engineer shall require soil tests at each apparent change of soil characteristic along the

street length or at intervals not exceeding 500 feet of street length. In instances where roadbed soil is stabilized or replaced, appropriate laboratory tests shall be performed in a like manner on the new or stabilized material.

(b) *Subgrade.* Acceptable roadbed soils or subbase materials shall be worked a minimum six-inch depth and compacted to a minimum 95 percent Standard Proctor Density to be considered acceptable subgrade for further construction. Prior to testing for subgrade density, a certified independent testing laboratory under the direction of the design engineer shall supervise the proof rolling of the subgrade in accordance with Item 216 of the herein adopted state department of transportation standard specifications. Once proof rolling is complete and any required repairs made, the independent testing laboratory shall test for required density with a minimum of one test for each soil type or at a minimum of one test for each 500 feet of street length or part thereof.

(c) *Rigid pavement design.*

(1) *Arterial streets.* Individual design based on projected and assigned traffic volumes by individual study.

(2) *Collector streets.* Over the required subgrade or subbase, the minimum thickness requirement for Portland cement concrete (PCC) pavement shall be six inches with #3 steel reinforcing bars 24 inches c/c or #4 steel reinforcing bars 36 inches c/c spacing. The concrete shall be designed to produce a 3600 psi nonreinforced compressive beam strength at 28 days. The concrete pavement shall be properly placed and cured with doweled expansion and construction joints, plus neatly sawed dummy joints at approved spacing. All joints to be sealed with approved material in an approved and timely manner. Any uncontrolled cracks occurring shall be saw cut or routed and properly sealed also. The actual placement of the concrete pavement shall be monitored by a certified independent testing laboratory under the direction of the design engineer to ensure that the paving activity complies with the herein adopted state department of transportation standard specifications and the mix design, including slump, concrete temperature and water/cement ratio. Concrete strength tests will be required at a minimum of one test per each 250 cubic yards or part thereof.

(3) *Residential streets.* The minimum standards established for collector streets in subsection (c)(2) of this section shall apply for residential street rigid pavement construction.

(d) *Flexural pavement design.*

(1) *Arterial street.* Individual design based on projected and assigned traffic volumes by individual study.

(2) *Collector street.*

a. *Nonstabilized flexible base.* Over the required subgrade or subbase, the minimum thickness requirement for a nonstabilized flexible base course shall be one of the following:

1. Pit run gravel shall be eight inches in thickness with a plasticity index (P.I.) of not less than five nor more than 15. It shall meet gradation and all other requirements as listed for a Type B, Grade 3 flexible base material under Item 247 of the adopted standard specifications.

2. Crushed stone shall be six inches in thickness with a meeting gradation and all other requirements as listed for a Type A, Grade 1 flexible base material under Item 247 of the adopted standard specifications. The nonstabilized flexible base material shall be shaped and compacted to a minimum 95 percent Standard Proctor Density and properly primed with an approved asphalt to be considered acceptable for further construction or surfacing. Laboratory density tests shall be performed at adequate intervals to ensure consistent density. The responsible design engineer shall determine appropriate test locations, with a minimum of one test for each 500 feet of street length or part thereof.

b. *Hot-mix asphaltic concrete (HMAC) flexible base.* Over the required subgrade or subbase, an approved asphalt primer shall be applied, then a minimum thickness of five inches of HMAC flexible base may be applied. The HMAC base shall meet gradation and all other requirements for Type A (coarse-graded base course) or approved equal as listed under Item 340 of the adopted standard specifications.

c. *Flexible surfacing.* The standard flexible surfacing for collector streets shall be a minimum thickness of two inches of hot-mix asphaltic concrete (HMAC) meeting the gradation and all other requirements for Type D (fine-graded surface course) or approved equal as listed under Item 340 of the adopted standard specifications.

d. *Design speed*. The horizontal and vertical alignment shall meet the following minimum design speed as defined in the AASHTO green book:

1. Arterial: 50 miles per hour.

2. Major collector: 35 miles per hour.

3. Residential and residential collector: 30 miles per hour.

(3) *Residential and residential collector streets.*

a. *Nonstabilized flexible base.* The minimum standards set forth in subsection (d)(2)a. of this section shall apply to residential streets when surfaced with 1½ inches hot-mix asphaltic concrete (HMAC) as specified in subsection (d)(3)c. of this section.

b. *Hot-mix asphaltic concrete (HMAC) flexible base.* The minimum standards set forth in subsection (d)(2)b. of this section shall apply to residential streets when surfaced with 1½ inches of HMAC as specified in subsection (d)(3)c. of this section.

c. *Flexible surfacing.* The standard flexible surfacing for residential streets shall be a minimum thickness of 1½ inches of hot-mix asphaltic concrete (HMAC) meeting the gradation and all other requirements for Type D (fine-graded surface course) or approved equal as listed under Item 340 of the adopted standard specifications.

d. *Alternate flexural design standard, residential streets.* Should the designer wish to substitute a two- or three-course surface treatment in full conformance to Item 316 or Item 318 of the adopted standard specifications in lieu of the standard 1½ inch HMAC as specified in subsection (d)(3)c. of this section over a nonstabilized flexible base, it will be allowed, provided, a minimum thickness of eight inches of crushed stone base as per subsection (c)(2)a.2. of this section, meeting all other requirements of subsection (d)(3)a. of this section is constructed and that all requirements of subsections (a) and (b) of this section are complied with. The asphalt type, aggregate type and rates of application shall be subject to the approval of the city engineer.

(Code 1961, § 24-76; Ord. No. 142-06, § 1, 6-26-2006)

Sec. 130-152. Engineering requirements.

(a) Any street constructed within the jurisdiction of this article shall be designed by a qualified professional engineer, duly registered to practice engineering in the state. The engineers signed, sealed plans and specifications, design data and supporting test reports for such street construction shall be submitted to and approved by the city engineer, prior to start of any construction. Where the construction falls in the city's extraterritorial jurisdiction, a complete set of design data shall be submitted to the appropriate county commissioner for the engineers review and comments, prior to the start of any construction.

(b) As construction proceeds, the design engineer shall submit status reports to the city engineer, accompanied by appropriate certified test reports, at completion of subbase or subgrade preparation, at completion of flexible base construction where applicable, during flexible surfacing or rigid pavement construction as appropriate. Upon completion of construction of any streets improved hereunder, the design and supervising engineer responsible for the street shall submit one reproducible set of as-built plans, signed, sealed and dated, together with the engineer's signed, sealed, dated statement that the work was performed under the engineer's supervision, that the engineer has inspected same and the construction does conform in all respects to the requirements and provisions of this article. Where construction occurred in the city's extraterritorial jurisdiction, a complete set of as-built data shall be submitted to the appropriate county commissioner.

(Code 1961, § 24-77; Ord. No. 142-06, § 1, 6-26-2006)

Sec. 130-153. Acceptance of completed improvements.

Upon completion of any street constructed under the jurisdiction of this article, the prime contractor responsible for the street construction or the developer of the property shall file with the city, on forms acceptable to the city attorney, a contract guaranteeing the correction or replacement of any or all construction that is found faulty or inadequate in any respect during the 12-month period immediately following completion of construction, submission of an as-built plan and acceptance by the city engineer. Acceptance by the city engineer shall be in writing following receipt of as-built data and a maintenance contract.
(Code 1961, § 24-78; Ord. No. 142-06, § 1, 6-26-2006)

Sec. 130-154. Alternative surety provisions for construction of certain streets.

(a) No building permit, electrical permit or plumbing permit shall be issued by the city for the construction or improvement of any property abutting or adjoining any street where permanent street improvements are constructed or reconstructed within the city under the provisions of this article, unless and until such street fully conforms in all respects with the provisions of this article, except as is provided in subsection (b) of this section.

(b) Building, electrical, plumbing and related development permits may be issued by the city for private development on platted lots abutting a street which has not been fully constructed to comply with subsection (a) of this section, upon the providing of alternate surety in the manner as hereinafter set forth. Notwithstanding the issuance of development permits, final inspection and/or occupancy permits will be withheld, until such street has been completed and does comply as required in subsection (a) of this section.

(1) In order to secure development permits prior to city acceptance of abutting streets, the subdivider or developer of the property shall post performance and payment bonds or an irrevocable letter of credit with the city, in favor of the city and in a form acceptable to the city attorney, in an amount not less than 100 percent of the estimated cost of constructing such abutting streets.

(2) Performance and payment bonds shall be from an approved surety company licensed to do business in the state and shall be so constructed as to guarantee the completion of specified street improvements, to comply with the requirements of this article within the 12-month period immediately following date of issuance, or the surety company will cause satisfactory completion within the following 12-month period.

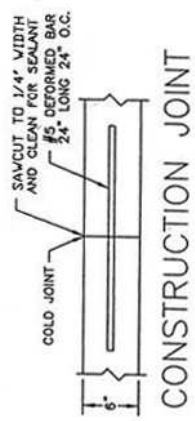
(3) The irrevocable letter of credit shall be from a national bank, state bank or savings and loan association located in the state and shall be so constructed as to guarantee the completion of specified street improvements to comply with the requirements of this article within the 12-month period immediately following date of issuance, or the city shall have the right to require the institution issuing the letter of credit to immediately

pay into an escrow account, in the name of the city, an amount equal to the cost of completing the specified street improvements, as estimated by the city, up to the original total value stated in such letter of credit.

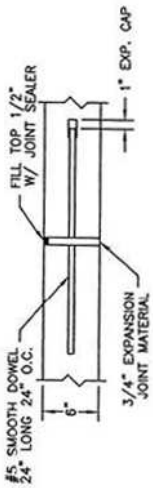
(4) The responsible design engineer employed by the developer shall develop an estimate of cost for the specified street improvements to be covered by the above-required bonds or letter of credit and shall submit a signed, sealed copy of such estimate, together with the plans and specifications for the improvements, for approval by the city engineer prior to submittal of bonds or letter of credit by the developer.

(Code 1961, § 24-79; Ord. No. 142-06, § 1, 6-26-2006)

Sec. 130-155. Standard details.



CONSTRUCTION JOINT



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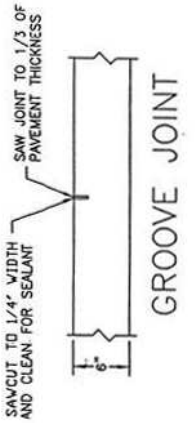

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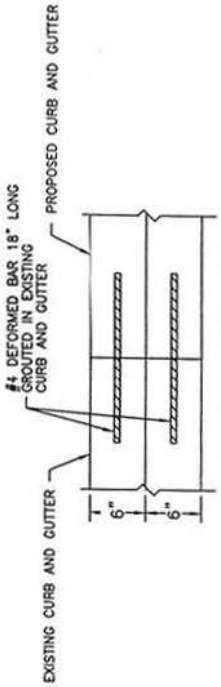
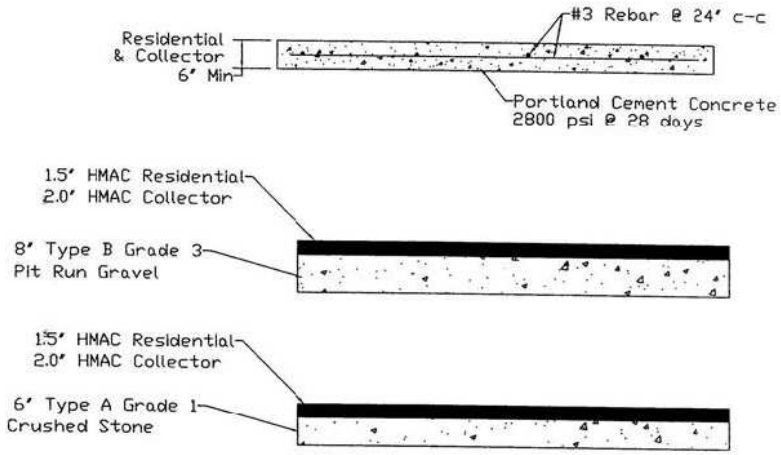
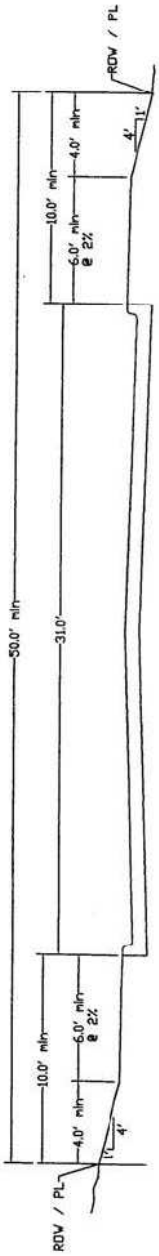


CURB TIE-IN DETAIL

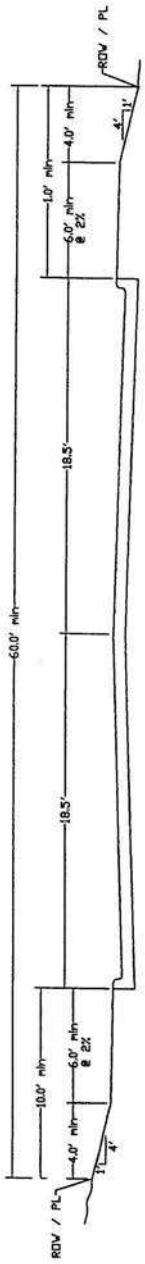
Exhibit "A"



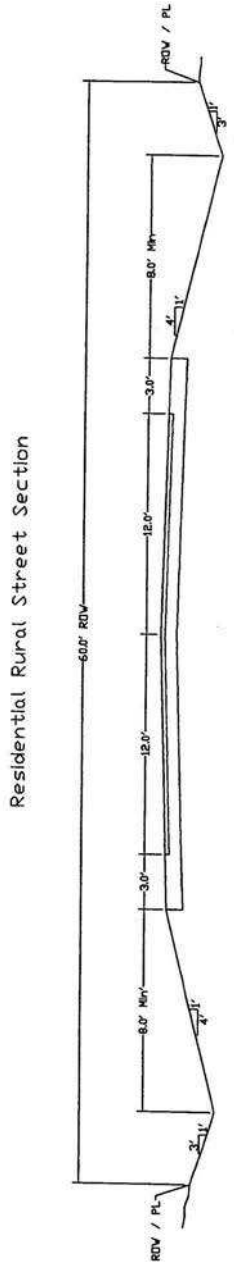
Structural Section

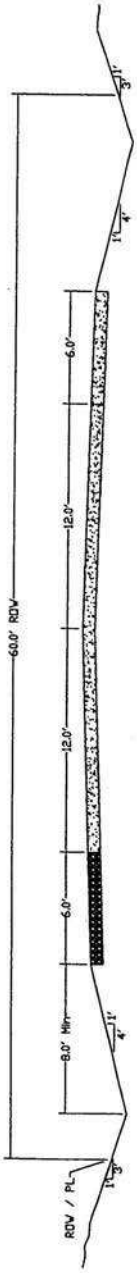


Residential Urban Street Section



Urban Collector Street Section


Residential Rural Street Section
ROW / PL
3'
1'
8.0' MIN
4'
1'
3.0'
12.0'
60.0' ROW
12.0'
3.0'
8.0' MIN
1'
4'
1'
2'
ROW / PL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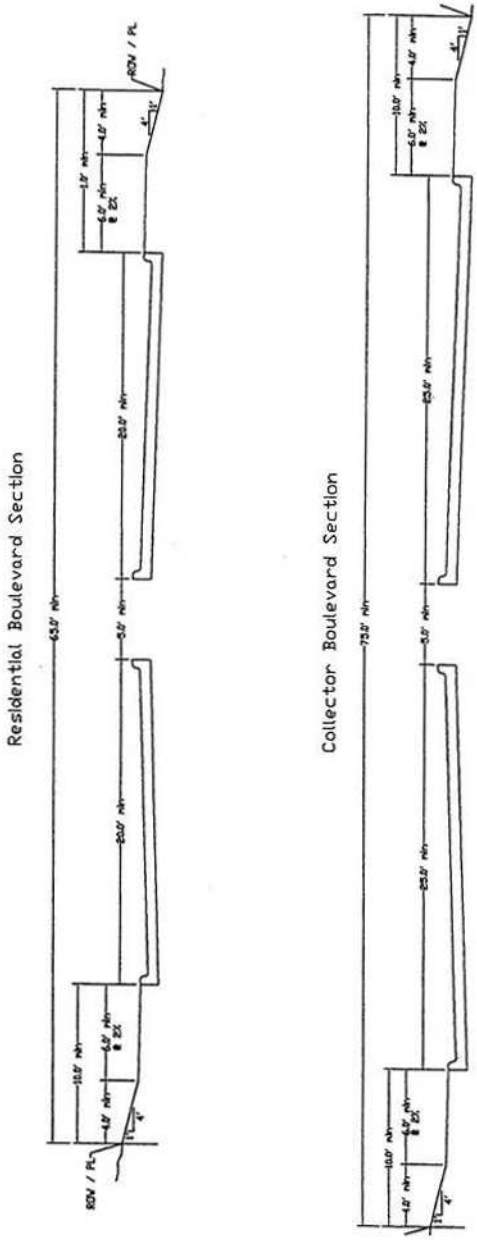
6.0'
12.0'
12.0'
6.0'
8.0' Min
ROW / PL
Rural Collector Street Section



(Code 1961, § 24-80; Ord. No. 142-06, § 1, 6-26-2006)

Chapters 131—134

RESERVED

Chapter 135

SUBDIVISION REGULATIONS*

Sec. 135-1. Definitions.
Sec. 135-2. Additional definitions.
Sec. 135-3. Developer to obtain copy of rules.
Sec. 135-4. Penalty provisions.
Sec. 135-5. Extension of subdivision regulations within the city limits and within the extraterritorial jurisdiction.
Sec. 135-6. When subdivision plat is required.
Sec. 135-7. Conformance with these subdivision regulations.
Sec. 135-8. Delegation of approval responsibility to the planning administrator for minor plats.
Sec. 135-9. Submission of plat.
Sec. 135-10. Preliminary plat generally.
Sec. 135-11. Final plat generally.
Sec. 135-12. General arrangement of streets and blocks.
Sec. 135-13. Widths of right-of-way streets and alleys.
Sec. 135-14. Minimum specifications for streets.
Sec. 135-15. Utility and drainage easements.
Sec. 135-16. Minimum drainage criteria, electrical, plumbing, gas and mechanical codes.
Sec. 135-17. Side lines, size and cut-offs for lots.
Sec. 135-18. Supplemental survey reference markers.
Sec. 135-19. Certification regarding compliance with plat requirements.
Sec. 135-20. Connection of utilities.
Sec. 135-21. Vacating plat.
Sec. 135-22. Replatting without vacating preceding plat.
Sec. 135-23. Additional requirements for certain replats.
Sec. 135-24. Amending plat.
Sec. 135-25. Conflict of interest; penalty.
Sec. 135-26. Construction plans.
Sec. 135-27. Construction of facilities.
Sec. 135-28. Development of subdivision in sections.
Sec. 135-29. Bond or letter of credit.
Sec. 135-30. As-built construction plans.
Sec. 135-31. Occupancy of buildings.
Sec. 135-32. Street lights.
Sec. 135-33. House numbers.
Sec. 135-34. Commission's decisions are final.
Sec. 135-35. Private street subdivisions.

***State law reference**—Subdivisions generally, Texas Local Government Code § 212.001 et seq.

Sec. 135-1. Definitions.

For the purposes of this chapter, the words and phrases below shall have the following meanings, except where the context clearly indicates a different meaning:

Certificate of compliance means a certificate indicating compliance with the provisions of this chapter regarding the platting of land within the city and its extraterritorial jurisdiction.

City engineer means the city engineer of the city.

Commission means the planning and zoning commission of the city.

Director of public works means the director of public works of the city.

Extraterritorial jurisdiction means the city extraterritorial jurisdiction as defined by Texas Local Government Code § 42.021.

Minor plat means and refers to a plat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities.

Planning administrator means the planning administrator of the city.

Plat includes the plural as well as the singular and means a plan, plat or replat.

Replat means a legally recorded revision to a preceding plat or minor plat.

Secretary means the secretary of the planning and zoning commission.

Street means a public roadway maintained by the federal, state, county or city government, or a private roadway owned and maintained by a property owners' association in accordance with section 135-35.

Subdivision means a subdivision or resubdivision.
(Code 1961, § 25-1; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-2. Additional definitions.

For the purposes of this chapter, the words and phrases below shall have the following meanings, except where the context clearly indicates a different meaning:

Cross access easement means a perpetual easement allowed in a commercial subdivision being located in the city limits only and zoned GR, LC, C, I-1 or I-2, being a minimum of 25 feet in width and no more than 1,000 feet in length that provides lot access adjacent to a public or private street. This perpetual easement must be shown and noted on the subdivision plat and shall always remain free of any building or structure.

Lot means a parcel of land occupied or intended for occupancy, including open spaces having its principle frontage being a minimum width of 50 feet, measured at the building setback line or as allowed by the zoning ordinance, upon a public or private street. In a commercial subdivision, located inside the city and zoned GR, LC, C, I-1 or I-2, a perpetual

access easement of a minimum width of 25 feet can be considered as lot frontage to a public or private street, if notated on the subdivision plat. No building or structure shall be allowed on or over the designated access easement.

One lot subdivision means a subdivision having only one lot, less than two acres in size and which has been split from a tract of land over 20 acres in size. This type of subdivision is only allowed for a commercial property being located in the city limits and zoned GR, LC, C, I-1 or I-2, having a minimum of 50 feet in width that provides lot frontage adjacent to a public or private street.
(Code 1961, § 25-1.1; Ord. No. 089-07, § 1, 4-23-2007)

Sec. 135-3. Developer to obtain copy of rules.

All persons required to subdivide or resubdivide a tract of land within the city limits or the extraterritorial jurisdiction shall first procure from the city engineer a copy of the rules regulating the subdivision or resubdivision of property.
(Code 1961, § 25-2; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-4. Penalty provisions.

Without waiving any other remedy the city may have, the city is authorized to petition a court of competent jurisdiction for the remedies that follow:

(1) Enjoining the violation or threatened violation by the owner of a tract of land of a requirement regarding the tract; or

(2) Recovering damages from the owner of a tract of land in an amount adequate for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the tract. If alleged violation occurs in the extraterritorial jurisdiction, the city is limited to remedy subsection (1) of this section.

(Code 1961, § 25-3; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-5. Extension of subdivision regulations within the city limits and within the extraterritorial jurisdiction.

The provisions of this chapter governing plats and subdivisions of land shall be applicable to all the area now or hereafter within the city limits and within the extraterritorial jurisdiction of the city.
(Code 1961, § 25-4; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-6. When subdivision plat is required.

(a) *Subdivision plat submittal.* Every owner of a tract of land situated within the city limits or within the extraterritorial jurisdiction of the city shall be required to submit a subdivision plat for review and approval by the planning administrator or the commission, whichever is applicable, as per sections 135-8 and 135-9, when that tract of land in existence at the time of the passage of this revision is divided into two or more parts:

(1) To create a building site;

(2) To lay out a subdivision of the tract, including an addition to a municipality;

(3) To lay out suburban, building or other lots; or

(4) To lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated for public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks or other parts, must have a plat of the subdivision prepared.

A division of a tract under this subsection includes a division regardless of whether it is made using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

(b) *Exception.* A division of land under this section does not include a division of land into parts where each part is greater than five acres, where each part has a minimum of 50 feet frontage on a public street or private street as per section 135-35 and no public improvement is being dedicated.
(Code 1961, § 25-5; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-7. Conformance with these subdivision regulations.

Any such plan or plat or replat of land which is situated within either the city limits or within the extraterritorial jurisdiction shall conform to the general plan of the city and its streets, alleys and public facilities, including those which have been or may be laid out, and to the general plan for the extension of the city and of its roads, streets and public highways, as set forth in this chapter and in other ordinances of the city. If the same shall conform to this chapter and other applicable ordinances and statutes governing plats and subdivision of land as enacted by the legislature of the state and the city council to promote the safe, orderly and helpful development of the community, the commission or planning administrator, whichever is applicable as per sections 135-8 and 135-9, shall indicate approval upon the plan, plat or replat submitted to it.
(Code 1961, § 25-6; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-8. Delegation of approval responsibility to the planning administrator for minor plats.

(a) The planning administrator is hereby granted the authority to approve the following:

(1) Amendments to plats as per section 135-24.

(2) Minor plats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities. Submission of a preliminary plat is not required with minor plat submittals.

(b) The planning administrator may, for any reason, elect to present the minor plat to the commission to approve the minor plat.

(c) The planning administrator shall not have the authority to disapprove the minor plat, but shall be required to refer any plat the planning administrator refuses to approve to the commission within the time period specified in section 135-9.

(Code 1961, § 25-7; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-9. Submission of plat.

(a) Any property owner subdividing or resubdividing a tract of land shall submit a dated letter to the planning administrator requesting approval of the plat. The planning administrator shall then make a determination as to whether or not the plat qualifies as a minor plat allowing administrative approval or whether approval must be granted by the commission. The required number of copies of the plat, as contained in section 135-10 and section 135-11, shall accompany the letter requesting approval of the plat. Within 30 days of the receipt of the filing letter and copies of the plat by the planning administrator, the commission or the planning administrator in the case of minor plats shall act upon the plat to approve or disapprove the plat or minor plat. Failure by the planning administrator to approve the minor plat or failure by the commission to disapprove the plat or minor plat within 30 days of the filing date shall constitute approval.

(b) In order to have the plat considered by the commission at its next regularly scheduled monthly meeting, the filing letter and plat shall be submitted to the planning administrator no less than 14 days prior to the regularly scheduled monthly meeting of the commission.

(c) The preliminary plat and final plat may be submitted together for consideration by the commission in accordance with this section.

(Code 1961, § 25-8; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-10. Preliminary plat generally.

The subdivider shall file seven copies of a preliminary plat with the planning administrator. The preliminary plat shall be drawn on a scale of 100 feet to the inch or smaller and shall show the following:

(1) The title or name under which the subdivision is to be recorded and the name of the owner of the land being subdivided. The subdivision name shall not duplicate or be similar to the name of an existing subdivision located in the county.

(2) The meridian or north point, the scale of the map and a location map.

(3) The outline of the tract proposed to be subdivided.

(4) The location of existing streets, roads, alleys, water lines, sewer lines, gas lines, blocks, lots, easements, building lines, parks, watercourses, ravines, bridges, culverts and other structures with principal dimensions, and all significant information in regard to the property immediately adjacent on all sides.

(5) The names or designations of existing streets or roads.

(6) The names or designations of all adjoining subdivisions and properties.

(7) The proposed plan of subdivision showing streets, alleys, blocks, lots, easements, building lines, parks, watercourses, ravines, bridges and culverts with principal dimensions in English units. The plan shall show how the streets, alleys, highways and easements in the subdivision will connect with those in surrounding subdivisions or properties.

(8) The names of proposed new streets.

(9) Contour lines at not more than 3.28-foot intervals.

(10) The proposed general plan for street improvements.

(11) The proposed general plan for drainage.

(12) The preliminary plat shall be signed and sealed by a land surveyor licensed to practice in the state.

(13) Should the final plat not be submitted for approval within 12 months of the approval of the preliminary plat, the approval of the preliminary plat becomes null and void.

(Code 1961, § 25-9; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-11. Final plat generally.

(a) For the purpose of this section, the term "final plat" includes both plats and minor plats.

(b) The subdivider shall file seven copies of the final plat with the planning administrator. This plat shall be made with an accurate survey and shall be neat and in all respects proper for filing for record in the office of the county clerk. Patching and the pasting of paper attachment is not acceptable. All figures and lettering shall be neat and easily legible. The final plat shall be drawn on a scale of 1:1,000 or smaller.

(c) The final subdivision plat to be recorded with the county clerk shall not show construction features, such as curblines, public utility lines or other structures not involved in the title covenant. The final plat shall show the following:

(1) The title or name by which the subdivision is to be identified; the meridian or north point; the scale of the map and a location map.

(2) A definite legal description and identification of the tract being subdivided or resubdivided, sufficient for the requirements of the title examination. This may be embodied in the title or shown elsewhere on the plat. This legal description shall be referenced to an original corner of the original headright survey in which the subdivision is located.

(3) The external boundary of the subdivided property shall be indicated on the plat in a distinctive manner with complete and accurate field notes of the boundaries.

(4) The location and designation of all streets, alleys and other areas, with proper dimensions, within the subdivision intended to be dedicated to public use.

(5) The location of all adjacent dedicated streets, alleys and easements with their names or designations, and the names of adjoining subdivisions or properties.

(6) All block, lot and street boundary lines. Blocks and lots shall be numbered. Building lines and easements shall be shown, measured at right angles or radially where curved. The building line shall not be less than 7.62 meters (25 feet). In the PUR Planned Unit Residential District, the building line shall not be less than 15 feet.

(7) All necessary dimensions, including linear, sublinear and angular, shall be shown. The linear and curvilinear dimensions shall be expressed in English units and shall be accurate to the hundredth place. Metric units may also be shown as secondary units if desirable. The angular dimensions may be shown by bearings and shall be accurate to the second. Curved boundaries must be fully described and all essential information given, including the length of arcs of curve. Block corners, angle points, points of curve and points of intersection of tangents shall be shown. Complete dimensional data shall be given on fractional lots or tracts.

(8) The proposed location of supplemental survey reference markers set in accordance with section 135-18.

(9) A certificate of ownership in fee for all of the land in the subdivision, signed and acknowledged by all owners with any interest in the land. Acknowledgment shall be in a form required in the conveyance of real estate. This certification shall include, where appropriate, the dedication of any properties intended for public use, including streets, alleys, parks and easements.

(10) A certificate by the responsible surveyor, duly authenticated, that the plat is true and correct in accordance with the determination of surveys actually made on the ground. The responsible surveyor shall be qualified in accordance with the Professional Land Surveying Practices Act (Texas Occupations Code § 1071.001 et seq.) and shall seal and sign the final plat.

(11) A certification of approval of the final plat by the planning and zoning commission, including the date of such approval, a signature block for the commission chairman and secretary, and the date of the expiration of this approval to be 121 days after the date of the approval of the final plat by the commission, or by the planning administrator in the case of a minor plat.

(12) A certificate of approval of the final plat by the commissioner's court of the county when required by state law, including the date of such approval and a signature block for the county judge.

(13) Once the final plat has been through the approval process and submitted for filing with the county, one sepia or Mylar original should be submitted to the planning administrator. All plats, except minor plats, shall also be submitted via electronic media.

(Code 1961, § 25-10; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996; Ord. No. 089-03, § 1, 4-28-2003)

Sec. 135-12. General arrangement of streets and blocks.

In determining the arrangement of streets and blocks within a subdivision, the following factors should be considered:

(1) The proposed locations of streets as shown on the city's transportation plan.

(2) The continuation of existing streets which adjoin the subdivision.

(3) The location of streets in the subdivision to permit the future development of adjacent unsubdivided tracts of land.

(4) The prohibition of dead-end streets within the subdivision, unless such a dead-end street terminates at the boundary of the subdivision to allow for future development of streets in the adjacent unsubdivided property, or unless a cul-de-sac or turnaround is located at the end of the dead-end street.

(5) Cul-de-sac streets shall not exceed 606.96 feet in length, unless a greater length is approved by the commission where conditions justify a greater length.

(6) Off-sets in streets should be avoided.

(7) Blocks in residential subdivisions shall not exceed 1000.66 feet in length, and blocks in commercial subdivisions shall not exceed 606.96 feet in length, unless greater lengths are approved by the commission where justified by topographic or other conditions.

(Code 1961, § 25-11; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-13. Widths of right-of-way streets and alleys.

(a) *Arterial streets.* The right-of-way width for arterial streets shall conform to the width designated by the city urban transportation study or, if not so designated, then to the widths assigned to such arterial streets by action of the city council. In no case shall arterial streets be less than 78.74 feet in right-of-way width.

(b) *Collector streets.* The minimum right-of-way width for collector streets, as designated by the city urban transportation study, shall be 59.06 feet.

(c) *Residential-collector streets.* The minimum right-of-way width for residential-collector streets, as designated by the city urban transportation study or other approved city transportation plan, shall be 49.21 feet, except where such a street intersects an arterial or collector street. In such cases, the residential-collector street right-of-way width shall gradually increase from 49.21 feet, at a point 150.92 feet from the centerline of the arterial or collector street, to a right-of-way width of 59.06 feet at the point where the residential-collector street intersects the arterial or collector street. These right-of-way requirements are for streets designated as urban sections with curbs and gutters. In the case of residential-collector streets designed to rural section standards, the minimum right-of-way width shall be 59.06 feet along the entire length of the street.

(d) *Residential streets.* The minimum right-of-way width for residential streets designed to urban section standards shall be 49.21 feet. The minimum right-of-way width for residential streets designed to rural section standards shall be 59.06 feet.

(e) *Alleys.* The minimum right-of-way width for an alley shall be 19.69 feet.

(f) *Cul-de-sac streets.* The section of the cul-de-sac leading to the turnarounds shall have a minimum right-of-way width as specified in subsection (a) of this section for a residential street. The turnaround section of the cul-de-sac shall have a right-of-way of 118.11 feet in diameter.

(g) *Rural streets.* Rural section street right-of-way widths as specified in subsection (d) of this section will be permitted in subdivisions where all lots have a land area of at least three-tenths hectares, 32,291.7 square feet or 0.7413 acres and have a minimum frontage of 124.67 feet along any adjacent street. The planning and zoning commission may authorize and approve a subdivision plat with rural section streets where all lots have a land area of at least 13,500 square feet and have a minimum frontage of 90 feet along any adjacent street.
(Code 1961, § 25-12; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996; Ord. No. 90-03, § 1, 4-28-2003)

Sec. 135-14. Minimum specifications for streets.

The provisions sections 130-145 through 130-154, as amended, are hereby incorporated into and made a part of this chapter by reference. It is the intent of the city council that the provisions of sections 130-145 through 135-154 shall apply, both within the city limits and to the area of the extraterritorial jurisdiction of the city in that all matters contained therein are rules and regulations governing plats and subdivisions of land.
(Code 1961, § 25-13; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-15. Utility and drainage easements.

(a) Utility easements of sufficient width and property location shall be provided to permit the construction and maintenance of utilities to serve the subdivision. Where utilities are to be located along rear lot lines, utility easements shall be a minimum of 9.84 feet in width on each side of the lot line. Where utilities are to be located adjacent to a side lot line or street right-of-way, utility easements shall be a minimum of 4.92 feet in width. Easements of greater width than specified in this section may be required where necessary for the construction and maintenance of main water lines, main sewer lines or other main utility lines.

(b) Drainage easements and private drainageways shall be provided of sufficient size to serve the subdivision as required by section 120-7. Drainage easements shall be located so that lot lines parallel to the easement shall not divide the easement.

(c) All utility lines located within the subdivision shall be buried underground, with the exception that overhead utility lines shall be permitted where the utility company requests in writing that its line not be buried underground.
(Code 1961, § 25-14; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-16. Minimum drainage criteria, electrical, plumbing, gas and mechanical codes.

(a) The provisions of chapter 120, minimum drainage criteria, sections 120-1 through 120-12, as amended, are hereby incorporated into and made a part of this chapter, by reference.

(b) The provisions of chapter 105, electrical code, sections 105-159 through 105-234, as amended, are hereby incorporated into and made a part of this chapter, by reference.

(c) The provisions of chapter 105, plumbing and gas fitting, sections 105-256 through 105-265, as amended, are hereby incorporated into and made a part of this chapter, by reference.

(d) It is the intent of the city council that the provisions of this section not only be made applicable to all developments within the city limits, but also to all platted subdivisions within the area of the extraterritorial jurisdiction of the city in that all matters contained therein are rules and regulations governing plats and subdivisions of land as contemplated by of the Texas Local Government Code § 212.002.
(Code 1961, § 25-15; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-17. Side lines, size and cut-offs for lots.

(a) *Side lines.* In all rectangular lots and, so far as possible, all other lots, the side lines shall be right angles to the street on which the lot faces or radial to curved street lines. Lots with double frontage on streets are undesirable and shall only be permitted where approved by the commission.

(b) *Size generally.* Unless otherwise approved by the commission, the minimum size of lots shall be 50 feet in width and 100 feet in depth or such other dimensions as are permitted by the zoning chapter.

(c) *Extra width for corner lots.* Corner lots shall have extra width, sufficient to permit the maintenance of adequate building lines on both front and side streets.

(d) *Cut-off.* Lots on major street intersections and at all other points likely to be dangerous shall have a 14.76 feet cut-off at the street corner.
(Code 1961, § 25-16; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-18. Supplemental survey reference markers.

(a) In addition to the normal markers which may be set for block and lot corners and other property boundary points, there shall be established a minimum of three supplemental survey reference markers within any subdivision containing five or more lots. The three such markers shall each be within transit sight of the other two and shall be so located and referenced that a competent surveyor could, by using any two of such markers, reestablish or find any or all of the property corners and boundary points indicated on the final plat. The locations of such reference markers shall be chosen by the responsible surveyor, who shall establish and install such markers in such a manner as is best, in the surveyor's professional opinion, to prevent loss or disturbance of such markers during or after construction activities.

(b) When such markers are placed in the ground prior to the submission of the final plat, the final plat shall show the location, description and reference data on that final plat.

(c) When such markers are to be placed in the ground after submission of the final plat, the final plat shall show the proposed location, description and reference data on the final plat. Prior to the final acceptance of streets in the subdivision, the responsible surveyor shall furnish a letter to the city engineer certifying that such markers have been placed in the ground. Such letter shall include the location, description and reference data for such markers as placed in the ground.
(Code 1961, § 25-17; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-19. Certification regarding compliance with plat requirements.

(a) For the purpose of this section, land is considered to be within the jurisdiction of the city if the land is located within the city limits or in the extraterritorial jurisdiction of the city.

(b) On approval of a plat by the commission, or the planning administrator in the case of a minor plat, the director of public works or designee, shall issue to the person applying for the approval, a certificate stating that the plat has been reviewed and approved by the commission or in the case of a minor plat, the planning administrator.

(c) On the written request of an owner of land, an entity that provides utility service, or the city council, the director of public works or designee shall make the following determinations regarding the owner's land or the land in which the entity or the city council is interested that is located within the jurisdiction of the city:

(1) Whether a plat or minor plat is required under this chapter for the land; and

(2) If a plat or minor plat is required, whether it has been reviewed and approved by the commission or planning administrator in the case of a minor plat.

(d) The request under subsection (c) of this section must identify the land that is the subject of the request.

(e) If the director of public works, or designee, determines under subsection (c) of this section that a plat or minor plat is not required, the director shall issue to the requesting party a written certificate of that determination. If the director of public works or designee, determines that plat or minor plat is required and that the plat or minor plat has been reviewed and approved by the commission or planning administrator in the case of a minor plat, the director of public works or designee, shall issue to the requesting party a written certificate of that determination.

(f) The public works director or designee, shall make the directors determination as soon as practicable, but in any case within 20 days after the date it receives the request under subsection (c) of this section and shall issue the certificate, if appropriate, within no more than ten days after the date the determination is made.
(Code 1961, § 25-18; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-20. Connection of utilities.

(a) An entity described by subsection (b) of this section may not serve or connect any land with water, sewer, electricity, gas or other utility service, unless the entity has been presented with, or otherwise holds, a certificate applicable to the land issued under section 135-19.

(b) The prohibition established by subsection (a) of this section applies only to:

(1) A municipality and official of a municipality that provides water, sewer, electricity, gas or other electric service;

(2) A municipality owned or municipally operated utility that provides any of those services;

(3) A public utility that provides any of those services;

(4) A water supply or sewer service corporation organized and operated under ch. 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (article 1434 a, Vernon's Texas Civil Statutes), that provides any of those services;

(5) A county that provides any of those services;

(6) A special district or authority created by or under state law that provides any of those services.

(c) The prohibition established by subsection (a) of this section applies only to land that an entity described by subsections (b)(1) through (6) of this section first serves or connects with services on or after June 14, 1996.
(Code 1961, § 25-19; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-21. Vacating plat.

(a) The owners of the tract covered by a plat or minor plat may vacate the plat at any time before any lot in the plat or minor plat is sold. The plat or minor plat is vacated when a signed acknowledged instrument declaring the plat or minor plat vacated is approved and recorded in the manner prescribed for the original plat or minor plat.

(b) If lots in the plat or minor plat have been sold, the entire plat or minor plat, or any part of the plat or minor plat, may be vacated on the application of all the owners of lots in the plat or minor plat or part thereof, with approval obtained in the manner prescribed for the original plat or minor plat.

(c) The county clerk shall write legibly on the vacated plat or minor plat the word "vacated" and shall enter on the plat or minor plat a reference to the volume and page at which the vacating instrument is recorded.

(d) On the execution and recording of the vacating instrument, the vacated plat has no effect.
(Code 1961, § 25-20; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-22. Replatting without vacating preceding plat.

A replat of a subdivision or a part of a subdivision may be recorded and is controlling over the preceding plat or minor plat without vacation of that plat or minor plat if the replat:

(1) Is signed and acknowledged by only the owners of the property being replatted;

(2) Is approved, after a public hearing of the commission on the matter at which parties in interest and citizens have an opportunity to be heard; and

(3) Does not attempt to amend or remove any covenants or restrictions.
(Code 1961, § 25-21; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-23. Additional requirements for certain replats.

(a) In addition to compliance with section 135-22, a replat without vacation of the preceding plat must conform to the requirements of this section if:

(1) During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

(2) Any lot in the preceding plat or minor plat was limited by deed restrictions to residential use for not more than two residential units per lot.

(b) Notice of the hearing required under section 135-22 shall be given before the 15th day before the date of the hearing by:

(1) Publication in an official newspaper or a newspaper of general circulation in the county; and

(2) By written notice, with a copy of subsection (c) of this section, forwarded by the planning administrator to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved municipal tax roll, or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid in a post office or postal depository within the city limits.

(c) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the commission. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the commission prior to the close of the public hearing.

(d) In computing the percentage of land area under subsection (c) of this section, the area of streets and alleys shall be included.

(e) Compliance with subsections (c) and (d) of this section is not required for approval of a replat of part of a preceding plat or minor plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or minor plat or in the legally recorded restrictions applicable to the plat or minor plat.
(Code 1961, § 25-22; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-24. Amending plat.

(a) The commission or planning administrator may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat or minor plat without vacation of that plat or minor plat, respectively, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

(1) To correct an error in a course or distance shown on the preceding plat or minor plat.

(2) To add a course or distance that was omitted on the preceding plat or minor plat.

(3) To correct an error in a real property description shown on the preceding plat or minor plat.

(4) To indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor responsible for setting monuments.

(5) To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat or minor plat

(6) To correct any other type of scrivener or clerical error or omission previously approved by the commission or planning administrator, including lot numbers, acreage, street names and identification of adjacent recorded plats.

(7) To correct an error in courses and distances of lot lines between two adjacent lots if:

a. Both lot owners join in the application for amending the plat;

b. Neither lot is abolished;

c. The amendment does not attempt to remove recorded covenants or restrictions; and

d. The amendment does not have a material adverse effect on the property rights of the other owners in the plat or minor plat.

(8) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement.

(9) To relocate one or more lot lines between one or more adjacent lots if:

a. The owners of all those lots join in the application for amending the plat or minor plat;

b. The amendment does not attempt to remove recorded covenants or restrictions; and

c. The amendment does not increase the number of lots.

(10) To make necessary changes to the preceding plat or minor plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat or minor plat if:

a. The changes do not affect applicable zoning and other regulations of the municipality;

b. The changes do not attempt to amend or remove any covenants or restrictions; and

c. The area covered by the changes is located in an area that the commission has approved, after a public hearing, as a residential improvement area.

(11) To replat one or more lots fronting on an existing street if:

a. The owners of all those lots join in the application for amending the plat or minor plat;

b. The amendment does not attempt to remove recorded covenants or restrictions;

c. The amendment does not increase the number of lots; and

d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.
(Code 1961, § 25-23; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-25. Conflict of interest; penalty.

(a) In this section, the term "subdivided tract" means a tract of land, as a whole, that is subdivided. The term "subdivided tract" does not mean an individual lot in a subdivided tract of land.

(b) A person has a substantial interest in a subdivided tract if the person:

(1) Has an equitable or legal ownership interest in the tract with a fair market value of $2,500.00 or more;

(2) Acts as a developer of the tract;

(3) Owns ten percent or more of the voting stock or shares of or owns either ten percent or more or $5,000.00 or more of the fair market value of a business entity that:

a. Has an equitable or legal ownership interest in the tract with a fair market value of $2,500.00 or more; or

b. Acts as a developer of the tract; or

(4) Receives, in a calendar year, funds from a business entity described by subdivision (3) of this section that exceed ten percent of the person's gross income for the previous year.

(c) A person also is considered to have a substantial interest in a subdivided tract if the person is related, in the first degree, by consanguinity or affinity, as determined under ch. 573, Texas Government Code, to another person who, under subsection (b) of this section, has a substantial interest in the tract.

(d) If a member of the commission has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat or minor plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the city secretary.

(e) A member of the commission commits an offense if the member violates subsection (d) of this section. An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commission, unless the measure would not have passed the commission without the vote of the member who violated this section.
(Code 1961, § 25-24; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-26. Construction plans.

Before the beginning of construction of any building, street, drainage facility or utility line in the subdivision, complete construction plans of the proposed streets, drainage facilities and public utility lines, in the form of standard engineering construction plans, should be filed with the city engineer. These plans shall show such features as street plan and profile data, street transition and intersection details, details of all drainage structures, profile information on all sanitary sewer and stormwater sewer installations, details of all specialty items related to water or sanitary sewer line installations, pertinent material and construction specifications, and any other information of a similar nature deemed necessary by the city engineer. If any part of the proposed construction is considered unsatisfactory by the city engineer and below the standard requirement under the circumstances, construction operations shall not be started on the affected portion until alterations are made, which will ensure that the completed work will conform to the requirements of the city engineer.
(Code 1961, § 25-25; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-27. Construction of facilities.

Before the beginning of construction of any building in the subdivision and before issuance of any required permits, the subdivider shall determine and specify to the city engineer the means by which streets, drainage facilities and utility lines shall be constructed within the subdivision. Acceptable means to construct such facilities shall be one of the following:

(1) Construction of all streets, drainage facilities and public utility lines in the entire subdivision, prior to the beginning of construction of any building;

(2) Construction of all streets, drainage facilities and public utility lines in a section of the subdivision under the provisions of section 135-28, prior to the beginning of construction of any building in that section of the subdivision; or

(3) Submission, approval and execution of a performance bond and a payment bond or a letter of credit as specified in section 135-29, in an amount equal to the estimated cost of construction of those facilities.

(Code 1961, § 25-26; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-28. Development of subdivision in sections.

The subdivider may request approval from the city engineer to develop a subdivision in two or more sections. In order for a subdivision to be developed in sections, the streets, drainage facilities and utility lines within a section must be capable of functioning independently of those facilities in other sections that will be constructed at a later date. The streets within a section must be capable of providing adequate circulation for emergency (police, fire and ambulance) vehicles.
(Code 1961, § 25-27; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-29. Bond or letter of credit.

If the subdivider elects not to construct streets, drainage facilities and utility lines prior to construction of buildings, the subdivider shall provide bonds or a letter of credit. The subdivider shall furnish a performance bond and a payment bond to ensure that such streets, drainage facilities and utility lines shall be constructed by the subdivider or by the bonding company if the subdivider should default or fail to construct those facilities. If the subdivider elects not to furnish bonds, the subdivider shall submit to the city an irrevocable letter of credit from a national bank, state bank or savings and loan association located in the state, in an amount equal to an estimated cost of the streets, drainage facilities and utility lines in the entire subdivision or in an approved section of the subdivision. The subdivider's engineer, who has designed the streets, drainage facilities and utility lines, shall estimate the cost of construction for those facilities. This estimated cost shall be approved by the city engineer. The letter of credit shall have an expiration date of one year after the date of its execution. The subdivider will be required to construct the facilities covered by the letter of credit within the one-year period or to justify the need for and be approved by the city for an extension to the expiration date. Such extension shall not be granted, unless a letter of credit or bonds are furnished for such period. If the developer constructs the required facilities in accordance with this chapter prior to the expiration date of the letter of credit, the letter of credit will be terminated by the city. If the developer fails to construct the facilities covered by the letter of credit, the financial institution will provide the funds to the city in order that those facilities can be constructed.
(Code 1961, § 25-28; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-30. As-built construction plans.

Upon the completion of construction of any public utility or public improvements in a subdivision, complete as-built plans in detail, signed and certified by the engineer in charge, shall be filed with the city engineer, showing all features as actually installed, including materials, size, location, depth of elevation, numbers, end of lines, connections, wyes, valves, sanitary sewer drains, inlets, etc. Included on such plans shall be the location of at least one

permanent bench mark established, with elevation noted, based on data used in design and construction of public improvements within the subdivision. Such bench mark shall be adequately described and referenced.
(Code 1961, § 25-29; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-31. Occupancy of buildings.

Buildings within a subdivision or buildings within an approved section of a subdivision shall not be approved for final inspection by the city nor occupied by the homeowner or business owner until:

(1) Streets, drainage facilities and utility lines in the subdivision or approved section of the subdivision are constructed and approved by the city engineer; and

(2) As-built construction plans, as required by section 135-30, are provided to the city engineer.

(Code 1961, § 25-30; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-32. Street lights.

(a) The subdivider of any subdivision which is within the city limits at the time of construction of public improvements therein, or the subdivider of any subdivision for which a petition by the property owner requesting annexation to the city has been filed with the city by or before the time construction of public improvements begins therein, shall make suitable arrangements with the responsible electric utility company to provide adequate electric power service facilities to the location of proposed streetlights, prior to the completion of the construction of public improvements in the subdivision. Adequate electric power service is defined as secondary power service lines from a transformer to a point within the street right-of-way. The location of the streetlights shall be approved by the city. Actual installation and operation of streetlight fixtures and appurtenances shall be accomplished at the appropriate time by the city under its working agreements with the electric company.

(b) Upon the desire of the developer, metal pole street lighting may be installed in a commercial subdivision. All costs associated with the metal pole street lighting, design, materials and installation will be the responsibility of the developer. Metal pole street lighting must meet the following requirements for materials and design and is subject to approval by the city engineer.

(1) Pole shafts shall be six inches square and conform to ASTM-500 Grade B with a minimum yield strength of 46,000 PSI.

(2) Poles are to have an EPA rating of 9.0 with 80 miles per hour winds and a 1.3 gust factor. Length of shaft to be 39 feet.

(3) Poles shall have a three-inch by five-inch hand hole located near the base with a welded ground lug opposite the hand hole.

(4) Poles are to be drilled for direct mounting of the fixture and shall be painted dark bronze to match the fixture.

(5) Poles are to have a 12¾-inch bolt circle in the base plate.

(6) Breakaway transformer bases are to be supplied, painted to match the pole and fixture.

(7) Breakaway transformer bases are to have top and bottom bolt circles of 12¾-inch with one-inch diameter bolts and are to be equipped with a hinged access door.

(8) Light fixtures shall use 400-watt high pressure sodium bulbs.

(9) Light fixtures shall be for 480 line voltage.

(10) Light fixtures shall have a flat clear tempered glass and a forward throw projection.

(11) Light fixtures to have a radiused top and rectangular shaped housing.

(12) Light fixtures to have a mounting arm length of four inches.

(13) Power conductors to be engineered or designed by a licensed electrician.

(14) Power conductors to be installed underground in electrical conduit and shall meet all applicable codes. Conduit to be buried a minimum of 24 inches below finished grade.

(15) Each fixtures to be fused with breakaway fuse holders located in the breakaway transformer bases.

(16) The installation will be subject to a one-year maintenance responsibility for defective materials and/or workmanship.

(Code 1961, § 25-31; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996; Ord. No. 334-06, § 1, 12-11-2006)

Sec. 135-33. House numbers.

House numbers shall be allocated to lots in subdivisions by the city.

(Code 1961, § 25-32; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-34. Commission's decisions are final.

The commission's decision shall be final in all questions regarding the application of the provisions of this chapter.

(Code 1961, § 25-33; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Sec. 135-35. Private street subdivisions.

(a) A plat of a subdivision which includes a private street may be approved by the commission upon compliance with the following requirements:

(1) Compliance with all other requirements of this chapter.

(2) Submission of an appropriate document creating a property owners' association and setting forth a plan or manner of permanent care and maintenance of the private streets. No such document shall be acceptable, until approved by the city attorney as to legal form.

(3) A property owners' association shall be organized as a nonprofit corporation with automatic membership in the property owners' association when the property is purchased in the subdivision. This shall be specified in covenants that run with the land and which will bind all subsequent owners. Covenants for maintenance assessment shall also run with the land. Covenants for maintenance assessments shall include procedures for adjusting the assessments to reflect changes in maintenance expenses. Instruments conveying interests in property in the subdivision shall reflect the rights and responsibilities of property owners to the property owners' association. For private streets, the property owners' association shall be responsible for liability insurance, taxes and maintenance. The contribution of each property owner shall be determined by use of a pro-rata share formula.

(4) Title to the private street shall be conveyed by general warranty deed to the property owners' association.

(5) All documents establishing covenants required herein shall be filed for record in the real property records of the county.

(6) In the event that access on the private street is to be limited, provisions for access for emergency response shall be provided in a manner that is acceptable to the fire chief and the chief of police.

(7) The subdivision plat as filed for record shall reflect a "private street reservation" for the proposed private street. Such private street shall comply with all other requirements of this chapter.

(8) Dedicated public street rights-of-way shall be provided for any proposed and/or existing streets through or adjacent to the proposed subdivision when such public street is included in the city urban transportation plan. Such streets shall be platted and constructed as public streets.

(b) A proposed subdivision which includes a private street shall not be approved if the private street conflicts with the city urban transportation plan.

(c) The city shall not provide from public funds any traffic control, maintenance or lighting of a private street. The subdivider or developer of a subdivision under this section is relieved of compliance with section 135-32 as it relates to arrangements for street lighting.

(Code 1961, § 25-34; Ord. No. 165-96, § 1, 6-14-1996; Ord. No. 320-96, §§ 1, 2, 10-14-1996)

Chapters 136—139

RESERVED

Chapter 140

ZONING

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ARTICLE I. ENACTMENT

Sec. 140-1. Short title; map adopted; comprehensive plan; minimum standards.

(a) *Short title.* This chapter shall be known and may be cited as "The City of Texarkana, Texas, Zoning Code." This chapter may also be cited as the "Texarkana, Texas Zoning Code," "City Zoning Code" or the "Zoning Code."

(b) *City zoning map adopted.* The official city zoning map is hereby adopted and incorporated herein.

(c) *Comprehensive plan.* The comprehensive plan adopted by resolution of the city council of the city is established as the official policy of the city concerning land uses. The incorporated areas of the city are divided into land use categories consistent with the comprehensive plan. The comprehensive plan does not alter or affect the existing zoning districts in the city, does not effectuate an amendment to the official zoning maps, and does not itself permit or prohibit any existing land uses. The comprehensive plan shall be updated on an as-needed basis to reflect changes in land use and to discover any inconsistencies zoning changes have caused in the city zoning map.

(d) *Minimum standards.* The requirements of these regulations are minimum permissible standards; and it is expected that developers and the respective decision-making authority will normally strive for quality developments which will exceed these minimum requirements.
(Ord. of 9-7-1970, § 1-100)

Sec. 140-2. Purpose.

The zoning districts and regulations as herein established have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the city, and for the protection and preservation of places and areas of historical and cultural importance and significance. They have been designed to regulate and restrict the height, number of stories and size of buildings and other structures; the percentage of the lot that may be occupied; the size of the yards, courts and other open spaces; the density of population and the location and use of buildings, structures and land for business, residence and other purposes; and, in the case of designated places and areas of historical and cultural importance, to regulate and restrict the construction, alteration, reconstruction or razing of buildings and other structures; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light, air and prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewer, schools, parks and other public requirements; and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.
(Ord. of 9-7-1970, § 2-100)

Secs. 140-3—140-22. Reserved.

ARTICLE II. DEFINITIONS

Sec. 140-23. Definitions.

(a) Words used in the present tense include the future, words in the singular number include the plural number and words in the plural number include the singular number; the term "building" includes the term "structure;" the term "lot" includes the terms "plot" or "tract;" the term "shall" is mandatory and not discretionary.

(b) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use means a use subordinate to and incidental to the primary use of the main building or to the primary use of the premises.

Alley means a public space or thoroughfare which affords only secondary means of access to property abutting thereon.

Apartment means a room, or suite of rooms, in a multifamily dwelling or apartment house arranged, designed or occupied as a place of residence by a single-family, individual or group of individuals.

Apartment house means any building or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or place of residence by three or more families living in independent dwelling units.

Area of the lot means the net area of the lot and shall not include portions of streets and alleys.

Basement means a building story which is partly underground, but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story in computing building height.

Block means an area enclosed by streets and occupied by or intended for buildings; or if said word is used as a term of measurement, it shall mean the distance along a side of a street between the nearest two streets which intersect said street on said side.

Board means zoning board of adjustment as provided for in section 140-342.

Boardinghouse means a building other than a hotel, where lodging and meals for three or more persons are served for compensation.

Building means any structure built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building ends means those sides of a building having the least dimension as compared to the front or rear of a building. As used herein for the building spacing regulations for a multiple-family dwelling, the term "building end" shall be interpreted as being the most narrow side of a building regardless of whether it fronts upon a street, faces the rear of the lot or is adjacent to the side lot line or another building.

Building line means a line parallel or approximately parallel to the street line at a specified distance therefrom making the minimum distance from the street line that a building may be erected.

Cellar means a building story with more than one-half its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height.

Certificate of occupancy means an official certificate issued by the city through the enforcing official which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued.

City manager means the chief administrative officer of the city.

Clinic means a group of offices for one or more physicians, surgeons or dentists to treat sick or injured out-patients who do not remain overnight.

Convalescent home means any structure used for or customarily occupied by persons recovering from illness or suffering from infirmities of age.

Court means an open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other permanent space.

Coverage means the percent of a lot or tract covered by the roof or first floor of a building. Roof eaves to the extent of three feet from the walls of a building shall be excluded from coverage computations.

District means a section of the city for which the regulations governing the area, height or use of the land and buildings are uniform.

Dwelling, multiple-family, means any building or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or residence of three or more families.

Dwelling, one-family, means a detached building having accommodations for and occupied by not more than one family, or by one family and not more than three boarders and lodgers.

Dwelling, two-family, means a detached building having separate accommodations for and occupied by not more than two families, or by two families and not more than three boarders and lodgers.

Dwelling unit means a building, or portion of a building, which is arranged, occupied or intended to be occupied as living quarters and includes facilities for food preparation and sleeping.

Family means any number of individuals living together as a single housekeeping unit, in which not more than three individuals are unrelated by blood, marriage or adoption.

Floor area means the total square feet of floor space within the outside dimensions of a building, including each floor level, but excluding cellars, carports or garages.

Floor area ratio (FAR) means the ratio between the total square feet of floor area in a structure and the total square feet of land in the lot or tract on which the structure is located.

Height means the vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to:

(1) The highest point of the roofs surface if a flat surface;

(2) To the deck line of mansard roofs; or

(3) To the mean height level between eaves and ridge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires and parapet walls not exceeding ten feet in height.

If the street grade has not been officially established, the average front yard grade shall be used for a base level.

Legal height means the maximum height of a building permitted by any airport zoning ordinance or other ordinance restricting the height of structures.

Living unit means the room or rooms occupied by a family and must include cooking facilities.

Lodginghouse means a building where lodging for four or more persons is provided for compensation.

Lot means land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as are required under this chapter and having its principal frontage upon a public street or officially approved place.

Lot coverage means the percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot or the area determined as the maximum cross sectional area of a building.

Lot depth means the mean distance between the front and rear lot lines (see appendix illustration 2.).

Lot lines means the lines bounding a lot, as defined herein.

Lot of record means a lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk of the county or a parcel of land, the deed for which it is recorded in the office of the county clerk of the county prior to the adoption of the ordinance from which this chapter is derived.

Lot width means the width of a lot at the front building line. (See appendix illustration 1.)

Main building means the building, or buildings, on a lot which are occupied by the primary use.

Nonconforming use means a building, structure or use of land lawfully occupied at the time of the effective date of the ordinance from which this chapter is derived or amendments thereto, and which does not conform to the use regulations of the district in which it is situated. (See section 140-277.)

Occupancy means the use or intended use of the land or buildings by proprietors or tenants.

Open space means the area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky, except for the ordinary projections of cornices, eaves, porches and plant material.

Parking space means an enclosed or unenclosed paved surface area of not less than 180 square feet, usually measuring nine feet by 20 feet or ten feet by 18 feet, connected to a paved private driveway aisle or access apron which, in turn, connects to a publicly maintained street or paved public alley. A paved surface on private property is further defined as being concrete, hot mix asphaltic concrete, cold mix limestone rock asphalt, or one or more courses of asphalt oil and rock aggregate on a flexible base, except any gravel or stone parking space and connecting driveway that was in existence prior to the adoption of the ordinance from which this chapter is derived is exempt. If an alley or a portion of an alley is to be paved, it shall be paved with concrete or hot mix asphaltic concrete in accordance with the city's minimum standards for residential streets. Any parking adjacent to a public street wherein the parking maneuver is done on the public street shall not be classified as off-street parking in computing the parking area requirements for any use. Any parking spaces adjacent to a paved public alley, with parking aprons as required to provide adequate width for the parking maneuver to be made on paved surface, will be classified as off-street parking spaces. All required off-street parking spaces shall be clearly marked with paint or some other permanent pavement marking material.

Planning and zoning commission means the agency appointed by the city council as an advisory body to it and which is authorized to recommend changes in the zoning.

Private garage means an accessory building housing vehicles owned and used by occupants of the main building; if occupied by vehicles of others, it is a storage space.

Residence means the same as a dwelling; also defined as the same when used with district and area of residential regulations.

Roominghouse. See *Lodginghouse*.

Sign means an outdoor advertising device that is a structure or that is attached to or painted on a building or that is leaned against a structure or displayed on premises.

Story means the height between the successive floors of a building or from the top floor to the roof. The standard height for a story is 11 feet, six inches.

Street means any thoroughfare or public driveway, other than an alley, and more than 30 feet in width, which has been dedicated or deeded to the public for public use.

Street line means a dividing line between a lot, tract or parcel of land and a contiguous street use; the right-of-way line.

Structural alterations means any change in the supporting member of a building, such as a bearing wall, column, beam or girder.

Structure. See *Building*.

Thoroughfare. See *Street*.

Yard means an open space other than a court, on the lot in which a building is situated and which is not obstructed from a point 40 inches above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special architectural features and plant material.

Yard, front, means an open, unoccupied space on a lot facing a street extending across the front of a lot between the side lot lines and from the main building to the front lot or street line with the minimum horizontal distance between the street line and the main building line as specified for the district in which it is located. (See appendix illustrations 3 and 5.)

Yard, rear, means an open, unoccupied space, except for accessory buildings as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the building and the rear lot line as specified in the district in which the lot is situated. (See appendix illustration 3.)

Yard, side, means an open, unoccupied space or spaces on one side or two sides of a main building and on the same lot with the building, situated between the building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line, not the rear line or a front line, shall be deemed a side line. (See appendix illustrations 3 and 4.)

Variance means an adjustment in the application of the specific regulations of this chapter to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. (See section 140-345.)

Zoning district map means the official certified map upon which the boundaries of the various zoning districts are drawn and which is an integral part of this chapter.
(Ord. of 9-7-1970, §§ 22-100, 22-101)

Secs. 140-24—140-49. Reserved.

ARTICLE III. ESTABLISHMENT OF DISTRICTS AND BOUNDARIES

Sec. 140-50. Zoning districts established.

The city is hereby divided into 22 zoning districts. The use, height and area regulations as set out herein are uniform throughout each district. The 22 districts established herein shall be known as:

Abbreviated Designation	*Zoning District Name*
A	Agricultural District
SF-1	Single-Family Dwelling District-1
SF-2	Single-Family Dwelling District-2
SF-3	Single-Family Dwelling District-3
PUR	Planned Unit Residential District
2F1	Two-Family Dwelling District-1
2F-2	Two-Family Dwelling District-2
TH	Townhouse Dwelling District
MF1	Multiple-Family Dwelling District-1
MF-2	Multiple-Family Dwelling District-2
P	Parking District
O	Office District
NS	Neighborhood Service District
GR	General Retail District
LC	Limited Commercial District
CB	Central Business District
C	Commercial District
I-1	Light Industrial District
I-2	Heavy Industrial District
HD	Historic District
PD	Planned Development District

Abbreviated Designation	*Zoning District Name*
UPDD	University Planned Development District
FP	Prefix to any district designating a subdistrict subject to provisions section 140-107

(Ord. of 9-7-1970, § 3-100)

Sec. 140-51. Zoning district map.

(a) The boundaries of the zoning districts set out herein are delineated upon the zoning district map of the city, said map being a part of this chapter as fully as if the same were set forth herein in detail.

(b) Three original, official and identical copies of the zoning district maps are hereby adopted, each bearing the signature of the mayor and the attestation of the city secretary and shall be filed and maintained as follows:

(1) One copy shall be filed for permanent record in the office of the city secretary and shall be designated as "Exhibit I." This copy shall not be changed in any manner.

(2) One copy shall be filed in the office of the building official and shall be designated as "Exhibit II." This copy shall be maintained by the building official and kept up to date by posting therein all subsequent changes and amendments for use in issuing building permits, certificates of compliance and occupancy and enforcing this chapter.

(3) One copy shall be filed in the office of the director of planning and traffic and shall be designated as "Exhibit III." This copy shall be maintained by the director of planning and kept up to date by posting thereon all subsequent changes and amendments.

(4) Reproductions for information purposes only may, from time to time, be made of the official zoning district map.

(Ord. of 9-7-1970, § 4-100)

Sec. 140-52. Zoning district boundaries.

(a) The district boundary lines shown on the zoning district maps are usually along streets, alleys, property lines or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official zoning maps, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow the centerlines of such streets.

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following city limits shall be construed as following city limits.

(4) Boundaries indicated as following railroad lines shall be construed to be the centerline of the right-of-way or if no centerline is established, the boundary shall be interpreted to be midway between the right-of-way lines of such railroad.

(5) Boundaries indicated as following shore lines or centerlines of streams shall be construed to follow such shore lines and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, drainageways or draws shall be construed to follow such centerlines.

(6) Boundaries indicated as parallel to or extensions of features indicated in subsection (a)(1) through (5) of this section shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.

(7) Whenever any street, alley or other publicway is vacated by official action of the city council or whenever such area is franchised for building purposes and the zoning district line is not simultaneously adjusted, the zoning district line adjoining each side of such street, alley or other publicway shall be automatically extended to the centerline of such vacated street, alley or way and all area so involved shall then and henceforth be subject to all regulations of the extended districts.

(b) Where physical features on the ground are at variance with information shown on the official zoning district map or when there arises a questions as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of the provisions of subsections (a)(1) through (7) of this section, the property shall be considered as classified SF-2 Single-Family Dwelling-2 District temporarily in the same manner as provided for newly annexed territory and the issuance of a building permit and the determination of permanent zoning shall be in accordance with the provisions provided in section 140-78 for temporarily zoned areas.
(Ord. of 9-7-1970, § 5-100)

Secs. 140-53—140-77. Reserved.

ARTICLE IV. DISTRICT USE REGULATIONS

Sec. 140-78. Temporary zoning of annexed territory.

(a) All territory hereafter annexed to the city shall be temporarily classified as the zoning district classification specified in the annexation ordinance or shall be temporarily classified as the SF-2 Single-Family Dwelling-2 District where the annexation ordinance does not specify the temporary zoning classification. Permanent zoning of the newly annexed property should

be accomplished within one year after annexation. The procedure for establishing permanent zoning of annexed territory shall conform to the procedure established by law in section 140-317.

(b) In an area temporarily classified as SF-2 Single-Family Dwelling-2:

(1) No person shall erect, construct or add to any building or structure or cause the same to be done in any newly annexed territory to the city without first applying for and obtaining a building permit and a certificate of occupancy therefor from the building official or the city council as may be required herein.

(2) No permit for the construction of a building or use of land shall be issued by the building official other than to permit the construction of a building or use permitted in the SF-2 Single-Family Dwelling-2 District, unless and until, such territory has been reclassified to some other zoning district as provided in section 140-79, except that a building permit may be issued in accordance with the provisions of subsection (b)(3) of this section.

(3) An application for a permit for any use other than that specifically permitted in the SF-2 Single-Family Dwelling-2 District may be made to the building official of the city, and by the official referred to the planning and zoning commission for consideration and recommendation to the city council. The planning and zoning commission shall take into consideration the appropriate land use for the area. The city council, after receiving and reviewing the recommendations of the planning and zoning commission may, by majority vote, authorize the issuance of a building permit or certificate of occupancy or may disapprove the application.

(Ord. of 9-7-1970, § 6-100)

Sec. 140-79. Classification of new and unlisted uses.

It is recognized that new types of land use will develop and forms of land use not anticipated may seek to locate in the city. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

(1) The building official shall refer the question concerning any new or unlisted use to the planning and zoning commission requesting an interpretation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer.

(2) The planning and zoning commission shall meet with the parties at interest and shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use should be permitted.

(3) The planning and zoning commission shall transmit its findings and recommendations to the city council as to the classification proposed for any new or unlisted use. The city council shall by resolution approve the recommendation of the planning and zoning commission or make such determination concerning the classification of such use as is determined appropriate.

(Ord. of 9-7-1970, § 7-100)

Sec. 140-80. Use regulation districts.

Land and buildings in each of the classified districts may be used for any of the listed uses, but no land shall hereafter be used and no building or structure shall hereafter be erected, altered, converted, used or occupied which is arranged, designed or used for other than those uses specified for the district in which it is located as set forth by the schedule of uses.

(Ord. of 9-7-1970, § 8-100)

Sec. 140-81. Legend for interpreting schedule of use.

(a) The following legend may be used in interpreting the schedule of use:

	Designates use permitted in district indicated.
	Designates use prohibited in district indicated.
S	Indicates use may be approved as specific use permit. (See section 140-177.)

(b) Use listings for UPDD are located in section 140-111. UPDD (Special district designations).

Types of Uses	Zoning Districts																			
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Planned Unit Residential	Two-Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Multiple-Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
8-102	*Primary Residential Uses*																			
One-family dwelling detached	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■			■
One-family dwelling attached								■	■	■		■	■	■	■	■	■			■
Two-family dwelling						■	■	■	■	■		■	■	■	■	■	■			■
Multiple-family dwelling (apartment)									■	■		■	■	■	■	■	■	■		■

Types of Uses	Zoning Districts																			
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Planned Unit Residential	Two-Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Multiple-Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
Community unit development																				
Boardinghouse or roominghouse																				
Hotel or motel																				
Trailer camp and HUD Code manufactured home park	S																			
Mobile home as fixed dwelling																				
HUD Code manufactured home as a fixed dwelling	S			S																
Modular or factory fabricated dwelling	S																			S
8-103	*Accessory and Incidental Uses*																			
Accessory building (residential)																				
Accessory building (business or industry)																				
Accessory building (farm)																				
Garage sale (deleted—See section 140-178)	Subject to Permit Issued by the City																			
Home occupation																				
Off street parking incidental to main use																				
Stable (private)																				
Caretakers quarters		S	S																	
Swimming pool (private)																				
Temp. field office, const. yard or service office	Subject to Temporary Permit Issued by Building Official																			
8-104	*Utility and Service Uses*																			
Electrical substation		S	S	S		S	S	S	S	S										
Electrical energy generating plant	S															S				
Electrical transmission line		S	S	S		S	S	S	S	S										S
Fire station																				
Gas line and regulating station																				
Local utility line																				
Public building, shop or yard of local, state or federal agency	S	S	S	S		S	S	S	S	S		S	S							S
Radio, television or microwave towers	S	S	S	S		S	S	S	S	S	S	S	S							S
Radio or television transmitting station	S																			
Sewage pumping station																				
Sewage treatment plant	S																S			S
Trash transfer station																				
Telephone business office																				

Types of Uses	Zoning Districts																			
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Planned Unit Residential	Two-Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Multiple-Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
Telephone exchange, switching relay or transmitting station																				
Utility shops or storage yards or buildings (private)	S													S						
Water standpipe or elevated water storage																				
Water reservoir, well or pumping station																				
Water treatment plant	S	S	S	S	S	S	S	S	S	S	S	S	S							
8-105	*Recreational and Entertainment Uses*																			
Amusement commercial (outdoor)	S																			
Amusement commercial (indoor)																				
Carnival or circus (temp)	By Resolution of City Council																			
Country club (private)		S	S	S	S	S	S	S	S											
Dance hall or night club																S				S
Day camp for children		S																		
Drag strip or commercial racing	S																S			
Go cart track	S																S			
Golf course (commercial)	S													S						
Park or playground (public)																				
Playfield or stadium (public)		S	S	S	S	S	S	S	S	S										
Pistol and rifle range (indoor)																				
Private club	S									S		S		S	S					S
Riding club	S																			
Roller or ice skating rink	S													S						
Rodeo grounds	S																			S
Swim or tennis club	S	S	S	S	S	S	S	S	S	S		S								
Swimming pool (commercial)	S											S								
Theater or playhouse in building	S											S								
Theater (drive in)	S													S						
Zoo (public)		S	S	S	S	S	S	S	S	S		S	S							
Zoo (commercial)	S													S						S
8-106	*Educational, Institutional and Special Uses*																			
Art gallery or museum																				
Birthing center																				
Cemetery or mausoleum	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Church or rectory																				
College or university		S	S	S	S	S	S	S	S											

Types of Uses	Zoning Districts																			
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Planned Unit Residential	Two-Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Multiple-Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
Institution for alcoholic, narcotic or psychiatric patients	S											S		S	S					S
Convent or monastery		S	S	S	S	S														
Fairgrounds or Exhibition area	S													S						
Fraternity or sorority																				
Community center (public)																				
Kindergarten, nursery, private school or day care		S	S	S		S	S	S	S											
Hospital, acute care		S	S	S		S	S	S	S											
Hospital, chronic care	S						S	S												
Institution of religious charitable or philanthropic nature	S	S	S	S	S	S	S	S	S	S	S									
Library (public)		S	S	S	S	S	S	S												
Neighborhood health center	S		S	S	S	S	S	S	S	S	S									
Nursing home or assisted living facility	S								S											
School, business												S								
School, commercial trade																				
School, public or denominational																				
Conference or training seminar center										S										
Union hall and related semi-public office	S		S	S		S	S	S	S	S	S		S							
8-107	*Transportation Related Uses*																			
Airport or landing field	S																S			
Bus station or terminal																				
Delivery service																				
Hauling or storage company																				
Heliport	S															S	S			S
Helistop	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S			S
Motor freight terminal																				
Railroad freight terminal																				
Railroad passenger station																				
Railroad track or right-of-way																				
Railroad team tracks																				
Railroad yard or roundhouse																				
Parking lot, truck																				
Parking lot or structure (commercial)										S			S							
8-108	*Automobile and Related Service Uses*																			

Types of Uses	Zoning Districts																			
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Planned Unit Residential	Two-Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Multiple-Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
Auto glass or seat cover shop																				
Auto laundry/car wash																				
Auto parts and accessory sales (indoor)																				
Auto parts and accessory (outdoor display)																				
Auto painting or body rebuilding shop																				
Automobile repair garage (including transmissions)																				
Minor vehicle and repair shop																				
Auto storage or auto auction																				
Gasoline or fuel service station																				
Self-serve sale of gasoline and/or diesel fuel													S							
New or used auto sales, in structure																				
New or used auto sales, outdoor lot														S	S					
Motorcycle/scooter, or ATV sales and repair															S					
Steam cleaning of vehicles or machinery																				
Tire retreading or capping																S				
Wrecking or scrap salvage yard																		S	S	
8-109	*Retail and Related Service Uses*																			
Antique shop																				
Art supply store																				
Bakery or confectionary shop (retail)																				
Bank or savings and loan office																				
Barber or beauty shop												S								
Book or stationery shop												S								
Camera shop												S								
Cleaning plant, commercial																				
Cleaning shop or laundry																				
Cleaning or laundry self- service shop																				
Clinic, medical or dental																				
Custom personal service shop												S								
Department store or discount store																				
Drug store or pharmacy												S								
Florist shop												S								
Food and beverage sales store																				
Furniture or appliance store																				

Types of Uses	Zoning Districts																			
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Planned Unit Residential	Two-Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Multiple-Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
Garden shop and plant sales																				
Handcraft and art objects, sales																				
Hardware store or hobby shop																				
Key shop																				
Laboratory, medical or dental												S								
Medical appliances, fitting, sales or rental												S								
Mini-warehouses														S	S					
Mortuary												S								
Offices, general business or professional																				
Optical shop or laboratory												S								
Pawn shop																				
Pet shop, small animals, birds and fish																				
Real estate model homes																				
Repair of appliances, TV, radio and similar equipment																				
Restaurant or cafeteria (no drive in type)																				
Restaurant or eating establishment (drive in service)																				
Retail shop, apparel, gift, accessory and similar items																				
Studio, decorator & display of art objects												S								
Studio, health reducing or similar service																				
Studio, photographer, artist, music, drama or dance												S	S							
Tattoo studio												S	S	S	S	S	S	S	S	
Tool rental (in structure)																				
Tool rental (outdoor)																				
Travel bureau or consultant																				
Variety store or other retail outlet store																				
Veterinarian, office only (no animal hospital)																				
8-110	*Sign and Identification Uses*																			
Name plate																				
Real estate sign																				
Construction sign																				
Promotional sign																				
Institutional sign																				

Types of Uses	Zoning Districts																			
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Planned Unit Residential	Two-Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Multiple-Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
Apartment name sign																				
Advertising sign (off-premises)														S	S	S	S	S	S	
Advertising sign (on-premises)												S	S							
Changeable electronic variable message sign (CEVMS)(Off-Premises)												S	S	S	S	S	S	S	S	
Changeable electronic variable message sign (CEVMS) (on-premises)												S	S	S*	S*	S*	S*	S*	S*	S
	*Exception See Section 14-179																			
8-111	*Agricultural Type Uses*																			
Farm or ranch																				
Livestock auction																		S		
Hatchery, poultry																				
Animal pound (public or private)														S		S				
Animal clinic, hospital, or kennel (no outside pens)																				
Animal clinic, hospital, or kennel (outside pens)																				
Animal feeding lot	S																		S	
Greenhouse or plant nursery (commercial)																				
8-112	*Commercial Type Uses*																			
Bakery wholesale																				
Boat sales and repair														S	S					
Building material sales																				
Cabinet and upholstery shop																				
Cleaning, dyeing or laundry plant																				
Clothing or similar light manufacturing processes																				
Contractor storage or equipment yard																				
Heavy machinery sales, rental, or repair																				
Light manufacturing or assembly processes																				
Laboratory manufacturing																				
Laboratory, scientific or research																				
Lithographic or print shop																				
Maintenance and repair service for buildings																				
Milk depot, dairy or ice cream plant																				
Open storage of furniture, appliances or machinery, etc.																				

Types of Uses	Zoning Districts																			
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Planned Unit Residential	Two-Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Multiple-Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
Paint shop, commercial																				
Petroleum products, storage and wholesale																				
Plumbing shop														S	S					
Quick print copy shop																				
Self-contained aluminum recycling machine																				
Storage warehouse																				
Trailer or mobile home sales or rental																				
Welding or machine shop																				
Wholesale storage or sales facilities																				
8-113	*Natural Resource Storage and Extraction*																			
Caliche pit and caliche storage area	S																S	S		
Mining and storage of mining waste																		S		
Petroleum collecting and storage facilities	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S			S
Petroleum or gas well	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S			
Sand or gravel extraction or storage	S																S	S		
Top soil, earth or stone extraction or storage	S																S	S		
8-114	*Special Industrial Processes*																			
Asphalt or concrete batching plant, permanent																				
Asphalt or concrete batching plant, temporary	By Resolution of City Council for a Specific Time Period																			
Brick kiln or tile plant																				
Cement or hydrated lime plant																				
Dump or sanitary fill area	S																	S		
Open salvage yard for rags, vehicles, machinery, etc.																				
Slaughter house or meat packing plant																		S		
Smelter or refinery																				
8-115	*General Manufacturing and Industrial Uses*																			
Light manufacturing or industrial use as defined by performance standards (See section 140-179.)																				
Heavy manufacturing or industrial use as defined by performance standards. (See section 140-179.)																				

(Ord. of 9-7-1970, § 8-101)

Secs. 140-82—140-105. Reserved.

ARTICLE V. SPECIAL DISTRICT DESIGNATIONS

Sec. 140-106. Historic designation.

(a) Sites, structures and areas that have been determined to be either architecturally, historically, archaeologically or culturally significant may be designated as a historic district. The regulations for historic districts are intended to preserve and protect historic, culturally or architecturally worthy buildings, structures, sites and neighborhoods. For all zoning districts which contain the historic district prefix designation, the regulations for both the zoning district and the historic designation shall apply. Whenever there is a conflict between the regulations of the historic designation and the zoning district, the more restrictive regulations shall apply.

(b) In determining the historical district, site or area, one or more of the following criteria shall be considered:

(1) Character, interest or value as part of the development, heritage or cultural characteristics of the city, state or nation.

(2) Location as the site of an historical event.

(3) Structure with a distinguishing architectural type.

(4) Relationship to other distinctive buildings, sites, districts or structures which are historically significant.

(5) Unique location of singular physical characteristics representing an established and familiar visual feature or a neighborhood, community, the city or this region.

(6) Identification with a person who has significantly contributed to the development or culture of the city, state or nation.

(c) The historic landmark preservation committee shall recommend that certain sites, districts, areas, buildings or structures be designated as historical districts, sites or areas, and shall delineate the boundaries thereof. Such recommendation shall be submitted to the planning and zoning commission and to the city council. Such request for historical designation shall be acted upon by the planning and zoning commission and the city council as prescribed by section 140-317. The prefix "H" shall indicate on the zoning district map the zoning designation of those areas, sites, districts, buildings or structures which are designated as historical districts. Such designation shall be in addition to any other zoning classification established for such site.

(d) The historic landmark preservation committee shall be composed of nine members. There should be one member from each of the following: An institution authorized to make home loans, a real estate agent, a representative of the city museums system, with the remaining members to be named at the discretion of the city council. Meetings of the historic landmark preservation committee shall be at the call of the chairperson and at such times as the

committee shall determine. All meetings shall be open to the public. The committee shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating absentee or failure to vote. Records of examinations and other official actions shall be kept and filed immediately in the office of the community redevelopment and grants and shall be public record. The committee should include the following committees: 1) Guidelines and standards review, 2) Community involvement and marketing; and 3) Expansion, preservation and revitalization. Each committee member shall serve on at least one committee. Ex officio members of the committee shall include the city manager, the executive director of community redevelopment and grants, and the marketing and communications manager. The members of the committee shall select a chairperson, a vice-chairperson and a secretary. Five members shall constitute a quorum.

(e) No person shall construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of a building or structure or develop, construct, relocate or demolish any building or structure with a historic designation or within a Historic Overlay District in the city without first obtaining a certificate of appropriateness. Exterior architectural features include the kind, color and basic texture of all exterior building materials and such features as windows, doors, lights and signs.

(1) An application for a certificate of appropriateness shall be made by the owner of the subject property and filed with the director of planning on the city's official form. The director of planning shall determine the completeness of an application for a certificate of appropriateness. Incomplete or applications not in compliance with building codes or other ordinances shall be returned to the applicant for completion and compliance. The director of planning shall within seven days refer a completed application to the historic landmark preservation committee.

(2) The historic landmark preservation committee shall hold a public hearing on an application for a certificate of appropriateness within 30 days of their receipt of the application. Notice of application for a certificate of appropriateness shall be posted at the project site such that it is visible from the public right-of-way, including contact information and meeting date. If the historic landmark preservation committee does not take action within 30 days of receipt of a completed application, a certificate of appropriateness shall be deemed issued by the committee.

(3) At the public hearing, the historic landmark preservation committee shall investigate and approve or disapprove an application for a certificate of appropriateness by a majority vote. A written report regarding the decision should be prepared by the director of planning within five days after the public hearing.

(4) Upon approval of an application, the building official shall be authorized to issue any necessary permits following the city's standard process. Should an application be

disapproved, a copy of the written report stating the reasons for disapproval shall be mailed to the applicant with notice of their right to appeal the decision to the zoning board of adjustment.

(5) No application for the same project shall be considered within one year of the disapproval of the application by the historic landmark preservation committee. The applicant may submit a design for an entirely new project or a revised design that substantially responds to the reasons for denial as set forth by the committee at any time.

(6) Ordinary maintenance and repair shall be exempt from the requirement of a certificate of appropriateness. The director of planning shall be responsible for making a determination whether or not any given project constitutes ordinary maintenance and repair and shall report such projects periodically to the historic landmark preservation committee.

(7) Ordinary maintenance and repair is any work, the sole purpose and effect of which is to correct deterioration, decay or damage which does not result in a change in the existing appearance and materials of a property. Examples include minor repairs to windows and doors; repairing walkways or drives and; roofing, foundation or chimney work when no substantial change in appearance occurs. Ordinary maintenance and repair also includes in-kind repair and replacement. Ordinary maintenance and repair must be compatible with the development standards of the historic district in which it is performed.

(8) The following general review criteria shall be met in issuing any certificate of appropriateness: the proposed work complies with the development standards and preservation criteria for the district; the integrity of an individual historic structure is preserved; new buildings or additions are designed to be compatible with surrounding historic properties; and the overall character of the district is protected.

(f) In accordance with state law, the city council finds that all structures located within designated Historic Residential Overlay Districts are historically significant and entitled to tax relief in order to encourage historic preservation. The city shall exempt ten percent of the assessed value of a structure, including the land necessary for access to and use of the structure, from annual city ad valorem taxation. In order to receive this tax exemption, the structure must have been located within a designated Historic Residential Overlay District on January 1 of the applicable tax year and must be designated as the owner's homestead for the applicable tax year.

(g) The Highland Park-Bingham Park Historic Residential Overlay District is hereby established. The purpose and intent of the Highland Park-Bingham Park Historic Residential Overlay District is to provide for the protection of the aesthetic and visual character of this

historic residential neighborhood. The neighborhood consists of homes built between 1903 and 1935 and includes arts and crafts, prairie and cottage style homes. The neighborhood also includes the boyhood home of Ross Perot and the home of Wright Patman.

(1) The Highland Park-Bingham Park Historic Residential Overlay District shall include all property on Wood Street between West 25th Street and West 29th Street and all property on Olive Street between West 23rd Street and West 29th Street. Additionally, the district shall include residences fronting on West 29th Street between the intersections of Wood Street and Olive Street. An official map of the Highland Park-Bingham Park Historic Residential Overlay District shall be kept on file in the planning and zoning department and the boundaries of the Highland Park-Bingham Park Historic Residential Overlay District shall be shown on the city's official zoning map.

(2) Development standards and preservation criteria for the Highland Park-Bingham Park Historic Residential Overlay District are hereby adopted as an official attachment to this chapter. A violation of any provision contained within the development standards and preservation criteria for the district is a violation of this chapter. Copies of the development standards and preservation criteria for the Highland Park-Bingham Park Historic Residential Overlay District shall be available in the office of the director of planning.

(3) No person shall construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of a building or structure or develop, construct, relocate or demolish any building or structure within the district without first obtaining a certificate of appropriateness. All new development and changes to existing development located within the district, except for ordinary maintenance and repair, shall be reviewed in accordance with the development standards and preservation criteria for the Highland Park-Bingham Park Historic Residential Overlay District by the historic landmark preservation committee pursuant to subsection (e) of this section.

(4) The development standards and preservation criteria for this overlay district control in the event of a conflict with the requirements for the underlying zoning district or other ordinances. Except, this section does not apply to life safety codes such as building or fire codes. If a proposed development or change in an external feature will not be visible from a public right-of-way once the project is completed, the committee may waive review of the project. The Highland Park-Bingham Park Historic Residential Overlay District shall also hereby include all property on Walnut Street between West 25th Street and West 29th Street.

State law reference—Zoning authority of governing body of a municipality to designate places and areas of historical, cultural or architectural importance and significance, and regulate the construction, reconstruction, alteration or razing of buildings and other structures within such designated places and areas, Texas Local Government Code §§ 211.001, 211.003.

(Ord. of 9-7-1970, § 8-200; Ord. No. 138-2005, 5-9-2005; Ord. No. 315-2006, 11-13-2006; Ord. No. 144-2009, 10-26-2009)

Sec. 140-107. Floodplain designation.

All development within the floodplain must conform to chapter 110.
(Ord. of 9-7-1970, § 8-300)

Sec. 140-108. Planned development.

(a) *Purpose and scope.* The PD Planned Development District is designed to provide flexibility in development planning and the opportunity for the application of new planning concepts. PD Planned Development zoning shall require the submission and approval of a development site plan before any property can be developed in a planned development district.

(b) *Application procedures.* Application for a PD district shall be made in the same manner as an application for any amendment to the zoning ordinance and shall include the following additional information:

(1) *Proposed uses.* An application for a PD district shall specify and describe the category or type of use or the combination of uses proposed. Permitted uses under PD zoning shall be specified in each PD ordinance. If such ordinance specifies permitted uses by references to a zoning district, the permitted uses shall include those uses permitted in the referenced district, including those permitted through the cumulative provision of this chapter.

(2) *Development requirements.* An application for a PD district shall include a list of development requirements which may be incorporated into the PD ordinance. The planning and zoning commission may recommend and the city council may require such modifications of a development site plan that will ensure the proposed project will be in harmony with the existing and anticipated development of surrounding areas. In approving the PD district, the city council may impose conditions relative to the standard of development and such conditions shall be complied with before a certificate of occupancy is issued for the use of the land or any structure which is part of the PD district and such conditions shall not be construed as conditions precedent to the approval of the zoning amendment, but shall be construed as conditions precedent to the granting of a certificate of occupancy.

(3) *Requirements in excess of standards.* The conditions for the development as specified in the ordinance and on the site plan may set forth standards in excess of those requirements specified for the particular zoning district to which the planned development designation prefix is added. Development requirements may include, but not be limited to, density, lot size, setbacks, building heights, lot coverage, parking ratios, screening and other requirements the city council may deem appropriate.

(c) *Waiver of requirements.* Standards set forth in the specific zoning districts cannot be modified or waived, unless such modification or waiver improves the overall development design of a project or is necessary to provide for a unique project design which cannot readily

be accommodated through other districts. All streets, whether public or private, for a proposed PD district shall be constructed in accordance with the applicable standards set forth under chapter 130, article 5. However, the city council may waive such standards for private streets if they determine such waiver is necessary for an improvement of the development design of the project and will not affect the durability of the streets. Under no circumstances shall the standards set forth in section 130-153 be waived for private streets.

(d) *Development site plan.* An application for approval of a site plan shall be submitted either at the time of the application for a PD district or separately when actual development of the area is planned. Six copies of the development site plan will be filed with the application and said development site plan shall include the following information: Site description indicating boundaries, public or private rights-of-way and easements on site or abutting or intersecting the site; adjacent properties with zoning and existing uses identified; proposed structures showing approximate outline or perimeter walls and including distances to property lines and other structures; front, side and rear building setback lines; proposed category of use or uses of structures; number of stories in height and feet; gross floor area; location, dimensions and proposed construction of all streets, private drives, alleys, parking areas and drive approaches; number and dimensions of parking spaces and width of drive approaches and aisles; location and width for required fire lanes; location, height and building materials for any proposed or required fences or walls; and location of open areas. A development site plan must designate any proposed variance to the zoning district requirements or variance to the street standards for the construction of private streets. Additional requirements for planned development districts designed for multiple ownership include:

(1) *Subdivision plat required.* Where a PD district is designed for multiple ownership of lots, a plat conforming to the requirements of the subdivision ordinance, chapter 135, must be recorded in addition to the development site plan as a prerequisite to the issuance of building permits for any property in a PD district.

(2) *Maintenance requirements.* In order to ensure the long term maintenance of common areas, facilities, private streets and prevent unexpected maintenance expenditures by the city, the following shall be required:

a. Planned development projects designed for multiple ownership shall be approved subject to the submission of a legal instrument creating a property owners' association and setting forth a plan or manner of permanent care and maintenance of open spaces, recreational areas, common parking areas, other communally owned facilities and private streets. No such instrument shall be acceptable until approved by the city attorney as to legal form and effect.

b. The property owners' association shall be organized as a nonprofit corporation with automatic membership in the property owners' association when property is purchased in the planned development district. This shall be specified in the

covenants which run with the land and which bind all subsequent owners. Covenants for maintenance assessments shall also run with the land. Assessments shall also be handled in covenant form rather than as articles of incorporation since the latter may be easily amended.

c. Included in the maintenance covenants shall be procedures for changing them since maintenance costs may change over time. Deeds shall also mention the rights and responsibilities of property owners to the property owners' association. For common areas and private streets, the property owners' association shall be responsible for the following: liability insurance, taxes and maintenance. The above will be divided among the property owners by use of a pro-rata share formula.

(e) *Approval.* Upon approval of a development site plan by the city council, application may be made for the permits and certificates necessary for construction. Subsequent to such approval, minor changes to the development site plan may be authorized by the director of planning. However, such changes may not be made by the planning director if the changes will substantially alter any of the following:

(1) The character of the development, the density or lot coverage of the development or the effect of the development on adjacent property.

(2) The setbacks of buildings from property lines.

(3) The ratio of off-street parking spaces to the building floor area.

(4) The location, orientation or lighting of signs.

(f) Amendment to ordinance. Every PD district approved under the provisions of this article shall be considered as an amendment to the ordinance as applicable to the property involved. All PD districts approved in accordance with the provisions of this article in its original form or by subsequent amendments thereto shall be referenced on the zoning district map and a list of such PD districts together with the category of uses permitted therein shall be maintained in the office of the director of planning.
(Ord. of 9-7-1970, § 8-400)

Sec. 140-109. PUR Planned Unit Residential District.

The purpose of the PUR Planned Unit Residential District is to provide for the development of unique and innovative forms of single-family housing utilizing individually platted lots. This zoning district shall include both garden home and zero lot line/patio home developments. Lots within subdivisions intended for garden homes or as zero lot line/patio home developments must be noted on the final plat as recorded. These lots shall be solely for the housing types that are specifically noted on the final plats. If a developer chooses to use a combination of these

two housing types in a single subdivision, each lot must be designated as to the type home that will be built, and shown on the final plat as recorded. Alleys are not required in a PUR subdivision.

(1) *Garden home developments.*

a. *Minimum lot requirements.*

1. Lot area—3,750 square feet.

2. Lot width—50 feet.

3. Lot depth—75 feet.

b. *Minimum yard requirements.*

1. Front yard—15 feet.

2. Rear yard—Ten feet. When rear entry garages or carports are utilized, the opening shall be a minimum of 15 feet from the rear property line.

3. Side yard—Five feet, unless on a corner lot adjacent to a street. On a corner lot adjacent to a street, the width of the side yard shall be 12 feet.

c. *Maximum building height.* Overall height is 35 feet. No home shall exceed two stories. No accessory building shall exceed one story in height.

d. *Spatial control.*

1. Maximum lot coverage is 60 percent, including accessory buildings and other structures, subject to minimum yard requirements and other spatial controls.

2. Minimum distance between exterior walls is ten feet.

e. *Parking requirements.* Each dwelling shall have off street parking sufficient for a minimum of two automobiles or other vehicles, not to exceed one ton capacity. No commercial or panel trucks shall be allowed to be parked in a PUR for non business related reasons. Construction of garages and/or carports shall be at the option of the developer. Garages and carports may be either front or rear entry.

f. *Private streets.* Should a developer desire to have private streets within a PUR, compliance with section 140-108 shall be required.

g. *Other requirements.* All construction and development within a PUR shall comply with all other appropriate rules and regulations as found in this Code, the zoning chapter and the subdivision chapter of the city.

h. *Density.* Garden home subdivisions shall not exceed a density of more than eight units per acre on tracts of land of two acres or less or a density of six units per acre on tracts of land of more than two acres.

(2) *Zero lot line/patio home developments.*

a. Minimum lot requirements.

1. Lot area—5,000 square feet (zero side option); 6,000 square feet (center option).

2. Lot width—50 feet (zero side option); 55 feet (center option).

3. Lot depth—100 feet (zero side or center option).

b. Minimum yard requirements.

1. Front yard—15 feet (zero side or center option).

2. Rear yard—Ten feet (zero side or center option), 20 feet when access to the required off street parking is gained from a dedicated street or alley, either public or private (zero side or center option).

3. Side yard—Zero feet on one side and ten feet on the opposite side (zero option); 15 feet on a corner lot, the side adjacent to the street (zero option or center option); seven feet on both sides (center option).

4. A minimum separation of ten feet shall be maintained between the face of exterior walls of neighboring dwelling units. For lots utilizing the zero side option, no roof overhang, gutter, or extension from a wall will be allowed to extend into or over an adjoining property. The closest exterior roofline to an adjoining property shall be storm guttered if the general slope of the roof falls toward said adjoining property. Also, a three-foot-wide access and maintenance easement shall be dedicated on the final plat filed for record for all lots which are adjacent to lots with a zero side. The purpose of this easement is to give the adjoining property owner access for maintenance of the owners dwelling. The majority of the structure shall be located within three feet of one side lot line. Building walls which are located adjacent to the zero side of the lot shall not have any doors, windows, ducts, grills, vents or other openings. This requirement does not include exterior walls forming enclosures for courts, patios, or similar indentations to the zero wall. The "zero side" shall be dedicated on the final plat filed for record.

c. *Maximum building height.* Overall height is 35 feet. No home shall exceed two stories.

d. *Spatial control.*

1. Maximum lot coverage is 60 percent, including accessory buildings and other structures, subject to minimum yard requirements and other spatial controls.

2. Minimum distance between exterior walls is ten feet.

e. *Parking requirements.* Each dwelling shall have off street parking sufficient for a minimum of two automobiles or other vehicles, not to exceed one ton capacity. No commercial vehicles or panel trucks shall be allowed to be parked in a PUR for nonbusiness related reasons. Construction of garages and/or carports shall be at the option of the developer. Garages or carports may be either front or rear entry.

f. *Private streets.* Should a developer desire to have private streets within a PUR, compliance with section 140-108 shall be required.

g. *Other requirements.* All construction and development within a PUR shall comply with all other appropriate rules and regulations as found in this Code, this chapter and the subdivision chapter of the city.

h. *Density.* Patio home/zero lot line subdivisions shall not exceed a density of more than eight units per acre on tracts of land of two acres or less or a density of six units per acre on tracts of land of more than two acres.

(3) *Clubhouses* In a PUR (Planned Unit Residential) zoning district, a clubhouse shall be an allowed use. A clubhouse shall be defined as a detached accessory building that contributes to the comfort, convenience and social enjoyment of the residents of that particular subdivision, and their guests. When a PUR proposes to include a clubhouse as part of its development, the clubhouse may occupy no more than 40 percent of the lot upon which it is to be built and it shall conform to the setbacks set out as shown:

a. Front yard: Minimum of 25 feet.

b. Side yard: Minimum of ten feet.

c. Rear yard: Minimum of ten feet.

d. Parking requirements shall be based on gross square footage of the clubhouse at one space for every 300 gross square feet or one space for every three lots in the subdivision whichever is greater, with a minimum requirement of five parking spaces. If the subdivision has a private street, any on-street parking abutting to the clubhouse lot will count toward required parking spaces. The clubhouse is not to be used for general public events.

e. When a clubhouse is proposed as part of or in conjunction with a subdivision or addition thereto, the following information must be provided to the city for review and approval prior to final acceptance of the subdivision improvements:

1. Plans and illustrations of the proposed clubhouse which conform to the restrictive covenants and sealed by a registered engineer, are to be submitted with the final plat;

2. A homeowner's or property owner's association shall be required to maintain the clubhouse. Documents establishing the property owner's association

or the homeowner's association shall be submitted to the office of the city attorney for review and approval. The documents shall specify the following:

(i) Membership is mandatory for all owners of property within the subdivision.

(ii) All association responsibilities and property interests shall be noted.

(iii) By laws relating to the governance of the association.

(iv) Any and all covenants for maintenance assessments, which run with the land.

(v) Responsibility for liability insurance and taxes.

(vi) Written release of liability for maintenance to benefit the city.

(vii) Written indemnification of the city for any damages, injuries (including death), and/or liability resulting from the clubhouse.

(viii) Authority of the association to secure funds from its members sufficient to meet its responsibilities. This can include collection of dues, the increasing of dues, the right to charge special assessments and the placing of liens against property for failure to comply with these requirements.

(ix) Other city requirements as applicable or may become applicable.

(x) Builders and/or developers shall be required to post notice in a prominent place in all model homes (if any), sales offices and sales documents that a property association has been established and that membership is mandatory for all property owners.

(xi) Prior to the transfer of the association to the lot owners, the builder/developer must provide an adequate reserve fund to the association for maintenance purposes.

(xii) Concurrent with the transfer of the association, the builder/developer must transfer to the association control over all utilities related to the clubhouse. The builder/developer must also disclose to the association the total cost to date related to the operation and maintenance of the clubhouse.

(Ord. No. 081-2003, 4-15-2003; Ord. No. 010-2004, 1-12-2004; Ord. No. 213-2006, 8-14-2006)

Sec. 140-110. Development standards and preservation criteria for the Highland Park-Bingham Park Historic Residential Overlay District.

(a) *Development standards.* The following standards apply in the Highland Park-Bingham Park Historic Residential Overlay District:

(1) *In general.* The development standards for this historic overlay district control shall prevail in the event of a conflict with the requirements for the underlying zoning district.

(2) *Height requirements*. The maximum permitted heights for buildings and structures are:

a. Twenty-five feet for a main building; and

b. Twenty feet for an accessory building or structure.

(3) *Lot size requirements.* Lots must conform to the following standards:

a. Each lot must have a minimum area of 7,200 square feet and a minimum depth of 150 feet.

b. Each lot must have a width no less than 50 percent of the average width of all lots in both the same and the opposite blockface.

(4) *Maximum lot coverage.* The maximum permitted lot coverage for ail buildings and structures combined is 40 percent.

(5) *Minimum front yard.*

a. All buildings and structures must have a minimum front yard set back of 25 feet.

b. The main building on an interior lot must have a front yard setback that is:

1. Equal to that of the closest main building on either side of the lot in the same blockface; or

2. Between those of the closest main buildings on either side of the lot in the same blockface.

c. The main building on a corner lot must have a front yard setback that is within five percent of that of the closest main building in the same blockface.

(6) *Minimum rear yard.* The minimum permitted rear yard setbacks for buildings and structures are:

a. Ten feet for a main building, if the lot is 230 feet or less in depth;

b. Twenty feet for a main building, if the lot is over 230, but less than or equal to 250 feet in depth;

c. Thirty feet for a main building, if the lot is over 250 feet in depth; and

d. Five feet for an accessory building or structure.

(7) *Minimum side yards.*

a. All buildings and structures must have:

1. On interior lots, a minimum side yard the greater of five; and

2. On corner lots, a minimum corner side yard the greater of 15 feet or 80 percent of the average corner side yard of the other corner lots at the same intersection.

b. Except as otherwise provided in this section, no balcony, porch or any portion of a building may extend into the required side yard. Roof eaves may project up to three feet into the required side yard.

(8) *Off-street parking requirements.* Residential uses must provide at least two off-street parking spaces behind the front yard for each dwelling unit when alley is accessible.

(9) *Signs.* Signs of any character shall be not larger than four square foot (i.e., two feet by two feet).

(b) *Preservation criteria.* The following preservation criteria apply to all property in the Highland Park-Bingham Park Residential Overlay Historic District:

(1) *Building placement, form and treatment.*

a. *Accessory buildings.* Accessory buildings:

1. Are only permitted in the rear yard no closer than 15 feet to a main building; and

2. Must be compatible with the scale, shape, roof form, materials, detailing and color of a main building.

b. *Additions.* All additions to a building must be compatible with the dominant horizontal or vertical characteristics, scale, shape, roof form, materials, detailing and color of the building.

c. *Architectural detail.* Materials, colors, structural and decorative elements and the manner in which they are used, applied or joined together must be typical of the style and period of a main building and compatible with the other buildings on the blockface.

d. *Awnings.*

1. All awnings on the front and side facades of a main building must be typical of its style and period and complement its color scheme.

2. Wood, metal and plastic awnings are not permitted, unless they:

(i) Are on an accessory building or the rear facade of a main building;

(ii) Complement the color scheme of the building to which they are attached; and

(iii) Are totally screened.

e. *Building placement.* All buildings must be placed so as not to adversely affect the rhythm of spaces between buildings on the blockface.

f. *Building widths.* The minimum permitted width for a main building is 80 percent of the average width of the existing main buildings in the blockface.

g. *Chimneys.* All chimneys must be compatible with the style and period of a main building. Chimneys on the front 50 percent of a main building or on a corner side facade must be:

1. Constructed of brick, stucco, stone or other materials that look typical of the style and period of a main building; and

2. Of a style and proportion that is typical of the style and period of a main building.

h. *Color.*

1. *Brick and stone surfaces.* Brick and stone surfaces not previously painted must not be painted unless the applicant establishes that:

(i) Painting is the only method by which the brick or stone may be restored or preserved; or

(ii) The color and texture of replacement brick or stone cannot be matched with that of the existing brick or stone surface and the paint color matches that of the existing brick or stone surface.

2. *Certain colors prohibited.* Fluorescent and metallic colors are not permitted on the exterior of any structure in this district.

3. *Dominant and trim colors.* All structures must have a dominant color and no more than three trim colors. The colors of a structure must be complementary of each other and the overall character of this district.

4. *Gutters and downspouts.* Gutters and downspouts must be painted or colored to match or complement the color scheme of the structure to which they are attached.

5. *Roof colors.* Roof colors must complement the style and overall color scheme of the structure.

6. *Stain.* The use and color of stain must be typical of the style and period of the building on which the stain is applied.

i. *Columns.*

1. *Function.* Columns are only permitted as vertical supports near the front entrance of a main building, or as vertical supports for porches.

2. *Materials.* Columns must be constructed of brick, wood, cut stone or other materials that look typical of the style and period of a main building. No pipe or wrought iron columns are permitted.

3. *Style.* Columns must be of a style typical of the style and period of a main building.

4. *Width dimensions.*

(i) The width of a one-story column shaft at its widest point must be at least one-eighth the height of the column.

(ii) The width of a two-story column shaft at its widest point must be at least one-eight the height of the column.

j. *Facade materials.*

1. *In general.* The only permitted facade materials are brick, wood siding, stone and stucco. All facade treatments and materials must be typical of the style and period of a main building.

2. *Brick.* All exposed brick on facades must be fired brick as defined by the American Standard Testing Materials Designation C-126-75A. Type Grade FBS-SW.

3. *Wood facades.* Existing wood facades must be preserved as wood facades. Wood shingles are not permitted as a primary facade material, but may be used in roof gables and on foundation skirts in a manner that is typical of the style and period of a main building.

k. *Front entrances and porches.*

1. *Detailing.* Railings, moldings, tile work, carvings and other detailing and architectural decorations on front entrances and porches must be typical of the style and period of a main building.

2. *Enclosures.* A front entrance or porch may not be enclosed with any material, including iron bars, glass or mesh screening.

3. *Facade openings.* Porches must not obscure or conceal any facade openings in a main building.

4. *Floor coverings.* Carpeting is not permitted as a porch floor or step covering.

5. *Location.* An entrance treatment, including door transoms, sidelights, stained glass, trim and hardware, must be retained in its original location.

6. *Style.* The main building must have a front porch or entry treatment with a shape, roof form, materials and colors that are typical of the style and period of the building.

l. *Height to width ratio.* The relationship between the height and width of the front facade of a main building, including side projections, must be compatible with those of the other main buildings in the blockface.

m. *Porte cocheres.* Except as otherwise provided in this subsection, porte cocheres must be preserved as architectural features and not be enclosed on any side by

fences, gates or any other materials. A wrought iron gate is permitted across the rear opening of a porte cochere if it has a screening factor of less than 50 percent and is compatible with the style and scale of a main building.

n. *Roof forms.*

1. *Eaves and soffits.* The height of eaves and soffits on a main building must be within ten percent of the height of eaves and soffits on the closest main building in this district of a similar style and having the same number of stories.

2. *Materials and colors.* Roof materials and colors must complement the style and overall color scheme of the building or structure. Tar and gravel (built-up) is only permitted as a roof material on covered porches and porte cocheres with flat roofs.

3. *Overhang.* The roof overhang on a building must be compatible with the style and scale of the building. A replacement roof on an existing building must have an overhang that is equal to or greater than the overhang of the roof it replaces.

4. *Patterns.* Roof patterns of a main building must be typical of the style and period of the architecture of the building and include separate substructure roofs.

5. *Skylights and solar panels.* Skylights and solar panels are only permitted on:

   (i) The rear 50 percent of the roof of a main building on an interior lot;

   (ii) The rear inside quadrant of the roof of a main building on a corner lot; and

   (iii) The roof of an accessory building in the rear yard.

6. *Slope and pitch.* The degree and direction of roof slope and pitch must be typical of the style and period of a main building and compatible with existing building forms in this district. Flat or mansard roof designs are not permitted on main or accessory buildings or structures, except that a covered porch or porte cochere may have a flat roof that is typical of the style and period of a main building.

o. *Stairs.* Second story exterior staircases are only permitted on accessory buildings and the rear 50 percent of a main building, except that they are not permitted on a corner side facade.

p. *Window and doors.*

1. *Front facade openings.* The total number of window and door openings (combined) in the front facade of a main building must be equal to or greater

than the total number of original window and door openings (combined) in that facade. The number of door openings in the front facade of a main building may not be increased.

2. *Window openings; glass*. Clear, decorative stained and clear leaded glass typical of the style and period of the building may be permitted in any window opening. Reflective, tinted, opaque and mirrored glass and plastic are not permitted in any opening. Translucent glass is not permitted, except in a bathroom window.

3. *Storm doors and windows.* Screens, storm doors and storm windows may be permitted if:

   (i) Their frames are painted or colored to match or complement the color scheme of a main building;

   (ii) They do not obscure significant features of the window and doors they cover; and

   (iii) The screen mesh is 18 by 16 gauge.

4. *Security and ornamental bars.* Security and ornamental bars are only permitted on an accessory building or on the rear or side facades of a main building.

5. *Shutters.* Shutters must be typical of the style and period of the building and appear to be installed in a manner to perform their intended function.

6. *Style.*

   (i) All windows and doors in the front facade of a main building must be proportionally balanced in a manner typical of the style and period of the building.

   (ii) No single, fixed plate glass is allowed except as part of an original period design. The size and proportion of window and door openings located on the front and side facades of a main building must be typical of the style and period of the building.

   (iii) All windows, doors and lights in the front and side facades of a main building must be typical of the style and period of the building and compatible with the windows, doors and lights in the front and side facades of the other main buildings in the blockface. Windows must contain at least two lights (window panes). Sidelights must be compatible in style and materials with the door.

   (iv) The frames of windows must be trimmed in a manner typical of the style and period of the building.

(2) *Landscaping.*

a. *Fences.*

1. *Definitions.* The following definitions apply to terms used in these fence regulations:

Finished side means the side of a fence that does not reveal the structural components.

Structural component means a post, column or other vertical or horizontal member providing support and strength for a fence.

2. *Form.* Fences must be constructed and maintained in a vertical position.

3. *Height.* The maximum permitted height for a fence is eight feet.

4. *Location.*

(i) Fences are not permitted in the front yard.

(ii) A fence in an interior side yard must be located in the rear 50 percent of the side yard and behind the rearmost side projection of a main building, except that the commission may allow a fence to be located in the rear 75 percent of the side yard if it determines that the fence does not screen any portion of a significant architectural feature of a main building on the same or an adjacent lot.

(iii) A fence in the corner side yard must not be directly in front of the corner side facade, however, if a fence covers no more than 50 percent of the corner side facade, it may be permitted if:

A. More screening is necessary to ensure privacy due to unusually high pedestrian or vehicular traffic; and

B. The fence does not screen all or any portion of a significant architectural feature of a main building.

(iv) A fence in the corner side yard must be set back a minimum of two feet from a public sidewalk.

(v) A fence must run either parallel or perpendicular to a building wall or lot line.

(vi) A fence on a vacant lot must be set back a distance that is equal to or greater than the setback of the closest main building in the same blockface. In the case of a single interior vacant lot, the setback of the fence must be equal to or greater than the setback of a main building on the adjacent lot with the greater setback.

5. *Materials.* A fence must be constructed of one or more of the following materials: wrought iron, wood, brick or stucco. Exposed concrete blocks are not permitted. Chain link fencing is permissible if it is not visible from public right-of-way.

6. *Masonry fences.*
   (i) The color, texture, pattern and dimensions of masonry and the color, width, type and elevation of mortar joints in a fence column or base must match the masonry and mortar joints of a main building as nearly as practicable.
   (ii) All exposed brick in a fence must be fired brick as defined by the American Standard Testing Materials Designation C-126-75A. Type Grade FBS-SW.
7. *Metal fences.*
   (i) Wrought iron fences must be compatible with the style and period of a main building.
   (ii) If a wrought iron is painted or colored, it must compliment the style and overall color scheme of the structure.
8. *Wooden fences.*
   (i) All wooden structural posts must be a least four inches in diameter (nominal size).
   (ii) The side of a wooden fence facing a public street must be the finished side.
   (iii) Wooden fences may be painted or stained a color that is complementary to a main building.

b. *Certain items prohibited in front and corner side yards.* The following items are not permitted in the front and corner side yards:
   1. Berms higher than two feet.
   2. Pylons and similar structures.
   3. Rock or sculpture gardens.
   4. Permanent cooking or BBQ grills.
   5. Upholstered furniture. This prohibition includes porch areas.
   6. Satellite dishes and antennas. If reception requires such placement, then a satellite dish will be allowed if screened from public view by landscaping or building materials similar to those used on the facade of the main building.
   7. Basketball goals and playground equipment will not be permitted in the front or corner side yard.

c. *Outdoor lighting.* Outdoor light fixtures on the front facade of a main building and on poles in the front yard must be compatible with the style and period of a main building and not obscure or conflict with significant architectural details.

Overhead and exposed wiring and conduit for outdoor lighting is not permitted. However, temporary holiday lighting displays are permitted from November through January.

d. *Pavement, filler and edging materials.* If the landscape beds collectively comprise more than 25 percent of the combined areas of the front and corner side yards, the landscape plan must be reviewed and approved by the commission. No more than 25 percent of the front yard of a residential use may be covered by pavement or filler materials.

e. *Planter boxes.* Planter boxes must be:

1. An integral part of and typical of the style and period of a main building;
2. Eighteen inches or less in height;
3. Thirty-six inches or less in depth; and
4. Constructed of brick, stone or smooth-finish concrete that matches or is compatible in texture, color and style with a main building.

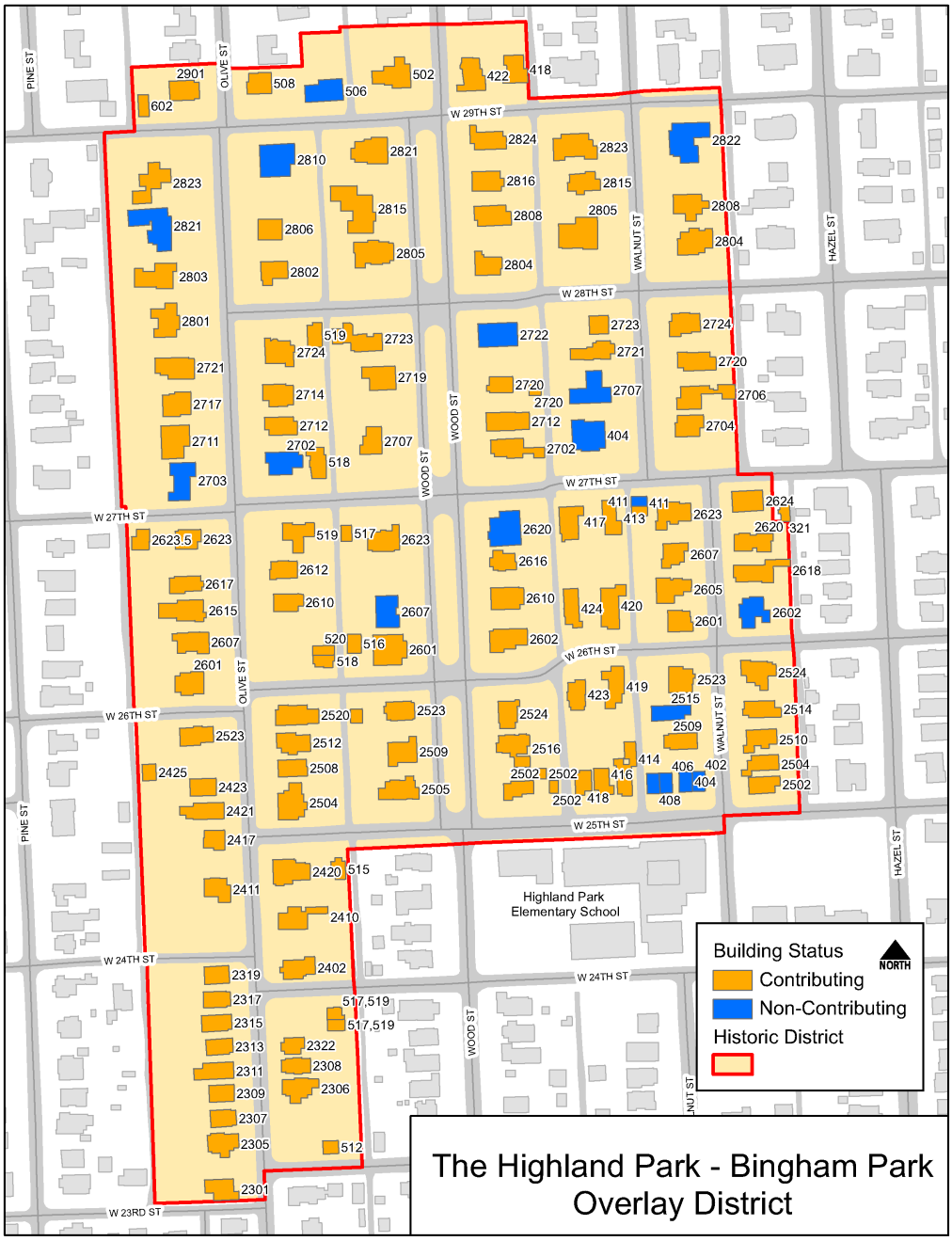
f. *Retaining walls.* Retaining walls are not permitted in the front and side yards, except to preserve a natural or existing slope or to make slope similar to that of an adjacent lot. The height of a retaining wall must not exceed the height of the slope it retains. A retaining wall must be constructed of unpainted stone, brick, stucco or smooth-finished concrete that is compatible in texture, color and style with a main building.

g. *Sidewalks, driveways and curbing.*

1. *Materials.*
   (i) Asphaltic or artificially colored concrete or epoxy resin is permitted as a sidewalk, driveway or curbing material.
   (ii) All public sidewalks and curbing must be constructed of brush finish concrete.
   (iii) All private sidewalks and driveways must be constructed of brush finish concrete, brick, tile, slate or exposed aggregate. Gravel is allowed in the center strip of a ribbon driveway.
2. *Width, style and spacing.*
   (i) The maximum permitted width of a driveway in the front yard is ten feet. The driveway width may be expanded to 20 feet at any point behind the front facade.
   (ii) Ribbon driveways are only permitted if the owner establishes that a ribbon driveway was an original architectural element of the site. If a ribbon driveway is permitted, the ribbons must be at least one foot wide.
   (iii) Circular driveways are not permitted in the front yard.

(iv) A driveway constructed in the front yard adjacent to an existing driveway on an adjacent lot must be spaced a minimum of one foot from the existing driveway on the adjacent lot.

3. *Parking on driveways.* No vehicles shall be parked on the lawn area of a property.



(Ord. of 9-7-1970)

Sec. 140-111. UPDD University Planned Development District.

(a) *Purpose of district.* The purpose of this district is to provide appropriate design standards for the development of properties within the UPDD University Planned Development District boundary. These standards recognize and support the area's unique development character and significance of the university as a primary source for development in this subject area. This article's purpose and vision are paraphrased below in the goals of the district.

(b) *Goals of the district.*

(1) *Land use.*

a. Provide for a more compact and integrated mix of land uses and densities that will encourage economic vitality, maintain and embrace the integrity of the existing single-family neighborhoods, efficient use of land and city services and a strong sense of community.

b. Provide a greater variety of housing to accommodate a broad range of student and family demand, including both more urban style housing within walking distance of campus amenities and to integrate and complement the existing, single-family housing within the UPDD.

c. Retail areas should be designed to be pedestrian-oriented and be integrated with neighboring residential and commercial areas. This could be created through a mixed-use project that serves as a transition from retail to its surroundings, by the inclusion of walkways, roadways, trails and other means of access.

d. Strengthen the university's position as the cultural heart of the district by encouraging retail, restaurant and residential uses with development standards designed to enhance the district's form, character and function.

(2) *Framework.*

a. Provide University Avenue with landscaping, furnishings and public art to enhance the university lifestyle, and provide the district with cohesive design elements that accommodate vehicular, pedestrian and bicycle traffic.

b. Ensure that the character of both private and public buildings and structures reflects a sense of permanence and public pride through prominent locations and high quality of design, landscaping, materials and construction.

c. Identify and protect sceneries that contribute to the district's character and uniqueness, particularly Bringle Lake.

(3) *Development.*

a. In the mixed-use areas set out in this plan, the site layout for commercial and for loft, townhome and urban housing developments should encourage buildings to be placed close to the roadway, with parking primarily located to the rear or side of buildings.

b. Landscaping must be designed, installed, maintained and replanted to ensure that design objectives and the long-term health of plant materials are achieved.

c. Building facades should be consistent with the overall Texas A&M University-Texarkana (TAMU-T) Campus. The facades of large commercial buildings should be designed and detailed in a manner and scale that minimizes their visual impact on the district.

d. Implement sign standards to minimize visual clutter while providing clear identity and information.

e. Use site design considerations including layout, screening and buffering to minimize negative visual impacts on adjacent properties.

(4) University district design concept (from TAMU-T campus entrance to University Avenue Bridge). Boundary areas (refer to UPDD site map):

a. *Area boundaries.* UPDD development areas are those areas within close proximity to Texas A&M University-Texarkana campus and the University Corridor from Richmond Road to Summerhill Road, as shown in the boundary map on file in the city secretary's office.

b. *Compliance required.* All property within the boundaries of the UPDD shall adhere to the UPDD development standards.

c. *Application to develop inside UPDD.* Upon receipt of a request for building permit or subdivision plat within the designated UPDD development area, the applicant will receive a copy of the UPDD development standards and submittal requirements.

(c) *UPDD zoning districts established.* The UPDD is hereby divided into nine zoning districts. The use, height and area regulations as set out herein are uniform throughout each district. The boundaries of the zoning districts set out herein are delineated by the zoning district map of the UPDD on file in the city secretary's office. The nine districts established herein shall be known as:

(1) Texas A&M University-Texarkana Campus.

(2) Reserved.

(3) Retail and Mixed Uses.

Additional Retail and Mixed Uses.

(4) Bringle Lake and park.

(5) Single-Family Residential.

(6) Mixed-Use Residential.

(7) Office and Residential Uses.

(8) Richmond Road Mixed-Use Development.

(9) Summerhill Road Retail Development.

(10) Future district expansion.

(d) *Use regulations.* A church or chapel is allowed in all areas.

(1) Texas A&M University-Texarkana Campus:

a. Office use;

b. Educational buildings;

c. Public schools;

d. Food services;

e. High density university housing;

f. Parking garages;

g. Sporting event centers; and

h. College or university.

(2) Reserved.

(3) Retail and Mixed Uses:

a. School, public;

b. Bank, credit union, or financial services;

c. Food and beverage store (no package stores);

d. Restaurant or eateries (no drive-thru service allowed east of bridge) roof top/patio/outside seating allowed (only along Bringle Lake frontage);

e. Office use;

f. Mixed uses with ground floor retail, personal services and/or offices, upper floor condominiums;

g. Brownstone condominiums;

h. Department stores;

i. Dry cleaner stores with cleaning facilities outside the UPDD;

j. Civic, cultural, and community facilities;

k. Medical clinic (7,500 square feet maximum);

l. Coffee, bakery or confectionary shop;

m. Retail and shops under 10,000 square feet of gross leasable floor area; and

n. Single-family homes (site built homes, not modular or industrial/manufactured homes).

(4) Additional Retail and Mixed Uses:

a. Hotels;

b. Apartments, townhomes;

c. University housing;

d. Restaurant or eateries (drive thru service allowed east of bridge);

e. Parking garages;

f. Drug store or pharmacy; and

g. Cinema/theatre.

(5) Bringle Lake and Park:

a. Nature and walking/mountain biking trails;

b. Park pavilions and picnic areas;

c. Playgrounds;

d. Boat ramps; and

e. Park buildings (including restrooms, maintenance and offices).

(6) Single-Family Residential: Single-family homes (one unit per lot, only site built homes no modular or industrial/manufactured homes).

(7) Mixed Use Residential (no apartments, townhomes or duplexes allowed):

a. Brownstone townhome/condominiums; and

b. Single-family homes (one unit per lot, only site built homes no modular or industrial/manufactured homes).

(8) Office and Residential Uses:

a. Office use;

b. Single-family homes (one unit per lot, only site built homes no modular or industrial/manufactured homes); and

c. Brownstone townhomes/condominiums.

(9) Additional Retail and Mixed Use:

a. Special event venue; and

b. Bed and breakfast inn.

(10) Richmond Road Mixed Use Development: All that is allowed in Campus Retail and Mixed-Use, plus:

a. Fast food eateries;

b. Gas stations;

c. Townhomes (no duplexes, triplexes or apartments);

d. Day care facility neighborhood health center; and

e. Landscape maintenance business with outdoor display sales and equipment.

(11) Summerhill Road Retail Development (all that is allowed in Mixed Use Residential), plus:

a. Food and beverage store (no package store);

b. Fast food eateries;

c. Gas stations;

d. Offices;

e. Retail stores;

f. Dry cleaners; and

g. Coffee, bakery or confectionary shop.

(12) Future Development (golf course and Bringle Lake Park property):

a. Golf course;

b. Golf course amenities;

c. Golf course clubhouse with restaurant and bar;

d. Golf course clubhouse gift shop; and

e. Park green space.

(e) *Building design.*

(1) *Height regulations (see University District map).* In the following zoning districts, the maximum height of buildings and structures shall be:

a. Texas A&M University-Texarkana Campus—No height restriction.

b. (Removed from district).

c. Retail and Mixed Uses—Three stories (35-foot maximum) six stories.

d. Additional Retail and Mixed Uses.

e. Bringle Lake and Park—2½ stories (35-foot maximum).

f. Single-family Residential—2½ stories (35-foot maximum).

g. Mixed Use Residential—3½ stories (40-foot maximum).

h. Office and Residential Uses—2½ stories (35-foot maximum).

i. Richmond Road Mixed Use Development—3½ stories (40-foot maximum).

j. Summerhill Road Retail Development—2½ stories (35-foot maximum).

k. Future Development—2½ stories (35-foot maximum).

(2) *Architectural style requirements; applicability.* All structures/buildings with the exception of Single-Family Residential within the district shall comply with the standards in this section.

a. *Exterior building material requirements; masonry requirement*. One hundred percent of the exterior of all buildings (excluding doors and windows) shall be finished in one or more of the following materials:

1. Brick, stone, cast stone, rock, marble and/or granite shall be used in at least 50 percent of exterior walls of the building.

2. Exterior Insulating Finishing System (E1FS) shall not exceed 30 percent of any exterior wall of the building, nor be located in the first ten feet of the structure.

3. Glass with less than 20 percent reflectance. However, only a maximum of 30 percent of a building facade may be constructed in glass. Buildings over three stories will be allowed to increase glass surface with UPDD site plan approval.

4. Poured-in-place concrete and tilt-wall concrete shall have an integrated color and be textured or patterned. Tilt-wall concrete structures shall include reveals, punch-outs, or other similar surface characteristics and adornments to enhance the facade on at least ten percent of each facade.

5. Wood and concrete board, such as Hardy Plank or other similar material, properly installed may be allowed up to 30 percent of a facade, excluding all windows, doors and glass construction materials.

6. Established chain restaurants and national retailers with specific tradedress designs will be allowed with UPDD site plan approval.

b. *Architectural features.* The facades of all primary commercial and multifamily structures which face a street shall include the following key architectural features:

1. Classical architectural elements, such as a distinct base, wall, columns and cornice or top.

2. The use of covered walkways, architectural awnings, canopies or porticos is required along the primary facade.

3. Windows, which may include see-through doors, shall be provided along all facades which face streets.

4. TAMU-T University is the focal point of the district and designs shall enhance or complement the overall architectural features of the campus.

c. *Roofs.*

1. Roofline variations are required to reduce the visual scale of buildings and to create additional interest. The roofs of nonresidential and multifamily residential buildings shall include:

   (i) Parapet walls that conceal flat roofs and rooftop equipment from public view at adjacent public streets. Parapet walls shall vary in height and will include architectural detailing, cornices, moldings, trims, variations in brick coursing and/or other similar type detailing.

   (ii) Or at least two of the following elements:

      A. Overhanging eaves, extending no less than 18 inches past the supporting walls.

      B. Two or more roof slope planes.

      C. Sloped roofs shall be finished with tile, 30-year or better deep profile composite shingle, metal shingles, slate shingles or standing seam metal. UPDD site plan approval is required for material color.

      D. Roof top patios.

2. Single-family residential buildings shall have sloped roofs.

3. Brownstone townhomes shall have sloped roofs on 75 percent of the building.

d. *Color.* All commercial and multifamily buildings shall comply with the standards in this section.

1. Exterior colors shall be low reflectance, subtle, neutral, earth tone or colors compatible with the surrounding area. Some color recommendations are neutral or earth tones such as beige, brown, white, earthy greens and yellows or colors matching with the university, such as a muted red brick.

2. The use of high intensity, primary or fluorescent colors is prohibited.

3. Established chain restaurants with specific tradedress colors will be allowed with UPDD site plan approval.

e. *Retaining walls; visible.*

1. Retaining wall blocks and designs shall consist of the same materials as the building facade. Keystone or gravity stone may also be used in a color palette consistent to the color palette of the facade.

2. Retaining wall blocks and designs are required to be detailed in the site plan approval process.

3. Nonvisible. Alternate materials must be approved by the UPDD.

(3) *Site design.*

a. Building placement and site orientation (except Single-Family Residential).

1. Minimum setbacks from property lines adjacent to University Avenue:
   - (i) Fifteen-foot front yard setbacks;
   - (ii) Ten-foot side yard setbacks;
   - (iii) Fifteen-foot rear yard setback.
2. Minimum setbacks from property lines not adjacent to University Avenue:
   - (i) Fifteen-foot front yard setbacks;
   - (ii) Five-foot side yard setbacks;
   - (iii) Five-foot rear yard setback.
3. Minimum setbacks from property lines adjacent to Bringle Lake:
   - (i) Fifteen-foot front yard setbacks (facing university);
   - (ii) Ten-foot side yard setbacks;
   - (iii) Zero-foot rear setback for deck (lake side);
   - (iv) Twenty-foot rear setback for building (lake side).
4. Minimum setbacks from property lines for Brownstone townhome/condominium:
   - (i) Fifteen-foot front yard setbacks (facing university).
   - (ii) Ten-foot side yard setback from end of building cluster. No side yard setback is required between attached buildings.
   - (iii) Five-foot rear yard setback.
   - (iv) A brownstone condominium shall not contain more than eight dwelling units and shall not exceed 200 feet in length.
5. Buildings not adjacent to the lake should be located as close as possible to the front property line to improve the overall appearance from adjacent streets and provide a strong building wall on either side of street.
6. Site layouts on individual lots shall be developed in such a manner that pedestrian connections between buildings both on that lot and between lots within the overall district can be achieved.
7. Residential parking areas shall be placed at the side or rear of buildings adjacent to University Avenue to improve the overall appearance from the streets.

b. *Single-family residential building placement and site orientation.*

1. Minimum setbacks from property lines adjacent to University Avenue:
   - (i) Twenty-five foot front yard setbacks;
   - (ii) Eight-foot side yard setbacks;

(iii) Ten-foot rear yard setback.

2. New driveways for Residential Use must provide an on-site turn-around to prevent backing out onto University Avenue.

c. *Accessory uses.*

1. Residential accessory buildings are structures allowed only within a residential dwelling unit. These structures shall be of consistent material and color to the primary structure and located in the rear yard only. Accessory buildings shall not exceed 50 percent of the rear yard. Only one of each type listed below is allowed per lot:

(i) Storage building or shed;

(ii) Free standing garage;

(iii) Workshops;

(iv) Gazebos; and

(v) Pool house.

2. Commercial accessory buildings shall be of the same material and color of the primary structure.

d. *Lot regulations.* The following table provides information on lot regulations:

Dwelling Type	*Minimum Lot Area Per Dwelling Unit (S.F.)*	*Minimum Lot Width (Feet)*	*Minimum Lot Depth (Feet)*	*Lot Coverage*
Single-family	12,000	90	100	40%
Duplex	5,000	70	100	40%
Triplex	3,000	70	100	40%
Fourplex	2,500	70	100	50%
Townhouses	1,600	16	100	60%
Apartments/condominiums	1,800	60	100	60%
Mixed use lofts	1,000	n/a	n/a	60%
Dorms	550	n/a	n/a	60%
Nonresidential	n/a	n/a	n/a	50%

e. *Parking regulations.*

1. *Parking space requirements.* It is the intent of the district to be a pedestrian friendly community. In the event of a UPDD parking garage, parking minimums may be decreased. Credit can be given for bike racks. The following table provides parking requirements per building use:

Building Use	*Parking Requirements*
Hotel	One space per guestroom, one space per employee per shift, one space per three seats in meeting room, (plus restaurant requirements)

Building Use	*Parking Requirements*
Restaurant	One space per three seats, one space per employee per shift
Retail	One space per 200 square feet
Single-Family Residential	Two spaces per unit
Multiple Family Residential	One space per bedroom, one designated visitor space per four units
Brownstone Townhome/ Condominium	Two spaces per unit, one designated visitor space per six units
QSR-Quick Service Restaurants	One space per 100 square feet

2. *Parking layout and access requirements.*

(i) No on-street parking will be allowed on University Avenue.

(ii) No parking in grass, yard or landscaped areas.

(iii) No parking spaces shall be located in front of multiple-family residential units.

(iv) Parking space sizes shall be 180 square feet. Two-foot overhangs are allowed where a minimum five-foot sidewalk is provided or additional green space.

(v) Compact car off-street parking spaces may account for up to ten percent of the required parking spaces, provided the spaces are permanently designated by signs as being for use by compact cars only. All compact car parking spaces shall be a minimum eight feet in width and a minimum of 16 feet in depth.

(vi) All parking areas shall provide a drive aisle connection to adjoining properties for cross access. Pedestrian connections shall also connect to adjoining properties.

(vii) Three public pedestrian access points will be required from University Avenue to the lakefront boardwalk. These points are subject to development location and access shall be required. Maintenance of these boardwalk connections located off of private property will be the city's responsibility.

(viii) Required stacking space for drive-through aisles shall be a minimum of three vehicles and shall not block parking drive aisles or passageways. Stacking space shall not impair the streetscape of University Avenue.

(ix) Parking areas and driveways shall be concrete with curb and gutter. However, the utilization of other paving materials not immediately adjacent to University Avenue is allowable with UPDD approval.

(x) In areas where sidewalk is not provided adjacent to University Avenue, continuous ten-foot wide concrete sidewalks shall be placed along the entire property frontage.

(xi) Installation of bicycle racks and seating benches are encouraged to accommodate pedestrian and bicycle traffic. Installation of bicycle racks and seating benches will offset parking space 1:1 for bicycle racks and 2:1 for seating benches up to a total of two parking spaces.

3. *Parking garage requirement.*

(i) Parking spaces for restaurants and businesses may meet requirements by using assigned parking garage spaces.

(ii) Parking deck shall conform to architectural style requirements of the UPDD.

(iii) UPDD lighting requirements must be followed, including LED interior lighting or approved equivalent for parking areas.

(iv) It is encouraged that the structure be mixed use with retail space available on the ground level.

f. *Site drainage*.

1. All parking lot runoff shall be directed to sanitary sewer. Any collection of drainage shall be filtered of hydrocarbons before leaving the site. Proper maintenance of the filtration is the responsibility of the property owner.

2. Lakefront properties may be allowed to direct runoff towards Bringle Lake. Any discharge towards the lake shall be filtered of hydrocarbons, debris and harmful chemicals to fish and wildlife. Proper maintenance of the filtration is the responsibility of the property owner.

3. All drainage calculations, sizing and reporting to city engineers shall follow the city drainage ordinance with exceptions as noted in the UPDD.

4. All stormwater pollution prevention shall be in accordance with the city MS4 permit.

(4) Landscaping, fencing and screening requirements.

a. A landscaping plan, including planting and irrigation details, shall be submitted in conjunction with the site plan review process. The landscape plan can either be a separate print or be included on the required site plan print. Minimum information required on the landscape plan shall include:

1. Locations of existing boundary lines, dimensions of the lot or property, proposed and existing utility easements on or adjacent to the lot and location of overhead power lines and any underground utilities.

2. The location of the proposed water faucets or a note indicating the installation of the irrigation system covering the entire lot.

3. A plant schedule listing the botanical and/or common names of all plants and the size of plant material, date, scale, north arrow, name and phone number.

b. Landscaping shall be required on all developments (except Single-Family Residential) and shall be completed prior to the issuance of the certificate of occupancy.

c. Tree preservation.

1. The preservation of existing trees is encouraged throughout the district. No tree over 12 inches caliper shall be removed in the district without a UPDD approved site plan.

2. All site plans shall be submitted with a tree survey showing location, size, and type of all trees greater than 12 inches in diameter. Additionally, it shall be indicated on all site plans if these trees are to be retained or removed.

3. Preservation of trees over 12 inches caliper shall be given landscaping credits:

(i) Twelve inches to 18 inches equals ten points.

(ii) Eighteen inches to 24 inches equals 15 points.

(iii) Twenty-four inches and larger equals 20 points.

d. Every site adjacent to University Avenue shall include a 15 foot buffer strip, landscaped and irrigated. The landscape buffer shall consist of trees, shrubs, groundcover, berms and related elements as specified below. All sidewalks shall be a minimum of four feet in width.

1. One three-inch caliper or greater deciduous shade tree per 75 feet of linear frontage along University Avenue. Large shade trees:

(i) Red maple (not silver maple);

(ii) White oak;

(iii) Red oak;

(iv) Shumard oak;

(v) Pin oak;

(vi) Additional selections must have UPDD approval.

2. A landscape screen with a minimum height of 18 inches and a maximum height of 36 inches (as measured from the finished grade of the parking area) shall be provided in locations where the landscape buffer separates a surface parking area from University Avenue. Landscape screens can be achieved through a combination of the following methods:

(i) Shrubbery hedges forming a continuous living screen not to exceed 36 inches in height. Shrubs shall be one or a combination of the following:

A. Yaupons;

B. Boxwoods;

C. Roses;

D. Yews;

E. Additional selections must have UPDD approval.

(ii) Earthen berms not to exceed 24 inches in height shall be allowed in conjunction with small planting on top of the berm.

(iii) Any landscaping shall conform to the required visibility triangles.

e. Every site adjacent to the Bringle Lake Wilderness Area, regardless of zoning use shall include a 15-foot buffer strip, landscaped and irrigated. The landscape buffer shall consist of trees, shrubs, groundcover, berms and related elements as specified in subsection (e)d. of this section.

f. A ten-foot tree landscape buffer and fencing as noted in subsection (e)5e. of this section. Screening and fencing requirements is required covering 70 percent of the buffer area with trees along the property line between area 5 and area 7 as shown on the UPDD map and shall also include the southern boundary of zone 8 and the southwestern boundary of zone 8 along the Briarwood Circle neighborhood through Parcel 6005.

g. Parking lot landscaping. Landscaped areas in a parking lot shall be contained within the parking area, based on the standards below:

1. One two-inch caliper tree and six shrubs shall be planted for each 12 parking spaces.

2. All new trees within a parking lot shall be planted in a landscaped island of at least 150 square feet and have a minimum dimension of 8½ feet, (e.g., 8.5 feet by 18 feet). However, up to 20 percent of the required trees may be planted in islands of at least 25 square feet and have a minimum dimension of five feet.

h. Remaining site landscaping. (Points will be allowed for landscaping in the ROW.)

1. In addition to the above requirements, landscape plans must earn a minimum of 100 points by using some or all of the required electives listed below in a project:

(i) Irrigation system—20 points.

(ii) Drought tolerant vegetation (50 square feet/minimum)—Ten points (maximum 20 points).

(iii) Grass/groundcover (50 square feet/minimum)—Ten points (maximum 20 points).

(iv) Small tree (each, see plant list)—Five points.

(v) Large tree (each, see plant list)—Ten points.

(vi) Planter box (each)—Five points (maximum ten points).

(vii) Landscape entry/exit (annuals)—Ten points (maximum 20 points).

(viii) Landscape around signage—Ten points.

(ix) Foundation planting—Ten points/facade side (maximum 20 points).

i. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning or trimming, fertilizing, weeding, watering and other such activities common to the maintenance of landscaping. Plant materials which die shall be replaced with plant material of similar variety and size within 30 days, weather permitting.

j. No permits shall be issued for building, paving, grading or construction until a qualifying landscape plan is submitted. In the event that the proposed project is in a planned development district, a landscape plan is required as part of the site plan approval process by the city council.

k. Prior to the issuance of a certificate of occupancy for any building or structure all landscaping requirements shall be in place. If the building official determines that it would be impractical to plant trees, shrubs, grass or to lay turf, due to the season of the year, a temporary certificate of occupancy may be issued. All landscaping required by the landscaping plan must be installed within six months of the date of the issuance of the certificate of occupancy or penalties shall be applied.

l. Plant list. (Suggested, but other plants can be approved if plant zone requirements are met according to the temperature ranges of the Texarkana area):

Large Trees — 30 - 60 feet	
Oaks-Pin, Shumard, Red, White, Post, Live, Black, etc.	Quercus species
Pine-Loblolly	Pinus taeda
Ash	Fraxinus species
Maple Red (No Silver Maples)	Acer species
Bald Cypress	Taxodium distichum
Birches-River, Paper	Betula species
Elms-American, Cedar, Lacebark, Winged	Ulmus species
Southern Magnolia	Magnolia grandiflora
Pistache	Pistacia chinensis
Small (Accent) Trees — 10 - 20 feet	
Redbud	Ceris canadensis
Crape Myrtle (any species)	Lagerstroemia indica
Crab Apple	Malus angustifloia
Hollies-Foster, Nellie R. Stevens, Savannah	Ilex species
Loquat	Eriobotrya japonica
Magnolias-Jane, Little Gem, Saucer, Star, Sweet Bay, Tulip	Magnolia species
Redbuds-Chinese, Eastern, Mexican, Oklahoma, Texas	Cercis species
Vitex	Vitex agnus-castus

Wax Myrtle	Myrica cerifera
Japanese Maple	Acer palmatum
Dogwood	Cornus Florida
(Bradford Pears not recommended for this district)	
Shrubs — 3 - 8 feet	
Dwarf Crape Myrtle	Lagerstroemia indica nana
Yaupon Holly	Ilex vomitoria
Dwarf Yaupon Holly	Ilex vomitoria "Nana"
Foster Holly	Ilex fosteri
Elaeagnus	Elaeagnus species
Fraser's Photinia	Photinia Fraseri
Abelia	Abelia grandiflora
Azaleas	Rhododendron species
Barberries-Crimson, Pigmy, Golden, Rose Glow, Winter-green	Berberis species
Boxwoods-Harland, Japanese Wintergreen	Buxus species
Cleyera	Ternstroemia gymnanthera
Hollies-Dwarf Burford, Dwarf Chinese Carissa, Helleri	Ilex species
Nandinas-Dwarf, Fire Power, Gulf Stream, Harbour Dwarf	Nandina domestica species
Pittosporum	Pittosporum tobira
Sasanquas	Camelia sasanqua species
Spiraea	Spiraea japonica
Yews	Taxus species
Loropetalum Ruby	Loropetalum Chinese var. rubrum

(5) *Screening and fencing requirements (excludes Single-Family Residential).*

a. *Screening of mechanical equipment.*

1. Properties that may be viewed from residential uses, streets, lakefront or public park areas shall screen all roof, ground and wall-mounted mechanical equipment (compressors, duct work, transformers, meters, elevator equipment, etc.) from view at ground level on adjacent properties or public streets or parks.

2. Roof-mounted mechanical equipment shall be shielded from view on four sides; use of dog-house screening is prohibited. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers that are painted to blend with the primary building.

3. Screening shall result in the mechanical equipment blending in with the primary building, and not appearing separate from the building,

4. Wall or ground-mounted equipment screening shall be constructed of:

(i) Planting screens.

(ii) Brick, stone or other similar masonry materials.

(iii) Redwood or cedar pressure treated wood.

(iv) All fence posts shall be rust-protected metal, concrete-based masonry or concrete pillars.

(v) A combination of the above.

b. *Screening of outside storage.*

1. Outside storage shall be located on the side or rear of the primary building and shall be screened from public view on streets, lakefront or park areas.

2. Outside storage shall be screened with a minimum seven foot tall screen or a screen that is a minimum of one foot above the top of the storage materials, whichever is taller. Screening shall be:

(i) A masonry wall or other material that is similar to the primary structure.

(ii) A berm.

(iii) A planting enclosure of large evergreen shrubs planted a maximum of four feet apart that shall create a solid screen to a minimum height of seven feet within two years as determined by a registered landscape architect, certified nurseryman or master gardener.

(iv) A combination of the above.

3. Outside storage for a landscape maintenance business shall be screened with an eight-foot fence with construction materials of brick or stone columns (maximum of 20 feet between columns) and a wooden fence stained or painted to compliment the business. Gates for access to the area will match fence materials.

c. *Screening of waste containers.*

1. Waste containers shall consist of the following:

(i) Dumpsters.

(ii) Compactors.

(iii) Grease storage.

(iv) Recycling containers.

(v) Composting areas.

(vi) Cardboard storage.

(vii) Crates/pallets.

2. Waste containers shall be located on the side or rear of the building and screened from public view on streets, lakefront or public park areas.

3. Waste containers shall be located outside of the required building setback areas:
   (i) When adjacent to residentially zoned property, the waste container must be located at least 50 feet away from residential property lines.
   (ii) When adjacent to the lakefront, the waste container must be located at least 50 feet away from the northern property line.
4. Waste containers shall be screened on four sides, using an enclosure that is seven feet tall or of a height that is a minimum of one foot above the top of the dumpster, whichever is taller.
   (i) Screening materials shall match the primary masonry structure exterior.
   (ii) Gates shall be solid and painted to match the primary structure. Gate materials shall consist of metal, redwood or cedar pressure treated wood. All fence posts shall be rust-protected metal, concrete-based masonry or concrete pillars.
5. Any drainage runoff occurring from dumpster shall be incorporated with overall drainage plan and filtered of pollutants.

d. *Screening of loading and service areas.*

1. Loading and service areas shall be located at the side or rear of buildings. Exception: Lakefront developments shall not have loading docks adjacent to the lake.
2. Loading areas shall be screened from view of any residential uses, streets, lakefront or public park areas.
3. Loading areas shall be enclosed on three sides by a wall not less than eight feet in height.
4. Loading areas shall not be located closer than 50 feet to any single-family lot, unless wholly within an enclosed building.
5. Screening materials shall be comprised of a wall that has a similar finish and material to the primary structure.

e. *Fencing.*

1. Fencing shall be required whenever a nonresidential development abuts to a single-family and multiple-family residential area. Multiple-family residential areas shall be fenced if adjacent to a single-family residential area. Fencing shall be required when the property is developed and shall be maintained by the property owner.
2. Fencing shall create a solid visual barrier.

3. Fencing materials shall be limited to the following or a combination of the following: stone, brick, decorative spit faced block masonry, decorative concrete or other masonry materials.

4. To create a consistent fence line, fencing along that line, shall be similar in material, pattern and design.

5. Fences shall be a minimum of seven feet in height, measured from ground level.

6. Fencing shall not block drainage and shall leave a two-inch space between the ground and the fence. Should drainage require additional spacing, sufficient drainage plans and fence elevations must be provided with UPDD site plan approval.

f. *Retaining walls*. See subsection (e)(2) of this section, architectural style requirements.

(6) *Sign regulations (excludes Single-Family Residential)*.

a. *Monument signage.* A permanent ground sign fully supported by the base without the use of poles as the primary support that is constructed out of brick, stone, concrete or similar materials that complement the architecture of the primary structure, across the entire base of the structure.

Building Use	*Maximum Height (Feet)*	*Maximum Copy Area (square feet)*	*Maximum Total Area (including copy area square feet)*	*Number of Signs*	*Minimum Spacing (feet)*
Commercial, Restaurant, Office or Retail	6	60	90	One per street frontage	60
Apartments or High-Density Residential	6	30	45	One per street frontage	60
Multitenant Mixed Use Development, three tenants or less	8	80	110	One per street frontage	60
Multitenant Mixed Use Development, four tenants or more	10	120	150	One per street frontage	100
Directional	2.5	8	n/a	One per drive	n/a

b. *Lighting.*

1. Sign shall be internally lit or lit by the use of ground lighting incorporated with landscaping (no flood lighting);

2. No neon lighting;

3. No electronic or changeable messaging; and

4. Exception: each entrance into the UPDD will be allowed one electronic or changeable message sign. This sign will have joint use of the district for advertising purposes.

c. *Location.*

1. Signs must be located within 30 feet of ROW;
2. Signs shall not block sight distances;
3. Signs shall not be inside a ROW; and
4. Signs can be located within a city utility easement, but any repairs or damage occurred to signage due to utilities will be at owner's expense.

d. *Business name.* Name of business and main address must be located on a single tenant sign.

1. *Wall signage*. Signs should be located and attached to the exterior of a building.
   (i) Attached signs shall not extend above the roof or parapet wall;
   (ii) Wall signs shall not exceed 150 square feet per wall facade. An additional ten square feet of signage will be allowed per 20 feet in building height over 35 feet in height;
   (iii) Lake front signage shall be limited to 30 square feet in area; and
   (iv) Individual letter height shall not exceed six feet.
2. *Prohibited signs.* The following are signs not allowed in district:
   (i) Off-premises advertising signs;
   (ii) Banners;
   (iii) Flags (does not include TAMU-T flags, state or United States of America flags);
   (iv) Inflatable objects;
   (v) 3-D imaging;
   (vi) Streamers or balloons;
   (vii) Coroplast, stake or placards;
   (viii) Flashing or arrow signs;
   (ix) A-frame or sandwich boards;
   (x) Writing on windows;
   (xi) Exception: on-campus signage is not regulated.

(7) *Lighting (excludes Single-Family Residential).* The intent of the lighting is to enhance amenities, promote safety and encourage dark skies. In an effort to promote dark skies, excess lighting can be limited by the UPDD.

a. The following standards shall apply to all outdoor lighting:

1. The use of LIED lighting or approved equivalent is required for all outside fixtures in the UPDD;

2. Structures of pole lighting shall match or complement the street light pole design;
3. Lighting for parking light poles shall have a maximum of 20 feet;
4. No flood lighting will be allowed;
5. Ground lighting or up lighting can be used along parking lots, screening and landscaping areas;
6. Christmas outdoor lighting will be consistent for the overall UPDD with the same signage restrictions as section 6;
7. Outdoor lighting shall be hooded, shielded, and aimed downward as shown in the images below, including doorway lighting;
8. The hood or shield shall mask the direct horizontal surface of the light source. The light shall be aimed to ensure that the illumination is only pointing downward onto the ground surface;
9. All outdoor lighting fixtures shall be designed, installed, located and maintained such that all direct illumination is kept within the boundaries of the fixture owner's property;
10. Ground mounted accent lighting for buildings, directed onto the building.
    (i) Direct light emissions shall not be visible above the roofline or beyond the building edge.
    (ii) All upward aimed light shall be fully shielded, fully confined from projecting into the sky by eaves, roofs or overhangs and all fixtures shall be located as close to the building being illuminated as possible.
    (iii) All ground mounted accent fixtures shall be permanently fixed such that they are resistant from tampering or redirection of the light source. Ground mounted spotlights shall not be located in such a way as to have the bulb or lamp visible from a pedestrian or vehicular egress.
11. Pedestrian walkway lighting 12 feet or less in height above the adjacent walkway grade may be permitted. This includes lighting applications such as bollards, light fixtures located in retaining and landscape walls, and lighting fixtures located on or within structures utilized for pedestrian safety, for example, stairwell lighting.

(8) *Site plan approval process.*

a. The site plan approval process will be a review to assure compliance, by a five-member panel consisting of the director of city planning or zoning, or their designee, the planning and zoning chairperson, the city engineer, or their designee, and two citizens of Ward 5 who reside in the city limits as shown by the member committee zone map (exhibit "D"). The citizen members shall serve no more than

one consecutive three-year term. The initial term of one citizen member shall be two years, which citizen member to be determined by lot or chance. Appointment of the citizen members shall be by nomination from the Ward 5 city councilmember then sitting with confirmation by a vote of the city council.

b. Site plan submittal requirements for UPDD.

1. The site plan shall be clearly defined and drawn to an appropriate scale to permit accurate review for compliance with UPDD standards.

2. Two copies of the site plan shall be given not to exceed 24 inches by 36 inches. The site plan shall be drawn on dimensionally stable reproducible sheets and shall be appropriately drafted at an engineering scale of one inch equals 30 inches or larger.

3. The following features, as a minimum, shall be required on all site plans before they will be accepted for review:

(i) Legal description, address, property lines and dimensions;

(ii) Location, sizes and names of adjacent or included streets, alleys, easements and cross connectivity agreements;

(iii) Location, setbacks, dimensions and square footage of existing/proposed buildings, existing/proposed elevations with finished floor elevation;

(iv) Signage location and detail;

(v) Location of buildings on adjoining property within 20 feet of the subject property;

(vi) Location and dimensions of existing/proposed parking spaces, driveways, vehicle maneuvering areas, curb cuts, loading facilities and sight visibility triangle areas;

(vii) Parking calculation table;

(viii) Existing/proposed surfacing, landscape/buffer areas and screening or fencing;

(ix) Location of facilities for refuse disposal with appropriate screening;

(x) Landscape and irrigation plan;

(xi) Lighting plan, including foot candles and areas affected by the lighting;

(xii) Drainage direction and outfall, filtration device, location type and size of drainage facilities (calculations when necessary);

(xiii) Proposed uses, north arrow, graphic scale and date of plan preparation;

(xiv) Floodplain limits, if applicable.

4. Where not stated in the UPDD, all building codes, drainage ordinances, subdivision platting and stormwater MS4 will still apply.
5. If denied, the appeal process for the site plan approval will go to the planning and zoning commission for recommendation to the city council. The city council will make the final decision. If the planning and zoning commission recommends for denial, a percent vote of the city council will be required.
6. To amend this district, a request will be filed with the planning and zoning commission. If the request is recommended by the planning and zoning commission, it will be sent to the city council.

(f) *Penalty.* Any person violating or failing to comply with any of the provisions of this article shall be fined upon conviction not less than $500.00 or more than $2,000.00, and each day any violation or noncompliance continues shall constitute a separate and distinct offense.

(g) *Applicability of other city ordinances.* This article shall take precedence over any other city ordinance governing the matters contained herein. However, any matter not specifically controlled by this article shall continue to be governed by any other city ordinance that may be applicable.

(h) *Definitions.*

Accessory use means a use subordinate to and incidental to the primary use of the main building or to the primary use of the premises.

Apartment means a room or suite of rooms in a multifamily dwelling or apartment house arranged, designed or occupied as a place of residence by a single-family, individual or group of individuals.

Building means any structure built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

City council means the governing body of the city.

Coverage means the percent of a lot or tract covered by the roof or first floor of a building. Roof eaves to the extent of three feet from the walls of a building shall be excluded from coverage computations.

District means a section of the city for which the regulations governing the area, height or use of the land and buildings are uniform.

Dwelling, brownstone townhome condominium, means a specific type of family development consisting of single-family attached units, typically with two to four floors per unit. The exterior facade shall comply with all architectural style requirements of the UPDD.

Dwelling, multiple-family, means any building or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or residence of three or more families.

Dwelling, one-family, means a detached building having accommodations for and occupied by not more than one family or by one family and not more than three boarders and lodgers.

Dwelling, two-family, means a detached building having separate accommodations for and occupied by not more than two families or by two families and not more than three boarders and lodgers.

Dwelling unit means a building or portion of a building which is arranged, occupied or intended to be occupied as living quarters and includes facilities for food preparation and sleeping.

Family means any number of individuals living together as a single housekeeping unit in which not more than three individuals are unrelated by blood, marriage or adoption.

Height means the vertical distance of a building measured from the finished floor of the front door, to:

(1) The highest point of the roofs surface if a flat surface;

(2) To the deck line of mansard roofs; or

(3) To the mean height level between eaves and ridge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires and parapet walls not exceeding ten feet in height.

If the street grade has not been officially established, the average front yard grade shall be used for a base level.

LED lighting approved equivalent means a metal halide, high pressure sodium or other fixture with the same color temperature range as existing LED street lighting.

Legal height means the maximum height of a building permitted by any airport zoning ordinance or other ordinance restricting the height of structures.

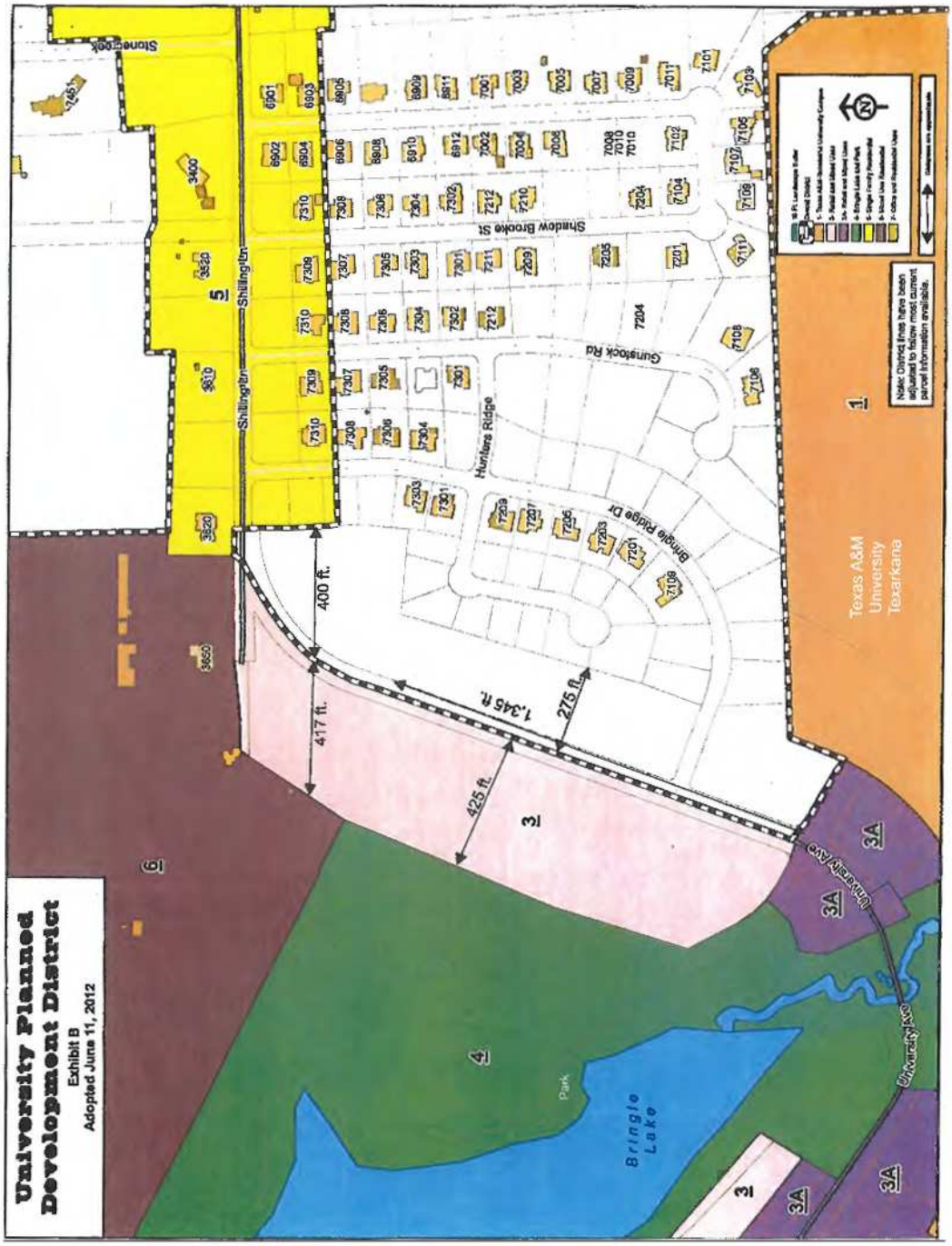
Living unit means the room, or rooms, occupied by a family and must include cooking facilities.

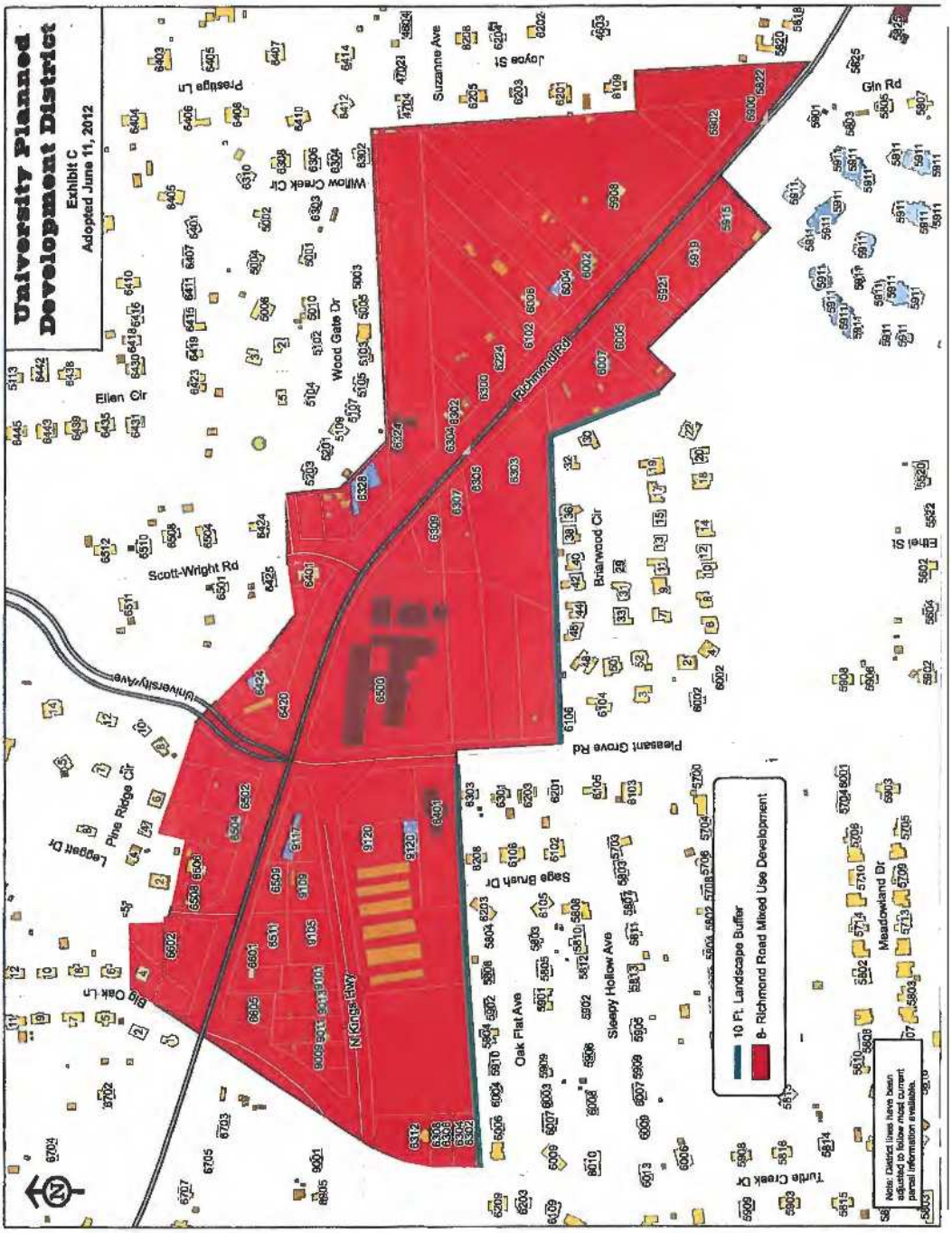
Lot coverage means the percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot or the area determined as the maximum cross sectional area of a building's. story. The height between the successive floors of a building or from the top floor to the roof. The standard height for a story is 11 feet, six inches.

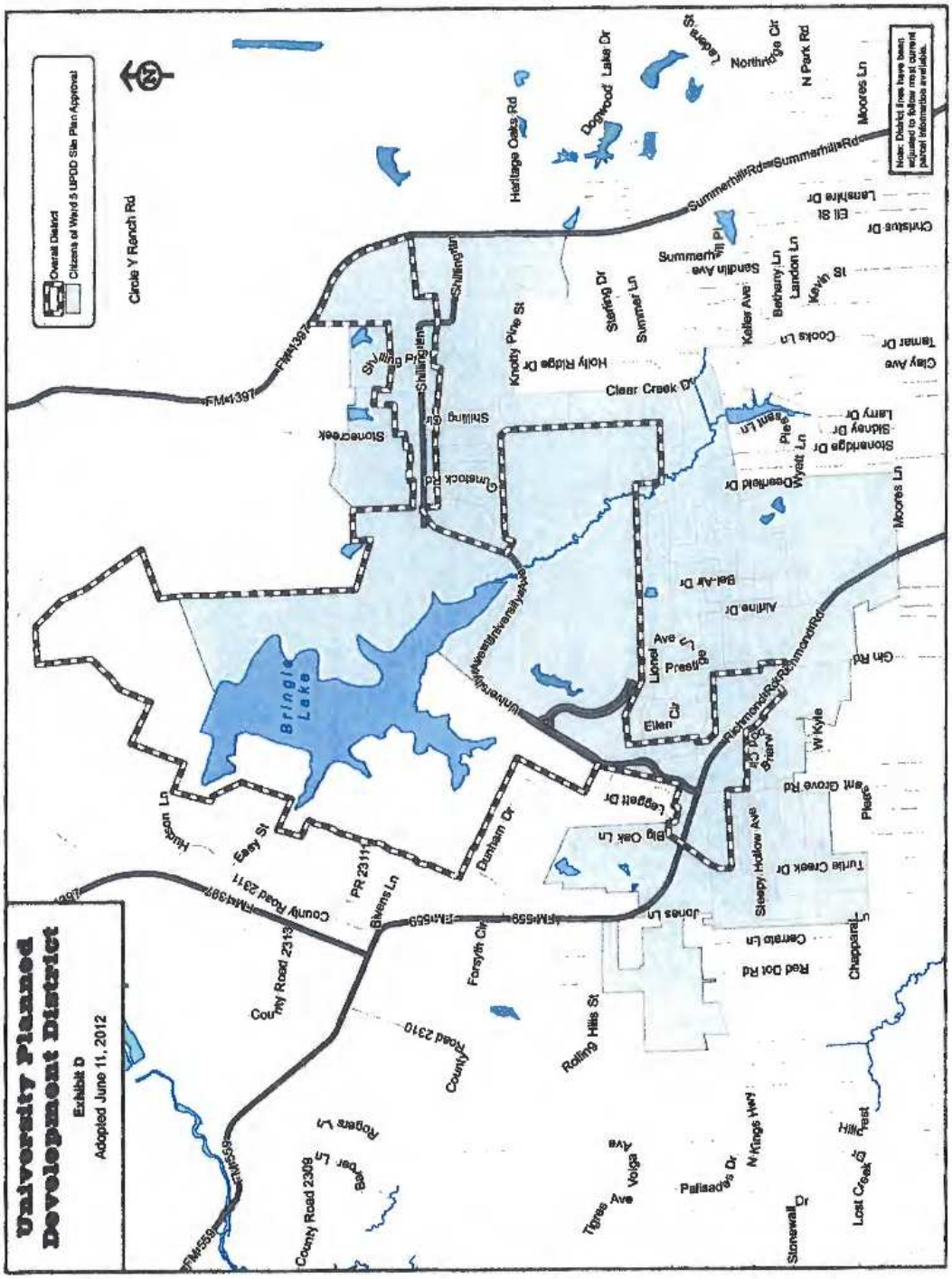
Planning and zoning commission means the agency appointed by the city council as an advisory body to it and which is authorized to recommend changes in the zoning.

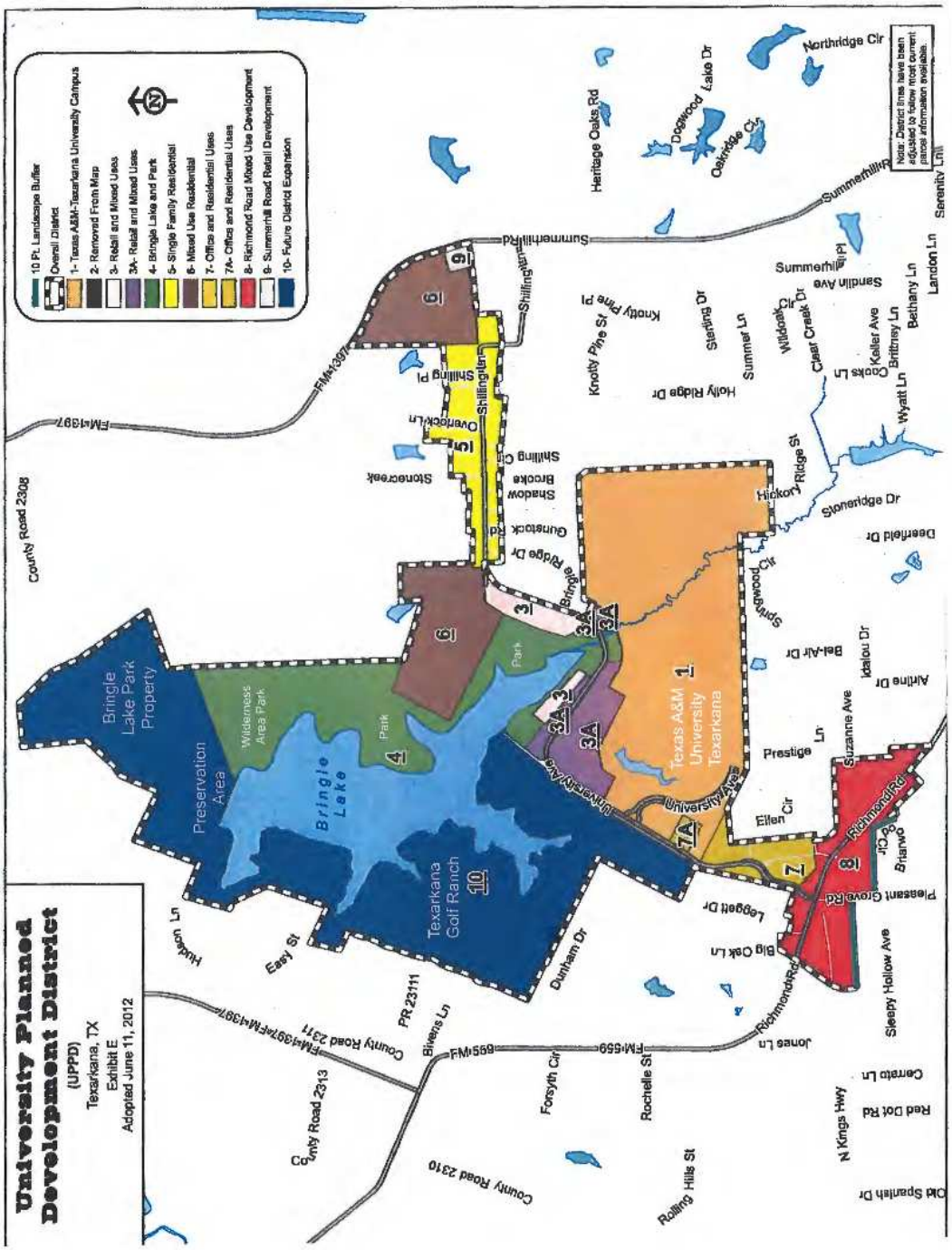
For additional definitions refer to article II of this chapter.

(i) *Review.* The UPDD will be reviewed by the planning and zoning commission and the city council for amendments no sooner than one year from the date of adoption and every five years thereafter.


University Planned Development District
Exhibit B
Adopted June 11, 2012
Texas A&M University Texarkana
Bringle Lake
Park
Shillington
Stonegate
Shadow Brooke St
Gunstock Rd
Hunters Ridge
Bingle Ridge Dr
University Ave
400 ft.
417 ft.
425 ft.
275 ft.
1,345 ft.


University Planned Development District
Exhibit C
Adopted June 11, 2012
10 Ft. Landscape Buffer
8- Richmond Road Mixed Use Development
Note: District lines have been adjusted to follow most current parcel information available.
Presidio Ln
Suzanne Ave
Joyce St
Gin Rd
Willow Creek Cir
Wood Gate Dr
Ellen Cir
Richmond Rd
Scott-Wright Rd
Briarwood Cir
Ellen St
University Ave
Pleasant Grove Rd
Pine Ridge Cir
Leggett Dr
Sage Brush Dr
Big Oak Ln
N Kings Hwy
Oak Flat Ave
Sleepy Hollow Ave
Meadowland Dr
Turtle Creek Dr


University Planned Development District
Exhibit D
Adopted June 11, 2012
Overall District
Citizens of Ward 5 UPOD Site Plan Approval
Note: District lines have been adjusted to follow most current parcel information available.
Bringle Lake
Circle Y Ranch Rd
Heritage Oaks Rd
Dogwood Lake Dr
Northridge Cir
N Park Rd
Moores Ln
Summerhill Rd
Larshire Dr
Ell St
Christus Dr
Summerhill Pl
Sandia Ave
Bethany Ln
Landon Ln
Kayla St
Keller Ave
Sterling Dr
Summer Ln
Knotty Pine St
Holly Ridge Dr
Clear Creek Dr
Cooks Ln
Clay Ave
Tamar Dr
Sylvia Pl
Shillington
Shilling Dr
Stonecreek
Gunstock Rd
Stonehedge Dr
Sidney Dr
Larry Dr
Pleasant Ln
Wyatt Ln
Deerfield Dr
Moores Ln
Bal-Air Dr
Allline Dr
Lionel Ave
Prestige Ln
Ellen Cir
Richmond Rd
Gin Rd
W Kyle
Pecan Grove Rd
Plaza
Leggett Dr
Big Oak Ln
Dunham Dr
Sleepy Hollow Ave
Turtle Creek Dr
Easy St
Hughson Ln
County Road 2311
PR 2311
Bivens Ln
FM 559
Jones Ln
Cerralo Ln
Red Dot Rd
Chapparal Ln
County Road 2313
Forsyth Cir
Rolling Hills St
County Road 2310
Rogers Ln
Bar Ln
County Road 2309
Volga Ave
Tigres Ave
Palisades Dr
N Kings Way
Stonewall Dr
Hillcrest
Lost Creek
FM 1397



(Ord. No. 052-2012, 6-11-2012; Ord. No. 2014-069, § 1, 7-14-2014)

Secs. 140-112—140-135. Reserved.

ARTICLE VI. GENERAL REGULATIONS

Sec. 140-136. Area regulations.

Except as hereinafter provided, no building or structure or part thereof shall be erected, altered or converted for any use permitted in the district in which it is located, unless it is in conformity with all the minimum regulations herein specified for lot area, lot width, lot depth, lot coverage and front, side and rear yards.
(Ord. of 9-7-1970, § 9-100)

Sec. 140-137. Lot area.

The minimum residential lot area for the various districts shall be in accordance with the following schedule except that a lot having less area than herein required, which was an official lot of record prior to the adoption of the ordinance from which this article is derived may be used for a one-family dwelling and no lot existing at the time of passage of the ordinance from which this article is derived shall be reduced in area below the minimum requirements set forth herein.

(1) In the following zoning districts the minimum lot area for each residential dwelling unit shall be in accordance with the following schedule:

Schedule of Minimum Required Lot Areas Per Family Unit

Types of Uses	Zoning Districts																		
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Two Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Mulitple Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
One-Family Dwelling Detached	one acre	12000	7200	5000	6000	5000	6000	6000	5000	6000	6000	6000	5000	5000	5000	5000			6000
Two-Family Dwelling					5000	3000	3000	3000	3000		3000	3000	3000	3000	3000	3000			3000
Townhouses and Single-Family Dwelling Attached						2000	2000 see (3)	2000	2000		2000	2000	2000	2000	2000	2000	2000		2000
Multiple Family Dwelling one to three stories								1800	1600		1600	1600	1600	1600	1600	1600	1600		1600
Multiple Family Dwelling over three stories								600			600			600	600	600	600		600
HUD Code Manufactured Home as a fixed dwelling	5000			5000															

Schedule of Minimum Required Lot Areas Per Family Unit																			
Types of Uses	Zoning Districts																		
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Two Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Mulitple Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
HUD Code Manufactured Home as a transient dwelling	2000																		
Modular or Prefabricated Single-Family Dwelling	one acre	12000	7200	5000	5000	5000	5000	5000	5000		6000	6000	5000	5000		5000			5000

(2) Minimum required lot area in square feet for each dwelling unit. Note: Indicates area; does not apply for type of housing.

(3) The maximum number of dwelling units for townhouses and single-family attached dwellings in the Townhouse Dwelling District shall be 14½ dwelling units per acre.

(Ord. of 9-7-1970, § 9-101)

Sec. 140-138. Lot width.

The minimum lot width for lots in the various districts used for residential purposes shall be in accordance with the following schedule, except that a lot having less width than herein required which was an official lot of record prior to the adoption of this article may be used as a one-family dwelling and no lot existing at the time of passage of this article shall be reduced in width below the minimum set forth herein:

(1) In the following zoning districts the minimum lot width for residential uses shall be in accordance with the following schedule:

Schedule of Minimum Required Lot Widths																			
Types of Uses	Zoning Districts																		
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Two Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Mulitple Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
Single-Family Dwelling Detached	150	80	60	50	50	60	60	60	60	50	50	50	50	50	50	50			60
Two Family Dwelling					70	60	60	60	60	60	60	60	60	60	60	60			60

Schedule of Minimum Required Lot Widths																			
Types of Uses	Zoning Districts																		
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Two Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Mulitple Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
Townhouses and Single-Family Dwelling Attached							16	16	16		16	16	16	16	16	16	16		16
Multiple Family Dwelling								60	60	60	60	60	60	60	60	60	60		60
HUD Code Manufactured Home as a Fixed Dwelling	50			50															
HUD Code Manufactured Home as a Transient Dwelling	40			40															
Modular or Prefabricated Single-Family Dwelling	150	80	60	50	50	60	60	60	60		50	50	50	50		50			50

Note: Minimum required lot width specified in feet.

(2) The width of the lot as specified in subsection (1) of this section shall be measured at the specified setback or front building line, but in no case shall the lot width at the front street line be less than 30 feet. In the case of townhouses located on public streets or on private streets established by a subdivision plat, the minimum width of the lot shall be 16 feet.

Note: Indicates width not applicable. See appendix illustration 1 for method of measuring lot width.
(Ord. of 9-7-1970, § 9-102)

Sec. 140-139. Lot depth.

(a) The minimum residential lot depth for the various districts shall be in accordance with this schedule except that a lot having less depth than herein required which was an official lot of record prior to the adoption of the ordinance from which this article is derived may be used for a one-family dwelling and no lot existing at the time of passage of the ordinance from which this article is derived shall be reduced below the minimum requirements as follows:

Schedule of Minimum Required Lot Depths																			
Types of Uses	Zoning Districts																		
	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Two Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Mulitple Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
One Family Dwelling Detached	150	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100			
Two Family Dwelling					100	100	100	100	100		100	100	100	100	100	100			
Townhouses and Single-Family Dwelling Attached							100	100	100		100	100	100	100	100	100			
Multiple-Family Dwelling One								120	120		120	120	120	120	120	120	120		
HUD Code Manufactured Home as a Fixed Dwelling	100			100															
Modular or Prefabricated Single-Family Dwelling	150		100	100	100	100	100	100	100		100	100	100			100			

Note: Minimum required lot depth specified in feet.

(b) The depth of the lot as specified in subsection (a) of this section shall be measured from the front property line to the rear property line along a line midway between the side property lines.

(c) The minimum lot depth may have to be increased above the minimum lot depth specified in subsection (a) of this section in order to meet the minimum lot area requirements specified in section 140-137(1).
(Ord. of 9-7-1970, § 9-103)

Sec. 140-140. Front yard.

(a) No building shall hereinafter be located, erected, or altered to have a front yard less than required by this section, and no front yard existing at the time of passage of the ordinance from which this article is derived shall be reduced below the minimum set forth by this section.

(b) The minimum required front yard in the Agricultural, SF-1, SF-2, SF-3, 2F-1, 2F-2, TH, MF-1 and MF-2 districts shall be 25 feet.

(c) The minimum required front yard in the Parking, Office, Neighborhood Service, General Retail, Limited Commercial, Commercial, Industrial-1 and Industrial-2 districts shall be 15 feet.

(d) No front yard is required in the Central Business District.

(e) The front yard setback as required by this section shall be measured from the front property line unless the front property line is along a street right-of-way and that front property line is less than 25 feet from the centerline of a residential or residential-collector street, 30 feet from the centerline of a collector street, or 40 feet from the centerline of an arterial street. If the front property line is less than the above specified distance from the centerline of the street, the front yard setback shall then be measured from the above specified distance from the centerline of the street.

(f) The front yard shall be measured to the front face of the building, covered porch, covered terrace or attached accessory building. Stairs, uncovered porches, eaves and roof extensions may project into the required front yard for a distance not to exceed four feet. Where no front yard is required, all stairs, eaves, roofs and similar building extensions shall be located behind the front street right-of-way line or property line.

(g) Where a building line has been established by a subdivision plat or other ordinance which requires a front yard setback greater or lesser than required by this section, the required front yard shall comply with the building line established by such plat or ordinance.

(h) Where lots have double frontage, running through from one street to another, a required front yard shall be provided on both streets, unless a building line has been established along only one frontage by a subdivision plat or by another ordinance.

(i) Except in the CB district, where buildings exceed three stories in height, the front yard shall be increased one foot for each two feet the building exceeds three stories but no front yard need exceed 50 feet.
(Ord. of 9-7-1970, § 9-104)

Sec. 140-141. Side yard.

In the following zoning districts, the minimum required side yard shall be in accordance with the following schedule and no building, structure or use shall hereafter be located so as to have a smaller side yard on each side of such building than herein required, and no side yard existing at the time of passage of the ordinance from which this article is derived shall be reduced below the minimum set forth herein:

(1) Schedule of minimum and maximum required side yards:

Minimum Required Side Yard Specified in Feet																			
	Zoning Districts																		
Types of Uses	Agriculture	Single-Family Dwelling-1	Single-Family Dwelling-2	Single-Family Dwelling-3	Two Family Dwelling-1	Two-Family Dwelling-2	Townhouse Dwelling	Mulitple Family Dwelling-1	Multiple-Family Dwelling-2	Parking	Office	Neighborhood Service	General Retail	Limited Commercial	Central Business	Commercial	Industrial-1	Industrial-2	Planned Development
Minimum required side yard Single-Family and Two Family Dwelling Detached	15	10% of width 8' min.	10% of width 6' min.	10% of width of lot—5' minimum			5	10% of width of lot—5' minimum											10% of width 5' min.
Maximum required side yard Single-Family and Two Family Dwelling	20	12	10	8	8	6		6	6	6	5	5	5	5	5	5			10
Minimum required side yard for Multiple-Family Dwelling								See (2)b.		See side yard regulations for multiple dwellings (2)b.									
Minimum required side yard Single-Family Attached Dwelling								See (2)e.		See side yard regulations for single-family attached dwelling (2)e.								See (2)e.	
HUD Code Manufactured Home as a Fixed Dwelling	10			10															
HUD Code Manufactured Home as a Transient Dwelling	10																		
Modular or Prefabricated Single-Family Dwelling	15	8' Min.	6' Min.	5' Min.	5	5	5	5	5	5	5	5	5	5	5	5			5
Nonresidential uses schools and churches in residential zones	Minimum of 20 feet										10	10	10	10	10	10	10	10	10

Note: Minimum required side yard specified in feet; Indicates side yard not applicable B.

(2) Special side yard regulations:

a. Every part of a required side yard shall be open and unobstructed by any building except for accessory buildings as permitted herein and the ordinary projections of window sills, belt courses, cornices and other architectural features projecting not to exceed 12 inches into the required side yard, and a roof eave or canopy projecting not to exceed 24 inches into the required side yard.

b. Multiple-family dwellings shall provide a minimum side yard of 15 feet between any building wall containing openings for windows, light and air and any side lot line except that any such building face or wall not exceeding 35 feet in length may

provide a minimum side yard of ten feet. Where a building wall contains no openings for windows, light or air, a minimum side yard of ten feet shall be provided between such wall and the side lot line (see appendix illustration 9). Where high-rise apartment buildings, exceeding three stories in height are erected in the MF-2, O or other districts permitting such construction, the side yard shall be increased one foot for each two feet the structure exceeds three stories but no side yard need exceed 50 feet.

c. On a corner lot, a side yard adjacent to a street for a multiple-family dwelling not exceeding three stories in height shall not be less than 15 feet and no balcony or porch or any portion of the building may extend into such required side yard, except that a roof may overhang such side yard not to exceed four feet.

d. On a corner lot used for one-family or two-family dwellings, both street exposures shall be treated as front yards on all lots platted after the effective date of the ordinance from which this article is derived, except that where one street exposure is designated as a side yard by a building line shown on a plat approved by the planning and zoning commission containing a side yard of 15 feet or more, the building line provisions on such plat shall be observed. On lots where official lots of record prior to the effective date of the ordinance from which this article is derived, the minimum side yard adjacent to a side street shall comply with the required side yard for the respective districts as specified in subsection (1) of this section. (See appendix illustration 4.)

e. A townhouse or single-family attached dwelling building unit shall provide a minimum side yard of ten feet, except where such building unit is adjacent to a side street, in which case the minimum side yard shall be 15 feet. The minimum side yard between two such building units shall be ten feet. In the MF-1, MF-2 or other districts permitting such building units, such building unit shall not exceed 300 feet in length. In the TH district, such building unit shall not contain more than six dwelling units and shall not exceed 200 feet in length.

f. No side yard is specified for nonresidential use in the GR, LC, CB, C, I-l or I-2 districts except where a commercial, retail or industrial use or other nonresidential use abuts upon a district boundary line dividing such districts from a residential district in which event a minimum five-foot side yard shall be provided on the side adjacent to such residential district.

g. The minimum side yard requirements in a Planned Development District shall be established on the site plan or in the amending ordinance in accordance with section 140-108.

h. In the O and NS districts, a minimum five-foot side yard shall be provided for nonresidential uses.

(Ord. of 9-7-1970, § 9-105)

Sec. 140-142. Rear yard.

(a) No building or structure shall be located, erected, or altered to have a rear yard smaller than required in this section.

(b) When a rear yard abuts a street, the rear yard shall be the same as would be required for a front yard under section 140-140.

(c) In any zoning district, the main residential building may not be constructed nearer than ten feet to the rear property line. Any nonresidential uses permitted in residential districts shall not be constructed nearer than ten feet to the rear property line. In any residential district, a detached accessory building shall have a rear yard of not less than three feet from the rear property line. A garage or carport entered from an alley shall have a rear yard of not less than 15 feet.

(d) In the P, O, NS, GR, LC, C, I-l and I-2 districts, a rear yard is not required for any nonresidential use, except a rear yard of not less than ten feet is required when such business zoning district abuts a residential zoning district.

(e) No rear yard is required in the CB Central Business District.

(f) Except in the CB district, where building exceed three stories in height, the rear yard shall be increased one foot for each two feet the building exceeds three stories, but no rear yard need exceed 50 feet.

(g) The ordinary projections of window sills, belt courses, cornices, roof overhangs and architectural features shall not project more than two feet into the required rear yard.
(Ord. of 9-7-1970, § 9-106)

Sec. 140-143. Lot coverage.

The maximum percentage of any lot area which may hereafter be covered by all buildings shall not exceed the following:

(1) Forty percent in the Agriculture, SF-1, SF-2, SF-3, 2F-1, 2F-2, MF-1, MF-2, P, O, NS and GR districts.

(2) Fifty percent in the LC, C, I-l and 1-2 districts.

(3) Sixty percent in the TH district.

(4) One hundred percent in the CB district.
(Ord. of 9-7-1970, § 9-107)

Sec. 140-144. Height regulations.

(a) No building or structure shall be located, erected or altered so as to exceed the height limit hereinafter specified for the district in which the building is located.

In the Zoning Districts:	*The Maximum Height of Buildings and Structures Shall be:*
1. A, Agricultural District	Three stories, except as noted in section 104-145
2. SF-1, Single-Family Dwelling District	Two and one-half stories, except as noted in section 104-145
3. SF-2, Single-Family Dwelling District	Two and one-half stories except as noted in section 104-145
4. SF-3, Single-Family Dwelling District	Two and one-half stories except as noted in section 104-145
5. 2F-1, Two-Family Dwelling District	Two stories except as noted in section 104-145
6. 2F-2, Two-Family Dwelling District	Two stories except as noted in section 104-145
7. TH, Townhouse Dwelling District	Two and one-half stories except as noted in section 104-145
8. MF-1, Multiple-Family Dwelling District	Three stories except as noted in section 104-145
9. MF-2, Multiple-Family Dwelling District	To any legal limit except apartment buildings over three stories require additional yards
10. P, Parking District	Three stories except as noted in section 104-145g
11. O, Office District	To any legal limit except as noted in section 104-145
12. NS, Neighborhood Service District	Two stories except as noted in section 104-145
13. GR, General Retail District	Three stories except as noted in section 104-145
14. LC, Limited Commercial District	Three stories except as noted in section 104-145
15. CB, Central Business District	To any legal height not prohibited by other laws or ordinances
16. C, Commercial District	To any legal height not prohibited by other laws or ordinances
17. I-1, Light Industrial District	To any legal height not prohibited by other laws or ordinances
18. 1-2, Heavy Industrial District	To any legal height not prohibited by other laws or ordinances
19. PD, Planned Development District	To any legal height, provided that the total floor area does not exceed the total site area and coverage of the site by the first floor does not exceed 40 percent of the total site area.

(b) The zoning board of adjustment (ZBA) board will not be allowed to increase sign heights.

Sign Heights in Business Districts	
A, Agricultural District	Three stories
P, Parking District	Three stories except as noted in section 140-145
O, Office District	Sigh height: Maximum size is six foot height and eight feet length. Type: Monument, planter or low profile signage
NS, Neighborhood Service District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
GR, General Retail District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
LC, Limited Commercial District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
CB, Central Business District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
C, Commercial District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
1-1, Light Industrial District	Sign height limited to 35 feet measured form the grade level of the closest adjacent roadway
1-2, Heavy Industrial District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
PD, Planned Development District	Sign height limited by the city council with site plan approval

(Ord. of 9-7-1970, §§ 10-100, 10-101)

Sec. 140-145. Special height regulations.

In the districts where the height of the buildings is restricted to two or three stories, cooling towers, roof gables, chimneys and vent stacks may extend for an additional height not to exceed 40 feet above the average grade line of the building. Water stand pipes and tanks, church steeples, domes and spires and school buildings and institutional buildings may be erected to exceed three stories in height in residential areas restricted to two or three stories in height, provided that one additional foot shall be added to the width and depth of side and rear yards for each foot that such structures exceed three stories in height.
(Ord. of 9-7-1970, § 10-102)

Sec. 140-146. Floor area ratio.

Except as hereinafter provided, no building or structure shall be erected, added to or altered to exceed the maximum floor area ratio standards in the various zoning districts as set forth herein.
(Ord. of 9-7-1970, § 11-100)

Sec. 140-147. Maximum floor area ratio.

In the following zoning districts, the maximum floor area ratio (FAR) for any building or structure shall be as follows:

District	*Maximum Floor Area Ratio*
MF-2, Multiple-Family District	4:1
O, Office District	4:1
CB, Central Business District	10:1
C, Commercial District	4:1
I-1, Light Industrial District	2:1
1-2, Heavy Industrial District	2:1
Note: Structure used for off-street parking of vehicles shall not be computed as area subject to floor area ratio standards.	

(Ord. of 9-7-1970, § 11-101)

Sec. 140-148. Fence and wall regulations.

In any residential district or along the common boundary between any residential or nonresidential district where a wall fence or screening separation is erected, the standards for height and design in this article shall be observed.
(Ord. of 9-7-1970, § 15-100)

Sec. 140-149. Height of fence or wall.

(a) Any fence or wall erected on the property line and located to the rear of the minimum required front yard line as determined by the provisions of section 140-140 shall not exceed eight feet in height above the adjacent grade.

(b) No fence, screen, wall or other visual barrier shall be so located or placed so that it obstructs the vision of a motor vehicle driver approaching any street, alley or drive intersection. At all street intersections clear vision shall be maintained across the lot for a distance of 15 feet back from the property corner along both streets.
(Ord. of 9-7-1970, § 15-101)

Sec. 140-150. Screening walls or visual barriers and open storage.

(a) Any screening wall or fence required under the provisions of the Planned Development District shall be constructed of masonry or with a concrete or metal frame supporting a permanent type wall or fence material which does not contain openings constituting more than 40 square inches in each one square foot of wall or fence surface, and the surface of such wall or fence shall constitute a visual barrier. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or fence.

(b) No open storage of commodities, materials or equipment for sale or display shall be permitted in any residential or office district. All commodities and materials offered for sale and displayed in the open in the NS, GR, LC, C or I-1 district shall be located back of the minimum required front yard line. In the I-1 and PD district, no open storage operation shall be permitted, except as an accessory use and all such open storage operations shall be located behind the main building and screened with a visual barrier as herein prescribed.
(Ord. of 9-7-1970, § 15-102)

Sec. 140-151. Creation of building site.

No permit for the construction of a building or buildings upon any tract or plot shall be issued until a building site, building tract or building lot has been created by compliance with one of the conditions in sections 140-152, 140-153 or 140-154.
(Ord. of 9-7-1970, § 16-100)

Sec. 140-152. Lots or tract part of plat record.

The lot or tract is part of a plat of record, properly approved by the planning and zoning commission and filed in the plat records of the county.
(Ord. of 9-7-1970, § 16-101)

Sec. 140-153. Site plan.

The site, plot or tract is all or part of a site plan officially approved by the city council in a Planned Development District after recommendation by the planning and zoning commission, which site plan provides all utility and drainage easements, alleys, streets and other public

improvements necessary to meet the normal requirements for platting, including the designation of building areas and such easements, alleys and streets have been required and properly dedicated and the necessary public improvements provided.
(Ord. of 9-7-1970, § 16-102)

Sec. 140-154. Plot, tract or lot face on a dedicated street.

The plot, tract or lot faces upon a dedicated street and was separately owned prior to the effective date of the ordinance from which this article is derived or prior to annexation to the city, whichever is applicable, in which event a building permit for only one main building may be issued on each such original separately owned parcel without first complying with section 140-152 or section 140-153.
(Ord. of 9-7-1970, § 16-103)

Secs. 140-155—140-176. Reserved.

ARTICLE VII. SUPPLEMENTAL REGULATIONS

Sec. 140-177. Specific use permits.

The city council, after public hearing and proper notice to all parties affected and after recommendations by the planning and zoning commission, may authorize the issuance of specific use permits for the uses indicated by "S" in the use schedule in section 140-81.

(1) The planning and zoning commission in considering and determining its recommendations to the city council on any request for a specific use permit may require from the applicant, plans, information, operating data and expert evaluation concerning the location and function and characteristics of any building or use proposed. The city council may, in the interest of the public welfare and to ensure compliance with this article, establish conditions of operation, location, arrangement and construction of any use for which a permit is authorized. In authorizing the location of any of the uses listed as specific use permits, the city council may impose such development standards and safeguards as the conditions and locations indicate important to the welfare and protection of adjacent property from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view or other undesirable or hazardous conditions.

(2) All specific use permits approved in accordance with the provisions of this article in its original form or as hereafter amended shall be referenced on the zoning district map and a list of such permits shall be maintained by the city council.

(Ord. of 9-7-1970, § 8-500)

Sec. 140-178. Garage/yard sales and estate sales in a residential zoning district.

(a) *Sales prohibited; exceptions.* The sale of merchandise directly to a customer on the premises shall be prohibited provided, however, this provision shall not be construed to prohibit the following:

(1) *Garage/yard sales.* The sale of merchandise belonging to the resident may be conducted as a home occupation provided that no such sale may be held on any lot or premises more often than twice in each calendar year at the same address, and not to exceed three consecutive days during each sale. A permit must be obtained from the city for the conduct of any garage/yard sale. A fee, in an amount as established by the city from time to time and on file in the city secretary's office or city website, shall be charged for the issuance of a permit for conducting such garage sale. Customers must obtain a permit prior to the event of a sale and display the permit on the premises for the entire duration of the sale.

(2) *Estate sales.* The sale of merchandise belonging to the resident may be conducted by the resident and/or a person/business. If such sale is conducted by an outside person or business, each address would be considered a separate estate sale. Each such estate sale shall not exceed three consecutive days during each sale. A permit must be obtained from the city for the conduct of any estate sale. A fee, in an amount as established by the city from time to time and on file in the city secretary's office or city website, shall be charged for conducting each estate sale. Customers must obtain a permit prior to the event of a sale and display the permit on the premises for the entire duration of the sale.

(b) *Signage for garage/yard sales and estate sales.*

(1) Garage sale/yard sale and estate sale signs do not require the issuance of a sign permit.

(2) Signs may not exceed 5½ square feet in size, which includes a 22-inch by 28-inch poster board size, with a limit of three signs for each garage/yard sale and five signs for each estate sale.

(3) Garage/yard sale and estate sale signs may be placed on your private property or on your neighbor's private property with their permission. Such signs must not block driver's visibility. (Guideline: Your private property is not the strip of grass between the curb and sidewalk. This is the city's right-of-way. As a guideline: In the front yard of a home, rights-of-way normally extend ten to 15 feet from the back of the street curb.)

(4) Signs are not allowed in or on the following places/areas:

a. Rights-of-way or medians of public streets;

b. Corners of public streets;

c. On fences, trees, utility poles, street light poles or public signs;

d. On the grass next to the curb of a public street; or

e. In subdivision entrances.

(Ord. of 9-7-1970, § 8-600)

Sec. 140-179. Special definitions and explanations noted in use regulations.

The following definitions and explanatory notes supplement, restrict and define the meaning and intent of the use regulations as set forth in the use schedule in section 140-81 inclusive:

Accessory building means in a residential district, a subordinate building, attached or detached and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, tool house, lath house or greenhouse as a hobby (no business), home workshop, children's playhouse, storage house or garden shelter, but not involving the conduct of a business.

Advertising signs (also see sections 140-239 and 140-245(a)) means and includes the following:

(1) *Off-premises sign* means a sign identifying a business, profession, product, service, or facility available at a location other than the premises where the sign is located.

(2) *On-premises sign* means a sign identifying or advertising a business, person, activity, product or organization available on the premises where the sign is located.

Airport or landing field means an area improved for the landing or take-off of aircraft approved by the city for operation as an aircraft landing facility.

Amusement, commercial (indoor), means an amusement enterprise wholly enclosed in a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line and including, but not limited to, a bowling alley or billiard parlor.

Amusement, commercial (outdoor), means any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open including, but not limited to, a golf driving range, archery range and miniature golf course.

Antique shop means an establishment offering for sale, within a building, articles such as glass, China, furniture or similar furnishings and decorations which have value and significance as a result of age, design or sentiment.

Art gallery or *museum* means an institution for the collection, display and distribution of objects of art or science, and which is sponsored by a public or quasi-public agency and which facility is open to the general public.

Birthing center means a center to provide counseling and education regarding childbirth and also a place where birthing can occur if a state license is obtained.

Boardinghouse or *roominghouse* means a building other than a hotel, where lodging and meals for three or more persons are served for compensation.

Caretaker's quarters means a secondary dwelling unit located on a lot with a main residential structure and used as living quarters for persons employed on the premises only and not for rent or use as a separate domicile by persons other than those employed on the premises or their immediate family.

Changeable electronic variable message sign (CEVMS) or changeable copy sign or device means a sign with the capability of displaying words, symbols, figures or images controlled by electronic communications or mechanical processes.

(1) For off-premises CEVMSs, refer to section 140-245 for height, size and setback requirements applicable thereto.

(2) For off-premises CEVMSs, the message or image on the CEVMS must remain static for a minimum of eight seconds or more and a change of message shall be accomplished simultaneously on the entire sign face. For on-premises CEVMSs, the message or image must remain static for a minimum of four seconds and change of message shall be accomplished within two seconds.

(3) A CEVMS must contain a default mechanism that freezes the sign in one position if a malfunction occurs.

(4) No CEVMS shall be erected without a light detector/photocell (dimmer switch) by which the sign's brightness shall be dimmed when ambient conditions darken so that signs are not unreasonably bright for the safety of the motoring public. The maximum brightness during the day shall be 5,000 nitis and at night 1,000 nitis. The term "nitis" are a measure of brightness—Candela per meter squared.

(5) A CEVMS shall not:

a. Be illuminated by flashing lights, strobe lights, lights resembling emergency vehicles or moving lights;

b. Contain or display moving video or streamed video advertising;

c. Consist of a static image projected upon a stationary object;

d. Be a mobile sign located on a truck, trailer or any moving vehicle; or

e. Be attached to any wall, window or any type exterior facade of any building.

(6) The owner of a CEVMS shall coordinate with local authorities to display public service announcements (PSAs), and when appropriate, emergency information important to the traveling public, such as Amber Alerts or alerts concerning terrorist attacks or natural disasters. Emergency information messages shall remain in the advertising rotation according the protocols of the agency that issues the information.

(7) An exception for an on-premises CEVMS will be allowed without the approval of a SUP in the GR, LC, CB, C, I-1, and I-2 zoning districts under the following terms and conditions:

a. The on-premises sign is limited to a maximum size of 50 square feet with a maximum height of 20 feet; and

b. All other restrictions pertaining to CEVMSs shall apply.

Church or rectory means a place of worship and religious training of recognized religions including on site housing of ministers, rabbis, priests, nuns and similar staff personnel.

Cleaning or laundry self-service shop means to be of the customer self-service type and not a commercial laundry or cleaning plant.

Cleaning shop or laundry means a retail custom cleaning shop whose primary business is cleaning service to individual customers and not providing contractual laundry or cleaning services to other businesses such as motels, hotels, etc.

College or *university* means an academic institution of higher learning, accredited or recognized by the state and offering a program or series of programs of academic study.

Community center (public) means a building and grounds owned and operated by a governmental body for the social, recreational, health or welfare of the community served.

Community unit development means an area of three acres or more of unsubdivided land or the frontage on one side street between two intersecting streets planned as a single integral residential development, which may contain variable types of housing with yard setback and open space standards differing from the district in which it is located, but which observes the overall density standards set forth in such district. A mobile home subdivision may be approved as a community unit development if the overall density is in compliance with the district standards in which the development is located. Where the overall density standards are proposed to vary from those of the district in which the community unit development is located, the development should be handled as a Planned Development District.

Conference or training seminar center means a facility at which individuals or groups of individuals attend seminars or training sessions for a specific period of time, not to exceed 60 days, and which has the capacity to accommodate the meal and lodging needs of the training staff and trainees.

Country club (private) means an area of 20 acres or more containing a golf course and a club house and available only to private specific membership; such a club may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts and similar recreational or service facilities.

Custom personal service means tailor, dressmaker, shoe shop or similar shop offering custom service.

Dance hall or *night club* means an establishment offering to the general public facilities for dancing and entertainment for a fee and subject to licensing and regulation by the city.

Day camp means a facility arranged and conducted for the organized recreation and instruction of children, including outdoor activities on a daytime basis.

Delivery service means an establishment designed and constructed for the delivery of packages not to exceed 200 pounds in weight. Local delivery of packages to and from such establishment shall be by vehicles not to exceed 1½ tons rated capacity.

Farm accessory building means a structure, other than a dwelling, on a farm as herein defined, for the housing, protection or storage of the usual farm equipment, animal and crops.

Farm, ranch, garden or orchard means an area of three acres or more which is used for the growing of usual farm products, vegetables, fruits, trees and grain and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle and sheep and including the necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine and other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

Golf course (commercial) means a golf course, privately owned but open to the public for a fee and operated as a commercial venture.

Heavy equipment and machinery sales, rental or repair means a place where the primary service being offered at the site is the sales, rental or repair of heavy equipment including, but not limited to, construction equipment such as bulldozers, cranes, gradalls, and semi-tractor trucks. (Commercial, Industrial-1 and Industrial-2 Districts.)

Heliport means a landing facility for rotary wing aircraft subject to regularly scheduled use and may include fueling or servicing facilities for such craft and subject to approval by the city.

Helistop means a landing pad for occasional and infrequent use by rotary wing aircraft not exceeding a gross weight of 6,000 pounds and not for regularly scheduled stops and subject to approval by the city.

Home occupation means a home occupation is an occupation carried on in the home by a member of the occupant's family, without the employment of additional persons, without the use a sign to advertise the occupation, without offering any commodity or service for sale on the premises and which does not create obnoxious noise or other obnoxious conditions to abutting residential property such as emission of odor, increased traffic or generation of light or smoke, and where the use is carried on in the main structure only. A home occupation shall specifically exclude the operation of a repair garage, beauty shop, plumbing shop or similar activity.

Hospital (acute care) means an institution where sick or injured patients are given medical or surgical treatment intended to restore them to health and an active life and which is licensed by the state. An acute care hospital may contain an out-patient psychiatric unit or a major psychiatric section.

Hospital (chronic care) means an institution where those persons suffering from illness, injury, deformity, deficiency or age, are given care and treatment on a prolonged or permanent bases and which is licensed by the state.

Hotel or *motel* means a building or group of buildings designed and occupied as a temporary abiding place of individuals. To be classified as a hotel or motel, an establishment shall contain a minimum of six individual guest rooms or units and shall furnish customary hotel services such as linen, maid service, telephone use and upkeep of furniture.

HUD code manufactured home means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

Institution for the care of alcoholic, psychiatric or narcotic patients means an institution offering resident or out-patient treatment to alcoholic, psychiatric or narcotic patients.

Kindergarten, nursery or private school means an establishment where more than three children are housed for care or training during the day or portion thereof.

Light fabrication and assembly processes means and includes the manufacture of clothing, jewelry, trimming decorations and any similar item not involving the generation of noise, odor, vibration, dust or hazard.

Livestock auction means and includes barns, pens and sheds for the temporary holding and sale of livestock.

Local utility line means the facilities provided by a municipality or a franchised utility company for the distribution or collection of gas, water surface drainage water, sewage, electric power or telephone service.

Miniwarehouse means a series of buildings which is used for storage and where each building is no larger than 10,000 square feet with separate compartments that do not exceed 500 square feet each.

Minor vehicle and engine repair shop means business includes all minor repairs of vehicles and engines, including, but not limited to, the replacement of mufflers, brakes, air conditioning

and shock absorbers and for providing tune-ups, lubrication, transmission service, front-end alignment and tire sales and servicing, and other associated servicing, but not including the rebuilding of vehicles or engines or body repairs or major painting or repainting.

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

Modular, factory fabricated or industrialized dwelling means a dwelling prefabricated or constructed in one or more modules or modular components built at a location other than the permanent site (off-site), which are transported to the permanent site and are erected, assembled or installed on a permanent foundation or concrete slab as a fixed dwelling unit on a lot or tract of land. The following regulations shall also apply requiring this type of dwelling to:

(1) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for each county in which the properties are located;

(2) Have exterior siding, roofing, roofing pitch, foundation fascia and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;

(3) Comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage and other site requirements applicable to single-family dwellings; or

(4) Be securely fixed to a permanent foundation.

Multiple-family dwelling (apartment) means a building or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or place of residence by three or more families living in independent dwelling units.

Name plate means an accessory sign showing only the name and address of the owner or occupant of the premises on which it is erected or placed.

Neighborhood health center means a local center for health service care to specific areas including prenatal clinic, psychiatric service and similar health services.

Nursing home or *assisted living* means a home where ill or elderly people are provided with lodging and meals with or without nursing care.

Office/warehouse (no outside storage) means a place for the regular transaction of business or performance of a particular service in conjunction with the receiving and storage of goods and merchandise. The office and warehouse portions shall be enclosed under the same roof. The office shall occupy at least 500 square foot or ten percent of the total floor space of the building, whichever is greater. (Limited Commercial (LC), Central Business, Commercial, Industrial-1 and Industrial-2 Districts.)

Off-street parking incidental to main use means off-street parking spaces provided in accordance with the requirements specified by this article and located on the lot or tract occupied by the main use or within 300 feet of such lot or tract and located within the same zoning district as the main use or in an adjacent parking district. No motor vehicle which is not licensed for the current year or which is inoperative for a period of five days or longer shall be stored or parked in the open on any drive, parking area or in any yard in the SF-1, SF-2, SF-3, PUR, 2F-1, 2F-2, TH, MF-1, MF-2, P, O or NS districts.

One-family dwelling (attached) means a dwelling which is joined to another dwelling at one or more sides by a party wall or abutting separate wall and which is designed for occupancy by one family and is located on a separate lot delineated by front, side and rear lot lines.

One-family dwelling (detached) means a dwelling designed and constructed as a freestanding structure for occupancy by one family and located on a lot or separate building tract and having no physical connection to a building located on any other lot or tract and occupied by one family.

Park or playground (public) means an open recreation facility or park owned and operated by a public agency such as the city or school board and available to the general public.

Parking lot or structure, commercial (auto), means an area or structure devoted to the parking or storage of automobiles for a fee. The term "parking lot or structure" includes, in the case of a parking structure only, a facility for servicing of automobiles, provided such facility is primarily an internal function for use only by automobiles occupying the structure and creates no special problems of ingress or egress.

Pistol and rifle range (indoor) means such establishment shall be wholly enclosed in a building, and such range shall be treated acoustically so that noise generated by the range is not perceptible at the bounding property line.

Playfield or stadium (public) means an athletic field or stadium owned and operated by a public agency for the general public including a baseball field, golf course, football field or stadium.

Plumbing shop means a place where the primary work being performed by the business is the installation and/or repair of plumbing, heating and air conditioning systems for residential as well as commercial applications. (Special Use Permit in Limited Commercial (LC), allowed in Commercial, Industrial-1 and Industrial-2 Districts.)

Public building, shop or yard of local, state or federal government means facilities such as office buildings, maintenance yards and shops required by branches of local, state or federal government for service to an area such as the highway department yard, city service center or experiment station.

Radio, television or microwave towers means structures supporting antennas for transmitting or receiving any portion of the radio spectrum, but excluding noncommercial antennas installations for home use of radio or television, telephone exchange, switching relay and transmitting equipment, but not including public business facilities, storage or repair facilities.

Railroad team track means a siding for spotting and unloading or loading box cars or other railroad cars and which area is connected to a public street by a drive for access.

Real estate model home means a permanent resident, constructed in a residential development of at least ten lots, which is used as a model home for the types of homes to be built in the development. Such a model home can be used by a real estate agency as a temporary office to sell homes within the development, but cannot be the sole office of the real estate agency. The model home shall be closed whenever 90 percent of the lots in the development are developed with residences or after the model home has been in existence for five years, whichever comes first.

Restaurant or *cafeteria (not of drive-in type)* means an establishment designed and constructed to serve food and beverage for consumption on the premises to the general public in specific dining areas and not involving the service of food to automobiles or for off-premises consumption.

Restaurant or *eating establishment (drive-in service)* means an establishment designed and constructed to serve food for consumption on the premises in automobiles or for carry out, off-premises consumption and which establishment may or may not have an on-premises dining room.

Riding club means a paddock, club house and stable for quartering, training and riding horses, the facilities of which are restricted to a specific membership and not available to the general public.

School, business, means a business organized to operate for a profit and offering instruction and training in a service or art such as secretarial school, barber college, beauty school or commercial art school, but not including manual trade schools.

School, commercial trade, means a business organized to operate for a profit and offering instruction and training in a trade such as welding, brick laying, machinery operation and similar trades.

School, public or denominational, means a school under the sponsorship of a public or religious agency or nonprofit corporation having a curriculum generally equivalent to public elementary or secondary schools, but not including trade or commercial schools.

Screening device means a screening device shall be defined as a barrier of stone, brick, pierced brick, uniformly colored wood or other permanent material of equal character, density and design, of a height necessary to provide a sight barrier at least seven feet above the adjacent property and at least 80 percent solid, provided any such structure in excess of eight feet in height shall be deemed a wall subject to the provisions of the building code of the city. Chainlink fences, whether with or without battens, slats or coverings or block fences shall not be considered a screening device under this definition.

(1) A screening device, as herein defined, shall be erected before any other use, other than uses permitted in the MA, SF-1, SF-2, SF-3, 2F-1, 2F-2, TH, MF-1 or MF-2 districts, is made of property in P, O or a less restrictive district when such property abuts residentially zoned property. Such screening devices shall be erected along the entire length of the common line between such business property and the abutting residentially zoned property.

(2) When a screening device is required under the terms of subsection (1) of this definition, it shall be in the responsibility of the user of the commercial or industrial property to erect the required screening device, and the same shall be precedent to the issuance of a certificate of occupancy for the premises on which said device is located.

(3) All screening devices required by this article or action of the board of adjustment shall be perpetually maintained by the user of the property on which said device is located.

Self-contained aluminum recycling machine means an automated, self-contained, commercially designed and manufactured recycling machine designed to crush beverage cans and to automatically dispense cash to the user of the machine. Such machine is to have a maximum size of ten feet in width, 15 feet in length and ten feet in height. Such machine is to have a minimum storage capacity of 3,000 pounds, and be equipped with an internal sorting system, and be equipped with a semi-automatic unloading system.

(1) Any manufacturing, industrial servicing or storage process not prohibited by law, except the following uses, may be located in the I-2 district upon approval by the city council in accordance with the procedure established under the provisions of the specific use permit section 140-177:

a. Acid manufacture;

b. Ammonia manufacture;

c. Carbon black manufacture;

d. Cement, lime, gypsum or plaster of Paris manufacture;

e. Chlorine manufacture;

f. Cotton gin or compress;

g. Explosives storage or manufacture;

h. Glue and fertilizer manufacture;

i. Petroleum and petroleum products refining and manufacture;

j. Petroleum tank firm;

k. Petrochemical plant;

l. Rendering plant;

m. Tanning, curing, treating or storage of skins or hides;

n. Wrecking yard or salvage yard.

(2) Any use which, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor or vibration or danger of explosion or fire, is presently or in the future determined a hazard and subject to special control or which is determined under the provisions of section 140-106 to involve the possibility of hazard or adverse influence on the use development and enjoyment of adjacent or nearby land.

Sign, agricultural, means an accessory sign identifying the farm or ranch on which it is placed and advertising the produce, crops, animals or poultry raised or quartered thereon.

Sign, apartment name, means an accessory sign for the identification of an apartment building or complex of apartment buildings.

Sign, construction, means a temporary accessory sign identifying the property owner, architect, contractor, engineer, landscape architect, decorator or mortgagee engaged in the design, construction or improvement of the premises on which the sign is located.

Sign, directional, means an on-premises sign giving directions or instructions, e.g., enter or exit, in or out, an arrow symbol.

Sign, general business, means an accessory sign or graphic device which advertises only commodities or service offered on the premises where such signs are located and not of the billboard, poster panel or painted bulletin type.

Sign, incidental, means a small sign, emblem or decal informing the public of goods, facilities or services available on the premises. Examples: Credit card sign or a sign indicating hours of business.

Sign, institutional, means an accessory sign for the identity of a school, church, hospital or similar public or quasi-public institution.

Sign, political or campaign, means political or campaign signs on behalf of candidates for public office or measures on election ballots. Signs must follow these guidelines:

(1) No sign shall be located within or over the public right-of-way;

(2) Sign must be removed within five days following said election.

Sign, portable, means a sign which is not permanently fixed to the ground, a structure or a building and is designed to be moved easily, such as, but not limited to: flashing arrow signs, sandwich board signs or sidewalk signs.

(1) No later than 180 days after passage of the ordinance from which this article is derived, all portable signs must be:

a. Converted to permanent installation in compliance with all city codes and specifications; or

b. Permitted by the city's building official at the amount determined by the ordinance.

(2) Other requirements include:

a. Only one portable sign per business.

b. Must withstand a 70-mile-per-hour wind.

c. Electrical code must be met; no extension cords will be allowed. Receptacle adjacent to sign must be GFCI protected.

d. Maximum size of 32 square feet.

e. Permit is required at a cost in an amount as established by the city council from time and on file in the city secretary's office and issued by the building official's office.

f. Subsequent annual permits will be renewed at a cost in an amount as established by the city council from time and on file in the city secretary's office. Upon permanent installation of the sign, all directional arrows must be removed and parking requirements will be reviewed based on individual cases.

(3) Banner or promotional signs. The term "banner or promotional sign" means a sign identifying or advertising a business, person, activity, products or services which can be acquired on the property where the sign is located.

a. A banner or promotional sign is a sign made of fabric or any non-rigid material with no enclosing framework. Exception: Flags, streamers or pennants are not considered banners or promotional signs.

b. Requirements:

1. Maximum size of 64 square feet.

2. No more than two signs allowed per freestanding business.

3. No more than one sign per business inside a shopping center. It must be attached to the building and not extend below any awning.

c. A banner or promotional sign permit shall be required at a cost in an amount as established by the city council from time and on file in the city secretary's office per sign or an annual fee as established by the city from time to time and on file in the city secretary's office or city website that covers all signage in this section and issued by the building official's office. If an annual fee is in effect, a new diagram for each new sign must still be submitted to the building official's office.

d. A minimum distance of 15 feet shall be between banners and/or promotional signs. Back-to-back banners or promotional signs shall be counted as one sign.

e. T-posts must be used and angled outward in order to ensure the banner will be hung straight. PVC piping over t-posts will be required.

f. The maximum allowable time for display is for 30 calendar days per banner or promotional sign. At the end of the allowed time any banner or promotional sign must be removed or replaced with a different sign with different verbiage and a new permit. If an annual fee is in effect, a new diagram for each new sign must still be submitted to the building official's office.

g. Special business promotions will allow banners or promotional signs to be displayed for a longer period of time and shall be good for only one banner or promotional sign for a maximum 90 calendar days, to be held no more than two times annually. Permit fees shall be in an amount as established by the city from time to time and on file in the city secretary's office or city website, per promotion. Drawings of signage shall be submitted to the building official for approval.

   Exception: When a new business opens, a banner may be attached to the existing shopping center sign or existing permanent business sign for 60 days, only as a temporary measure until the permanent business sign is in place. A permit is required.

h. All temporary (portable or banner or promotional) signs must be maintained and in good condition with no tears, peeling or missing letters, broken or missing sign faces, no deteriorating or damaged structure, properly installed and be clean and legible at all times.

Any violation of the temporary (portable or banner or promotional) sign regulations will be subject to citations to municipal court and issued by the building official office.

Sign, real estate, means a temporary sign pertaining to the sale or rental of property and advertising of property only for use for which it is legally zoned. No real estate sign shall be located within or over the public right-of-way.

Sign, temporary, means a temporary sign related to the promotion or grand opening of a new business. All charitable, nonprofit and any educational uses of temporary signs are exempt from this article, but must be removed within 72 hours after any event. (Refer to section 28-1.)

Sign, wall, means a business sign erected and permanently attached essentially parallel to and extending not more than 24 inches from the exterior wall of a building with no copy on the sides or edges and must not project above the roofline of the building. The term "wall sign" includes painted, individual letter and cabinet signs. A permit from the building official's office will be required.

Stable (private) means an accessory building for quartering horses when the stable building is set back from all adjacent property lines at least 100 feet and when the site contains a minimum area of one acre for each animal quartered.

Swimming pool (commercial) means a swimming pool with accessory facilities, not part of the municipal or public recreational system and not a private swim club, but where the facilities are available to the general public for a fee.

Swimming pool (private) means a swimming pool constructed for the exclusive use of the residents of a one-family, two-family or multiple-family dwellings and located and fenced in accordance with the regulations of the city. A private swimming pool shall not be operated as a business nor maintained in a manner to be hazardous or obnoxious to adjacent property owners.

Tattoo studio means an establishment or facility in which the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment, including the application of permanent cosmetics, is performed.

Temporary field or construction office means a structure or shelter used in connection with a development or building project for housing on the site of a temporary administrative and supervisory function, and for sheltering employees and equipment.

Trailer camp or HUD code manufactured home park means a tract of land designed or being used to accommodate one or more transient portable dwelling units designed to be moved on wheels from location to location by automobile, truck or similar prime mover.

Transmission or muffler shop means a place where the primary work being performed at the business is removal, servicing, rebuilding, or installation and/or replacement of trans-axles and/or transmissions and/or mufflers and tailpipes in automobiles, light trucks and vans whose capacity does not exceed one and one-half tons. (Commercial, Industrial-1 and Industrial-2 Districts.)

Trash transfer stations mean intermediate solid waste processing facilities where local trash collection trucks transfer and load trash into a larger container or truck where the trash may be compacted prior to hauling to the landfill site. Such transfer station shall be operated in compliance with state department of health municipal solid waste, rules, standards and regulations.

Two-family dwelling means a single structure designed and constructed with two living units under a single roof for occupancy by two families.

Wrecking or scrap salvage yard means a yard or building where automobiles or parts of automobiles or machinery are stored, dismantled and/or offered for sale in the open as whole units, as salvaged parts or as processed metal scrap or other material.

Zoo (private) means a facility housing and displaying live animals, reptiles or birds, privately owned and operated for a fee or for the promotion of some other enterprise.

Zoo (public) means a publicly owned zoo or similar facility owned and operated by a nonprofit zoological society where live animals, birds and reptiles are domiciled and displayed. (Ord. of 9-7-1970, § 8-700; Ord. No. 082-2001, 4-9-2001; Ord. No. 167-2006, 7-10-2006)

Sec. 140-180. Special area and accessory building regulations.

(a) *Court standards.* The minimum dimension and area of outer or inner courts provided in buildings occupied for residential purposes shall be in accordance with the following provisions:

(1) *Outer courts, residential structures.*

a. For residential structures, three stories or less in height, any outer court which is used for access of light or air or which may be used for emergency access purposes shall have a minimum width equal to the depth of the court up to 20 feet, but the width of any such outer court need not exceed 20 feet even though the depth of the court may exceed such dimension.

b. For residential structures exceeding three stories in height, any outer court which is used for access of light or air or which may be used for emergency access purposes shall have a minimum width equal to the depth of the court up to 50 feet, but the width of any such outer court need not exceed 50 feet even though the depth of the court may exceed such dimension.

(2) *Inner courts, residential structures.*

a. For residential structures three stories or less in height, any inner court which is used for access of light or air or which may be used for emergency access purposes shall have minimum dimensions in the length and in the width of its base equal to the height of the roof or eave at the top of the wall enclosing such court, but neither the width nor the length of the base of such inner court need exceed 20 feet even though the height of the enclosing walls may exceed such dimension.

b. For residential structures exceeding three stories in height, any inner court which is used for access of light or air or which may be used for emergency access purposes shall have a minimum dimension in the length and in the width of its base equal to the height of the roof or eave at the top of the wall enclosing such

court, but neither the width nor the length of the base of such inner court need exceed 50 feet even though the height of the enclosing walls may exceed such dimension.

(b) *Accessory building and structure regulations.* Area regulations for accessory buildings or accessory structures in residential and apartment districts are as follows:

(1) *Front yard*. Attached accessory building or structure shall have a front yard not less than the main building. Detached accessory buildings or structures shall be located in the area defined as the rear yard.

(2) *Side yard*. There shall be a side yard for any accessory building or structure located in a residential area of not less than three feet from any side lot line, alley line or easement line, except that adjacent to a side street the side yard shall never be less than ten feet. Where a firewall is provided, no side yard need be provided on one side of a lot only for accessory buildings located in the rear one-half of the lot. (See appendix illustration 3.)

(3) *Rear yard.*

a. There shall be a rear yard for accessory buildings or structures not less than three feet from any lot line, alley line or easement line, except that if no alley exists, the rear yard shall not be less than ten feet as measured from the rear lot line. In residential districts, the main building and all accessory buildings shall not cover more than 50 percent of that portion of the lot lying to the rear of a line erected joining the midpoint of one side lot line with the midpoint of the opposite side lot line. Detached carports, garages or other detached accessory buildings located within the rear portion of the lot as heretofore described shall not be located closer than ten feet to the main building nor nearer than three feet to any side lot line, except where a firewall has been provided which meets the requirements of the building and fire codes of the city, no rear yard for accessory buildings shall be required. (See appendix illustration 3.)

b. Where a garage or carport is designed and constructed to be entered from an alley or side street, such garage or carport shall be set back from the side street or alley a minimum distance of 15 feet to facilitate access without interference with the use of the street or alley by other vehicles or persons.

(Ord. of 9-7-1970, § 9-108)

Sec. 140-181. Sign heights in Business Districts.

The zoning board of adjustment (ZBA) board will not be allowed to increase sign height.

A, Agricultural District	Three stories
P, Parking District	Three stories except as noted in section 140-145
O, Office District	Sign height: Maximum size is six feet height and eight feet length. Type: Monument, planter or low profile signage

NS, Neighborhood Service District	Sign height limited to 35 feet, measured from the grade level of the closest adjacent roadway
GR, General Retail District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
LC, Limited Commercial District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
CB, Central Business District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
C, Commercial District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
1-1, Light Industrial District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
1-2, Heavy Industrial District	Sign height limited to 35 feet measured from the grade level of the closest adjacent roadway
PD, Planned Development District	Sign height limited by the city council with site plan approval

(Ord. No. 082-2001, 4-9-2001)

Secs. 140-182—140-200. Reserved.

ARTICLE VIII. PARKING AND LOADING REGULATIONS

Sec. 140-201. Vehicle parking regulations.

No building or structure shall be erected in the district in which it is located, unless there shall be provided on the lot or tract of land on which the building or structure is located, on an immediately contiguous lot or tract of land, or within 150 feet of the lot or tract of land on which the building or structure is located, vehicle parking for the uses specified in the designated districts. Any established use which was lawfully existing at the effective date of the ordinance from which this article is derived and which in the interim has not been enlarged or converted to any other use need not provide parking as specified in this article. No existing vehicle parking shall be reduced below the minimum number of spaces specified in this article.
(Ord. of 9-7-1970, § 12-100)

Sec. 140-202. Off-street parking spaces.

Except in the CB Central Business District, a minimum of two off-street parking spaces shall be provided for each residential dwelling unit.
(Ord. of 9-7-1970, § 12-101)

Sec. 140-203. Parking space schedule.

The following parking space schedule for nonresidential uses is applicable to all districts, except the CB Central Business District.

(1) Bank, savings and loan or financial establishment—One space for each 600 similar square feet of floor area.

(2) Bowling alley—Six spaces for each lane.

(3) Clinics or doctors' offices—One space for each 300 square feet of floor area.

(4) Churches—One space for each three seats in the main sanctuary.

(5) Commercial amusement—30 spaces, plus one space for each 100 square feet of floor area over 2,000 square feet.

(6) Convalescent home or home—One space for each six rooms for the aged or beds.

(7) Gasoline service station—Minimum of six spaces.

(8) Golf course—Minimum of 30 spaces.

(9) High school, college university—One space for each classroom, laboratory or instruction area, plus one space for each three students accommodated in the institution.

(10) Hospitals—One space for each two beds.

(11) Hotel or motel—One space for each room, unit or guest accommodation, plus specified requirements for restaurants and related facilities.

(12) Institutions of a philanthropic nature—Ten spaces, plus one space for each employee.

(13) Library or museum—Ten spaces, plus one space for each 300 square feet of floor area.

(14) Manufacturing, processing or repairing—One space for each two employees or one space for each 1,000 square feet of floor area, whichever is greater.

(15) Offices, general—One space for each 300 square feet of floor area.

(16) Recreational, private or commercial area or building—One space for each four persons to be normally accommodated in the establishment (other than listed).

(17) Restaurant or cafeteria—One space for every three seats under maximum seating arrangement.

(18) Retail or personal service—One space for each 200 square feet of floor area. Furniture stores and appliance stores general area—One space for each 400 square feet of floor area.

(19) Schools, elementary or junior high—One space for each classroom, plus one space for each four seats in any auditorium, gymnasium or other place of assembly.

(20) Storage or warehousing—One space for each two employees or one space for each 1,000 square feet of floor area, whichever is greater.

(21) Theaters, meeting rooms and public assembly—One space for each three places of seats.

(Ord. of 9-7-1970, § 12-102)

Sec. 140-204. Special off-street parking regulations.

(a) In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in the building for development.

(b) In the SF-1, SF-2, SF-3, PUR, 2F-1, 2F-2, TH, MF-1, MF-2, O and NS districts, no parking space, garage or carport or other automobile storage space or structure shall be used for the storage of any truck, truck trailer or van except a panel or pickup truck not exceeding 1½ tons capacity.

(c) Floor area of structure devoted to off-street parking of vehicles shall be excluded in computing the off-street parking requirements of any use.

(d) Parking requirements for mobile homes, HUD Code manufactured homes, house trailers and modular homes shall be interpreted as being the same as for a one-family dwelling in the SF-2 district. Parking requirements for one-family attached dwellings shall be interpreted as being the same as for multiple-family dwellings in the MF-1 district.

(e) Access to parking lots or areas which are accessory to or serve nonresidential uses in the O, NS, GR, LC, CB, C, 1-1, 1-2 or nonresidential PD districts shall not be through or from streets in residential districts.
(Ord. of 9-7-1970, § 12-103)

Sec. 140-205. Parking requirements for new or unlisted uses.

(a) Where questions arise concerning the minimum off-street parking requirement for any use not specifically listed, the requirements may be interpreted as those of a similar use.

(b) Where a determination of the minimum parking requirements cannot be readily ascertained for new or unlisted uses according to subsection (a) of this section or where uncertainty exists, the minimum off-street parking requirements shall be established by the same process as provided in section 140-79 for classifying new and unlisted uses.
(Ord. of 9-7-1970, § 12-104)

Sec. 140-206. Off-street loading regulations.

Except in the CB district, all retail, commercial, industrial and service structures shall provide and maintain off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot or tract. Such off-street loading space may be adjacent to a public alley or private service drive or may consist of a truck berth within the structure. Such off-street loading space or truck berth shall consist of a minimum area of ten by 45 feet and such spaces or berths shall be provided in accordance with the following schedule:

Square feet of Gross Floor Area in Structure	*Minimum Required Spaces or Berths*
0 to 5,000	None
5,000 to 15,000	1
15,000 to 40,000	2
40,000 to 65,000	3
65,000 to 100,000	4
Each additional 50,000	1 additional

(Ord. of 9-7-1970, § 13-100)

Sec. 140-207. Same—Hotels, office buildings, restaurants, etc.

For hotels, office buildings, restaurants and similar establishments located other than in the CB district, off-street loading facilities shall be provided in accordance with the following schedule:

Square Feet of Gross Floor Area Spaces or Berths	*Minimum Required in Structure*
0 to 10,000	None
10,000 to 50,000	1
50,000 to 100,000	2
100,000 to 200,000	3
Each additional 200,000	1 additional

(Ord. of 9-7-1970, § 13-101)

Secs. 140-208—140-237. Reserved.

ARTICLE IX. SIGNS

Sec. 140-238. Sign regulations.

The districts in which the various types of signs are permitted are indicated by the schedule of uses, section 140-80. The following special provisions shall apply to the various types of signs in the districts indicated under the sections of this article.
(Ord. of 9-7-1970, § 14-100)

Sec. 140-239. Permanent type signs.

See section 140-144, sign heights in each zoning district and section 140-247.

Type Sign	*Maximum Area*	*Zone Permitted*	*Spacing Standards*
Name plate	Two square feet no restriction	All residential districts all districts, except residential	-

Type Sign	*Maximum Area*	*Zone Permitted*	*Spacing Standards*
Institutional sign	70 square feet no restriction	All residential districts all districts, except residential	-
Apartment sign	70 square feet no restriction	MF-1 and MF-2 districts; O, NS, GR, LC, C, I-1 and PD districts	One per street frontage
Business sign	No restriction, except as hereinafter provided for certain district and type	Permitted in: O, NS, GR, LC, CB, C, I-1,I-2 and PD districts	One per street frontage. See section 140-247. For office see section 140-145 (48 square feet)
Advertising sign (off-premises/billboard)	672 square feet, See section 140-247	Permitted in: GR, CB, LC, C, 1-1, 1-2 districts with a SUP.	See section 140-247
Advertising sign (on premises/with business signage)	-	Permitted in: GR, LC, CB, C, 1-1, 1-2.	-
Agricultural sign	100 square feet	Permitted in: A, NS, GR, LC, CB, C, 1-1,1-2 and PD districts	200 feet between signs
Changeable electronic variable message sign (CEVMS) (off-premises)	672 square feet	Permitted in: GR, LC, CB, C, 1-1 and 1-2 districts with a SUP	See section 140-247. And see section 140-144.
Changeable Electronic Variable Message Sign (CEVMS) (on-premises)	As approved by SUP. *Exception: See section 140-144. Square feet (20 feet maximum height)	Permitted in: O, NS, GR, LC, CB, C, I-1, I-2 and PD with a SUP. Exception: See section 140-144.	See section 140-144
Temporary Type Signs:			
Real estate	12 square feet	All residential districts.	One for each platted lot or tract and for acreage—One for each 200 feet of street frontage.
	No restriction	In all districts, except residential.	None specified.
Construction sign	60 square feet	In all districts	None
Promotional/banner sign	64 square feet	In all districts	See definition 66
Development sign	400 square feet	In all districts	**See below

**For each development of ten acres or less, a maximum of two signs shall be permitted. Developers with frontage on two or more streets may have signs on any two street frontages. Development with frontage on one street may have two signs where street frontage exceeds 500 feet. Development of more than ten acres may have a maximum of three signs.
(Ord. of 9-7-1970, § 14-101)

Sec. 140-240. Approval for a proposed site plan or amendment to an existing site plan.

(a) In a Planned Development District, no sign otherwise permitted shall be erected or placed in position without first receiving approval from the city for a proposed site plan or amendment to an existing site plan, specifying the location, description and physical dimensions of the proposed sign and the applicant shall further be required to meet all permit requirements of the standard building code of the city prior to installation of a sign in a Planned Development District.

(b) Any person violating any provision of this section shall be deemed guilty of a misdemeanor and upon conviction in the municipal court of the city, shall be fined not more than $500.00. Each day of any such violation shall be deemed to be a separate offense. Nothing herein shall be construed to prohibit the city from instituting injunction proceedings requiring removal of any unauthorized sign erected in a Planned Development District.
(Ord. of 9-7-1970, § 14-102; Ord. No. 082-2001, 4-9-2001)

Sec. 140-241. Maximum building height.

No sign shall be constructed to exceed the maximum building height permitted in the specific district where the sign is located except in shopping centers or similar commercial or office centers containing six acres or more, pylon or major identification signs not to exceed 75 feet in height may be erected when set back from the side and rear property line a distance equal to the height of the sign and when such high rise signs comply with the building code as to design and construction.
(Ord. of 9-7-1970, § 14-103)

Sec. 140-242. Interference with traffic on public streets.

No sign shall be located or constructed so as to interfere with or confuse the control of traffic on the public streets and no sign shall use a rotating beacon, beam or flashing illumination resembling an emergency signal.
(Ord. of 9-7-1970, § 14-104)

Sec. 140-243. Nonconforming signs.

Any nonconforming sign which is damaged or is deteriorated to a point where its restoration costs exceeds 50 percent of its replacement value shall be removed.
(Ord. of 9-7-1970, § 14-105)

Sec. 140-244. Public right-of-way.

No sign shall be erected so as to project into the public right-of-way of any street or alley, except in the CB Central Business District. In the CB Central Business District, any projecting sign shall not extend outward from any building face to the public right-of-way for a distance of more than ten feet or to within 18 inches of the street curb, whichever is more restrictive.
(Ord. of 9-7-1970, § 14-106)

Sec. 140-245. Off-premises/billboards.

(a) No advertising sign structure shall contain more than two sign panels facing in the same direction. The maximum size is 672 square feet or two display signs of 336 square feet including cutouts for sign locations that are along divided four lane highways/interstates; and 378 square feet along any other roadways.

(b) Spacing. The minimum sign separation shall be 800 feet from any other advertising sign or painted bulletin board or poster panel along the same side of the street.

(c) Setback means the minimum distance of the sign height from any residential use or district boundary.

(d) The maximum overall height is 42½ feet, measured from the highest point of the sign to the grade level of the interstate perpendicular to the sign. The lowest point of a projecting sign must be at least 14 feet above grade.

(e) Off-premises/billboard sign construction.

(1) The specific use permit required for the use of an off-premises billboard sign shall be granted only to the property owner of the land.

(2) A demolition or building permit must be obtained from the inspection department for the removal of an off-premises sign or for the construction of a new sign.

(f) Nonconforming billboards.

(1) Any abandoned billboard as defined herein shall be removed immediately.

(2) Any billboard which becomes damaged or dilapidated and repairs will cost more than 60 percent of the billboard's total economic value will be deemed nonconforming.

(3) Permits shall not be issued for any construction or renovation to a nonconforming billboard. Only routine maintenance will be allowed.

(Ord. of 9-7-1970, § 14-109; Ord. No. 082-2001, 4-9-2001; Ord. No. 188-2010, 11-22-2010; Ord. No. 149-2012, 11-26-2012)

Sec. 140-246. Precedence.

No provision of this article shall supersede or replace any other ordinance of the city having to do with sign standards, materials or construction, except the provisions of this article pertaining to the use of the various types of signs in the various districts shall take precedence over all other ordinances, regulations and standards.

(Ord. of 9-7-1970, § 14-108)

Sec. 140-247. Signs within 100 feet of an interstate or loop corridor.

Any on-premises sign (for a business) erected within 100 feet of the interstate or loop corridor right-of-way will be allowed to have a sign height of 50 feet measured from the grade level of the interstate or loop. The zoning board of adjustment will not be allowed to grant a height variance for signage height.

(Ord. of 9-7-1970, § 14-109; Ord. No. 082-2001, 4-9-2001)

Sec. 140-248. Damaged signs.

All signs which are damaged, in need of repair, abandoned or have become obsolete as determined by the building official, or designee, shall be removed or repaired by the owner of the building or premises upon which it is located.
(Ord. of 9-7-1970, § 14-110; Ord. No. 082-2001, 4-9-2001)

Sec. 140-249. Utility or public easements.

No permanent sign is permitted on any utility or public easement, or any signage or posters of any kind (including hand held) will be allowed for display on any public or utility poles or on rights-of-way. (Refer to section 28-1.)
(Ord. of 9-7-1970, § 14-111; Ord. No. 082-2001, 4-9-2001)

Secs. 140-250—140-276. Reserved.

ARTICLE X. NONCONFORMING USE AND STRUCTURES

Sec. 140-277. A nonconforming status shall exist under the following provisions of this article.

(a) When a use or structure which does not conform to the regulations prescribed in the district in which such use or structure is located was in existence and lawfully operating prior to the adoption of the previous zoning ordinance and has been operating since without discontinuance.

(b) When on the effective date of the ordinance from which this article is derived, the use or structure was in existence and lawfully constructed, located and operating in accordance with the provisions of the previous zoning ordinance or which was a nonconforming use thereunder, and which use or structure does not now conform to the regulations herein prescribed for the district in which site use or structure is located.
(Ord. of 9-7-1970, § 17-101)

Sec. 140-278. Nonconforming use may not be expanded or increased.

No nonconforming use may be expanded or increased beyond the lot or tract upon which such nonconforming use is located as of the effective date of the ordinance from which this article is derived, except to provide off-street loading or off-street parking space upon approval of the board of adjustment.
(Ord. of 9-7-1970, § 17-102)

Sec. 140-279. Nonconforming use may be changed to conforming use.

Any nonconforming use may be changed to a conforming use and once such change is made, the use shall not thereafter be changed back to a nonconforming use.
(Ord. of 9-7-1970, § 17-103)

Sec. 140-280. Change of occupancy.

A change of occupancy from one nonconforming use to another nonconforming use may be made by securing a certificate of occupancy from the building official, provided, such change is to a use permitted in a zoning district where the original nonconforming use would be permitted or, provided that such use change is to a use permitted in a more restrictive classification, provided further that such change of use and occupancy will not tend to prolong the life of a nonconforming structure.
(Ord. of 9-7-1970, § 17-104)

Sec. 140-281. Conforming use in a nonconforming structure.

Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a certificate of occupancy from the building official.
(Ord. of 9-7-1970, § 17-105)

Sec. 140-282. Abandoned nonconforming use.

Whenever a nonconforming use is abandoned, all nonconforming rights shall cease and the use of the premises shall henceforth be in conformance to this article. Abandonment shall involve the intent of the user or owner to discontinue a nonconforming operation and the actual act of discontinuance. Any nonconforming use which is discontinued for, or which remains vacant for a period of six months, shall be considered to have been abandoned. Any nonconforming use which is moved from the premises shall be considered to have been abandoned.
(Ord. of 9-7-1970, § 17-106)

Sec. 140-283. A destroyed nonconforming use.

If a nonconforming structure or a structure occupied by a nonconforming use is destroyed by fire, the elements or other cause, it may not be rebuilt, except to conform to the provisions of this article. In the case of partial destruction of a nonconforming use not exceeding 60 percent of its reasonable value, reconstruction may be permitted after a hearing and favorable action by the board of adjustment, but the size and function of the nonconforming use shall not be expanded.
(Ord. of 9-7-1970, § 17-107)

Secs. 140-284—140-314. Reserved.

ARTICLE XI. ADMINISTRATION, ENFORCEMENT, PENALTIES AND REMEDIES

DIVISION 1. GENERALLY

Sec. 140-315. Certificate of occupancy.

(a) No building or land shall be used or occupied for any purpose under the provisions of this article, nor shall the use or operator of a specific use permit be changed without first obtaining a certificate of occupancy from the building official.

(b) Whenever the use or operator of a specific use permit is proposed to be changed or whenever a change of occupancy from one conforming use to another conforming use is proposed, an application for a certificate of occupancy shall be made to the building official.

(c) A record of all certificates of occupancy issued shall be kept on file in the building official's office and copies shall be furnished on request to any person having a proprietary or tenancy interest in the land or building covered by a specific use permit or a nonconforming use.

(d) Whenever a change of occupancy from one nonconforming use to another nonconforming use is proposed, an application for a certificate of occupancy shall be made to the building official.
(Ord. of 9-7-1970, §§ 19-101—19-104)

Sec. 140-316. Completion of building under construction.

Nothing herein contained shall require any change in the plans, construction or designated use of a building actually under construction at the time of the passage of the ordinance from which this article is derived and which entire building shall be completed within one year from the date of the passage of the ordinance from which this article is derived.
(Ord. of 9-7-1970, § 20-100)

Sec. 140-317. Amendments to this chapter or zoning map.

(a) The city council may, by the adoption of an ordinance, amend, supplement or change the regulations or text of this article or the classification or boundary of a zoning district. The planning and zoning commission may on its own motion or on a request from the city council, propose changes or amendments. Any property owner may petition the city council for a change or amendment in the classification or boundary of the owner's property or for a change or amendment in the regulations or text of this article.

(b) The planning and zoning commission shall hold a public hearing on any change or amendment prior to making its report and recommendation to the city council. The planning and zoning commission shall submit its report and recommendation on any changes or amendments to the city council before the city council can take any action of those changes or amendments. When a change or amendment relates to a classification or boundary of a zoning

district, written notice of such public hearing of the planning and zoning commission shall be sent to all owners of real property lying within 200 feet of the property on which the change is requested. Such notice shall be given to each owner as shown on the last approved city tax roll by depositing the notice, properly addressed and postage paid, in the city post office not less than ten days before the date of the public hearing. The city shall post a sign on the property to be rezoned as further public notification. When a change or amendment relates to the regulations or text of this article not affecting specific property, notice of the public hearing before the planning and zoning commission shall be given not less than ten days before the hearing by publication in a newspaper of general circulation in the city, without the necessity of notifying property owners by mail. Such notice shall state the date, time and place of the public hearing and the nature of the subject to be considered.

(c) The city council shall hold a public hearing on any amendment or change to the regulations or text of this article or any amendment or change to the classification or boundary of a zoning district. Notice of such public hearing shall be given by publication of the date, time and place of such hearing and the nature of the subject to be considered in a newspaper of general circulation in the city not less than 15 days before the hearing.

(d) A majority vote of the city council shall be required to adopt an ordinance approving any amendment or change, except that a three-fourths vote of the city council shall be required when either:

(1) The planning and zoning commission has recommended for denial of an amendment or change; or

(2) A written protest against an amendment or change has been filed which is signed by the owners of 20 percent or more of the area included in such change or signed by the owners of 20 percent or more of the area within 200 feet of such change. In order to be considered, the petition must be received and filed before or at the planning and zoning commission meeting at which the item is to be heard.

(e) In the event an amendment or change affecting the classification or boundary of a zoning district, for which application has been made, is not approved, no person shall file a subsequent request for an amendment on the same lot or tract for a period of one year from the date of such action, except that a subsequent request can be submitted at any time if such request is to a more restrictive zoning classification than was not approved or if the request was denied without prejudice by the city council. The Planned Development designation shall be considered to be a more restrictive zoning classification.

(f) A person requesting an amendment or change of the regulations or text of this article or the classification or boundary of a zoning district (including rezoning of property, specific use permits, and amendments to Planned Development Districts for approval or modifications of site plans) shall provide a nonrefundable filing fee in an amount as established by the city council from time to time and on file in the city secretary's office or city website.

(Ord. of 9-7-1970, § 21-100; Ord. No. 209-1996, 7-8-1996; Ord. No. 272-2002, 11-25-2002; Ord. No. 116-2011, 7-25-2011)

Sec. 140-318. Penalty for violations.

(a) Any person violating or failing to comply with any of the provisions of this article shall be fined upon conviction not less than $500.00 or more than $2,000.00, and each day any violation or noncompliance continues shall constitute a separate and distinct offense.

(b) The penalty provided herein shall be cumulative of other remedies provided by state law and the power of injunction as provided in Texas Revised Civil Statutes, article 1011h and as may be amended, may be exercised in enforcing this article whether or not there has been a criminal complaint filed.

(c) In addition to the penalty provided for, the right is hereby conferred and extended to any property owner owning property in any district where such property may be affected by a violation of the terms of this article, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law or in equity for the protection of the rights of such property owners.
(Ord. of 9-7-1970, § 23-100; Ord. No. 082-2001, 4-9-2001)

Sec. 140-319. Exceptions and exemptions not required to be negative.

In any complaint and in any action or proceedings brought for the enforcement of any provision of this article, it shall not be necessary to negative any exception, excuse, proviso or exemption contained in this article and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant or person charged.
(Ord. of 9-7-1970, § 24-100)

Secs. 140-320—140-341. Reserved.

DIVISION 2. BOARD OF ADJUSTMENT

Sec. 140-342. Appointment of board members.

The board of adjustment consists of five members appointed by the city council for a term of two years. The city council may appoint a maximum of four alternate board members to serve in the absence of one or more regular board members when requested to do so by the mayor or the city manager. A vacancy of a board member or alternate member shall be filled by the city council for the unexpired term. A board member or alternate member who has served for two consecutive two-year terms must vacate the position as a member or alternate member for at least one year before becoming eligible for reappointment to another term on the board of adjustment. Appointment during any part of a term shall be deemed as service for one of the two consecutive two-year terms. A board member or alternate member may be removed from office by the city council for cause on a written charge after a public hearing.
(Ord. of 9-7-1970, § 18-101)

Sec. 140-343. Procedures and meetings.

(a) The board of adjustment shall adopt rules to govern its proceedings, provided such rules are not inconsistent with this chapter or statutes of the state. Meetings of the board shall be held at the call of the chairperson and at such other times as determined by the board. Four members shall constitute a quorum. The chairperson, or when absent, the acting chairperson, may administer oath and compel the attendance of witnesses.

(b) All meetings of the board shall be open to the public. A public notice shall be posted in the mail addressed to all owners of real property located within 200 feet of the property on which an appeal is made, and a public notice shall be published in a newspaper of general circulation in the city. Such posted notice and published notice shall be given at least ten days prior to the date set for the hearing before the board of adjustment. A notice shall be given to the parties in interest and such parties may appear at the hearing in person or by agent or attorney.

(c) The board shall keep minutes of its proceedings, showing the vote of each member on each question, or that a member is absent or failed to vote. The board shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(d) Any appeal to the board of adjustment shall be accompanied by a filing fee that shall be in an amount as established by the city from time to time and on file in the city secretary's office or city website.
(Ord. of 9-7-1970, § 18-102)

Sec. 140-344. Authority of the board.

The board of adjustment shall have the authority to act upon the following when approved by a vote of at least four members of the board of adjustment:

(1) Decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.

(2) Permit the reconstruction of a nonconforming structure or a structure occupied by a nonconforming use which is partially destroyed by fire, the elements or other cause, when such destruction does not exceed 60 percent of its reasonable value.

(3) Permit the addition of off-street parking or off-street loading facilities to a nonconforming use.

(4) Permit a variance or modification to the height, yard, lot area, coverage and parking regulations as may be necessary to secure appropriate development of a parcel of land

which under literal enforcement of the above referenced regulations would result in unnecessary hardship due to special conditions related to the particular property being considered for a variance.

(Ord. of 9-7-1970, § 18-103)

Sec. 140-345. Appeal to board.

(a) Any of the following persons may appeal to the board a decision made by an administrative official:

(1) A person aggrieved by the decision; or

(2) Any officer, department, board or bureau of the city affected by the decision.

(b) Such appeal must be filed with the board of adjustment and with the administrative official within 15 days after the decision being appealed has been rendered by the administrative official. The appeal must specify in writing the grounds for the appeal. On receiving the appeal, the administrative officer shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) Such appeal stays all proceedings in furtherance of the action that is appealed, unless the administrative official certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or by a court of record on application, after notice to the official, if due cause is shown.

(Ord. of 9-7-1970, § 18-104)

Sec. 140-346. Judicial review of board decision.

(a) Any of the following persons may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

(1) A person aggrieved by a decision of the board;

(2) A taxpayer; or

(3) An officer, department, board or bureau of the city.

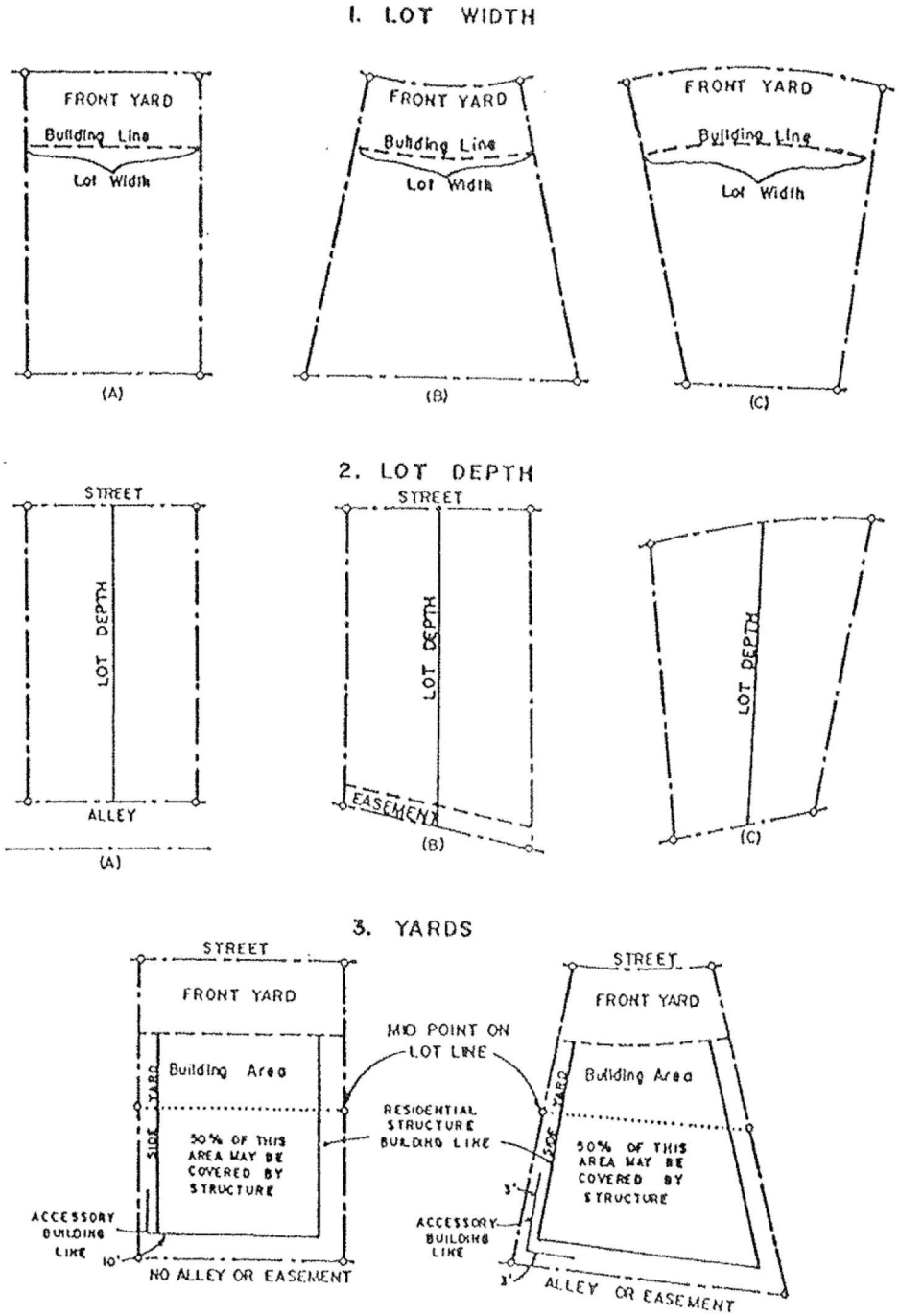
(b) The petition must be presented within ten days after the date the decision is filed in the board's office. On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time by which the board's return must be made and served on the petitioner's attorney, which must be after ten days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board, the court may grant a restraining order if due cause is shown.

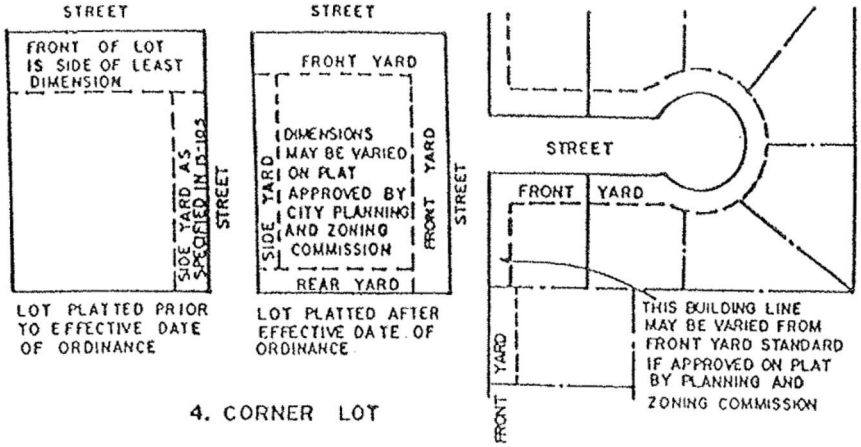
(c) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

(d) If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision.

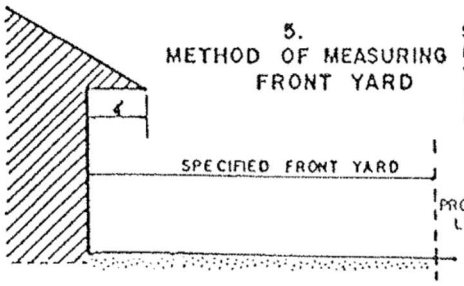
(e) The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs may not be assessed against the board, unless the court determines that the board acted with gross negligence, in bad faith or with malice in making its decision.
(Ord. of 9-7-1970, § 18-105)

Appendix Illustrations

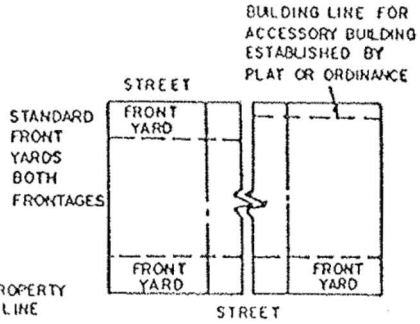




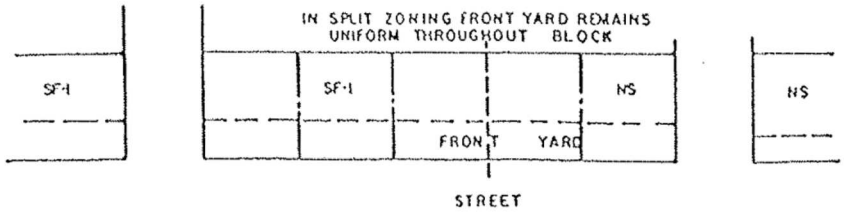
4. CORNER LOT



5.
METHOD OF MEASURING FRONT YARD



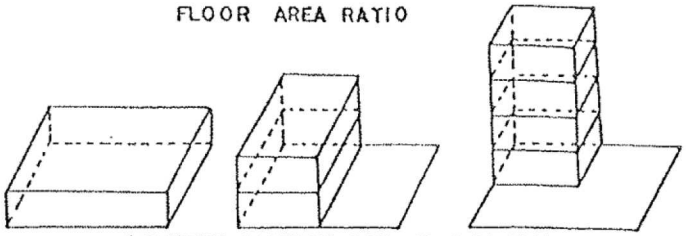
6.
DOUBLE FRONTAGE LOTS



7.
FRONT YARD WHERE ZONING CHANGES IN A BLOCK

10.

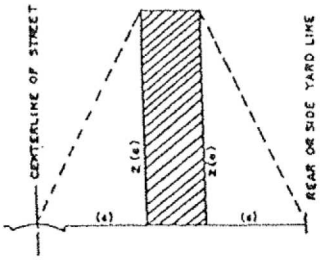
FLOOR AREA RATIO



EACH DRAWING ILLUSTRATES FLOOR AREA RATIO OF 1:1

11.

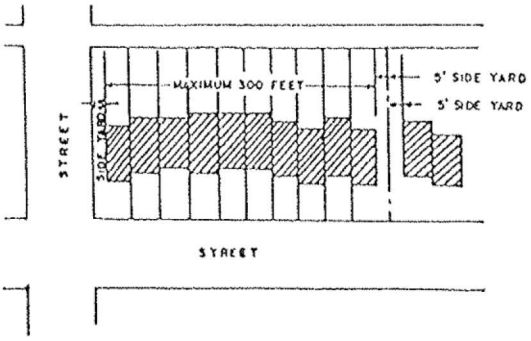
SET BACK STANDARDS FOR
HIGH RISE APARTMENT & SIMILAR STRUCTURES



WHEN HEIGHT EQUALS 2(e), FRONT YARD MEASURED FROM STREET CENTERLINE MUST BE MINIMUM OF(e) SIDE AND REAR YARDS WITH OPENINGS FOR LIGHT OR AIR, SHALL BE MINIMUM DIMENSION OF(e) WHEN HEIGHT IS 2(e), IN NO CASE HEIGHT EXCEED FIFTY (50) FEET (SEE 13-104)

12.

SIDE YARD STANDARDS
ATTACHED SINGLE FAMILY DWELLINGS



8.

INTERPRETATION OF AVERAGE FRONT YARD
WHERE YARD DEPTH VARIES

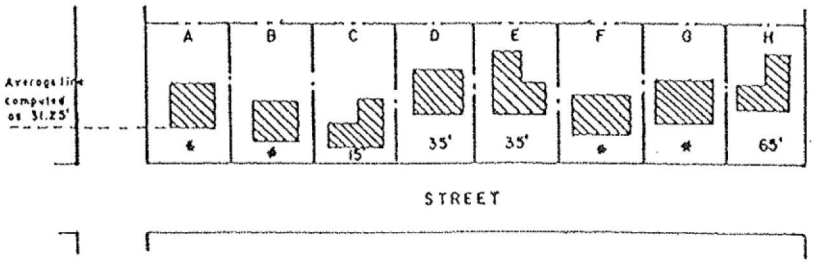
Basis of Computation
Existing Buildings

Lots	Set Back
C	15'
D	35'
E	35'
H	65'

* Other lots by
Average Line = 31.25'

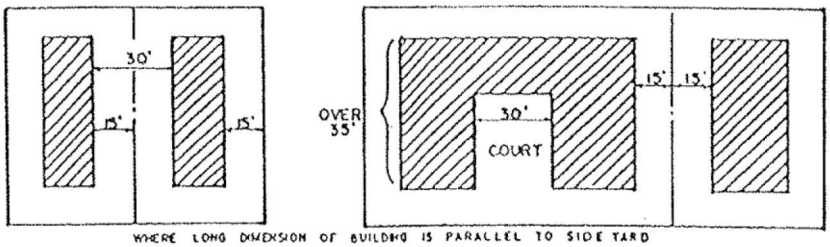
Computed Minimum Set Backs

A	31.25'	average
B	25'	need not set back over 10' from C
C	15'	existing
D	35'	existing
E	35'	existing
F	31.25'	average
G	41.25'	need not set back over 10' from F
H	65'	existing

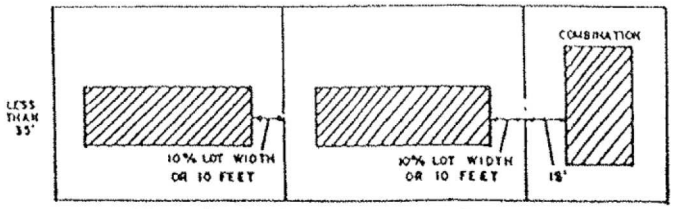


9.

SPECIAL APARTMENT SIDE YARD
AND SPACING STANDARDS



WHERE LONG DIMENSION OF BUILDING IS PARALLEL TO SIDE YARD



WHERE END OR NARROW DIMENSION OF BUILDING IS PARALLEL TO SIDE YARD

CODE COMPARATIVE TABLE

1961 CODE

This table gives the location within this Code of those sections of the 1961 Code, as updated through September 8, 2014, which are included herein. Sections of the 1961 Code, as updated, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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1-7	1-7	3-17	4-29
1-9	1-8	3-18	4-30
1-11	1-9	3-19	4-31
2-1	2-1	3-20	4-32
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2-14	2-3	3-22	4-34
2-28	2-25	3-23	4-35
2-29	2-26	3-24	4-36
2-30	2-27	3-25	4-61
2-31	2-28	3-26	4-62
2-32	2-29	3-27	4-63
2-33	2-30	3A-1	6-1
2-34	2-31	3A-2	6-3
2-35	2-32	3A-26	6-25
2-36	2-33	3A-27	6-26
2-100	2-82	3A-28	6-27
2-101	2-83	3A-29	6-28
2-102	2-84	3A-30	6-29
2-103	2-85	3A-31	6-30
2-104	2-86	3A-32	6-31
2-105	2-87	3A-33	6-32
2-106	2-88	3A-34	6-33
2-107	2-89	3A-35	6-34
2-108	2-90	3A-36	6-35
2-109	2-91	3A-37	6-36
2-110	2-92	3A-38	6-37
3-8	4-19	4-1	8-1
3-9	4-20	4-2	8-2
3-10	4-21	4-3	8-3
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4-11	8-10	5-62	105-322
4-13	8-11	5-63	105-323
4-14	8-12	5-64	105-324
4-15	8-13	5-65	105-325
4-16	8-14	5-66	105-326
4-17	8-15	5-67	105-327
4-18	8-16	5-68	105-328
4-19	8-17	5-69	105-329
4-20	8-18	5-70	105-330
4-21	8-19	5-71	105-331
4-22	8-20	5-72	105-332
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5-2.3	105-1	5-80	105-355
5-3	105-129	5-81	105-356
5-4	105-36	5-82	105-357
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5-5	105-2	5-84	105-359
5-6	105-3	5-85	105-360
5-7	105-37	5-86	105-361
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5-32	105-290	5-98	105-389
5-33	105-291	5-99	105-390
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5-35	105-293	5A-2	14-2
5-51	105-311	5A-3	14-3
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5-53	105-313	5A-5	14-5
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6-2	10-2	8-51	105-230
6-18	10-23	8-51.1	105-231
6-26	10-24	8-51.2	105-232
6-35	10-52	8-51.3	105-233
6-36	10-53	8-57	105-234
6-37	10-54	8-59	105-235
6-38	10-55	9-1	18-1
6-39	10-56	9-2	18-2
6-40	10-57	9-3	18-3
6-41	10-58	9-4	18-4
7-1	12-1	9-4.01	18-5
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8-3	105-162	9-12	18-13
8-4	105-163	9-13	18-14
8-5	105-164	9-17	18-15
8-6	105-165	9-18	18-16
8-7	105-166	9-19	18-17
8-8	105-167	9-20	18-18
8-9	105-168	9-21	18-19
8-10	105-169	9-22	18-42
8-11	105-170	9-23	18-43
8-12	105-171	9-24	18-44
8-13	105-172	9-25	18-45
8-14	105-173	9-26	18-46
8-15	105-174	9-28	18-66
8-16	105-175	9-29	18-67
8-17	105-176	9-40	18-93
8-18	105-177	10-1	20-1
8-19	105-178	10-2	20-2
8-20	105-179	10-3	20-3
8-21	105-180	10-62	20-58
8-22	105-181	10-62.1	20-59
8-25	105-182	10-63	20-60
8-26	105-183	10-65	20-61
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8-28	105-185	10-67	20-63
8-29	105-186	10-68	20-64
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8-31	105-188	10-69	20-66
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11-5	22-5	12B-12	16-13
11-6	22-6	12B-13	16-14
11-7	22-7	12B-14	16-15
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11-9	22-9	13-5	26-3
11-10	22-10	13-9	26-4
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11-16	22-16	13-87.2	26-34
11-18	22-17	13-87.4	26-35
12-1	24-1	13-87.5	26-36
12-2	24-2	13-87.6	26-37
12-3	24-3	13-87.7	26-38
12-4	24-4	13-90	26-39
12-5	24-5	13-92	26-40
12-6	24-6	13-104	26-41
12-6.1	24-7	13-106	26-42
12-7	24-8	13-107	26-43
12-8	24-9	13-108.1	26-44
12-9	24-10	13-109	26-45
12-10	24-11	13-131	22-38
12-11	24-12	13-132	22-39
12-12	24-13	13-133	22-40
12-13	24-14	13-134	22-41
12-14	24-15	13-135	22-42
12-15	24-16	13-136	22-43
12-16	24-17	13-137	22-44
12-17	24-18	13-138	22-45
12-18	24-19	13-139	22-46
12-19	24-20	13-140	22-47
12-45	24-44	13-145	26-64
12-46	24-45	14-1	28-234
12-47	24-46	14-2	28-235
12-48	24-47	14-3	28-236
12-49	24-48	14-4	28-237
12-50	24-49	14-5	28-238
12B-1	16-1	14-6	28-239
12B-2	16-2	14-7	28-240
12B-3	16-3	14-8	28-241
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12B-6	16-6	14-11	28-244
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15-4	28-3	15-48.3	28-101
15-5	28-4	15-48.4	28-102
15-9	28-5	15-48.5	28-103
15-13	28-6	15-48.6	28-104
15-13.1	28-7	15-48.7	28-105
15-13.2	28-8	15-49	28-124
15-14	28-9	15-49.1	28-125
15-16	28-10	15-50	28-149
15-18	28-11	15-51	28-150
15-20	28-41	15-52	28-151
15-20.001	28-43	15-53	28-152
15-20.002	28-44	15-54	28-153
15-20.003	28-45	15-55	28-154
15-20.004	28-46	15-56	28-155
15-20.005	28-47	15-57	28-156
15-20.006	28-48	15-66	28-181
15-20.007	28-49	15-67	28-201
15-20.008	28-50	15-68	28-202
15-20.009	28-51	15-69	28-203
15-20.010	28-52	15-70	28-204
15-20.011	28-53	15-71	28-205
15-20.012	28-54	16-1	30-1
15-20.013	28-55	16-2	30-2
15-20.014	28-56	16-3	30-3
15-20.015	28-57	16-4	30-4
15-20.1	28-58	16-5	30-5
15-30	28-77	16-6	30-6
15-31	28-78	16-7	30-7
15-32	28-79	16-8	30-8
15-33	28-80	16-9	30-9
15-34	28-81	16-10	30-10
15-35	28-82	16-11	30-11
15-36	28-83	16-12	30-12
15-37	28-84	16-13	30-13
15-38	28-85	16-14	30-14
15-39	28-86	16-15	30-15
15-40	28-87	16-16	30-16
15-41	28-88	16-17	30-17
15-41.1	28-89	16-18	30-18
15-41.2	28-90	16-19	30-19
15-41.3	28-91	16-20	30-20
15-42	28-92	16-27	30-44
15-43	28-93	16-28	30-45
15-44	28-94	16-29	30-46
15-45	28-95	16-30	30-47
15-46	28-96	16-31	30-48
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17-8	32-6	21-2	36-2
17-9	32-7	21-3	36-3
18-9	34-19	21-4	36-43
18-10	34-20	21-5	36-44
18-11	34-21	21-6	36-45
18-12	34-22	21-7	36-64
18-13	34-23	21-8	36-65
18-14	34-24	21-9	36-4
18-15	34-25	21-10	36-5
18-16	34-26	21-11	36-6
18-17	34-27	21-12	36-7
18-18	34-28	21-13	36-8
18-19	34-29	21-14	36-9
18-20	34-47	21-15	36-10
18-21	34-48	21-16	36-11
18-22	34-49	21-17	36-12
18-23	34-50	23-1	38-3
18-24	34-51	23-4	38-4
18-25	34-52	23-5	38-5
18-26	34-53	23-7	38-6
18-27	34-54	23-8	38-7
18-28	34-55	23-11	38-8
18-29	34-56	23-12	38-9
18-30	34-57	23-13	38-10
19-1	34-88	23-14	38-11
19-2	34-89	23-15	38-12
19-3	34-90	23-16	38-13
19-4	34-91	23-17	38-14
19-6	34-92	23-18	38-15
19-7	34-93	23-19	38-16
19-8	34-94	24-1	130-1
19-9	34-95	24-2	130-2
19-10	34-96	24-3	130-3
19-11	34-97	24-4	130-4
19-12	34-98	24-5	130-5
19-13	34-99	24-6	130-6
19-14	34-100	24-6.1	130-7
19-15	34-101	24-7	130-8
20-1	105-256	24-8	130-9
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20-3	105-260	24-12	130-13
20-4	105-261	24-13	130-14
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24-27	130-47	25-9	135-10
24-28	130-48	25-10	135-11
24-30	130-49	25-11	135-12
24-31	130-50	25-12	135-13
24-32	130-51	25-13	135-14
24-33	130-52	25-14	135-15
24-39	130-78	25-15	135-16
24-40	130-79	25-16	135-17
24-41	130-80	25-17	135-18
24-41.1	130-81	25-18	135-19
24-42	130-82	25-19	135-20
24-43	130-83	25-20	135-21
24-44	130-84	25-21	135-22
24-45	130-85	25-22	135-23
24-46	130-86	25-23	135-24
24-47	130-87	25-24	135-25
24-48	130-88	25-25	135-26
24-49	130-89	25-26	135-27
24-50	130-90	25-27	135-28
24-51	130-91	25-28	135-29
24-53	130-92	25-29	135-30
24-54	130-93	25-30	135-31
24-55	130-94	25-31	135-32
24-61	130-117	25-32	135-33
24-62	130-118	25-33	135-34
24-63	130-119	25-34	135-35
24-63.1	130-120	26-12	40-19
24-64	130-121	26-13	40-20
24-64.1	130-122	26-14	40-21
24-65	130-123	26-15	40-22
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24-76	130-151	27-2	44-102
24-77	130-152	27-3	44-103
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27-53	44-81	29-47.1	32-49
27-54	44-82	29-47.2	32-50
27-56	44-83	29-47.3	32-51
29-1	42-1	29-47.4	32-52
29-1.1	42-2	29-47.5	32-53
29-2	42-3	29-48	42-110
29-3	42-4	29-49	42-111
29-4	42-5	29-49.1	42-112
29-5	42-6	29-50	42-113
29-6	42-7	29-50.1	42-114
29-7	42-8	29-51	42-115
29-8	42-9	29-51.1	42-116
29-9	42-10	29-51.2	42-117
29-10	42-11	29-51.3	42-118
29-11	42-12	29-51.4	42-119
29-12	42-13	29-51.5	42-137
29-13	42-14	29-51.6	42-138
29-14	42-15	29-51.7	42-139
29-15	42-16	29-51.8	42-140
29-16	42-17	29-52	42-195
29-17	42-18	29-53	42-214
29-18	42-19	29-54	42-237
29-19	42-42	29-55	42-238
29-20	42-43	29-56	42-239
29-21	42-44	29-57	42-257
29-22	42-45	29-58	42-258
29-23	42-46	29-59	42-259
29-24	42-47	29-60	42-260
29-25	42-48	29-61	42-261
29-26	42-49	29-62	42-262
29-27	42-50	29-63	42-263
29-27.1	42-51	29-64	42-264
29-27.2	42-52	29-75	42-292
29-28	42-53	29-76	42-293
29-29	42-54	29-77	42-294
29-30	42-55	29-78	42-295
29-34	32-35	29-79	42-296
29-35	32-36	29-90	42-326
29-36	32-37	29-91	42-327
29-37	32-38	29-92	42-328
29-38	32-39	29-93	42-329
29-39	32-40	29-94	42-330
29-40	32-41	29-95	42-331
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29-101	42-337	32-2	120-2
29-102	42-338	32-3	120-3
29-103	42-339	32-4	120-4
29-104	42-340	32-5	120-5
29-105	42-341	32-6	120-6
29-106	42-342	32-7	120-7
29-107	42-343	32-8	120-8
29-108	42-344	32-9	120-9
29-109	42-345	32-10	120-10
29-110	42-346	32-11	120-11
29-111	42-347	32-13	120-12
29-112	42-348	32A-1	125-1
29-113	42-349	32A-2	125-2
29-114	42-350	32A-3	125-3
29-115	42-351	32A-4	125-4
29-116	42-352	32A-5	125-5
30A-1	115-1	32A-6	125-6
30A-2	115-2	32A-7	125-31
30A-3	115-3	32A-8	125-32
30A-4	115-4	32A-9	125-33
30A-5	115-5	32A-10	125-34
30A-6	115-6	32A-11	125-35
30A-7	115-7	32A-12	125-36
30A-8	115-8	32A-13	125-61
30A-10	115-9	32A-13.1	125-62
30A-11	115-10	32A-14	125-63
31-1	110-1	32A-15	125-64
31-2	110-2	32A-16	125-65
31-3	110-3	32A-17	125-89
31-4	110-4	32A-18	125-90
31-5	110-5	32A-19	125-91
31-6	110-6	32A-20	125-92
31-7	110-31	32A-21	125-93
31-8	110-32	32A-22	125-94
31-9	110-33	32A-23	125-95
31-10	110-34	32A-24	125-96
31-11	110-35	32A-25	125-97
31-12	110-36	32A-26	125-98
31-13	110-37	32A-27	125-99
31-14	110-63	32A-28	125-100
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31-16	110-65	33-2	44-20
31-17	110-66	33-3	44-21
31-18	110-91	33-4	44-22
31-19	110-92	33-5	44-23
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CODE COMPARATIVE TABLE

LEGISLATION

This table gives the location within this Code of those ordinances which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

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