ORDINANCES OF THE

CITY OF GHOLSON

MCLENNAN COUNTY

STATE OF TEXAS

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Table of Contents

CHAPTER 1 GENERAL PROVISION 1
ARTICLE 1.01 CODE OF ORDINANCES 1
Sec. 1.01.001 Adoption 1
Sec. 1.01.002 Designation and citation of code 1
Sec. 1.01.003 Catchlines of articles, divisions, and sections 1
Sec. 1.01.004 Definitions and rules of construction 1
Sec. 1.01.005 Severability of parts of code 4
Sec. 1.01.006 Repeal of ordinances 4
Sec. 1.01.007 Amendments or additions to code 4
Sec. 1.01.008 Supplementation of code 4
Sec. 1.01.009 General penalty for violations of code; continuing violations 5
ARTICLE 1.02 ADMINISTRATION 6
Sec. 1.02.031 Notice requirements 6
Sec. 1.02.032 Consideration by council required prior to suit 7
Sec. 1.02.033 Service of notices 7
Sec. 1.02.034 Waiver of notice requirements 7
Sec. 1.02.035 Notice to be sworn 7
ARTICLE 1.10 ANNEXATIONS 7
Sec. 1.10.001 Petition 7
Sec. 1.10.002 Procedures 8
Sec. 1.10.003 Limitations 8
ARTICLE 1.11 FINANCES 8
Division 1. Generally 8
Sec. 1.11.001 Audits 9
Secs. 1.11.002–1.11.030 Reserved 9
Division 2. Budget 9
Sec. 1.11.031 Budget officer 9
Sec. 1.11.032 Budget required 9
Sec. 1.11.033 Contents 9
Sec. 1.11.034 Cooperation required 9
Sec. 1.11.035 Filing of proposed budget 9
Sec. 1.11.036 Public inspection of proposed budget 10
Sec. 1.11.037 Public hearing; filing of adopted budget 10
Sec. 1.11.038 Amendments 10
ARTICLE 1.12 DISCRIMINATION 10
Division 1. Generally 10
Secs. 1.12.001–1.12.030 Reserved 10
Division 2. Fair Housing 10
Sec. 1.12.031 Definitions 10
Sec. 1.12.032 Interpretation and effect 11
Sec. 1.12.033 Discrimination in sale or rental of housing 12
Sec. 1.12.034 Discrimination in financing of housing 12
Sec. 1.12.035 Discrimination in provision of brokerage services 13
Sec. 1.12.036 Exemptions and exclusions 13
Sec. 1.12.037 Fair housing administrator 14
Sec. 1.12.038 Complaints 14

Sec. 1.12.039 Investigation and conciliation 15
Sec. 1.12.040 Cumulative legal effect 16
Sec. 1.12.041 Unlawful intimidation 16
Sec. 1.12.042 Cooperation with federal officials 16
Sec. 1.12.043 Education and public information 16
Sec. 1.12.044 Penalty; injunctive relief 16
CHAPTER 2 ANIMAL CONTROL 17
ARTICLE 2.01 GENERAL PROVISIONS 17
Sec. 2.01.001 Definitions 17
Sec. 2.01.002 Purpose 20
Sec. 2.01.003 Enforcement 21
Sec. 2.01.004 Powers and duties of citizens 21
Sec. 2.01.005 Penalty 21
Sec. 2.01.006 Prima facie evidence of responsibility for violation 22
Sec. 2.01.007 Abatement of noncomplying conditions 22
Sec. 2.01.008 Compliance with chapter not relief from compliance with other regulations 22
Sec. 2.01.009 Fees ..... **Error! Bookmark not defined.**
ARTICLE 2.02 GENERAL REGULATIONS 23
Sec. 2.02.001 Identification for animals 23
Sec. 2.02.002 Running at large 23
Sec. 2.02.003 Animal defecation prohibited in certain areas 24
Sec. 2.02.004 Wild animals or wildlife 24
Sec. 2.02.005 Nuisance animals 24
Sec. 2.02.006 Honeybees 25
Sec. 2.02.007 Pens and coops 25
Sec. 2.02.008 Livestock 25
Sec. 2.02.009 Other restrictions 26
Sec. 2.02.010 Animals held on complaint 27
ARTICLE 2.03 DANGEROUS ANIMALS 27
Sec. 2.03.001 Purpose of article 27
Sec. 2.03.002 Dangerous animals 27
Sec. 2.03.003 Potentially dangerous animals 28
Sec. 2.03.004 Exceptions 29
Sec. 2.03.005 Nonregisterable dangerous dogs prohibited; impoundment 29
Sec. 2.03.006 Determination of nonregisterable dangerous dog 30
Sec. 2.03.007 Notification of determination of a nonregisterable dangerous dog; appeals 30
Sec. 2.03.008 Status of nonregisterable dangerous dog pending appeal 31
Sec. 2.03.009 Defense to determination of nonregisterable dangerous dog 31
Sec. 2.03.010 Disposition of nonregisterable dangerous dog 31
Sec. 2.03.011 Registerable dangerous dogs criteria 32
Sec. 2.03.012 Determination of registerable dangerous dog 32
Sec. 2.03.013 Notification of declaration of registerable dangerous dog 32
Sec. 2.03.014 Status of registerable dangerous dog on appeal 33
Sec. 2.03.015 Defense to determination of registerable dangerous dog 33
Sec. 2.03.016 Disposition of registerable dangerous dog 33
Sec. 2.03.017 Requirements for registration and possession of registered dangerous dog 34
Sec. 2.03.018 Attack by registered dangerous dog 34
Sec. 2.03.019 Appeal from decision of municipal court 35
Sec. 2.03.020 Defense to prosecution for registered dangerous dog violation 35
Sec. 2.03.021 Penalties for violation of this article 35
Sec. 2.03.022 Prohibited animals 35

Sec. 2.03.023 Restricted animals designated; permit required ... 36
Sec. 2.03.024 Issuance of restricted animal permit; conditions ... 36
Sec. 2.03.025 Violation of restricted animal requirements ... 37
Sec. 2.03.026 Exemptions ... 37
Sec. 2.03.027 Guard dogs ... 38
ARTICLE 2.04 IMPOUNDMENT ... 38
Division 1. Generally ... 38
Sec. 2.04.001 Impoundment authorized; fees ... 38
Sec. 2.04.002 Redemption of impounded animal ... 39
Sec. 2.04.003 Disposition of dogs and cats ... 39
Sec. 2.04.004 Adoption of animals ... 40
Secs. 2.04.005–2.04.030 Reserved ... 40
Division 2. Estray and Other Livestock ... 40
Sec. 2.04.031 Allowing animal or fowl to run at large ... 40
Sec. 2.04.032 Impoundment ... 41
Sec. 2.04.033 Search for owner; advertisement ... 41
Sec. 2.04.034 Recovery by owner ... 41
Sec. 2.04.035 Sale at auction ... 41
Sec. 2.04.036 Recovery of sale proceeds by owner ... 42
Sec. 2.04.037 Use of impounded animal ... 42
Sec. 2.04.038 Death or escape of impounded animal ... 42
CHAPTER 3 BUILDING REGULATIONS ... 43
ARTICLE 3.01 GENERAL PROVISIONS ... 43
Sec. 3.01.001 Roofing materials ... 43
Sec. 3.01.002 Building setback lines ... 43
Sec. 3.01.003 Height of utility lines ... 43
ARTICLE 3.02 TECHNICAL AND CONSTRUCTION CODES AND STANDARDS ... 44
Division 1. Generally ... 44
Secs. 3.02.001–3.02.050 Reserved ... 44
Division 2. Building Code and Residential Code ... 44
Sec. 3.02.051 Building code adopted; amendments ... 44
Sec. 3.02.052 Residential code adopted; amendments ... 45
Sec. 3.02.053 Penalty ... 45
Sec. 3.02.054 Enforcement of regulations ... 45
Secs. 3.02.053–3.02.100 Reserved ... 46
Division 3. Plumbing Code ... 46
Sec. 3.02.101 Adopted ... 46
Sec. 3.02.102 Amendments ... 46
Secs. 3.02.103–3.02.150 Reserved ... 47
Division 4. Electrical Code ... 47
Sec. 3.02.151 Adopted ... 47
Sec. 3.02.152 Scope ... 48
Sec. 3.02.153 Liability for damages caused by defects ... 48
Sec. 3.02.154 Enforcement ... 48
Sec. 3.02.155 Appeals ... 48
Sec. 3.02.156 Permits ... 48
ARTICLE 3.03 SUBSTANDARD OR DANGEROUS BUILDINGS ... 49
Division 1. Generally ... 49
Sec. 3.03.001 Local Government Code chapter 214 adopted ... 49
Sec. 3.03.002 Definitions ... 49
Sec. 3.03.003 Dangerous buildings declared nuisance ... 51

Sec. 3.03.004 Inspections; duties of code enforcement authority 51
Sec. 3.03.005 Notice of dangerous building or dangerous condition of property 52
Sec. 3.03.006 Securing dangerous building 53
Sec. 3.03.007 Sufficiency of notice 54
Secs. 3.03.008–3.03.030 Reserved 54
Division 2. Board of Adjustments and Appeals; Hearings Before Board 54
Sec. 3.03.031 City council to serve as board of adjustments and appeals 54
Sec. 3.03.032 Duties of board of adjustments and appeals; hearings 54
Secs. 3.03.033–3.03.060 Reserved 56
Division 3. Appeal of Order of Board of Adjustments and Appeals 56
Sec. 3.03.061 Appeal procedures 57
Sec. 3.03.062 City council action upon failure to comply with order 58
Sec. 3.03.063 Judicial review 58
Secs. 3.03.064–3.03.090 Reserved 59
Division 4. Assessment of Expenses and Penalties; Violations 59
Sec. 3.03.091 Assessment of expenses and penalties 59
Sec. 3.03.092 Violations; criminal penalty 60
ARTICLE 3.04 MANUFACTURED HOMES, MOBILE HOMES AND RECREATIONAL VEHICLES 60
Sec. 3.04.001 Authority 60
Sec. 3.04.002 Definitions 60
Sec. 3.04.003 Enforcement 61
Sec. 3.04.004 Violations and notices 61
Sec. 3.04.005 Appeals 62
Sec. 3.04.006 Penalty 62
Sec. 3.04.007 Mobile homes prohibited 62
Sec. 3.04.008 Use of recreational vehicle or travel trailer for residential purposes prohibited 63
Sec. 3.04.009 HUD-code manufactured home placement and installation regulations 63
Sec. 3.04.010 HUD-code manufactured home maintenance regulations 65
Sec. 3.04.011 Manufactured home parks and manufactured home subdivisions 66
Sec. 3.04.012 Nonconforming mobile homes and HUD-code manufactured homes 66
ARTICLE 3.05 SIGNS 66
Division 1. In General 66
Sec. 3.05.041 Purpose 66
Sec. 3.05.042 Definitions 66
Sec. 3.05.043 General standards 68
Sec. 3.05.044 Prohibited billboards 69
Sec. 3.05.045 Exemptions 69
Sec. 3.05.046 Areas of special control 70
Sec. 3.05.047 Construction and maintenance standards 70
Sec. 3.05.048 Nonconforming billboards 70
Sec. 3.05.049 Protection of First Amendment rights 71
Secs. 3.05.050–3.05.080 Reserved 71
Division 2. Administration, Enforcement and Permits 71
Sec. 3.05.081 Enforcement officer 71
Sec. 3.05.082 Permit required 71
Sec. 3.05.083 Permit application requirements 71
Sec. 3.05.084 Permit fees 72
Sec. 3.05.085 Completeness of permit application 72
Sec. 3.05.086 Issuance or denial of permit 72
Sec. 3.05.087 Inspection of construction; correction of deficiencies 72

Sec. 3.05.088 Lapse of permit 72
Sec. 3.05.089 Assignment of permit 73
Sec. 3.05.090 Injunctive relief 73
Sec. 3.05.091 Investigation of complaints; revocation of permit 73
Sec. 3.05.092 Appeals 73
Sec. 3.05.093 Business tax 73
Sec. 3.05.094 Expiration of permit 73
Sec. 3.05.095 Violations; penalty 73
Sec. 3.05.096 Removal of illegal billboards 74
Sec. 3.05.097 Removal of billboards posing immediate peril 74
ARTICLE 3.06 SWIMMING POOLS 74
Division 1. Generally 74
Secs. 3.06.001–3.06.030 Reserved 74
Division 2. Barriers Around Residential Swimming Pools 74
Sec. 3.06.031 Definitions 74
Sec. 3.06.032 Violations; penalty 74
Sec. 3.06.033 Applicability; exemptions 75
Sec. 3.06.034 Barrier required 75
Sec. 3.06.035 Height and location 75
Sec. 3.06.036 Openings, indentations, or protrusions 75
Sec. 3.06.037 Barrier composed of horizontal and vertical members 76
Sec. 3.06.038 Chain-link fences 76
Sec. 3.06.039 Barrier composed of diagonal members 76
Sec. 3.06.040 Gates 76
Sec. 3.06.041 Wall forming part of barrier 77
Sec. 3.06.042 Above-ground pool ladders or steps 77
Sec. 3.06.043 Structures used for climbing barriers 77
Sec. 3.06.044 Permits 78
Sec. 3.06.045 Time limit for compliance 78
ARTICLE 3.08 ADDRESS NUMBERS 78
Sec. 3.08.001 Penalty 78
Sec. 3.08.002 Numbering system; issuance of numbers 78
Sec. 3.08.003 Variances 78
Sec. 3.08.004 Posting of numbers 78
ARTICLE 3.09 MOVING OF BUILDINGS OR HEAVY MACHINERY 78
Sec. 3.09.001 Permit required; issuance; bond; notice to utility companies 78
Sec. 3.09.002 Permit fee 79
ARTICLE 3.10 STREETS, SIDEWALKS AND PUBLIC RIGHTS-OF-WAY 79
Division 1. Generally 79
Sec. 3.10.001 Curb, gutter, driveway, sidewalk, parking lot and drainage installations 79
Secs. 3.10.002–3.10.030 Reserved 79
Division 2. Excavations 79
Sec. 3.10.031 Permit required; fee 80
Sec. 3.10.032 Warning devices, barricades, etc. 80
Sec. 3.10.033 Restoration of work areas 80
Secs. 3.10.034–3.10.060 Reserved 80
Division 3. Culverts 80
Sec. 3.10.061 Authority 80
Sec. 3.10.062 Purpose; applicability 80
Sec. 3.10.063 Penalty 80
Sec. 3.10.064 Additional remedies 81

Sec. 3.10.065 Enforcement 81
Sec. 3.10.066 Policy and requirements for driveway culverts 81
Sec. 3.10.067 New concrete driveways 81
Sec. 3.10.068 Existing driveways 81
Sec. 3.10.069 Repair of driveway after excavation work or repair of culvert 82
Sec. 3.10.070 Landscape culverts 82
Secs. 3.10.071–3.10.090 Reserved 82
Division 4. Network Nodes and Network Support Poles 82
Sec. 3.10.091 Purpose 82
Sec. 3.10.092 Intent 82
Sec. 3.10.093 Definitions 83
Sec. 3.10.094 Permitted use; application for permit; fees 83
Sec. 3.10.095 Action on permit applications 84
Sec. 3.10.096 Maximum height and other requirements for network nodes in right-of- way 85
Sec. 3.10.097 Effect of permit 86
Sec. 3.10.098 Removal, relocation, or modification of network nodes in right-of-way 86
Sec. 3.10.099 Public right-of-way rate 86
Sec. 3.10.100 Attachment to city-owned service poles 87
Sec. 3.10.101 Transport facilities 87
Sec. 3.10.102 Design manual 87
CHAPTER 4 BUSINESS REGULATION 89
ARTICLE 4.01 GENERAL PROVISIONS 89
ARTICLE 4.02 ALCOHOLIC BEVERAGES 89
Sec. 4.02.001 License and permit fees 89
Sec. 4.02.002 Sale near church, school, or hospital 89
ARTICLE 4.03 PEDDLERS, VENDORS, AND ITINERANT MERCHANTS 89
Sec. 4.03.001 Interpretation 89
Sec. 4.03.002 Definition 89
Sec. 4.03.003 License required; carrying license 90
Sec. 4.03.004 Application for license 90
Sec. 4.03.005 Bond 90
Sec. 4.03.006 License fees; duration of license 90
Sec. 4.03.007 Exceptions 90
Sec. 4.03.008 Registration of persons engaged in interstate commerce 91
Sec. 4.03.009 Selling on streets, alleys or sidewalks prohibited 91
ARTICLE 4.05 CARNIVALS, CIRCUSES AND SHOWS 92
Division 1. Generally 92
Sec. 4.05.001 Exceptions 92
Sec. 4.05.002 Location restrictions 92
Secs. 4.05.003–4.05.030 Reserved 92
Division 2. Permit 92
Sec. 4.05.031 Required 92
Sec. 4.05.032 Filing of application 92
Sec. 4.05.033 Application requirements 92
Sec. 4.05.034 Fee 93
Sec. 4.05.035 Investigation; issuance or denial 93
Sec. 4.05.036 Revocation 93
CHAPTER 5 FIRE PREVENTION AND PROTECTION 94
ARTICLE 5.01 GENERAL PROVISIONS 94
Sec. 5.01.001 Reserved 94
ARTICLE 5.02 FIRE MARSHAL 94

Sec. 5.02.001 Office created 94
Sec. 5.02.002 Duty to investigate fires 94
Sec. 5.02.003 Taking of testimony; duty when evidence indicates crime 94
Sec. 5.02.004 Power to summon witnesses and require production of evidence 94
Sec. 5.02.005 Misconduct of witnesses 95
Sec. 5.02.006 Investigations may be private 95
Sec. 5.02.007 Authority to enter and examine buildings where fire has occurred 95
Sec. 5.02.008 Preventive investigations 95
Sec. 5.02.009 Maintaining fire hazard 96
ARTICLE 5.03 FIRE PREVENTION CODE 96
Sec. 5.03.001 Adopted 96
Sec. 5.03.002 Amendments 96
ARTICLE 5.04 BURNING 97
Division 1. Generally 97
Sec. 5.04.001 Open burning prohibited; exceptions 97
Secs. 5.04.002–5.04.030 Reserved 98
Division 2. Prescribed Burning for Cleanup Purposes 98
Sec. 5.04.031 Definitions 98
Sec. 5.04.032 Location 98
Sec. 5.04.033 Policy 98
Sec. 5.04.034 Permit required; fee 98
Sec. 5.04.035 Approval on day of burn; time limits; attendant 98
Sec. 5.04.036 Safety conditions 99
Sec. 5.04.037 Responsibility remains with person conducting burn 99
ARTICLE 5.05 FIREWORKS 99
Sec. 5.05.001 Reserved 99
CHAPTER 6 HEALTH AND SANITATION 100
ARTICLE 6.01 GENERAL PROVISIONS 100
ARTICLE 6.02 SMOKING 100
Sec. 6.02.001 Smoking prohibited in city hall and library buildings 100
ARTICLE 6.03 PROPERTY MAINTENANCE AND LITTERING 100
Division 1. Generally 100
Sec. 6.03.001 Authority 100
Sec. 6.03.002 Purpose; applicability 100
Sec. 6.03.003 Definitions 100
Secs. 6.03.004–6.03.030 Reserved 102
Division 2. Littering 102
Sec. 6.03.031 Littering by pedestrians and motorists prohibited 102
Sec. 6.03.032 Vehicles transporting loose materials 103
Sec. 6.03.033 Loading and unloading operations 103
Sec. 6.03.034 Responsibility to keep property clean 103
Sec. 6.03.035 Dumping refuse or other material 104
Sec. 6.03.036 Issuance of citation 104
Secs. 6.03.037–6.03.060 Reserved 104
Division 3. Miscellaneous Restrictions and Prohibitions 104
Sec. 6.03.061 Harboring insects 104
Sec. 6.03.062 Trees obstructing street or sidewalk or causing other hazard 104
Sec. 6.03.063 Graffiti 104
Sec. 6.03.064 Encroachment or obstructions on sidewalk; allowing weeds, trash, etc., to accumulate on street or sidewalk 105
Secs. 6.03.065–6.03.090 Reserved 105

Division 4. Nuisances and Offensive Conditions on Private Property 105
Sec. 6.03.091 Prohibited conduct 105
Sec. 6.03.092 Declaration of nuisance; duty to abate 106
Sec. 6.03.093 Noxious odors 106
Sec. 6.03.094 Storage of garbage, hazardous wastes and other unwholesome materials 106
Sec. 6.03.095 Limitation on height of grass and weeds; accumulation of brush 106
Sec. 6.03.096 Discharge of sewage or hazardous waste 107
Sec. 6.03.097 Evidence of responsibility for discharge of sewage or hazardous waste 107
Secs. 6.03.098–6.03.130 Reserved 107
Division 5. Enforcement; Abatement by City 107
Sec. 6.03.131 Right to abate dangerous conditions 107
Sec. 6.03.132 Right to inspect 107
Sec. 6.03.133 Violations and notices 107
Sec. 6.03.134 Assessment of costs; appeals 109
Sec. 6.03.135 Collection of city's expenses; cost of abatement constitutes lien 109
Sec. 6.03.136 Enforcement officers 110
Sec. 6.03.137 Penalty 110
Sec. 6.03.138 Additional remedies 110
CHAPTER 7 RESERVED 111
CHAPTER 8 OFFENSES AND NUISANCES 112
ARTICLE 8.01 GENERAL PROVISIONS 112
Sec. 8.01.001 Abandoned refrigerators and freezers 112
Sec. 8.01.002 Blocking drainage ditch 112
Sec. 8.01.003 Possession of open container of alcoholic beverages within public view 112
ARTICLE 8.02 MINORS 113
ARTICLE 8.03 NOISE 113
Sec. 8.03.001 Intent and general policy 113
Sec. 8.03.002 Definitions 113
Sec. 8.03.003 Penalty 114
Sec. 8.03.004 Maximum permissible sound levels 115
Sec. 8.03.005 General prohibition 115
Sec. 8.03.006 Specific prohibitions 115
Sec. 8.03.007 Defenses 116
Sec. 8.03.008 Methods of sound measurement 117
ARTICLE 8.04 OFFENSIVE ODORS 117
Sec. 8.04.001 Definition 117
Sec. 8.04.002 Penalty 117
Sec. 8.04.003 General prohibition 117
Sec. 8.04.004 Specific prohibitions 117
ARTICLE 8.05 WEAPONS 118
Sec. 8.05.001 Discharge of firearms 118
Sec. 8.05.002 Paint Ball, Pellet and BB guns 119
ARTICLE 8.06 SEX OFFENDER RESTRICTIONS AND CHILD SAFETY ZONES 120
Sec. 8.06.001 Purpose; intent 120
Sec. 8.06.002 Definitions 120
Sec. 8.06.003 Penalty 121
Sec. 8.06.004 Sex offender prohibitions 121
Sec. 8.06.005 Renting real property to registered sex offender 121
Sec. 8.06.006 Evidentiary matters 122
Sec. 8.06.007 Exceptions 122
ARTICLE 8.07 RESTRICTED SMOKING MATERIALS AND PARAPHERNALIA 123

Sec. 8.07.001 Definitions ... 123
Sec. 8.07.002 Purpose ... 124
Sec. 8.07.003 Violations; penalty ... 124
Sec. 8.07.004 Penalty for violation by firm or corporation ... 124
Sec. 8.07.005 Sale, delivery, offer or gift of restricted smoking material ... 125
Sec. 8.07.006 Use or possession of restricted smoking material ... 125
Sec. 8.07.007 Use or possession of paraphernalia ... 125
Sec. 8.07.008 Defenses ... 125
ARTICLE 8.08 ABANDONED OR JUNKED VEHICLES ... 125
Division 1. Generally ... 125
Sec. 8.08.001 Applicability of state law ... 125
Sec. 8.08.002 Definitions ... 125
Sec. 8.08.003 Enforcement ... 127
Sec. 8.08.004 Effect on other statutes or ordinances ... 127
Sec. 8.08.005 Storage fees ... 127
Sec. 8.08.006 Penalty ... 127
Secs. 8.08.007–8.08.030 Reserved ... 127
Division 2. Abandoned Vehicles ... 127
Sec. 8.08.031 Authority to take possession ... 128
Sec. 8.08.032 Notice of impoundment ... 128
Sec. 8.08.033 Use of unreclaimed vehicle by police department ... 128
Sec. 8.08.034 Sale at auction; disposition of proceeds of sale ... 129
Sec. 8.08.035 Vehicles abandoned in storage facility ... 129
Sec. 8.08.036 Disposal to demolisher ... 130
Secs. 8.08.037–8.08.060 Reserved ... 130
Division 3. Junked Vehicles ... 130
Sec. 8.08.061 Junked vehicles declared public nuisance ... 130
Sec. 8.08.062 Maintaining public nuisance; penalty ... 130
Sec. 8.08.063 Abatement procedures ... 130
Sec. 8.08.064 Exceptions ... 131
Sec. 8.08.065 Tarping or covering vehicle ... 131
Sec. 8.08.066 Disposal; relocation of vehicle ... 132
CHAPTER 9 PERSONNEL ... 133
ARTICLE 9.01 GENERAL PROVISIONS ... 133
Sec. 9.01.001 Emergency actions by officers, agents, or employees of city ... 133
Sec. 9.01.002 Texas Municipal Retirement System ... 133
Sec. 9.01.003 Nondiscrimination policy ... 133
Sec. 9.01.004 Mileage reimbursement for representatives of city traveling in personal vehicles ... 133
ARTICLE 9.02 OFFICERS AND EMPLOYEES ... 133
Division 1. Generally ... 133
Sec. 9.02.001 Chain of command; appointment and removal of employees ... 134
Sec. 9.02.002 Job descriptions ... 134
Sec. 9.02.003 Administrative aides ... 134
Secs. 9.02.004–9.02.030 Reserved ... 135
Division 2. City Administrator ... 135
Sec. 9.02.031 Reserved ... 135
Secs. 9.02.037–9.02.060 Reserved ... 135
Division 3. City Secretary ... 135
Sec. 9.02.061 Position established; appointment; compensation; bond ... 135
ARTICLE 9.03 POLICE ... 135
Secs. 9.03.001–9.03.030 Reserved ... 135

CHAPTER 10 SUBDIVISION REGULATION 136
ARTICLE 10.01 GENERAL PROVISIONS 136
ARTICLE 10.02 SUBDIVISION ORDINANCE 136
Sec. 10.02.001 Interpretation, purpose, and enforcement 136
Sec. 10.02.002 Variances 137
Sec. 10.02.003 Preliminary conference 138
Sec. 10.02.004 Preliminary plat 138
Sec. 10.02.005 Final plat 140
Sec. 10.02.006 Resubdivision 141
Sec. 10.02.007 Maintenance bond 143
Sec. 10.02.008 Unavailability of public water and/or sewage utilities 143
Sec. 10.02.009 Standards and specifications 143
Sec. 10.02.010 Liability of city under article 146
Sec. 10.02.011 Conflicting ordinances 146
CHAPTER 11 TAXATION 147
ARTICLE 11.01 GENERAL PROVISIONS 147
ARTICLE 11.02 PROPERTY TAX 147
Sec. 11.02.001 Participation in appraisal district; property tax administration 147
Sec. 11.02.002 Due date; penalties and interest on delinquent taxes 147
Sec. 11.02.003 Collection of delinquent taxes 147
Sec. 11.02.004 Residence homestead exemption for elderly persons 148
ARTICLE 11.03 SALES AND USE TAX 148
Sec. 11.03.001 Sales tax elections 148
Sec. 11.03.002 Tax on sale of gas and electricity for residential use 148
CHAPTER 12 TRAFFIC AND VEHICLES 149
ARTICLE 12.01 GENERAL PROVISIONS 149
Sec. 12.01.001 Uniform act and state motor vehicle laws adopted 149
Sec. 12.01.002 Riding bicycles, skateboards, etc., on sidewalks in downtown area 149
Sec. 12.01.003 Use of engine brakes prohibited 149
ARTICLE 12.02 TRAFFIC-CONTROL DEVICES 150
Sec. 12.02.001 Conformance with manual 150
Sec. 12.02.002 Unauthorized devices 150
Sec. 12.02.003 Tampering 150
Sec. 12.02.004 Installation 150
Sec. 12.02.005 Prima facie evidence of authorized installation 151
Sec. 12.02.006 Obedience 151
Sec. 12.02.007 Emergency installation 151
Sec. 12.02.008 Ratification of existing devices 151
ARTICLE 12.03 OPERATION OF VEHICLES 152
Sec. 12.03.001 Exhibitions of acceleration 152
Sec. 12.03.002 Reserved. 152
ARTICLE 12.04 SPEED LIMITS 152
Sec. 12.04.001 Generally 152
Sec. 12.04.002 Procedure for establishing special speed limit 153
Sec. 12.04.004 Park and playground zones 153
Sec. 12.04.005 Hospital zones 153
Sec. 12.04.006 School zones 153
Sec. 12.04.007 Driving at slow speed 153
ARTICLE 12.05 PARKING 153
Sec. 12.05.001 Definitions 153
Sec. 12.05.002 Blocking alley 154

Sec. 12.05.003 Parking where prohibited by signs.....154
Sec. 12.05.004 Designation of parking spaces for disabled persons.....154
ARTICLE 12.06 REMOVAL OF VEHICLES.....154
Sec. 12.06.001 Authorized.....154
Sec. 12.06.002 Redemption of vehicle by owner.....155
Sec. 12.06.003 Abandoned vehicles.....155
ARTICLE 12.07 PARADES AND DEMONSTRATIONS.....155
Division 1. Generally.....155
Secs. 12.07.001–12.07.030 Reserved.....155
Division 2. Permit.....155
Sec. 12.07.031 Required.....155
Sec. 12.07.032 Application.....155
Sec. 12.07.033 Issuance.....156
Sec. 12.07.034 Waiver of filing deadline.....156
Sec. 12.07.035 Sponsoring parade or demonstration without permit.....156
Sec. 12.07.036 Participating in parade for which no permit issued.....156

CHAPTER 1

GENERAL PROVISION

ARTICLE 1.01 CODE OF ORDINANCES[1]

Sec. 1.01.001 Adoption

There is hereby adopted the Code of Ordinances of the City of Gholson, Texas.

Sec. 1.01.002 Designation and citation of code

The ordinances embraced in this chapter and the following chapters, articles and sections shall constitute and be designated the "Code of Ordinances, City of Gholson, Texas," and may be so cited.

Sec. 1.01.003 Catchlines of articles, divisions, and sections

The catchlines of the several articles, divisions and sections of this code are intended as mere catchwords to indicate the contents of the article, division or section and shall not be deemed or taken to be titles of such articles, divisions, and sections, nor as any part of the articles, divisions, and sections, nor, unless expressly so provided, shall they be so deemed when any of such articles, divisions and sections, including the catchlines, are amended or reenacted.

State law reference–Headings of statutes, V.T.C.A., Government Code, sec. 311.024.

Sec. 1.01.004 Definitions and rules of construction

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 city council:

Generally. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

City and town. Each means the City of Gholson, Texas.

City administrator, city manager, city secretary, chief of police or other city officers. The term "city administrator," "city manager," "city secretary," "chief of police" or other city officer or department shall be construed to mean the city administrator, city manager, city secretary, chief of police or such other municipal officer or department, respectively, of the City of Gholson, Texas.

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 first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

[1] **State law reference–**Authority of municipality to codify ordinances, V.T.C.A., Local Government Code, ch. 53.

State law reference–Computation of time, V.T.C.A., Government Code, sec. 311.014.

Council. Whenever the term "council" or "city council" or "the council" is used, it shall mean the city council of the City of Gholson, Texas.

State law reference–References to municipal governing body and to members of municipal governing body, V.T.C.A., Local Government Code, sec. 21.002.

County. The term "county" or "this county" shall mean the County of McLennan, Texas.

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

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

State law reference– "Gender" defined, V.T.C.A., Government Code, sec. 312.003(c).

Joint authority. Words purporting to give authority to three (3) 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–Grants of authority, V.T.C.A., Government Code, sec. 312.004.

May. The word "may" is permissive.

State law reference–Construction of word "may," V.T.C.A., Government Code, sec. 311.016.

Month. The word "month" shall mean a calendar month.

State law reference– "Month" defined, V.T.C.A., Government Code, sec. 312.011.

Must and shall. Each is mandatory.

State law reference–Construction of words "must" and "shall," V.T.C.A., Government Code, sec. 311.016.

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

State law reference– "Number," V.T.C.A., Government Code, sec. 312.003(b).

Oath. The word "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 words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

State law reference– "Oath," "swear" and "sworn" defined, V.T.C.A., Government Code, sec. 312.011.

Official time standard. Whenever certain hours are named in this code, they shall mean standard time or daylight-saving time, as may be in current use in the city.

State law reference–Standard time, V.T.C.A., Government Code, sec. 312.016.

Or, and. The word "or" may be read "and," and the word "and" may be read "or," as the sense requires it.

Owner. The word "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 of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, corporations, firms, partnerships, organizations, business trusts, estates, trusts, and bodies politic and corporate, as well as to individuals.

State law reference– "Person" defined, V.T.C.A., Government Code, sec. 311.005.

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

State law reference– "Preceding" defined, V.T.C.A., Government Code, sec. 312.011. *Property*. The word "property" shall mean and include real and personal property.

State law reference– "Property" defined, V.T.C.A., Government Code, sec. 311.005.

Real property. The term "real property" shall mean and include lands, tenements, and hereditaments.

Sidewalk. The word "sidewalk" shall mean that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

Signature or subscription. A signature or subscription shall include a mark when a person cannot write.

State law reference– "Signature" and "subscribe" defined, V.T.C.A., Government Code, sec. 312.011.

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

Street. The word "street" shall have its commonly accepted meaning and shall include highways, sidewalks, alleys, avenues, recessed parking areas and other public rights-of-way, including the entire right-of-way.

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

State law reference– "Tense," V.T.C.A., Government Code, sec. 312.003(a).

V.T.C.S., V.T.P.C., V.T.C.C.P., V.T.C.A. Such abbreviations refer to the divisions of Vernon's Texas Statutes Annotated.

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

State law reference– "Written" or "in writing" defined, V.T.C.A., Government Code, sec. 312.011.

Year. The word "year" shall mean a calendar year.

State law reference– "Year" defined, V.T.C.A., Government Code, sec. 312.011.

(1987 Code, ch. 1, sec. 3; Ordinance adopting 2018 Code)

Sec. 1.01.005 Severability of parts of code

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 the code of any such unconstitutional phrase, clause, sentence, paragraph or section. (1987 Code, ch. 1, sec. 7; Ordinance adopting 2018 Code)

State law reference–Severability of statutes, V.T.C.A., Government Code, sec. 312.013.

Sec. 1.01.006 Repeal of ordinances

The repeal of an ordinance or any portion thereof shall not repeal the repealing clause of an ordinance or revive any ordinance which has been previously repealed. (Ordinance adopting 2018 Code)

State law reference–Effect of repeal of statutes, V.T.C.A., Government Code, sec. 311.030.

Sec. 1.01.007 Amendments or additions to code

All ordinances of a general and permanent nature, and amendments to such ordinances, hereafter enacted or presented to the city council for enactment, shall be drafted, so far as possible, as specific amendments of, or additions to, the Code of Ordinances. Amendments to this code shall be made by reference to the chapter and section of the code which is to be amended, and additions shall bear an appropriate designation of chapter, article, and section; provided, however, the failure to do so shall in no way affect the validity or enforceability of such ordinances. (1987 Code, ch. 1, sec. 4; Ordinance adopting 2018 Code)

Sec. 1.01.008 Supplementation of code

(a) By contract or by city personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the city council during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for articles, sections and other subdivisions of the code printed in the supplement and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to articles, sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing article or section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this section," "this subsection," etc., as the case may be; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance material inserted into the code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

(1987 Code, ch. 1, sec. 6; Ordinance adopting 2018 Code)

Sec. 1.01.009 General penalty for violations of code; continuing violations

(a) Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor or whenever in this code or such ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars ($500.00).

(b) A fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation, including the dumping of refuse, may not exceed two thousand dollars ($2,000.00).

(c) A person convicted of an offense under title 7, subtitle C, Transportation Code (the Uniform Act Regulating Traffic on Highways) for which another penalty is not provided shall be punished by a fine of not less than one dollar ($1.00) or more than two hundred dollars ($200.00) plus such other penalties and costs as may be provided by such subtitle C.

(d) Unless otherwise specifically stated in this code, any violation of this code or of any ordinance that is punishable by a fine that does not exceed five hundred dollars ($500.00) does not require a culpable mental state, and a culpable mental state is hereby not required to prove any such offense. Unless otherwise specifically stated in this code, any violation of this code or of any ordinance that is punishable by a fine that exceeds five hundred dollars ($500.00) shall require a culpable mental state.

(e) No penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state.

(f) Unless otherwise stated in this code or in any ordinance, each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.

(g) In the event that any such violation is designated as a nuisance under the provisions of this code,

such nuisance may be summarily abated by the city. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

(1987 Code, ch. 1, sec. 5; Ordinance adopting 2018 Code)

State law references–Penalties for violations, V.T.C.A., Local Government Code, sec. 54.001; penalty for class C misdemeanor, V.T.C.A., Penal Code, sec. 12.23; requirement of culpability, V.T.C.A., Penal Code, sec. 6.02.

ARTICLE 1.02 ADMINISTRATION[2]

Sec. 1.02.031 Notice requirements

The city shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his behalf, or, in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall, within sixty (60) days, or within six (6) months for good cause shown, from the date the damage or injury was received, give notice in writing to the mayor and city council of the following facts:

(1) The date and time when the injury occurred and the place where the injured person or property was at the time when the injury was received.

(2) The nature of the damage or injury sustained.

(3) The apparent extent of the damage or injury sustained.

(4) A specific and detailed statement of how and under what circumstances the damage or injury occurred.

(5) The amount for which each claimant will settle.

(6) The actual place of residence of each claimant by street, number, city, and state on the date the claim is presented.

(7) In the case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury or any part thereof, and the names of the doctors, if any, to whose care the injured person is committed.

(8) In case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.

(Ordinance adopted 9/12/94, sec. 1)

[2] **State law references–**Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code, ch. 101; notice procedures, V.T.C.A., Civil Practice and Remedies Code, sec. 101.101.

Sec. 1.02.032 Consideration by council required prior to suit

No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff therein shall prove that previous to the filing of the original petition the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the city council refused. (Ordinance adopted 9/12/94, sec. 2)

Sec. 1.02.033 Service of notices

All notices required by this division shall be effectuated by serving them upon the city administrator at the City Hall, 749 Knust Circle, in the City of Gholson, Texas, and all such notices shall be effective only when actually received in the office of the city secretary. (Ordinance adopted 9/12/94, sec. 3)

Sec. 1.02.034 Waiver of notice requirements

The above notice requirements shall be waived if the city has actual knowledge of death, injury or property damage likely to result in a claim against the city. The city shall not be deemed to have actual knowledge unless that knowledge is attributable to an appropriate city official whose job duties include the authority to investigate and/or settle claims against the city. (Ordinance adopted 9/12/94, sec. 4)

Sec. 1.02.035 Notice to be sworn

The written notice required under this division shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein. (Ordinance adopted 9/12/94, sec. 5)

ARTICLE 1.10 ANNEXATIONS[3]

Sec. 1.10.001 Petition

In order for the city to consider annexation of property into the city, a petition must be presented to the city secretary by either a majority of the inhabitants of the land to be annexed or by the owner or owners of the property to be annexed as follows:

(1) Inhabitants' petition (V.T.C.A., Local Government Code, section 43.024). The majority of the inhabitants of the area to be annexed who are qualified to vote for members of the state legislature must present a petition for annexation with an attached affidavit of any three (3) of the inhabitants certifying to the vote. The petition must contain a description of the land to be annexed.

(2) Owners' petition (V.T.C.A., Local Government Code, section 43.028). The owner or owners of land desiring to be annexed must present a petition requesting annexation. The petition must contain an acknowledged description of the land to be annexed. The land to be annexed by owners' petition must contain less than three (3) qualified voters.

[3] **State law references**–Municipal boundaries and annexation, V.T.C.A., Local Government Code, ch. 41 et seq.; municipal annexation, V.T.C.A., Local Government Code, ch. 43.

Sec. 1.10.002 Procedures

After a petition is presented either by owners or inhabitants as provided for in section 1.10.001, the city shall proceed to consider annexation of the property as outlined in this section.

(1) Service plan. The city administrator shall cause to be prepared a service plan for the area to be annexed.

(2) Public notice. The city administrator shall establish dates for public hearings and the city secretary shall publish notice of the public hearings in the newspaper not more than twenty (20) days nor less than ten (10) days before the public hearings.

(3) Public hearings. The city shall hold two (2) public hearings on the annexation. At least one (1) public hearing shall be held within the area proposed to be annexed if, within ten (10) days after the publication of the notice required herein, more than twenty (20) adult residents who reside in the territory proposed to be annexed protest in writing to the city secretary the institution of annexation proceedings. Each written protest must contain the name, address, and age of each protestor signing. The public hearings must be held not more than forty (40) days nor less than twenty (20) days prior to consideration of the ordinance annexing the property.

(4) Adoption of ordinance. The city secretary shall prepare an ordinance annexing the property for consideration by the city council at a meeting to be held not more than forty (40) days nor less than twenty (20) days after the public hearings.

(5) Filing of ordinance. After adoption of an annexation ordinance by the city council, the city secretary shall file the original ordinance in the city ordinance book, and furnish a certified copy to the county clerk and other appropriate officials and agencies.

Sec. 1.10.003 Limitations

The city shall not annex property in violation of the following limitations imposed by state law:

(1) The area to be annexed must be within the city's extraterritorial jurisdiction;

(2) The area to be annexed must not exceed one-half (1/2) mile in width and must be adjacent to the city limits;

(3) If the area to be annexed is within the extraterritorial jurisdiction of another city, that city's permission is required prior to annexation.

ARTICLE 1.11 FINANCES[4]

Division 1. Generally

[4] **State law reference–**General financial authority of type A general-law municipalities, V.T.C.A., Local Government Code, sec. 101.001 et seq.

Sec. 1.11.001 Audits

An audit of the books of account of the city shall be made and filed annually in accordance with V.T.C.A., Local Government Code, chapter 103. The annual financial statement, together with the auditor's opinion thereon, shall be filed in the office of the city secretary within one hundred twenty (120) days of the close of the fiscal year and shall be a public record.

State law reference–Audit of municipal finances, V.T.C.A., Local Government Code, ch. 103.

Secs. 1.11.002–1.11.030 Reserved

Division 2. Budget[5]

Sec. 1.11.031 Budget officer

The budget officer shall be the Mayor.

Sec. 1.11.032 Budget required

The budget officer shall annually prepare a budget to cover all proposed expenditures of the government of the city for the succeeding year, in accordance with V.T.C.A., Local Government Code, chapter 102.

State law reference–Annual budget required, V.T.C.A., Local Government Code, sec. 102.002.

Sec. 1.11.033 Contents

The budget shall show all expenditures proposed and shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget must also show as definitely as possible each of the various projects for which appropriations are made in the budget and the budgeted sums for each of such projects. The budget shall also contain a complete financial statement of the city showing all outstanding obligations of the city, the cash on hand to the credit of each and every fund, and funds received from all sources during the previous year, the estimated revenue available to cover the proposed budget, and the estimated rate of tax which will be required.

State law reference–Itemized budget and contents, V.T.C.A., Local Government Code, sec. 102.003.

Sec. 1.11.034 Cooperation required

The budget officer shall have the authority to require any officer or employee or other unit of the city government to furnish such information as may, in the city administrator's discretion, be necessary to afford proper preparation of the proposed budget.

State law reference–Information furnished by municipal officers and boards, V.T.C.A., Local Government Code, sec. 102.004.

Sec. 1.11.035 Filing of proposed budget

[5] **State law reference–**Annual budget, V.T.C.A., Local Government Code, ch. 102.

The budget shall be filed with the city secretary not less than thirty (30) days prior to the time the council makes its tax levy for the current fiscal year.

State law reference–Proposed budget filed with municipal clerk and public inspection, V.T.C.A., Local Government Code, sec. 102.005.

Sec. 1.11.036 Public inspection of proposed budget

The budget filed with the city secretary shall be available for the inspection of any taxpayer during all reasonable business hours.

Sec. 1.11.037 Public hearing; filing of adopted budget

A public hearing shall be held, and the budget adopted thereafter by the city council shall be filed with the county clerk. Notice of the required public hearing shall be published not more than thirty (30) nor less than ten (10) days before such hearing.

State law references–Public hearing on proposed budget, V.T.C.A., Local Government Code, sec. 102.006; special notice by publication for budget hearing, V.T.C.A., Local Government Code, sec. 102.0065.

Sec. 1.11.038 Amendments

Amendments to the budget shall only be made by order of the city council. A copy of all such orders shall be filed with the city secretary and attached to the budget originally adopted. Budget amendments shall be filed with the county clerk.

State law reference–Changes in budget for municipal purposes, V.T.C.A., Local Government Code, sec. 102.010.

ARTICLE 1.12 DISCRIMINATION

Division 1. Generally

Secs. 1.12.001–1.12.030 Reserved

Division 2. Fair Housing[6]

Sec. 1.12.031 Definitions

For the purpose of this division, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words so used in the present tense include the future, words in the masculine gender include the feminine, words in the plural number include the singular, and words in the singular number include the plural.

Age. The calendar age of an individual eighteen (18) years of age or over.

Creed. Any set of principles, rules, opinions, and precepts formally expressed and seriously adhered to

[6] **State law references–**Authority of municipality to adopt fair housing ordinances, V.T.C.A., Local Government Code, sec. 214.903; Texas Fair Housing Act, V.T.C.A., Property Code, ch. 301.

or maintained by a person.

Discriminatory housing practice. An act that is unlawful under section 1.12.033, 1.12.034, or 1.12.035 of this division.

Dwelling. Any building, structure, or portion thereof which is occupied as, or designed and 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. A single individual or a group of individuals living together under one common roof.

Major life activities. Functions such as, but not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Marital status. An individual's status as a single, married, divorced, widowed, or separated person.

Parenthood. A person's status as a parent or legal guardian of a child or children under the age of eighteen (18).

Person. One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.

Physical or mental disability. Any physical or mental impairment which substantially limits one or more major life activities.

Physical or mental impairment:

(1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Senior adult. A person fifty-five (55) years of age or older.

To rent. To lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Sec. 1.12.032 Interpretation and effect

This division shall in no way be interpreted as creating a judicial right or remedy which is the same or substantially equivalent to the remedies provided under title VIII of the Civil Rights Act of 1968, as amended, or the federal Equal Credit Opportunity Act (15 U.S.C. 1691). All aggrieved parties shall retain the rights granted to them by title VIII of the Civil Rights Act of 1968, as amended, and the federal Equal Credit Opportunity Act. In construing this division, it is the intent of the city council that the courts shall be guided by federal court interpretations of title VIII of the Civil Rights Act of 1968, as amended, and the federal Equal Credit Opportunity Act, where appropriate.

Sec. 1.12.033 Discrimination in sale or rental of housing

Except as exempted by section 1.12.036, it shall be unlawful for any person to:

(1) 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, creed, sex, religion, or national origin, physical or mental disability, marital status, parenthood, or age.

(2) 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, creed, sex, religion, or national origin, physical or mental disability, marital status, parenthood, or age.

(3) Make, print, publish, or cause to be made, printed, or published, any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, creed, sex, religion, or national origin, physical or mental disability, marital status, parenthood or age, or any intention to make any such preference, limitation, or discrimination.

(4) Represent to any person because of race, color, creed, sex, religion, or national origin, physical or mental disability, marital status, parenthood, or age 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, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, creed, sex, religion, or national origin, physical or mental disability, marital status, parenthood, or age.

(6) For profit, or with the hope or expectation of profit, influence or attempt to influence, by any words, acts, or failure to act, any seller, purchaser, landlord, or tenant of a dwelling so as to promote the maintenance of racially segregated housing or so as to retard, obstruct, or discourage racially integrated housing.

Sec. 1.12.034 Discrimination in financing of housing

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part of the making of commercial or residential real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or other financial assistance, because of:

(1) The race, color, creed, sex, religion, or national origin, physical or mental disability, marital status, parenthood, or age of such person or of any person associated with him in connection with such loan or other financial assistance; or

(2) The race, color, creed, sex, religion, or national origin, physical or mental disability, marital status, parenthood, or age of the present or prospective owner, lessees, tenants, or occupants

of the dwelling or dwellings for which such a loan or other financial assistance is to be made or given.

Sec. 1.12.035 Discrimination in provision of brokerage services

It shall be unlawful for any person to deny 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 in the terms or conditions of such access, membership, or participation, on account of race, color, creed, sex, religion, or national origin, physical or mental disability, marital status, parenthood or age. (Ordinance adopted 8/9/93, sec. 5)

Sec. 1.12.036 Exemptions and exclusions

(a) There shall be exempted from the application of section 1.12.033 hereof all transactions involving:

(1) The rental of units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner actually maintains and occupies one of such units as his residence.

(2) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four such rooms are offered.

(3) The sale or rental of any single house by a private individual who owns such house, provided that:

(A) The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman, or person;

(B) The sale is made without the publication, posting, or mailing of any advertisement or written notice in violation of this division (this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title);

(C) The owner does not own more than three single-family houses at the time of the sale; and

(D) The owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three such single-family houses at any one time.

If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four-month period.

(b) Nothing in this division shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a

religious association, or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, mental or physical disability, marital status, parenthood or age.

(c) Nothing in this division shall prohibit a bona fide private club, not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(d) Nothing in this division shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased, or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen, or similar facilities available for the use of all persons occupying such housing accommodation.

(e) Nothing in this division shall prohibit the sale, rental, lease, or occupancy of any dwelling designed and operated exclusively for senior adults and their spouses, unless the sale, rental, lease, or occupancy is further restricted on account of race, color, creed, religion, sex, national origin, physical or mental handicap and marital status.

(f) Nothing in this division shall bar a person who owns, operates or controls rental dwellings, whether located on the same property or on one or more contiguous parcels of property, from reserving any grouping of dwellings for the rental or lease to tenants with a minor child or children; provided, however, in the event that said reserved area is completely leased or rented, the person owning, operating or controlling said rental dwelling may not refuse to rent or lease any other available dwelling to the prospective tenant on the basis of the tenant's status as parent or any other of the protected classifications set forth in this division.

Sec. 1.12.037 Fair housing administrator

The mayor shall appoint, and the council shall confirm a fair housing administrator (hereinafter referred to as "administrator"), who shall have the responsibility for implementing this division. The administrator may delegate his authority to investigate and conciliate complaints to other city employees under his direction. (Ordinance adopted 8/9/93, sec. 7)

Sec. 1.12.038 Complaints

(a) Only the person who claims to have been injured by a discriminatory housing practice [or] who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (hereinafter referred to as "person aggrieved") may file a complaint with the administrator. Such complaints 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, upon request.

(b) A copy of all complaints filed with the city shall also be forwarded to the Fair Housing and Equal Opportunity Division of the Region VI office of the Department of Housing and Urban Development.

(c) The administrator shall provide for free administrative counseling to those complainants who wish to file a private suit for relief in the local, state, or federal court.

(d) If at any time the administrator shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed or are committing a discriminatory housing practice as to which no complaint has been filed, the administrator may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.

(e) The administrator shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to subsection (a) of this section.

(f) All complaints shall be filed within sixty (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 persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within fifteen (15) days of receipt of the written complaint.

(g) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.

Sec. 1.12.039 Investigation and conciliation

(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.

(b) If the administrator determines that there is not probable cause to believe that a particular alleged discriminatory housing practice has been committed, the administrator shall take no further action with respect to that alleged offense.

(c) During or after the investigation, but subsequent to the mailing of the notice of complaints, the administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this division. Nothing said or done in the course of such informal endeavors 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.

(d) Upon completion of the investigation and informal endeavors at conciliation by the administrator, but within thirty (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 in fact occurred, the administrator shall recommend to the city attorney that such violations be prosecuted in the municipal court. With such recommendations, the administrator shall refer his entire file to the city attorney. The city attorney shall, within thirty (30) days after such referral, make a determination as to whether to proceed with prosecution of such complaint in municipal court. If the city attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within thirty (30) days after such determination or as soon thereafter as practicable.

(Ordinance adopted 8/9/93, sec. 9)

Sec. 1.12.040 Cumulative legal effect

This division is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue. (Ordinance adopted 8/9/93, sec. 10)

Sec. 1.12.041 Unlawful intimidation

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group, or business because he or they have complied with the provisions of this division, because he or they have exercised his or their rights under this division or enjoyed the benefits of this division, or because he or they have made a charge, testified or assisted in any investigation or in any proceeding hereunder or have made any report to the administrator. (Ordinance adopted 8/9/93, sec. 11)

Sec. 1.12.042 Cooperation with federal officials

The administrator and the city attorney are authorized to cooperate with the Secretary of Housing and Urban Development and the U.S. Attorney General pursuant to the provisions of title VIII, Fair Housing Act of 1968, Public Law 90-284, and may render such service to the Secretary as they shall deem appropriate to further the policies of this division. (Ordinance adopted 8/9/93, sec. 12)

Sec. 1.12.043 Education and public information

In order to further the objectives of this division, the administrator may conduct educational and public information programs. (Ordinance adopted 8/9/93, sec. 13)

Sec. 1.12.044 Penalty; injunctive relief

(a) Any person, firm, or corporation violating any provision of this division shall be guilty of a misdemeanor, and upon conviction shall be fined a sum in accordance with the general penalty provided in section 1.01.009 of this code for each violation. Each day a violation continues after passage of seventy-five (75) days from the date of the filing of the initial complaint with the administrator shall constitute a separate and distinct offense.

(b) Any person, firm, or corporation violating any provision of this division may be enjoined by order of a court of competent jurisdiction, and this remedy is in addition to any other penalty provision.

CHAPTER 2

ANIMAL CONTROL

ARTICLE 2.01 GENERAL PROVISIONS[7]

Sec. 2.01.001 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:

Abuse. Mistreatment through intent to abuse or reckless neglect of any animal in a manner that causes or is likely to cause stress or physical injury or as otherwise stated in this chapter.

Animal. Any living creature other than a Homo sapiens. Unless indicated otherwise, the term shall include livestock, fowl, reptiles, amphibians, and wildlife, as well as dogs, cats and other creatures commonly owned as pets. The term shall exclude a fish and other small aquarium- maintained creatures, not herein prohibited or restricted, where the owner only maintains no more than three aquariums having a total capacity of ninety gallons.

Animal control officer or animal control authority or animal control office. The officer or office of the city primarily responsible for the enforcement of regulations regarding animals, including the officers of the police department.

Animal shelter. A facility designated by the city council to be used for the impoundment of animals taken up by the animal control officers.

Authority. The local rabies control authority as defined in this section [sic].

Brand. A mark made on the skin of any animal which indicates the ownership of the animal, typically used with livestock.

Cat. The male and the female of any domesticated member of the feline species of animals.

Day. A workday and shall exclude Saturday, Sunday, and city holidays.

Distance between structures. Where a minimum setback or distance between any enclosure for an animal from a residence is required, the most direct line distance between the two structures, unless otherwise provided.

Dog. The male and the female of any domesticated member of the canine species of animal.

Domestic animal. Any animal whose physiology has been determined or manipulated through selective breeding and does not occur naturally in the wild, any animal which can be vaccinated against rabies with an approved rabies vaccine, and any animal which has an established rabies quarantine observation

[7] **State law references–**Authority of governing body to regulate animals, V.T.C.A., Local Government Code, sec. 215.025 et seq.; health and safety of animals, V.T.C.A., Health and Safety Code, ch. 821 et seq

period.

Estray. Any stray horse, stallion, mare, gelding, filly, colt, mule, jenny, jack, jennet, hog, sheep, goat, confined and domesticated hares and rabbits, or any species of cattle.

Exotic species. Any animal or reptile, fish, or bird, born or whose natural habitat is considered to be outside the continental United States, including nonvenomous reptiles and fish.

Fish. Any of the cold-blooded animals that extract oxygen from water through the use of gills.

Fowl. All birds, e.g., chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures and nondomestic feathered creatures, regardless of age or sex.

Governmental entity. An agency or political subdivision of the state or an agency or department of the federal government.

Harbor. The act of keeping and caring for an animal or of providing premises to which the animal returns for food, shelter, or care for a period of three days or longer.

Livestock. regardless of age, sex or breed, horses, and all equine species, including mules, donkeys, and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; and pigs and all swine species.

Multi-pet owner. A person who keeps or harbors more than five cats or dogs or any combination of five cats and dogs. Puppies and kittens under four months of age shall not be counted for purposes of this definition.

Municipal court. The municipal court for the city.

Neutered. Any animal, male or female, rendered incapable of breeding or being bred, i.e., castration in the male and spaying or ovariectomy in the female.

Nonregisterable dangerous dog. Any dog which:

(1) When unprovoked, severely attacked or inflicted serious injury or death to a person, whether on public or private property; or

(2) Has been deemed nonregisterable by the animal control officer and upheld or unchallenged by any court of jurisdiction.

Owner or presumed owner. Any person who has purchased or who owns, keeps, maintains, harbors, or has care, custody, or control of one or more animals. Ownership may be determined by identifying an adult resident of the premises upon which the animal is kept, maintained, harbored, or otherwise resides and such adult shall constitute the owner of the animal upon such premises. Each actual resident of the premises shall be the owner or presumed owner and charged with responsibility for the animals thereon maintained or harbored.

Person. An individual human, partnership, co-partnership, firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the

plural when indicated by the context.

Poison. A substance having an inherent harmful property which renders it, when taken into the system, capable of destroying animal life.

Premises. A definite portion of a legal lot of real estate or land, together with any appurtenances or buildings.

Proper enclosure. A house or a building, or in the case of a fence or structure/pen, the fence or structure/pen must be at least four feet in height. The structure/pen must also have minimum dimensions of five feet by ten feet. The fence or structure/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that an animal cannot climb, dig, jump, or otherwise escape of its own volition. The enclosure shall be securely locked at all times and have secured sides to prevent a dangerous animal or registered dangerous dog from escaping from the enclosure. The structure/pen shall provide protection from the elements for the animal. The animal control officer may require a fence higher than four feet or require a secure top and/or a secure bottom to the structure/pen if the need is demonstrated.

Rabies vaccination. The vaccination of a dog, cat or other domestic animal with an anti- rabies vaccine approved by the department of state health services and administered by a veterinarian licensed by the state.

Registered dangerous dog. Any dog registered with the city in compliance with chapter 822, Texas Health and Safety Code, subchapter D, and with the sections of this chapter addressing registered dangerous dogs.

Residence. Any place of human habitation at any time, day, or night, including, but not limited to, any single- or multi-family dwelling, church, school, convalescent center, or nursing home.

Restrained. Any animal secured by a leash, rope or chain of some sort or confined through fencing or otherwise within the property limits of its owner.

Restricted animals. Any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, hyenas, bears, lesser pandas, ferrets born in natural habitats, binturong, ostriches, emus, miniature pigs, Vietnamese potbelly pigs, apes, or such other nondomestic species of animal not common to this area.

Running at large (animals at large).

(1) Off-premises:

(A) Any animal, except pet cats, which is not restrained by means of a leash, chain, or other physical apparatus of sufficient strength and length to control the actions of such animal while off-premises;

(B) Any cat which is creating a nuisance off the owner's property.

(2) On-premises:

(A) Any animal, except pet cats, not confined to the premises of the owner by a substantial fence of sufficient strength and height to prevent the animal from escaping therefrom,

or secured on the premises by a chain or leash sufficient in strength to prevent the animal from escaping from the premises and so arranged that the animal will remain upon the premises when the leash is stretched to full length;

(B) An animal intruding upon the property of another person shall be termed "at large";

(C) Any animal within a vehicle in a manner that would prevent that animal's escape or contact with other persons or animals shall not be deemed "at large."

Serious injury. Bodily injury resulting from severe attack or severe bite from an animal which produces severe pain, trauma, or loss of blood or tissue, and which requires medical treatment of wounds inflicted by the animal.

Severe attack. An attack in which the animal repeatedly bites or vigorously shakes its victim, and the victim, or a person intervening, has extreme difficulty terminating the attack.

Severe bite. A puncture or laceration made by an animal's teeth which breaks the skin, resulting in a degree of trauma which would cause most prudent and reasonable people to seek medical care for treatment to the wound, without considerations of rabies prevention alone.

Stray animal (including estray). Any animal, of which there is no identifiable owner or harborer, which is found to be at large within the corporate limits of the city.

Tag. A vaccination tag attached to a collar as required by this chapter or some other permanent identifying device attached to a collar or to an animal.

Tattoo. A permanent mark which is made on the skin of an animal by puncturing the skin and inserting indelible color, and which is used to show ownership.

Unprovoked attack. That the animal was not hit, kicked, teased, molested, or struck by a person with an object or part of a person's body, nor was any part of the animal's body pulled, pinched, or squeezed by a person.

Vaccination. An injection of a rabies vaccine which is approved by the U.S. Department of Agriculture, Veterinary Biologics Division, [and] state veterinarian, and administered by a licensed veterinarian or at an approved anti-rabies clinic.

Veterinarian. Any person duly licensed to practice veterinary medicine by the state board of veterinary examiners, or who is exempt from such licensing.

Wild animal or wildlife. Any nondomestic creature (mammal, amphibian, reptile, or fowl) which is of a species which is wild by nature, which can normally be found in a wild state, and which is not naturally tame or gentle, or which, because of its size, vicious nature, and other characteristics, constitutes a danger to human life or property, including all animals identified herein as prohibited.

Sec. 2.01.002 Purpose

It is the intent and purpose of this chapter to provide a safe and healthy environment within the city for both animals and people. While a person may own and keep animals within the city, the conduct of those animals and the conditions that the animals are kept in should be safe and healthy and should not infringe on the surrounding homes and their inhabitants.

Sec. 2.01.003 Enforcement

(a) The provisions of this chapter may be enforced by animal control officers, police officers, and such other persons as are designated by the city.

(b) It shall be unlawful for any person to interfere with, obstruct, resist, or oppose any animal control officer or other person authorized to enforce the provisions of this chapter while such person is apprehending an animal or performing any other duties or investigation. It shall be unlawful to take or attempt to take any animal from any animal control officer or from any vehicle used by the officer to transport any animal or to take or attempt to take any animal from the animal shelter or other kennel or confinement area used to impound an animal.

(c) In all instances of a violation of any provision of this chapter, whether the animal is impounded or not, the owner or keeper of such animal may be cited by an officer who has the authority to enforce this chapter for any violation of this chapter.

(d) In the enforcement of this chapter, animal control officers and police officers shall have the authority to shoot or otherwise disable any animal to protect themselves, to protect a third person or to protect another animal from attack or threat of imminent injury or to prevent such animal from enduring further pain or suffering as a result of disease or injury. They shall also have the authority to tranquilize or trap any animal, fowl, livestock, or wildlife consistent with humane policies adopted by the animal control office.

(e) Unless specifically provided in this chapter, an offense under this chapter shall not require a culpable mental state. It is the intent of this chapter to impose strict liability for violation of the requirements of this chapter.

Sec. 2.01.004 Powers and duties of citizens

Any person who finds an animal which he does not own on property that he owns or exercises control over or on public property may take control of said animal if it is running at large (as provided in section 92 [2.02.002]) and may deliver the animal to an animal control officer, the animal shelter, or an animal emergency medical facility. If the animal is not delivered to an animal control officer, the animal shelter, or an animal emergency medical facility, the person must report that he had taken control of the animal to an animal control officer or the animal shelter within seventy-two (72) hours. If animal is wearing a tag of any kind or has a tattoo, brand, or other identifying mark, that information shall be included in the report to the animal control officer or animal shelter.

Sec. 2.01.005 Penalty

(a) Any person who shall violate any of the provisions of this chapter, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine in accordance with the general penalty provided in section 1.01.009 of this code. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(b) A person commits an offense if, with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this chapter to an animal control officer or other person authorized to enforce the provisions of this chapter.

(c) A person commits an offense if he reports to a person authorized to enforce the provisions of this chapter an offense or incident within that person's concern knowing that the offense or incident did not occur.

Sec. 2.01.006 Prima facie evidence of responsibility for violation

In any prosecution charging a violation of this chapter governing the abuse, neglect or ownership of an animal or failure to license an animal as herein required, proof that the particular property described in the complaint was the premises upon which the animal resided, was harbored or maintained and a violation of any section of this chapter occurred involving said animal, together with proof that the defendant named in the complaint was, at the time of such complaint or at the time when the animal was in violation of this chapter, the registered owner of such animal or the person with legal rights to reside on said property, shall constitute in evidence a prima facie presumption that the registered owner of such animal or the person with legal rights to reside on said property was the owner of the animal and the person who failed to comply with this chapter.

Sec. 2.01.007 Abatement of noncomplying conditions

Whenever any premises where animals are kept in an unsanitary condition, or the facilities, are not in keeping with provisions of this chapter or any other regulations herein or if any health ordinance or law is not observed, the city health officer or his/her representative, by written notice to the person responsible for the condition of the premises, may order the abatement of the conditions which are not in accordance with this chapter or other regulations, or conditions which constitute a nuisance. Failure to comply with such order shall, in addition to any criminal or administrative proceedings, be grounds for and entitle the city to obtain relief by injunction.

Sec. 2.01.008 Compliance with chapter not relief from compliance with other regulations

The keeping of any animal in accordance with provisions of this chapter shall not be construed to authorize the keeping of the same in violation of the zoning ordinance or any other ordinance of the city.

Sec. 2.01.0009 Fees

The fee schedule established by the city council shall apply to all animals within the city limits. In no instance shall the city be required to bear the costs of any animal that has an owner. The owner shall reimburse the city for any actual expenses and shall be responsible for all fees set forth in the fee schedule. The city may recover all fees, costs and damages incurred as a result of the animal as restitution in a criminal proceeding under the provisions of this chapter or the state statute in addition to a fine being charged.

Impoundment Fees (Includes the first day of Boarding)			
Class of Animal	Number of Impoundments		
	1st	2nd	3rd and above
A – Canine/Feline	$30.00	$40.00	$55.00
B – Small Livestock	$35.00	$45.00	$60.00
C – Large Livestock	$40.00	$55.00	$75.00
D-1 – Wild Unconfined Animal	$40.00	$55.00	$75.00
D-2 – Wild Confined Animal	$35.00	$45.00	$60.00

Daily Boarding Fee	
Class of Animal	Amount of Fees
A – Canine/Feline	$13.00
B – Small Livestock	$13.00
C – Large Livestock	$20.00
D-1 – Wild Unconfined Animal	$15.00
D-2 – Wild Confined Animal	$15.00

Reimbursement	
Veterinary Reimbursement	At cost

ARTICLE 2.02 GENERAL REGULATIONS

Sec. 2.02.001 Identification for animals

Except as provided herein, all animals within the city shall be marked by some type of identifying license, tag, band, tattoo, or brand by which the animal's owner can be identified. Animals exempted from this requirement are mice, rats, rabbits, guineas, hamsters, gerbils, ferrets, fowl, and snakes.

Sec. 2.02.002 Running at large

(a) Responsible party. It shall be unlawful for any person who owns, keeps, harbors, or otherwise has control over any animal within the city to intentionally, knowingly, recklessly or with criminal negligence allow or permit such animal to run or be at large within the city.

(b) Cats. The prohibition against an animal running at large shall not apply to a domestic cat which has been vaccinated as required by this chapter and which is wearing the required vaccination tags. The prohibition shall apply to all other cats.

(c) Restraint required. An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord, or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a leash, chain, cord, or fence. An animal inside a vehicle parked in a public place or in the open bed of a moving or parked vehicle in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.

(d) Snakes. It shall be unlawful for any person to have a snake in any park or other public place unless it is within some type of cage, pen, or enclosure.

(e) Impoundment. The animal control officer for the city may impound any animal observed to be at large, whether the animal is on public or private property, subject to the applicable provisions of the law. If the animal control officer observes an animal on property which is owned by a person other than the owner of the animal, and observes the animal return to property of its owner, the animal control officer may impound the animal or issue a citation for the animal running at large. In the event the animal is on private property or property of the animal's owner the animal control officer, his/her agent, or peace officer may enter the property, other than a private dwelling, for the purpose of impoundment or issuance of a citation, or both, subject to the applicable provisions of this chapter and law.

(f) Prima facie evidence. Proof that an animal was found at large in violation of this section, together with proof that the defendant was the owner of such animal at the time, shall constitute prima facie evidence that the defendant allowed or permitted the animal to be at large.

State law references–Animals at large, V.T.C.A., Local Government Code, sec. 215.026; restraint, impoundment and disposition of dogs and cats, V.T.C.A., Health and Safety Code, sec. 826.033.

Sec. 2.02.003 Animal defecation prohibited in certain areas

(a) It is unlawful for the owner or person in control of an animal to intentionally, knowingly, recklessly or with criminal negligence allow or permit such animal to defecate on any public property or improved private property other than that of the owner of the animal. That the animal was at large at the time it defecated on any property shall constitute prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.

(b) Defense. It shall be a defense to prosecution under this section that the owner or person in control of the animal immediately removed and cleaned up such animal's feces from public or private property.

Sec. 2.02.004 Wild animals or wildlife

(a) No person shall possess, keep, or have care, custody or control of a prohibited animal, wild animal or wildlife within the city except as provided herein.

(b) All persons shall be prohibited from selling, giving, transferring, or importing into the city any wild animal.

(c) This section shall not apply to approved zoological parks, performing animal exhibitions or circuses. Nor shall this section apply to primary and secondary schools, colleges and universities, zoological parks owned or operated by a governmental entity or any animal assisting physically handicapped persons.

(d) It shall be a defense to prosecution under this section that the animal being kept was an infant or injured animal which was not capable of surviving on its own and that such animal was kept for three days or less, or for such reasonable time as was necessary before giving the animal to a licensed wildlife rehabilitator.

State law reference–Dangerous wild animals, V.T.C.A., Health and Safety Code, sec. 822.101 et seq.

Sec. 2.02.005 Nuisance animals

(a) Definition. As used in this article, a nuisance animal shall be defined as any animal that commits any of the acts listed herein:

(1) Molests or chases pedestrians, passersby or passing vehicles, including bicycles, or molests, attacks, or interferes with other animals or persons on public property or private property other than the owner's;

(2) Makes unprovoked attacks on other animals of any kind or engages in conduct which establishes such animal as a "dangerous animal";

(3) Is repeatedly at large, specifically, three or more times per 12-month period (excluding

domestic cats);

(4) Damages, soils, or defiles public property or private property, other than property belonging to or under the control of the owner;

(5) Defecates on property not belonging to or under the control of its owner, unless such waste is immediately removed and properly disposed of by the owner of the animal;

(6) Barks, whines, howls, crows, cackles, or makes any noise excessively and continuously, and such noise disturbs a person of ordinary sensibilities;

(7) Produces odors or unclean conditions sufficient to annoy persons living in the vicinity; or

(8) Is unconfined when in heat.

(b) Issuance of order; appeals. If the animal control officer determines that any animal is a nuisance, the animal control officer may issue an order requiring that the owner meet certain remedial requirements to correct the conduct of the animal. The order shall be given to the owner by personal service or by certified mail, return receipt requested. The owner may file an appeal to this order as provided in article 2.03 of this chapter.

Sec. 2.02.006 Honeybees

No person shall construct, place, or maintain any beehive within 300 feet of any residence other than that of the owner except with the consent of the occupants of all such residences.

Sec. 2.02.007 Pens and coops

(a) All fowl and rabbits shall be kept within a pen, coop, or hutch. A fenced yard shall not qualify as a pen or coop.

(b) Any person keeping or harboring any animal, other than livestock, shall locate any pen, coop, hutch, or other housing at least 50 feet from any residence, excluding the residence of the person keeping or harboring the animals.

Sec. 2.02.008 Livestock

(a) It shall be unlawful for any person owning or having care, custody, or control over any livestock to:

(1) Cause or permit any livestock to be pastured, herded, staked, or tied in any street, lane, alley, park, or other public place;

(2) Tie, stake, or pasture or permit the tying, staking, or pasturing of any animal upon any private property within the city without the consent of the owner or occupant of such property, or in such a way as to permit any livestock to trespass upon any street or other public place or upon any private property; or

(3) Permit any livestock to be or remain during the nighttime secured by a stake, or secured in any manner other than by enclosing such animal in a pen, corral, or barn sufficient and

adequate to restrain such livestock.

(b) It shall be unlawful for any person to keep or harbor any livestock within the city in a pen or other enclosure situated at any point closer than 100 feet to any residence, excluding the residence of the person keeping or harboring the livestock.

Sec. 2.02.009 Other restrictions

(a) Hogs. The keeping of hogs is prohibited, subject only to the following exceptions:

(1) It is unlawful and constitutes an offense for any person to keep any hog in any house, shed, pen, lot, pasture, or other enclosure in the city limits within 100 feet of any dwelling structure, adjacent residential or commercial lot or other public place.

(2) This section does not apply to hogs kept temporarily (not to exceed two days) in shipping pens when utilized for the purposes of shipment or to hogs kept temporarily (not to exceed five days) at auction or sales pens or barns for the purpose of sale or show.

(b) Keeping of animals near city water supply.

(1) It is unlawful and constitutes an offense for any person, whether for himself or as the agent or servant of another or others, to keep or to participate in keeping any horse, hog, cattle, sheep, goat, other livestock and/or fowl in any pen or lot used to confine any such multiple animal operation within 500 feet of any water supply wells from which the city obtains its principal water supply as specified in the official Texas Administrative Code published under authority of the secretary of state.

(2) "Keeping" means the care and control of the livestock or fowl in question for a period of longer than five days.

(c) Distance restrictions for keeping of animals and fowl. It is unlawful and constitutes a nuisance to keep any horse, cattle, sheep, goat, rabbit or other livestock, including fowl, at any place within the city, when the place where the same are kept is within 200 feet of any private residence or dwelling place or within 500 feet of any building or establishment open to the public, with the exception of park land, or if the animal or fowl in question is kept in a manner and under conditions wherein by reason of the odors emanating therefrom, the noise made by it or from any other cause pertaining to it or pertaining to the manner or to the place at which it is kept is reasonably calculated to annoy, offend or disturb the reasonable sensibilities of inhabitant of a private residence, or person(s) occupying or visiting an establishment open to the public. The distance provisions do not apply to park land; however, other requirements of this section relating to the manner in which animals are kept shall apply to such park land.

(d) Prima facie evidence of violation of distance restrictions. Proof that one dozen or more of such fowl or animals as described in subsection (c) above, or any combination thereof, are being kept at any one time at a place within the city that is within 200 feet of the private residence of another, or within 500 feet of any building or establishment open to the public, shall be sufficient to make out a prima facie case, and unless such prima facie case is overcome by sufficient evidence, it shall warrant a conviction under the provisions of this section.

(e) Exceptions to distance restrictions. The distance restrictions of this chapter do not apply to property zoned or to be zoned as Agricultural (A) and Residential Estate (RE) according to the zoning ordinance of the city, or to property properly zoned or used (as in continuing use) as veterinary clinics or facilities

or established kennels that are for the purposes of care or boarding animals.

(f) Dead animals and fowl. It is unlawful for any person in the city to cause to be placed or place, or allow to remain in or near his premises or the premises of any other person, or in any of the streets or other public ways, any dead animal, either wild or domesticated, or any dead fowl, either wild or domesticated.

Sec. 2.02.010 Animals held on complaint

If a complaint has been filed in municipal court of the city against the owner of an impounded animal for a violation of this chapter the animal shall not be released except on the order of the municipal judge or animal control officer which may also direct the owner to pay any penalties for violation of this chapter in addition to all impoundment fees. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court nor from the fees and fines which may result from a violation of this chapter.

ARTICLE 2.03 DANGEROUS ANIMALS[8]

Sec. 2.03.001 Purpose of article

It is the intention of this article to provide a means of dealing with an animal that is dangerous or, by its conduct, has indicated that it may represent a danger in the future. In interpreting the definitions contained in this article and in implementing its provisions, the animal control officer shall recognize the right of a person to use an animal as a protector or as a guard; however, the animal control officer shall also take into consideration the right of a neighborhood to be free from fear that an animal may leave the premises of its owner or keeper and attack and injure a person or other domestic animal.

Sec. 2.03.002 Dangerous animals

(a) Definition. A dangerous animal shall be defined as an animal which:

(1) Has inflicted injury on a human being without provocation on public or private property;

(2) Has killed or severely injured a domestic animal without provocation while off the owner's property;

(3) Is trained or harbored for fighting which may be determined based on whether the animal exhibits behavior and/or bears physical scars or injuries which indicate that the animal has been trained or used for the purpose of fighting;

(4) Is a warm-blooded mammal which is known to carry or be susceptible to the rabies virus and which cannot be effectively vaccinated against that virus with any vaccine approved by the department of state health services;

(5) Is a hybrid animal or any pet wildlife which has attacked a human or which is apprehended or observed unrestrained; or

[8] **State law reference–**Dangerous dogs, V.T.C.A., Health and Safety Code, sec. 822.041 et seq.

(6) Is a venomous or carnivorous fish or reptile or any fish or reptile that grows over six feet in length.

(b) Impoundment. If an animal acts as stated in subsection (a) of this section, the animal control officer shall impound the animal immediately if it is at large; or, if it is in the possession of some person, the animal control officer may issue a notice requiring that the animal be taken to a designated location for impoundment. An animal which is impounded shall not be released until a final determination is made on the disposition of the animal.

(c) Notice; owner's appeal to municipal court. Notice shall be given to the owner that the animal control officer has determined that the animal is a dangerous animal. This notice shall also set out the remedial requirements which the owner must comply with. This notice shall be given to the owner by personal service or by certified mail, return receipt requested. The notice shall notify the owner that the owner shall have five (5) business days from the receipt of the notice to file a letter with the city secretary stating one of the following:

(1) That the owner shall comply with the remedial requirements as stated in the notice; or

(2) That the owner disagrees with the determination that the animal is dangerous or disagrees with the required remedial requirements and that the owner wishes to appeal the decision of the animal control officer and requests a hearing before the municipal court. Such hearing shall be conducted as provided for in this article.

(d) Appeal procedure. If the owner desires to appeal and requests a hearing before the municipal court, the city secretary shall notify the animal control officer and the animal control officer owner's [sic] shall submit the owner's request with the clerk of the municipal court.

(e) Disposal of animal when owner cannot be located. If the owner of a dangerous animal cannot be determined after reasonable efforts to do so and after holding the animal for 72 hours, the animal may be disposed of in a humane manner. If the owner of a dangerous animal which has been impounded cannot be located for the delivery service of the notice required herein either in person or by mail, the animal may be disposed of in a humane manner after all reasonable effort has been made to locate such owner.

(f) Additional action. If the animal's behavior creates a more dangerous situation even though the owner is complying with the remedial requirements, the animal control officer may take such additional action as authorized under this article.

Sec. 2.03.003 Potentially dangerous animals

(a) Filing of complaint; hearing. If the animal control officer or a neighborhood believes that an animal has exhibited behavior indicating that it represents a potential danger, the animal control officer may file a complaint with the municipal court or residents of an area may initiate an action before the municipal court by filing a complaint with the animal control officer, to determine whether or not the animal is potentially dangerous. Any hearing before the municipal court shall be conducted as provided for in this article. Pending the outcome of such hearing, the animal must be securely confined in a humane manner either on the premises of the owner, with a licensed veterinarian or at the animal shelter.

(b) Definition. An animal may be defined as "potentially dangerous" if it has engaged in the following conduct:

(1) When unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack; or

(2) Has a known propensity, tendency, or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of human beings or domestic animals.

(c) Additional action. If the animal's behavior creates a more dangerous situation even though the owner is complying with the remedial requirements, the animal control officer may take such additional action as authorized under this article.

Sec. 2.03.004 Exceptions

(a) No animal may be declared dangerous or potentially dangerous:

(1) If the threat, injury, or damage was sustained by a person who at the time:

(A) Was committing a willful trespass or other tort upon the premises occupied by the owner of the animal;

(B) Was tormenting, abusing, or assaulting the animal or has in the past been observed or reported to have tormented, abused or assaulted the animal and the animal was not at large at the time of the offense; or

(C) Was committing or attempting to commit a crime;

(2) If the dog was protecting or defending a person while in that person's control from an unjustified attack or assault; or

(3) If the dog was injured and responding to pain.

(b) The provisions of this article shall not apply to animals under the control of a law enforcement or military agency.

(c) The provisions of this article shall not apply to a dog whose conduct has brought it within the coverage of the V.T.C.A., Health and Safety Code chapter 822, to the extent that said chapter preempts local regulation of the dog's conduct.

Sec. 2.03.005 Nonregisterable dangerous dogs prohibited; impoundment

No person shall own or harbor a nonregisterable dangerous dog within the city. Such an animal may be impounded as a public nuisance. If impoundment of such nonregisterable dangerous dog is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harborer. If an attempt is made to impound a nonregisterable dangerous dog from the premises of the owner or harborer and the impoundment cannot be made with safety, the owner or harborer will be given 24 hours' notice that, if the animal is not surrendered to the animal control officer for impoundment within said 24-hour period, then the animal will be destroyed wherever it is found. After this notice, the nonregisterable dangerous dog may be destroyed during an attempt to impound, if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this chapter may be verbal or in writing. A written notice left at the entrance to the premises where the nonregisterable dangerous dog is harbored will be considered

valid notice under this chapter.

Sec. 2.03.006 Determination of nonregisterable dangerous dog

A dog is determined to be a nonregisterable dangerous dog if:

(1) A dog is automatically determined to be nonregisterable if it commits acts as set forth under the definition of "nonregisterable dangerous dog" in article 2.01;

(2) The animal control officer may find and determine a dog to be nonregisterable if:

(A) Upon receipt of an affidavit of complaint signed by one or more individuals, made under oath before an individual authorized by law to take sworn statements or made at the animal shelter before the animal control officer, setting forth an act described in the definition for nonregisterable dangerous dog under article 2.01 and referenced above in subsection (1), and setting forth:

(i) The nature and the date of the act described in article 2.01;

(ii) The location of the event;

(iii) The name and address of the owner of the animal in question; and

(iv) The description of the animal in question;

(B) The animal control officer investigates the complaint and may determine that an animal is nonregisterable under this chapter and/or state law;

(3) The dog has been registered as, or finally determined or declared to be, a dangerous dog, either in Gholson or in another city or county in Texas, or has made an unprovoked attack on another person outside the dog's enclosure, or causes injury to such person or a person assisting or intervening on behalf of such person; or

(4) The owner of a dog determined to be a registerable dangerous dog under this chapter, or any previous or other ordinance of this city or any other city or state law, cannot or will not comply with the requirements set out in this chapter for the keeping of a registerable dangerous dog.

Sec. 2.03.007 Notification of determination of a nonregisterable dangerous dog; appeals

(a) Within five (5) working days of determining an animal nonregisterable, the animal control officer will notify, by certified mail, return receipt requested, the person owning the animal of its designation as a nonregisterable animal. In the event that certified mail, return receipt requested, cannot be delivered, the animal control officer may then give notice by ordinary mail to the last known address of the owner. For the purposes of this section, written notice may be delivered by the animal control officer in person to the owner/harborer of the dog in question.

(b) If the animal is determined to be nonregisterable under this chapter, the owner may make an appeal to the municipal court within 15 days of notification. Failure to appeal the determination of a nonregisterable dangerous dog shall result in the animal control officer's determination as becoming

final.

Sec. 2.03.008 Status of nonregisterable dangerous dog pending appeal

Pending any appeal to municipal court, the animal must be confined at the animal shelter or licensed veterinary facility, and the cost of such confinement shall be borne by the owner. If the dog in question is not in the possession of the animal shelter at the time of the declaration, the owner must surrender the dog to the animal control officer when ordered to do so. If the owner fails to immediately surrender the dog, the animal control officer shall take the dog into his possession from the premises of the owner or elsewhere, wherever the dog may be found within the city limits. If the dog cannot be taken into custody by the animal control officer, it may be taken into custody under a search warrant for contraband issued by the municipal judge.

Sec. 2.03.009 Defense to determination of nonregisterable dangerous dog

It is a defense to the determination that a dog is a nonregisterable dangerous dog, dangerous dog or should be destroyed and to the prosecution of the owner of that dog that:

(1) The dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and:

(A) The enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and

(B) The injured person was at least eight years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;

(2) The dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least eight years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;

(3) The attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;

(4) The dog was defending a person from an assault or person's property from damage or theft by the injured person; or

(5) The injured person was younger than eight years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight years of age from entering.

Sec. 2.03.010 Disposition of nonregisterable dangerous dog

(a) If the municipal court upholds the determination by the animal control officer, the court shall, subject to any rights of appeal, order the dog to be euthanized in a safe and humane manner.

(b) In the event the municipal court reverses that determination, the dog in question shall be returned to or released to its owner provided the owner reimburses the city for any veterinary medical treatment administered to the dog while in the custody of the animal control officer.

Sec. 2.03.011 Registerable dangerous dogs criteria

This designation shall refer to a dog determined dangerous under this chapter and in compliance with state law and that meets any of the following criteria:

(1) Any dog which, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in an apparent attitude of attack such that the person reasonably believes that the animal will cause physical injury to the person;

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

(3) Any animal that has killed or seriously injured a domestic animal without provocation while off the owner's property.

Sec. 2.03.012 Determination of registerable dangerous dog

A dog is determined to be a registerable dangerous dog if it meets the requirements set out in section 2.03.011, and:

(1) The owner of the dog in question knows of such an attack as defined in this chapter; or

(2) The owner is notified by the animal control officer that the dog in question is a registerable dangerous dog. The animal control officer may find and determine a dog to be a registerable dangerous dog if:

(A) Upon receipt of an affidavit of complaint signed by one or more individuals made under oath before an individual authorized by law to take sworn statements, setting forth an act described in section 2.03.011 of this chapter and setting forth as follows:

(i) The nature and the date of the act described in section 2.03.011;

(ii) The location of the event;

(iii) The name and address of the owner of the animal in question; and

(iv) The description of the animal in question.

(B) The animal control officer has been notified by another agency that the dog has been determined to be dangerous under the state law.

Sec. 2.03.013 Notification of declaration of registerable dangerous dog

(a) Within five working days of determining a dog to be a registered dangerous dog, if written notification cannot be given personally to the owner of the dog, the animal control officer will notify, by certified mail, return receipt requested, the person owning the animal of its designation as a registerable dangerous dog. In the event that certified mail, return receipt requested, cannot be delivered, the animal

control officer may then give notice by ordinary mail.

(b) If the dog is determined to be registerable under this chapter, the notice shall inform the owner of the dog that he/she may appeal the determination to municipal court no later than 15 days after the date the owner is notified of the determination. Failure to appeal the determination of registerable dangerous dog within the 15-day period shall result in the animal control officer's determination becoming final.

(c) Upon determination by the animal control officer that the dog is dangerous, the owner shall be required to secure the animal immediately within an enclosure that meets the requirements of this chapter. If the owner fails to do so, the animal control officer shall impound the dog until such enclosure is provided.

(d) The animal control officer shall immediately notify, in writing, adjacent and contiguous property owners of such determination.

Sec. 2.03.014 Status of registerable dangerous dog on appeal

Pending the outcome of the appeal, the animal must be confined at a licensed veterinary clinic or at the animal shelter, the cost of which shall be borne by the owner of the dog in question. If the dog in question is not in the possession of the animal shelter or a veterinary clinic at the time of the determination, the owner must surrender the dog to the animal control officer when ordered to do so. If the owner fails to immediately surrender the dog, the animal control officer shall have the right to take the dog into its possession from the premises of the owner or elsewhere, wherever the dog may be found within the city limits. If the dog cannot be taken into custody by the animal control officer, it may be taken into custody under a search warrant for contraband issued by the municipal judge.

Sec. 2.03.015 Defense to determination of registerable dangerous dog

The defenses identified in section 2.03.009 shall serve as a defense to the determination of a dog as a registerable dangerous dog and to the prosecution of the owner of that dog.

Sec. 2.03.016 Disposition of registerable dangerous dog

(a) If the municipal court upholds the determination by the animal control officer, the owner shall, no later than ten days after the hearing, comply with the provisions of this chapter for the keeping of a registered dangerous dog in the city and the dog shall be returned to the owner provided all costs involved in the impoundment, holding and medical treatment of the dog are paid.

(b) In the event the municipal court reverses that determination, the dog in question shall be returned to or released to its owner provided the owner has paid all veterinary medical costs administered to such dog while in the custody of the animal control officer.

(c) The municipal court may order make any reasonable orders [sic] for the dog consistent with this chapter and chapter 822 of the Health and Safety Code.

(d) If the animal control officer has information or belief or has determined that a court of competent jurisdiction has ever made or upheld a determination or declaration that a dog is dangerous, or if the animal control officer has determined that a declaration or determination of dangerous dog became final for failure to appeal or any other reason, under previous or other ordinances of this city or other cities or state law, the animal control officer shall notify the person owning or keeping such dog in writing that

the owner shall no later than ten days after the date of the notice comply with the provisions of this chapter for the keeping of a registered dangerous dog in the city.

Sec. 2.03.017 Requirements for registration and possession of registered dangerous dog

(a) (1) The owner must register the dog with the animal control officer and pay the fees as required by state law not later than 30 days after the owner is notified that the dog is dangerous. The registration shall not be transferable and shall expire one year from date of issuance. The animal control officer shall provide to the owner of the registered dangerous dog a tag which must be placed on the dog's collar and worn at all times.

(2) The owner must comply with the following to register the dog:

(A) Present proof of liability insurance or financial responsibility in the amount of at least $500,000.00 to cover damages resulting from an attack by the dangerous dog;

(B) Present proof of current rabies vaccination of the registerable dangerous dog;

(C) Present proof that the dog has been altered so as to prevent reproduction;

(D) Provide a proper enclosure as defined in this chapter and that proper enclosure must be inspected and approved by the animal control officer;

(E) Post a sign on his/her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public street or highway. In addition, the owner shall conspicuously display a sign with a symbol warning, understandable by small children, of the presence of a dangerous dog; and

(F) Further identification may be required and designated by the order of the city.

(b) When the registered dangerous dog is taken outside the approved proper enclosure, the animal must be securely muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting a person or other animal, and the dog must be restrained by a substantial chain or cable leash having a minimum tensile strength of 1,000 pounds and not to exceed six feet in length.

(c) Prior to selling or moving the registered dangerous dog either inside or outside the city limits, the owner must notify the animal control officer of his/her intentions. In the event the dog is moved permanently outside the city limits the owner must comply with the state law in notifying the animal control authority in control of the area into which the dog has been moved.

(d) Anyone bringing a dog into the city limits that has been declared dangerous by another animal control authority must notify the animal control officer of the new address where the dog will be kept and upon presentation of the dog's prior registration tag that has not expired shall pay a fee set by the city council, and the animal control officer shall issue a new tag to be placed on the dog's collar. This owner must also comply with all requirements set out in this chapter.

Sec. 2.03.018 Attack by registered dangerous dog

The owner of a dangerous dog shall notify the animal control officer of any attacks the dog makes on

people or animals.

Sec. 2.03.019 Appeal from decision of municipal court

Any appeal of the decision or order of the municipal court of the city shall be made within ten days in the same manner as appeal from civil cases originating in the justice of the peace courts of this state. The municipal court shall order the appellant to post a supersedeas bond payable to the city in an amount not less than $10,000.00. The form of the bond shall be as prescribed in the laws pertaining to civil appeals originating in the justice of the peace courts in this state. The appellant shall be responsible for the cost of appeal.

Sec. 2.03.020 Defense to prosecution for registered dangerous dog violation

It is a defense to prosecution that the person possessing a dangerous dog is:

(1) A veterinarian, peace officer, or employee of the city, and the harboring of the dog was in the performance of his/her duties;

(2) 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 corrections purposes: or

(3) A dog trainer or an employee of a guard dog company, while in the performance of his/her duties, under the Private Investigators and Private Security Agencies Act.

Sec. 2.03.021 Penalties for violation of this article

(a) It shall be a violation of this article if the person is the owner of a registered dangerous dog, and the dog makes an unprovoked attack on another person outside the dog's proper enclosure and causes bodily injury to the other person whether or not the dog was on a leash and securely muzzled or whether or not the dog escaped without fault of the owner.

(b) It shall be a violation of this article if the person is the owner of a registered dangerous dog and that dog kills or wounds a domestic animal while outside the dog's proper enclosure whether or not the dog was on a leash and securely muzzled or whether or not the dog escaped without fault of the owner.

(c) It shall be a violation of article if the person is the owner of a registered dangerous dog, and that dog attacks a person who gains access to the proper enclosure due to negligence on the part of the owner or the owner's agent. This negligence shall include a failure to comply with the notification of ownership of dangerous dog through posting of warning signs in accordance with section 2.03.017.

(d) In addition to criminal prosecution, a person who commits an offense under this article is liable for a civil penalty not to exceed $10,000.00. The city attorney may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the city.

Sec. 2.03.022 Prohibited animals

No person may possess a prohibited animal within the city limits. Such prohibited animals shall include, but are not limited to, all animals prohibited by the state or federal law and shall include, but are not limited to, the following animals or any hybrid of these animals or such other class of animals as may be determined to be dangerous by animal control officer or any other dangerous animal which may be added

in the future to the list as a high-risk animal in the Texas Rabies Control Act, as amended:

(1) Class Mammalia: family Canidae (such as wolves, coyotes, and foxes) except domesticated dogs and hybrids involving same; family Mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink, and badgers) except ferrets; family Procyonidae (such as raccoons); family Ursidae (such as bears); and order Chiroptera (such as bats).

(2) Poisonous reptiles, cobras, and their allies (Elapidae, Hydrophiidae); vipers and their allies (Crotiladae, Viperidae); Boonslang and Kirtland's tree snakes; Gila monsters (Helodermatidae); and crocodiles, alligators, and their allies (order Loricata) and nonvenomous reptiles over six feet in length; provided that nonvenomous reptiles, not to exceed twelve feet in length, may be kept for the purposes of wholesale breeding operations only in accordance with this chapter.

(3) Brown recluse (Loxosceles) and black widow (Lactrodectus) spiders.

Sec. 2.03.023 Restricted animals designated; permit required

No person may possess any individual species and/or subspecies of the following animals: antelope; order Carnivora, family Felidae (such as lions, tigers, jaguars, leopards and cougars, leopards, cheetahs, jaguars); hyenas; bears; lesser pandas; ferrets from natural habitats; order Primata (such as monkeys, chimpanzees, apes); binturong; miniature pigs; elephants; Vietnamese potbelly pigs; or such other nondomestic species of animal not common to this area without a permit issued through the animal control officer. A permit is required for each animal described or defined under this section.

Sec. 2.03.024 Issuance of restricted animal permit; conditions

(a) The owner must apply for such permit annually and provide the following information and documentation:

(1) A health certificate from a licensed veterinarian stating that the animal is free from symptoms of infectious disease or is under treatment. A new health certificate is required each time the permit is renewed. A copy will remain with the animal control officer;

(2) Copies of applicable state or federal permits or licenses as required by either of those entities for the keeping of the particular animal in question. These copies will be retained by the animal control officer;

(3) Information relating to the owner including emergency telephone numbers and telephone numbers for their veterinarian in case of emergencies;

(4) Present proof of liability insurance or financial responsibility in the amount of $100,000.00 to cover the damages resulting from an escape and/or attack by the animal to be permitted. Owners of any restricted animals identified in section 2.03.023 shall be required to maintain at all times that the restricted animal is within the city $500,000.00 of liability insurance or financial responsibility;

(5) Agreement to allow reasonable access for inspection by animal officer;

(6) Documentation of compliance with all other applicable city ordinances, including but not

limited to building and planning and zoning.

(b) Before a permit is issued the animal control officer shall inspect the facility where the animal is to be kept, which must meet the following criteria:

(1) Each enclosure must provide adequate exercise area and sleeping quarters;

(2) Proper temperature control and ventilation for the particular species must be provided in both areas;

(3) Each enclosure must be kept locked and designed so that no one can enter or place appendages in the enclosure;

(4) Each enclosure must be constructed so as to prevent the animal from escaping;

(5) Each enclosure must be kept in good repair to prevent both escape and injury to the animal;

(6) Each enclosure must have a water container which is secured so as to prevent its being overturned;

(7) Each enclosure must be cleaned daily.

(c) Owners keeping permitted restricted animals as pets inside their residence are not required to provide for the requirements of subsections (b)(1) through (b)(7) of this section, except there must be separate sleeping quarters. The animal(s) must remain in the owner's home or in the prescribed enclosure, if outdoors. If transported to the veterinarian, the animal must be kept in an escape-proof cage previously approved by the animal control officer.

(d) Each animal must be provided with continuous clean water and must be fed a diet approved by a licensed veterinarian.

(e) Any animal which has bitten or scratched someone must be immediately surrendered to the animal control officer for euthanasia and testing by the department of state health services. A live test approved by the department of state health services may be substituted for euthanasia.

(f) The fee for a restricted animal permit shall be set by the city council, and the permit shall expire one year from date of issuance and shall not be transferable. A city license will be issued and must be worn at all times by the animal.

(g) No more than a total of three (3) permits may be issued for each property address where any kind of restricted animals is kept or maintained.

Sec. 2.03.025 Violation of restricted animal requirements

Failure to comply with the permit requirements shall constitute a violation of this chapter and each day of noncompliance shall constitute a separate offense.

Sec. 2.03.026 Exemptions

(a) This article does not apply to:

(1) Zoological parks accredited by the American Association of Zoological Parks and Aquariums;

(2) Federally licensed research institutions;

(3) Any government agency or its employee who uses the animals for an agency related to education, propagation, or behavior program; or

(4) Anyone holding a valid rehabilitation permit from the state parks and wildlife department but only for animals which are in rehabilitation and scheduled to be released to the wild.

(b) This chapter does not apply to an animal that is an FFA or 4-H project and that is and remains in good standing and on an official list of such authorized projects filed with the city by the authorized sponsor of such FFA or 4-H program; provided that such exemption shall be withdrawn upon the sponsor of the applicable FFA or 4-H program notifying the mayor that such animal is not being maintained and cared for in compliance with the standards of such FFA or 4- H program, or is otherwise no longer an authorized FFA or 4-H project.

Sec. 2.03.027 Guard dogs

(a) All dogs which are trained by a certified professional and kept solely for the protection of persons and property, residential, commercial, or personal, shall obtain a permit from the animal control officer. The annual fee for this permit shall be set by the city council. The area or premises in which such dog is confined shall be conspicuously posted with warning signs bearing letters not less than two inches high, stating "Guard Dog on Premises."

(b) The area of the premises shall be subject to inspection by the animal control officer to determine that the animal in question is maintained and secured at all times in such a manner so as to prevent its coming in contact with the public.

(c) Dogs used by federal, state, county, or municipal law enforcement agencies are exempt from this section.

ARTICLE 2.04 IMPOUNDMENT[9]

Division 1. Generally

Sec. 2.04.001 Impoundment authorized; fees

(a) Animals owned or harbored in violation of this chapter or law of the state shall be taken into custody by an animal service officer or other designated official and impounded under this chapter.

(b) Owners of impounded pets are required to pay all fees related to the impoundment as set forth by city ordinance.

[9] **State law reference–**Restraint, impoundment and disposition of dogs and cats, V.T.C.A., Health and Safety Code, sec. 826.033.

Sec. 2.04.002 Redemption of impounded animal

(a) Except as may be provided elsewhere in this chapter, the owner of any animal impounded in accordance with this chapter may reclaim such animal upon showing satisfactory proof of ownership and paying all impoundment fees and any other expenses incurred by the city or its agent in keeping the animal or attempting to locate the owner of the animal. If the owner does not pay these fees, the animal may be sold or otherwise disposed of by the city or its agent. However, these fees may be waived by the city if the owner signs an agreement to attend and actually does attend a pet education seminar within 90 days of redeeming his animal from the animal shelter. The city may establish guidelines or requirements for determining which animal owners will be allowed to take the pet education seminar in exchange for waiving the impoundment fees and other expenses. The city may establish a registration fee for the seminar that must be paid at the time the animal is returned to the owner. If the owner does not attend the seminar, the city may seek to collect the impoundment fees and any other expenses incurred by the city. It shall be unlawful for any person to fail to attend a pet education seminar within the required time in exchange for waiving the impoundment fees and other expenses, unless prior to expiration of the time period the person had obtained an extension to complete the seminar from the field supervisor for the animal control office or has paid all of the fees that would have been required at the time the animal was redeemed from the animal shelter. A complaint for failure to attend the seminar may be filed in the municipal court.

(b) If a dog or cat has been impounded on two prior occasions, the dog or cat must be spayed or neutered before being released to the owner if impounded on a third occasion. The owner of the dog or cat will be responsible for arranging for the spay or neuter surgery. The dog or cat will be transported to the veterinarian by an animal control officer or an employee or agent of the animal shelter. The cost to spay or neuter the dog or cat shall be paid by the owner, along with the impoundment fees, either to the animal shelter or to the veterinarian, in advance of transporting the animal for the surgery. After the surgery is performed, the veterinarian may release the dog or cat to the owner.

Sec. 2.04.003 Disposition of dogs and cats

(a) Dogs and cats with no identification. All dogs and cats impounded by the animal control officer or brought to the animal shelter by a person other than the harborer or owner of that animal shall be held for a minimum of 72 hours during which time period the owner may present proof of ownership at the shelter. After paying all applicable fees, that owner may reclaim the dog/cat. In the event that the dog/cat is not claimed after 72 hours in the shelter, the dog/cat shall become the property of the city.

(b) Dogs and cats with identification. Unless earlier claimed by the owner, all dogs and cats impounded by the animal control officer, or brought to the animal shelter by a person other than the harborer or owner of that animal, that are wearing traceable identification, or where an owner is known, shall be held in the shelter for a minimum of seven complete days from the time the animal enters the facility, during which time the animal control officer will notify the owner, when known, of the impoundment. Unless the owner has notified the animal control officer in writing of his/her intentions to claim the dog/cat after that date, listing a date by which time that owner will reclaim the dog/cat and satisfy all applicable fees, and this arrangement has been approved by the animal control supervisor, the animal shall become the property of the city on the eighth day.

(c) Animals surrendered by owner/harborer. An owner or harborer may at any time surrender an animal to any third party, shelter, or facility that is not an animal shelter designated by the city; however, under no circumstances shall the city accept the surrender of any animal or be responsible for any surrendered animal. No city employee is authorized to accept the surrender of any animal.

(d) Animals other than dogs, cats or estrays impounded. All animals other than dogs, cats, estrays or animals, holding current restricted animal permits, that are impounded by the animal control officer or brought to the animal shelter by a person other than the owner/harborer shall become the property of the city unless such ownership is prohibited by state or federal law.

(e) Disposition of animals. Any animal that cannot be adopted or transferred to a proper and appropriate agency shall be euthanized by an injection of substances approved for euthanasia by the American Veterinary Medical Association and/or the Texas Veterinary Medical Association to be administered in compliance with the laws of the state. All animals listed as endangered or protected shall be transferred to the proper authority at the earliest possible date.

Sec. 2.04.004 Adoption of animals

(a) All animals which are adopted from the animal shelter shall be surgically altered to prevent reproduction in that animal. The person adopting the animal shall sign an adoption contract stating that he/she will have the animal surgically altered and the date by which the surgery must be performed, if the animal has not been altered before it leaves the animal shelter.

(b) It shall be the responsibility of the person adopting to provide proof of altering to the animal control officer.

(c) Failure to comply with this section or failure to comply with the terms of the adoption contract shall give the animal control officer the right to recover the adopted animal in question and revoke the owner's adoption contract. Such failure shall also constitute a violation of this chapter.

(d) The adoption fee shall be set by resolution of the city council, to render neutral the cost of surgically altering, medicating, vaccinating, and preparing the animal for adoption. The person adopting the animal shall be provided a list of fees related to the adoption prior to the agreement being signed.

State law reference–Sterilization of dog or cat released for adoption, V.T.C.A., Health and Safety Code, ch. 828.

Secs. 2.04.005–2.04.030 Reserved

Division 2. Estray and Other Livestock[10]

Sec. 2.04.031 Allowing animal or fowl to run at large

(a) Horses, cattle, etc. It is unlawful for any owner or person in control of any horse, mule, jack, jennet, cattle, hog, goat, or sheep (estray) to permit any such animal to run at large on land not his own or under his control, or on any street, alley, or other public place in the city.

(b) Fowl. It is unlawful for the owner or person in control of any chicken or other fowl to permit the same to run at large on any land not his own or under his control, or on any street, alley, or other public place in the city.

(c) Pigeons. It is unlawful and constitutes a nuisance for the owner or any person in charge or control of any pigeons in the city, or the owner or any person in charge or control of any outbuilding or barn in the city upon which pigeons nest, to allow such pigeons to run or fly at large in the city.

[10] **State law reference–**Impoundment of estrays, V.T.C.A., Agriculture Code, sec. 142.009.

Sec. 2.04.032 Impoundment

It shall be the duty of the animal control officer to take up any and all estray and other livestock that may be found in and upon any street, alley or upon any unenclosed lot in the city, or otherwise to be found at large, and to confine such estray or other livestock for safekeeping. Upon impounding, the animal control officer shall prepare a file to be located in the city offices. Each entry shall include the following:

(1) The name and address of the person who notified the animal control officer of the estray or other livestock;

(2) The date, time, and location of the estray or other livestock when found;

(3) The location of the estray or other livestock until disposition; and

(4) A description of the animal including its breed, color, sex, age, size, all markings of any kind and other identifying characteristics.

Sec. 2.04.033 Search for owner; advertisement

When an estray or other livestock has been impounded, the animal control officer shall make a diligent search of the register of recorded brands in the county for the owner of the estray or other livestock. If the search does not reveal the owner, the animal control officer shall advertise the impoundment of the estray in a newspaper of general circulation in the county at least twice during the next 15 days following impoundment and post a notice of the impoundment of the estray or other livestock on the public notice board of city hall.

Sec. 2.04.034 Recovery by owner

The owner of an estray or other livestock may recover possession of the animal at any time before the animal is sold under the terms of this chapter if:

(1) The owner has provided the animal control officer with an affidavit of ownership of the estray or other livestock containing at least the following information:

(A) The name and address of the owner;

(B) The date the owner discovered that the animal was missing;

(C) The property from which the animal strayed; and

(D) A description of the animal including its breed, color, sex, size, all markings of any kind and any other identifying characteristics;

(2) The animal control officer has approved the affidavit; and

(3) The owner has paid all handling fees to those entitled to receive them.

Sec. 2.04.035 Sale at auction

If the ownership of an estray or other livestock is not determined within 14 days following the final advertisement required by this chapter, ownership of the estray or other livestock rests with the city and the animal control officer shall then cause the estray or other livestock to be sold at a public auction. If there are not any bidders, ownership is forfeited to the city.

(1) Title shall be deemed vested in the animal control officer for purposes of passing a good title, free and clear of all claims, to the purchaser at the sale.

(2) The disposition of the proceeds derived from the sale at public auction will be as follows:

(A) Pay all handling fees to those entitled to receive them;

(B) Execute a report of sale of impounded stock;

(C) The net proceeds remaining from the sale of the estray or other livestock after the handling fees have been paid shall be delivered by the animal control officer to the city secretary. Such net proceeds shall be subject to claim by the original owner of the estray or other livestock as provided herein;

(D) If the bids are too low, the animal control officer shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure.

Sec. 2.04.036 Recovery of sale proceeds by owner

(a) Within 12 months after the sale of an estray or other livestock under the provisions of this chapter the original owner of the estray may recover the net proceeds of the sale that were delivered to the city secretary if:

(1) The owner has provided the animal control officer with an affidavit of ownership; and

(2) The animal control officer has accepted the affidavit of ownership.

(b) After the expiration of 12 months from the sale of an estray or other livestock as provided by this chapter, the sale proceeds shall escheat to the city. If an animal was forfeited to the city due to no bidders at auction, then city is not to be liable to owner for any proceeds of sale, since no proceeds were received.

Sec. 2.04.037 Use of impounded animal

During the period of time an estray or other livestock is held by one who impounded the estray or other livestock, it may not be used by any person for any purpose.

Sec. 2.04.038 Death or escape of impounded animal

If the estray or other livestock dies or escapes while held by the person who impounded it, the person shall report the death or escape to the animal control officer. The report shall be filed in the record regarding the impoundment.

CHAPTER 3

BUILDING REGULATIONS

ARTICLE 3.01 GENERAL PROVISIONS

Sec. 3.01.001 Roofing materials

(a) All roofing materials used on any building, whether it be new construction or a repair/replacement, within the city limits, shall be of new material or recycled materials suitable for new construction or materials obtained from deconstruction as defined by the Environmental Protection Agency materials recycling program. This includes wooden shakes, bituminous, plastic, fiberglass or shingles of any other material, aluminum, steel and/or any other metal or material.

(b) Houses/buildings that are declared historical may be exempt from this section if they are using a like/kind material and receive prior approval from the city council.

(c) Any person found to be in violation of this section may be fined in accordance with the general penalty provided in section 1.01.009 of this code plus court costs if found guilty in any court of competent jurisdiction.

Sec. 3.01.002 Building setback lines

The minimum building setback lines upon any lot in the city, where the building line has not been established by an approved plat or by any other city ordinance or by established use, or which is less than the minimum herein provided for, shall be determined by the city council prior to issuance of a building permit. The minimum building setback lines shall be twenty-five (25) feet in front, fifteen (15) feet in the rear and ten (10) feet on each side, provided that on a corner lot the side yard on the street side of the lot shall be not less than twenty-five (25) feet. Variances may be granted when justified by the city council.

Sec. 3.01.003 Height of utility lines

(a) New lines prohibited below certain height. The construction of any telegraph, telephone or electric lines within the city in such a manner that said lines cross above State Highway 933 and Farm To Market Road 1858 (Wildcat Circle) at an altitude of less than sixteen (16) feet, or above any other street or alley within the city at an altitude of less than fourteen (14) feet, shall be deemed to be an unreasonable interference with the use of such streets and alleys by the public, and such construction shall be and is hereby prohibited.

(b) Existing lines. The telegraph, telephone and electric lines heretofore strung above the streets and alleys of the city, where such lines are at an altitude of less than sixteen (16) feet above State Highway 933 and Farm To Market Road 1858 (Wildcat Circle) or at an altitude of less than fourteen (14) feet any other street or alley within such city, shall be and the same is hereby declared to be an unreasonable interference with the use of such streets and alleys by the public, and upon request of the city council or the city secretary the owners of such lines shall cause them to be removed or raised above the limits hereinbefore set out.

(c) Exceptions. The foregoing subsections shall not be applicable to lead-ins whereby telegraph or telephone service or electricity is conducted from the main lines into the residences or places of business of the consumers, but such lead-ins shall be constructed and/or maintained at the highest altitude practicable above such streets and alleys, and upon request of the city council or the city secretary such lead-ins shall be removed or raised by the owners to permit the free use of the streets or alleys below them to an altitude not less than the limits set forth in subsections (a) and (b) above.

ARTICLE 3.02 TECHNICAL AND CONSTRUCTION CODES AND STANDARDS

Division 1. Generally

Secs. 3.02.001–3.02.050 Reserved

Division 2. Building Code and Residential Code[11]

Sec. 3.02.051 Building code adopted; amendments

(a) That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the International Building Code, 2012 edition, including all appendix chapters, published by the International Code Council, Inc., is hereby adopted as the building code of the city establishing the minimum regulations 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 the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in connection with the city's dangerous building regulations and the Texas Local Gov't Code, and each and all of the regulations, provisions, conditions and terms of such International Building Code, 2012 edition, published by the International Code Council, Inc., on file in the office of the city secretary are hereby referred to, adopted and made a part of this section as if fully set out in this section.

(b) The 2012 International Building Code is further amended as follows:

(1) Each reference to "board of adjustments and appeals" is hereby amended to provide that the composition of the board of adjustments and appeals of the city shall be the city council.

(2) Each reference to the qualification requirements for members of the "board of adjustments and appeals" is hereby repealed.

(c) The following general amendment is adopted, and any contrary provisions are hereby deleted:

(1) Failure to comply. Any person who violates a provision of this code, or fails to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor, and subject to a fine of between $1.00 and $2,000.00. Each day a violation occurs constitutes a

[11] **State law references**–Building and residential codes, V.T.C.A., Local Government Code, sec. 214.211 et seq.; adoption of rehabilitation codes or provisions, V.T.C.A., Local Government Code, sec. 214.215; International Building Code adopted as municipal commercial building code, V.T.C.A., Local Government Code, sec. 214.216; International Residential Code adopted as a municipal residential building code, V.T.C.A., Local Government Code, sec. 214.212.

separate offense.

Sec. 3.02.052 Residential code adopted; amendments

(a) That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the International Residential Code, 2012 edition, including all appendix chapters, published by the International Code Council, Inc., is hereby adopted as the building code of the city establishing the minimum regulations 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 the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in connection with the city's dangerous building regulations and chapter 214, Texas Local Gov't Code, and each and all of the regulations, provisions, conditions and terms of such International Residential Code, 2012 edition, published by the International Code Council, Inc., on file in the office of the city secretary, are hereby referred to, adopted and made a part of this section as if fully set out in this section.

(b) The 2012 International Residential Code is further amended as follows:

(1) Each reference to "board of adjustments and appeals" is hereby amended to provide that the composition of the board of adjustments and appeals of the city shall be the city council.

(2) Each reference to the qualification requirements for members of the "board of adjustments and appeals" is hereby repealed.

(3) Any reference or requirement that requires a written application for appeal to be filed within 20 days after the decision of a code official is deleted.

(c) The following general amendment is adopted, and any contrary provisions are hereby deleted:

(1) Failure to comply. Any person who violates a provision of this code, or fails to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor, and subject to a fine of between $1.00 and $2,000.00. Each day a violation occurs constitutes a separate offense.

Sec. 3.02.053 Penalty

Any person who shall violate any of the provisions of this division, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine in accordance with the general penalty provided in section 1.01.009 of this code. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein. To the extent of any conflict between this section and a penalty provision in the codes adopted herein, such penalty provision shall be amended, and this section shall control.

Sec. 3.02.054 Enforcement of regulations

(a) No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the city for or with respect to any lot, tract, or parcel of land within the city limits, after the effective date of this division, except in compliance with all then-applicable requirements of this division and the above codes.

(b) Whenever any building work is being done contrary to the provisions of this division, or another controlling ordinance or statute governing the building, the building official or code enforcement officer designated by the city administrator may order the work stopped by notice verbally or in writing served on any persons engaged in doing or causing such work to be done and the city shall post a stop work order on the property adjacent to the posted building permit, and any such persons shall forthwith stop such work until authorized by the building official or code enforcement officer to proceed with the work. If no permit has been issued, all work shall stop until a permit has been properly issued and all errors corrected to the satisfaction of the building official or code enforcement officer. The building official or code enforcement officer may also issue a work correction order, which shall be served upon any persons who are working on a certain aspect of the construction project. The work on other aspects of the construction not in violation of the city's ordinances may proceed, but work shall cease as to that aspect in violation of the city's ordinances.

(c) This division and any code or provision adopted by this division may be further enforced by injunction and other judicial proceedings, either at law or in equity, and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this division, with respect to any land, building or development within the city, [is punishable] by fine and penalties as provided herein.

Secs. 3.02.053–3.02.100 Reserved

Division 3. Plumbing Code[12]

Sec. 3.02.101 Adopted

There is hereby adopted, for the purpose of prescribing regulations governing installation, alteration, repair, and replacement of plumbing, piping, fittings, fixtures, and equipment which may be connected to the water and sewer system in the city, that certain code known as the Standard Plumbing Code, recommended by the Southern Building Code Congress International, Inc., except appendix A and appendix H, being particularly the 1985 edition thereof, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended. A copy of the code has been and is now filed in the office of the city secretary, and the same is hereby adopted and incorporated as fully as if set out at length herein.

Sec. 3.02.102 Amendments

All provisions of the Standard Plumbing Code adopted herein shall be applicable with the exception of the following amendments thereto:

(1) Plumbing department. The provisions of the Standard Plumbing Code shall be enforced by a plumbing official who shall be appointed by the city council.

(2) Requirements not covered by code. Any requirement necessary for the strength or stability of an existing or proposed plumbing installation, or for the public safety or health, not specifically covered by the plumbing code, shall be determined by the plumbing official

[12] **State law references**–Authority to regulate sewers and plumbing, V.T.C.A., Local Government Code, secs. 214.012 and 214.013; authority to regulate plumbing, V.T.C.A., Occupations Code, sec. 1301.551; Plumbing License Law, V.T.C.A., Occupations Code, ch. 1301; adoption of plumbing codes and amendment of codes by municipality, V.T.C.A., Occupations Code, sec. 1301.255.

subject to appeal to the city council.

(3) Alternate materials and alternate methods of construction. The provisions of the plumbing code are not intended to prevent the use of any material or method of construction not specifically prescribed by this code, provided any such alternate has been approved and its use authorized by the building official. The building official shall approve any such alternate, provided he finds that the proposed design is satisfactory and complies with the provisions of chapter 17 [of the Standard Plumbing Code], and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the code in quality, strength, effectiveness, fire-resistance, durability, and safety. The building official shall require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding its use. If, in the opinion of the building official, the evidence and proof are not sufficient to justify approval, the applicant may appeal the decision to the city council.

(4) Liability. Any officer or employee or member of the city council charged with the enforcement of the plumbing code, acting for the city council, in the discharge of his duties, shall not thereby render himself liable personally, and he is 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 discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any provision of the plumbing code shall be defended by the city attorney until the final termination of the proceedings. Neither the city nor any authorized agent acting under the terms of this section shall be liable or have any liability by reason of orders issued or work done or failure to perform work in compliance with the terms of this division or any of the standards adopted herein.

(5) Permit fee. On all plumbing work requiring a plumbing permit, as set forth in section 103 of the Standard Plumbing Code, a fee for each plumbing permit shall be paid as required at the time of filing application, in the amount adopted by the city council.

(6) Appeals and variances. Whenever the plumbing official shall reject or refuse to approve the mode or manner of construction proposed to be followed, or materials to be used, in the erection or alteration of a building or structure, or when it is claimed that the provisions of the building [plumbing] code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that 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 his duly authorized agent, may, after ten (10) days' notice and a hearing before the city administrator, appeal from the decision of the plumbing official to the city council.

Secs. 3.02.103–3.02.150 Reserved

Division 4. Electrical Code[13]

Sec. 3.02.151 Adopted

The 1987 edition, and all subsequent revisions, standards, or supplements thereto, of the National

[13] **State law references**–National Electrical Code adopted as municipal residential and commercial electrical code, V.T.C.A., Local Government Code, sec. 214.214; Texas Electrical Safety and Licensing Act, V.T.C.A., Occupations Code, ch. 1305.

Electrical Code of the National Fire Protection Association, is hereby adopted by reference and made part of this division as the general standard for electrical equipment and installations in the city, except such provisions thereof as may be in conflict with this division or other ordinances of the city. All electrical equipment installed or used in the city and all installations of electrical equipment shall be reasonably safe to persons and property in conformity with the standards provided in the National Electrical Code, 1987 edition, and with the provisions of this division and applicable state statutes, and any rules and regulations issued by authority thereof. A copy of the National Electrical Code referred to herein is on file in the office of the city secretary for reference and inspection.

Sec. 3.02.152 Scope

The provisions of this division shall apply to all installations of electrical conductors, fittings, devices, signs, fixtures, motors, generators, starters, controls, and raceways, hereinafter referred to as "electrical equipment," within or on public and private buildings and premises within the city.

Sec. 3.02.153 Liability for damages caused by defects

This division 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 property which were caused by any defect in such equipment or in the installation thereof, nor shall the city be held as assuming any liability by reason of the inspection, failure to inspect, or reinspection authorized herein, or any certificates of conformance or nonconformance issued by the city, or by reason of the approval or disapproval of any equipment authorized herein.

Sec. 3.02.154 Enforcement

Until the city council shall appoint an electrical official or electrical inspector, the electrical code shall be enforced by contract, on an as-needed basis, under whatever arrangement the city council deems to be in the best interest of the city.

Sec. 3.02.155 Appeals

Any person aggrieved by any interpretation of the electrical code adopted by reference in section 3.02.151, or by any decision or ruling by the city's designated contract inspector, shall have the right to make an appeal to the city council. Such appeal shall be perfected by written notice submitted to the city secretary and addressed to the mayor and city council asking for a hearing by the council, and the action of the city council thereon shall be final. Prior to rendering a decision on any appeal, the city council shall seek expert advice and counsel.

Sec. 3.02.156 Permits

(a) Required; exceptions.

(1) No electrical equipment shall be installed within or on any building, structure, or premises publicly or privately owned within the city, nor shall any alterations or additions be made to any such existing equipment, without first securing a permit therefor from the city secretary.

(2) No permit will be required for the installation of wires to operate electrical bells, gas lighting apparatus, house annunciators, burglar alarms, telephones, telegraphs, district messengers, watch clocks, fire alarms or other similar instruments if the current operating is of less than

twenty-five (25) volts potential.

(b) Application. Application for the permit required by the provisions of this division, describing the work to be done, shall be made in writing to the city secretary.

(c) Fee. Before any permit shall be issued under the provisions of this division, the applicant therefor shall pay a fee in the amount adopted by the city council.

ARTICLE 3.03 SUBSTANDARD OR DANGEROUS BUILDINGS[14]

Division 1. Generally

Sec. 3.03.001 Local Government Code chapter 214 adopted

Chapter 214, Texas Local Gov't. Code, is hereby adopted by the city and made a part of this article. In the event of any conflict or inconsistency between the terms and provisions of this article and chapter 214, the terms and provisions of chapter 214 shall govern and control.

Sec. 3.03.002 Definitions

As used in this article, the following terms shall have the meanings given below:

Building. Any building or structure built for the support, shelter, use or enclosure of persons, animals, chattels, or property of any kind.

Code enforcement authority. The person designated by the city for purposes of making inspections, sending notices, and otherwise enforcing the provisions of this article.

County. The County of McLennan, Texas.

Dangerous building, unsafe building, and substandard building mean any building located within the incorporated limits of the city that is:

(1) In such a state or condition of repair or disrepair that all or any of the following conditions exist:

(A) Walls or other vertical structural members list, lean, or buckle;

(B) Damage or deterioration exists to the extent the building cannot be used or occupied without risk of injury, or to the extent the building poses a danger to persons on the property or adjacent property;

(C) Loads on floors or roofs are improperly distributed or the floors or roofs are of insufficient strength to be reasonably safe for the purposes used;

(D) Damage by fire, wind, or other cause has rendered the building or structure dangerous to life, safety, morals or the general health and welfare of the occupants or the people

[14] **State law reference–**Authority of municipality to regulate dangerous and substandard structures, V.T.C.A., Local Government Code, sec. 214.001 et seq.

of the city;

(E) The building or structure is so dilapidated, substandard, decayed, unsafe, unsanitary, or otherwise lacking in the amenities essential to decent living or use that the same is unfit for human habitation or occupancy, or is likely to cause sickness, disease or injury or otherwise to constitute a detriment to the health, morals, safety or general welfare of those persons assembled, working, or living therein or is a hazard to the public health, safety and welfare;

(F) Light, air, and sanitation facilities are inadequate to protect the health, morals, safety, or general welfare of persons who assemble, work, or live therein;

(G) Stairways, fire escapes, and other facilities of egress in case of fire or panic are inadequate;

(H) Parts or appendages of the building or structure are so attached that they are likely to fall and injure persons or property;

(I) The floors, exterior walls, or roof fail to protect occupants of the building or structure from weather, injury, and the danger of collapse due to the presence of holes, cracks, and loose, rotten, warped, or protruding boards or other similar damage in floors, exterior walls, or the roof;

(J) Conditions of the structure or building constitute a material violation of provisions of the city's building codes, plumbing code, fire prevention code, or electrical code (the "codes"). For the purposes of this section, a "material" violation is a violation of any provision or provision of the codes that creates a significant risk of personal injury, death, or property damage;

(2) Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare of the city's residents;

(3) Regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

(4) Boarded up, fenced, or otherwise secured in any manner if:

(A) The building constitutes a danger to the public even though secured from entry; or

(B) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building to the extent it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;

(C) Defined as a dangerous or unsafe building by the 2012 International Property Maintenance Code, published by the International Code Council, Inc.

Responsible parties. The owner, and any mortgagee or lienholder identified by the owner or by search of the public tax records and real property records of the county, and any occupant or person residing within, or in custody of, the building or structure.

Structure. That which is constructed.

Sec. 3.03.003 Dangerous buildings declared nuisance

(a) It shall be unlawful for any person to maintain or permit the existence of any dangerous building in the city, and it shall be unlawful for any person to permit same to remain in such condition.

(b) All dangerous buildings, unsafe buildings, and substandard buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures provided in this article.

(c) The code enforcement authority shall enforce the provisions of this article.

Sec. 3.03.004 Inspections; duties of code enforcement authority

The code enforcement authority shall inspect, or cause to be inspected, every building, or portion thereof, reported to be dangerous. If such building, or any portion thereof, is determined to be dangerous, the code enforcement authority shall give the responsible parties notice in accordance with the requirements set forth in this article. The code enforcement authority shall also:

(1) Inspect or cause to be inspected, when necessary, any building or structure within the incorporated limits of the city, including public buildings, schools, halls, churches, theaters, hotels, tenements, or apartments, multifamily residences, single-family residences, garages, warehouses, and other commercial and industrial structures of any nature whatsoever for the purpose of determining whether any conditions exist which render such places a "dangerous building" as defined in this article.

(2) Inspect any building, wall, or structure about which complaints have been filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.

(3) Report to the board of adjustments and appeals any noncompliance with the minimum standards set forth in this article. The city code enforcement authority shall obtain from the secretary of the board of adjustments and appeals a hearing date for a public hearing by the board of adjustments and appeals on any building believed to be a dangerous building and shall provide the secretary of the board of adjustments and appeals with copies of the written notice to persons with interests in the property as required under this article.

(4) Appear at all hearings conducted by the board of adjustments and appeals and testify as to the conditions of dangerous buildings within the city.

(5) Place a notice on all dangerous buildings reading as follows: "This building has been found to be a dangerous building by the City of Gholson Code Enforcement Authority. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given to the owner(s), occupant(s) and person(s) with interests in the property as shown by the records of the City Secretary and the Tax Appraisal District. It is unlawful to remove this notice until such notice is complied with."

(6) Request the mayor or city administrator, as applicable, to have the building inspector, or an

appropriate engineer or building inspector, provide additional inspections and reports and act as an expert witness at hearings for buildings that appear marginally dangerous.

(7) Make a diligent effort to determine the identity and address of each owner, lienholder, or mortgagee. The code enforcement authority satisfies the requirements of this subsection to make a diligent effort, to use best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the code enforcement authority searches the following records:

(A) County real property records of the county in which the building is located;

(B) Appraisal district records of the appraisal district in which the building is located;

(C) Records of the secretary of state;

(D) Assumed name records of the county in which the building is located;

(E) Tax records of the city; and

(F) Utility records of the city.

(8) Perform the other requirements with respect to notification of public hearings as are set forth more specifically in this article.

Sec. 3.03.005 Notice of dangerous building or dangerous condition of property

(a) Should the code enforcement authority determine that a building within the city is a dangerous building, he/she shall, in the manner provided for in this article, attempt to identify all the responsible parties that have an interest in the building, and give written notification of the dangerous building or condition by certified mail return receipt requested and regular U.S. mail to each of the identified responsible parties that are identified by the search made pursuant to subsection (4) below [section 3.03.004(7)]. Such notice shall include:

(1) The address or legal description of the property where the building or structure deemed unsafe is located;

(2) A statement of the specific conditions, violations, or defects which make the building or structure a dangerous building;

(3) Notice of the date and time of a public hearing before the board of adjustments and appeals to determine whether the building complies with the standards set out in this article; and

(4) A statement that the owner, lienholder, mortgagee, or persons with a legal interest in the building 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 amount of time it will take to reasonably perform the work.

(b) The notice required under this section must be either personally delivered or mailed on or before the 10th day before the date of the hearing unless the code enforcement authority determines that the property, building, or structure is in immediate need to be secured, repaired, or abated and the property, building, or structure presents an immediate threat to the health, safety, and welfare of the public. For

purposes of providing the minimum notice under this subsection, the notice of dangerous building or dangerous condition of property shall be deemed served upon the responsible parties on the date the notice is deposited with the U.S. Postal Service.

(c) Such notice shall be served upon the responsible parties both by certified mail and regular U.S. mail as required in this section.

Sec. 3.03.006 Securing dangerous building

(a) Should the code enforcement authority determine that any building or structure within the incorporated limits of the city is a dangerous building, or is unoccupied and unsecured, or is occupied only by persons who do not have a right of possession of the building, he/she shall cause the building to be secured.

(b) Before the 11th day after the date the building is secured, the municipality shall give notice to the owner by:

(1) Personally serving the owner with written notice;

(2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address;

(3) Publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owner's post office address is unknown; or

(4) Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.

(c) The notice must contain:

(1) Identification, which is not required to be a legal description, of the building and the property on which it is located;

(2) A description of the violation of the city standards that is present at the building;

(3) A statement that the city will secure or has secured, as the case may be, the building; and

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building.

(d) The board of adjustments and appeals shall conduct a hearing at which any of the responsible parties may testify and present witnesses and written information about any matter relating to the city's securing of the building, if, within 30 days after the date the code enforcement authority secures or causes to be secured the building, a responsible party files a written request for the hearing. The board of adjustments and appeals shall conduct the hearing within 20 days after the date the request is filed with the city.

(e) The city shall impose a lien against the land on which the building stands, unless it is a homestead, to secure the payment of the cost of securing the building. Promptly after the imposition of the lien, the city shall file for record, in recordable form in the official public records of the county, a written notice

of the imposition of the lien. The notice shall contain a legal description of the land.

Sec. 3.03.007 Sufficiency of notice

(a) A notice of dangerous building or dangerous condition of property as required under this article shall include notice of the date and time of a public hearing and shall be deemed properly served upon the responsible parties if a copy thereof is:

(1) Served upon him/her personally;

(2) Sent by registered or certified mail, return receipt requested, and regular U.S. mail to the last known address of such person as shown on the records of the city; or

(3) Posted in a conspicuous place in or about the building affected by the notice.

(b) When the city mails a notice in accordance with this section to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

(c) The city shall file notice of the hearing in the public records of real property of the county.

Secs. 3.03.008–3.03.030 Reserved

Division 2. Board of Adjustments and Appeals; Hearings Before Board

Sec. 3.03.031 City council to serve as board of adjustments and appeals

The city council shall serve as the board of adjustments and appeals for the city. The city council is granted the authority to serve and act as the board of adjustments and appeals and to take actions and issue orders as the board of adjustments and appeals for the city as authorized under this article. (Ordinance 2015-12-14-01, sec. 5(3.01), adopted 12/14/15)

Sec. 3.03.032 Duties of board of adjustments and appeals; hearings

(a) The board of adjustments and appeals shall schedule and conduct a hearing and hear testimony from the code enforcement authority, the owner and other persons having an interest in the dangerous building, and any person desiring to present factual evidence relevant to the dangerous building. Such testimony shall relate to the determination of the question of whether the building or structure in question is a dangerous building and the scope of any work that may be required to comply with this article and the amount of time it will take to reasonably perform the work. The owner or a person having an interest in the dangerous building shall have 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.

(b) Upon conclusion of the hearing, the board of adjustments and appeals shall determine by majority vote whether the building or structure in question is a dangerous building. Upon a determination that the building or structure in question constitutes a dangerous building, the board of adjustments and appeals shall issue a written order:

(1) Containing an identification of the building and the property on which it is located;

(2) Making written findings of the minimum standards violations that are present at the building;

(3) Requiring the owner and persons having an interest in the building to secure, repair, vacate, and/or demolish the building within thirty (30) days from the issuance of such order, unless the owner or a person with an interest in the building establishes at the hearing that the work cannot reasonably be performed within thirty (30) days, in which instance the board of adjustments and appeals shall specify a reasonable time for the completion of the work; and further provided that the board of adjustments and appeals may require the owner and occupants to vacate the building within a shorter period of time if the building has fallen, is at risk of immediate collapse, or is in such a condition that life is endangered by further occupation of the building; and

(4) Containing a statement that the city will vacate, secure, remove or demolish the dangerous building and relocate the occupants of the building if the ordered action is not taken within the time specified by the board of adjustments and appeals and it is found and determined by the board of adjustments and appeals in its order that there is an immediate clear and present danger to other property or the public.

(c) If repair or demolition is ordered, the board of adjustments and appeals shall send a copy of the order by certified mail to the owner and all persons having an interest in the property, including all identifiable mortgagees and lienholders, within a reasonable period of time after the hearing. Within 10 days after the date that the order is issued, the city shall:

(1) File a copy of the order in the office of the municipal secretary or clerk; and

(2) Publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:

(A) The street address or legal description of the property;

(B) The date of the hearing;

(C) A brief statement indicating the results of the order (may be a copy of the order); and

(D) If not provided in the notice, instructions stating where a complete copy of the order may be obtained.

(d) If repair or demolition is ordered and notice of public hearing was not filed in the official public records of real property of the county, the city may file and record a copy of the order in such records of the county.

(e) If the board of adjustments and appeals allows the owner or a person with an interest in the dangerous building more than thirty (30) days to repair, remove, or demolish the building, the board of adjustments and appeals in its written order shall establish specific time schedules for the commencement and performance of the work and shall require the owner or person to secure the property in a reasonable manner from unauthorized entry while the work is being performed. The securing of the property shall be in a manner found to be acceptable by the city code enforcement authority. Any required permits or approvals shall be obtained prior to commencing the repair, removal, or demolition of the building.

(f) The board of adjustments and appeals may not allow the owner or person with an interest in the dangerous building more than ninety (90) days to repair, remove, or demolish the building or fully

perform all work required to comply with the written order unless the owner or person:

(1) Submits a detailed plan and time schedule for the work at the hearing; and

(2) Establishes at the hearing that the work cannot reasonably be completed within ninety (90) days because of the scope and complexity of the work.

(g) If the board of adjustments and appeals allows the owner or person with an interest in the dangerous building more than ninety (90) days to complete any part of the work required to repair, remove, or demolish the building, the board of adjustments and appeals shall require the owner or person to regularly submit progress reports to the board of adjustments and appeals to demonstrate that the owner or person has complied with the time schedules established for commencement and performance of the work. The written order may require that the owner or person with an interest in the building appear before the city code enforcement authority to demonstrate compliance with the time schedules.

(h) In the event the owner or a person with an interest in a dangerous building fails to comply with the order within the time specified therein, the city may cause any occupants of the dangerous building to be relocated, and may cause the dangerous building to be secured, removed, or demolished at the city's expense. The city may assess the expenses on, and the city has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the dangerous building was located. The lien is extinguished if the property owner or a person having an interest in the building 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 office of the county clerk in the county in with the property is located. The notice of lien must contain:

(1) The name and address of the owner of the dangerous building if that information can be determined by a diligent effort;

(2) A legal description of the real property on which the building was located;

(3) The amount of expenses incurred by the city; and

(4) The balance due.

(i) Such lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property.

(j) In addition to the authority set forth in subsection (g) [(h)] above, after the expiration of the time allotted in the order for the repair, removal, or demolition of a dangerous building, the city may repair the building at its expense and assess the expenses on the land on which the building stands or to which it is attached. The repairs contemplated by this section may only be accomplished to the extent necessary to bring the building into compliance with the minimum standards established by city ordinance, and to the extent such repairs do not exceed minimum housing standards. This section shall be applicable only to residential buildings with ten (10) or fewer dwelling units. The city shall follow the procedures set forth in subsection (g) [(h)] above for filing a lien on the property on which the building is located.

Secs. 3.03.033–3.03.060 Reserved

Division 3. Appeal of Order of Board of Adjustments and Appeals

Sec. 3.03.061 Appeal procedures

(a) Any responsible party affected by a board of adjustments and appeals order who desires to appeal the decision of the board of adjustments and appeals or the findings set forth in the board of adjustments and appeals order must appeal the order of the board of adjustments and appeals to the city council in accordance with the following procedures:

(1) The responsible party shall file a written notice of appeal with the board of appeals and the code enforcement authority within 30 calendar days of receiving the board of adjustments and appeals order.

(2) The notice of appeal must set forth and describe the factual and legal grounds why the board of adjustment and appeals decision is in error, wrong, or incorrect.

(3) The responsible party must request a public hearing before the city council.

(4) The responsible party has the burden of proof of demonstrating at a public hearing before the city council that the board of adjustment and appeals order is in error, wrong, or incorrect.

(5) The city council shall only consider evidence that was available to the board of adjustments and appeals at the time of the hearing before the board of adjustments and appeals.

(6) The board of adjustments and appeals order shall be deemed final and nonappealable if a responsible party fails to timely submit an appeal in accordance with this section.

(b) In conducting its review of a board of adjustments and appeals order, the city council shall by ordinance either affirm the order or reverse the order.

(c) If the city council affirms the board of adjustments and appeals order, the findings and decision set forth in the board of adjustments and appeals order shall be deemed final and the city council's ordinance shall include the following:

(1) Findings of fact as to the specific conditions which make the building or structure a dangerous building;

(2) If city council orders the demolition of the dangerous building, the ordinance ordering the demolition of the dangerous building must include:

(A) A finding that there is an immediate clear and present danger to other property or the public; and

(B) The ordinance must specify that the demolition of the dangerous building cannot occur earlier than 35 calendar days from the date of the city council's order affirming the board of adjustments and appeals.

(d) If the city council reverses the board of adjustment and appeals order, the city council shall set forth in factual findings in the ordinance the grounds and reasons for the reversal.

(e) The board of adjustments and appeals order shall be deemed final:

(1) In the absence of a timely filed appeal in accordance with the appeal procedures established

in this section; or

(2) Due to a failure of an appealing party to comply with the appeal procedures set forth in this section.

Sec. 3.03.062 City council action upon failure to comply with order

If the responsible parties that have an interest in a building or structure that is ordered to be repaired, rehabilitated, demolished, or removed, fail to timely comply with such order, the city council may:

(1) Authorize the code enforcement authority to obtain the repair and/or securing of the building or structure, and to file a lien against such property for the cost and expense of such work;

(2) By ordinance, assess a civil penalty of up to $1,000.00 per day against the owners and persons having an interest in the property; and

(3) Authorize and take such other action as contemplated by this article, or chapter 214 [of the Local Government Code], as is necessary or advisable in the judgment of the city council to protect the public health, safety, or welfare.

Sec. 3.03.063 Judicial review

(a) Any owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an order of a city council issued under this article and section 214.001 [of the Local Government Code] may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the municipality is personally delivered to them, mailed to them by first class mail with certified return receipt requested, or delivered to them by the United States Postal Service using signature confirmation service, or such decision shall become final as to each of them upon the expiration of each such 30-calendar-day period.

(b) On the filing of the petition, the court may issue a writ of certiorari directed to the municipality to review the order of the municipality and shall prescribe in the writ the time within which a return on the writ must be made, which must be longer than 10 days, and served on the relator or the relator's attorney.

(c) The city may not be required to return the original papers acted on by it, but it is sufficient for the municipality to return certified or sworn copies of the papers or of 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 of the decision appealed from and shall be verified.

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

(f) Appeal in the district court 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 city.

(h) If the decision of the municipality 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, lienholders, or mortgagees as well as all persons subject to the proceedings before the city.

Secs. 3.03.064–3.03.090 Reserved

Division 4. Assessment of Expenses and Penalties; Violations

Sec. 3.03.091 Assessment of expenses and penalties

(a) If the time allotted for the repair, removal, or demolition of a building under this article has expired, then the city council may, in addition to the authority granted under chapter 214, Texas Local Gov't. Code, and the foregoing sections of this article:

(1) Order the repair of the building at the city's expense and assess the expenses on the land on which the building stands or to which it is attached; or

(2) Assess a civil penalty of up to $1,000.00 per day against the responsible party for failure to repair, remove, or demolish the building.

(3) Authorize the city code enforcement authority to invite at least two (2) or more building contractors to make estimates pertaining to the needed repair, removal, or demolition of a building. The code enforcement authority shall cause to be made an assessment of expenses, and may also recommend civil penalties, based on such estimates. The code enforcement authority shall endeavor to minimize the expenses of any building repairs, removal or demolition ordered pursuant to this article.

(b) The city shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the Texas Constitution, to secure the payment of the repair, removal, or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the city shall file for record, in recordable form in the office of the county clerk, a written notice of the imposition of the lien. The notice shall contain a legal description of the land.

(c) The city's lien to secure the payment of a civil penalty or the costs of repairs, removal, or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the city's lien attaches if the mortgage lien was filed for record in the office of the county clerk before the date the civil penalty is assessed or the repair, removal, or demolition is begun by the city. The city's lien is superior to all other previously recorded judgment liens.

(d) Any civil penalty or other assessment imposed under this section accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full. The city may further file with the district clerk a copy of an ordinance assessing a civil penalty pursuant to this article.

(e) In any judicial proceeding regarding enforcement of the city's rights under this section, the prevailing party is entitled to recover reasonable attorney's fees as otherwise provided by statute.

(f) A lien acquired under this section by the city for repair expenses may not be foreclosed if the property on which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.

Sec. 3.03.092 Violations; criminal penalty

(a) The owner of any dangerous building who shall fail to comply with any notice or order to repair, secure, vacate or demolish said building or structure, such notice or order given by the authority of the board of adjustments and appeals, or the city council, shall be guilty of a misdemeanor.

(b) An occupant or lessee in possession of any dangerous building who fails to comply with any notice or order to vacate such building and fails to repair such building in accordance with an order given by the board of adjustments and appeals shall be guilty of a misdemeanor.

(c) Any person removing the notice of a secured building as provided for in section 3.03.006(b)(4), or removing the posted notice described under in [sic] section 3.03.007, shall be guilty of a misdemeanor.

(d) The violation of any provision of this article shall be unlawful and a misdemeanor offense punishable by a fine in accordance with the general penalty provided in section 1.01.009 of this code. Each day a violation of this article continues shall constitute a separate offense.

ARTICLE 3.04 MANUFACTURED HOMES, MOBILE HOMES AND RECREATIONAL VEHICLES[15]

Sec. 3.04.001 Authority

This article is adopted pursuant to the police powers and authority given general law cities by the constitution, codes, and general laws of the state, including but not limited to chapter 51 of the Texas Local Gov't. Code and chapter 1201 of the Texas Occupations Code.

Sec. 3.04.002 Definitions

For the purposes of this article, the following terms, phrases, words, and their derivations shall have the meaning ascribed to them in this section:

HUD-code manufactured home:

(1) Means a structure:

(A) Constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development;

(B) Built on a permanent chassis;

(C) Designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;

(D) Transportable in one or more sections; and

[15] **State law references–**Sanitation and health standards, V.T.C.A., Health and Safety Code, ch. 341; Manufactured Housing Standards Act, V.T.C.A., Occupations Code, ch. 1201.

(E) In the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on-site, at least 320 square feet;

(2) Includes the plumbing, heating, air conditioning, and electrical systems of the home; and

(3) Does not include a recreational vehicle as defined by 24 C.F.R. section 3282.8(g).

Manufactured home park. A unified development for manufactured housing spaces arranged on a tract of land with the individual lots or parcels being held under a common ownership and rented or leased to the occupants.

Manufactured home subdivision. A unified development for manufactured housing spaces arranged on a tract of land with the individual lots or parcels being developed and sold to occupant owners.

Mobile home:

(1) Means a structure:

(A) Constructed before June 15, 1976;

(B) Built on a permanent chassis;

(C) Designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;

(D) Transportable in one or more sections; and

(E) In the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on-site, at least 320 square feet; and

(2) Includes the plumbing, heating, air conditioning, and electrical systems of the home.

Recreational vehicle or travel trailer. A self-propelled vehicle or permanently towable similar portable structure built on a single chassis designed for recreational use and travel having no foundation other than wheels, jacks, blocks or skirting, having six hundred (600) square feet or less of enclosed area, and so designed or constructed as to permit occupancy for dwelling or sleeping purposes; provided, however, a mobile home or manufactured home is not considered a recreational vehicle or travel trailer, and, for purposes of determining the distances specified herein, the term "recreational vehicle and travel trailer" includes any portable, prefabricated, temporary room, commonly called a cabana, that is attached to such recreational vehicle.

Sec. 3.04.003 Enforcement

The provisions of this article shall be enforced by the persons designated by the city, including but not limited to the code enforcement officer. It shall be a violation of this article to interfere with a code enforcement officer, or other person authorized to enforce this article, in the performance of his or her duties.

Sec. 3.04.004 Violations and notices

(a) If the code enforcement officer charged with the enforcement of this article, or his designee, shall

determine that a person has violated any provision of this article, notice of the violation shall be served on the owner of the property, in writing, describing the violation. The owner of the property shall be allowed ten (10) days after the date of delivery of notice to abate the described violations and comply with the terms of this article. If the owner or occupant fails to cure or correct all of the violations described in the notice, the code enforcement officer, or his designee, shall cause a complaint to be filed with the city municipal court and cause a summons to be issued, or a peace officer shall [issue] a citation for the violation of this article.

(1) Such written notice as required under this section may be provided by:

(A) Personal delivery of notice or by certified mail return receipt requested addressed to the owner as listed in the county appraisal district records. If the notice is mailed and returned as "refused" or "unclaimed," the notice shall be considered delivered.

(2) If personal service cannot be obtained:

(A) By publication in the local newspaper at least once in a newspaper of general circulation in the city or the county;

(B) By posting notice on or near the front door of a building located on the property; or

(C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

(b) If the code enforcement officer, or his designee, charged with the enforcement of this article shall determine that a situation exists which immediately affects or threatens the health, safety and well-being of the general public, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner and/or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.

Sec. 3.04.005 Appeals

In the event a person who proposes to install and place a HUD-code manufactured home pursuant to this article is denied authorization to place and install a HUD-code manufactured home by the city administrator, or his or her designee, that person may appeal the decision to the city council by submitting a written notice of appeal to the city secretary within ten (10) business days after the person's receipt of notice of the adverse decision.

Sec. 3.04.006 Penalty

Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, shall be deemed guilty of an offense and shall be liable for a fine in accordance with the general penalty provided in section 1.01.009 of this code. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

Sec. 3.04.007 Mobile homes prohibited

Mobile homes are prohibited in the city and shall not be installed or placed upon any property or lot

located within the city.

Sec. 3.04.008 Use of recreational vehicle or travel trailer for residential purposes prohibited

(a) It shall be unlawful for any person to reside, or occupy for the purpose of residing, in any recreational vehicle or travel trailer within the city limits, unless the occupancy and residency existed prior to the enactment of the code.

(b) It shall be unlawful for any person to install, locate or place any recreational vehicle or travel trailer on any lot or parcel of land within the city, with the intent that any person shall reside in or occupy such recreational vehicle or travel trailer; provided that it shall be a defense to this subsection (b) that such recreational vehicle or travel trailer is located on a lot or parcel on which an occupied primary residence exists and such recreational vehicle or travel trailer is located temporarily for use by guests or members of the household of the owner or occupant of the primary residence, and the temporary occupancy does not exceed one-hundred eighty (180) days in any calendar year.

(c) A landowner can apply for a variance and extend the temporary occupancy time-limit of one-hundred eighty (180) days for the purpose of providing a residence during the construction, repair, or renovation of a permanent structure. The variance can be for a period up-to one-hundred eighty (180) additional days and maybe renewed for one additional one-hundred eighty (180) day period. The total time a person can occupy a recreation vehicle or travel trailer for construction, repair, or renovation period is 540 consecutive days.

Sec. 3.04.009 HUD-code manufactured home placement and installation regulations

(a) The city of adopts regulations that shall apply to the placement and installation of HUD- code manufactured homes within the city.

(b) Prior to the installation or placement of any HUD-code manufactured home upon any lot or property located within the city, the owner(s) of the HUD-code manufactured home must file with the city administrator, or his or her designee, an application for the approval and authorization to place and install a HUD-code manufactured home within the city. The application shall comply with this subsection as follows:

(1) The form of the application shall be in a form as approved by the city;

(2) If the owner of the HUD-code manufactured home is not the owner of the property upon which the HUD-code manufactured home is proposed to be installed and placed, the record owner(s) of the property, as reflected in the county tax appraisal rolls, must execute the application as a co-applicant;

(3) The application will not be considered complete and will not be reviewed by the city administrator, or his or her designee, and considered for approval until the applicant provides the verifications and information as required by subsection (d) of this section; and

(4) Once the application is considered complete, the application shall be reviewed for compliance with this article and other ordinances of the city and the applicant will be provided with written notification of approval or disapproval of the application within thirty (30) days of the date the application is declared administratively complete. Verbal or oral approval or disapproval of an application shall not be considered valid or effective.

(c) The regulations for the installation and placement of HUD-code manufactured homes within the city shall apply as follows:

(1) Verification and information that provides that there are no conventional frame or masonry homes within 300 feet of the property line of the lot proposed to accommodate the HUD-code manufactured homes, unless the owners of such homes provide written consent to the placement of the proposed HUD-code manufactured home on the proposed lot; or

(2) Verification and information that shows that the HUD-code manufactured home has a value equal to or greater than the median taxable value for each single-family dwelling located within 400 feet of the property line of the lot proposed to accommodate the HUD-code manufactured home as determined by the most recent certified county tax appraisal roll. The burden of proof of proving the value of the HUD-code manufactured home is upon the owner proposing to install and place the HUD-code manufactured home on a particular lot or property within the city;

(3) The applicant shall submit the name, address, and phone number of the company that constructed the HUD-code manufactured home, specifications including the size of the HUD-code manufactured home, and the identification number of the HUD-code manufactured home;

(4) A site plan of the lot or property upon which the HUD-code manufactured home is proposed to be placed and installed that shows:

(A) The dimensions and proposed placement of the HUD-code manufactured home and that shows that the HUD-code manufactured home complies with minimum property line setback requirements: twenty-five (25) feet in front, fifteen (15) feet in the rear and ten (10) feet on each side, provided that on a corner lot the side yard on the street side of the lot shall be not less than twenty-five (25) feet. Variances may be granted when justified by the city council;

(B) That the proposed property upon which the HUD-code manufactured home is to be placed and installed is not subject to flooding and has adequate drainage;

(C) That, upon placement and installation, the HUD-code manufactured home will face the street, or if the HUD-code manufactured home is too wide to be placed and installed to face the street and still comply with minimum setback requirements, one end of the HUD-code manufactured home may face the street;

(D) If the proposed property upon which the HUD-code manufactured home will be placed and installed is a corner lot, that the proposed placement and installation will conform to patterns established in the neighborhood where the proposed HUD-code manufactured home will be placed and installed; and

(E) The placement and location of a driveway and minimum of two (2) off-street paved and covered parking spaces upon the property in which the HUD-code manufactured home is proposed to be placed and installed.

(d) After the placement and installation of the HUD-code manufactured home as approved and in accordance with this article, the following post-placement and installation rules and regulations apply:

(1) The HUD-code manufactured home must be connected to water and wastewater service;

(2) Tires, wheels, and the hitch of the HUD-code manufactured home must be removed after placement and installation of the HUD-code manufactured home;

(3) The HUD-code manufactured home must be tied down;

(4) Within 60-days of occupancy, HUD-code manufactured homes placed and installed within the city shall have skirting installed around the complete perimeter of the HUD-code manufactured home that is securely attached to the HUD-code manufactured home and the ground or constructed pad upon which the HUD-code manufactured home is placed so that none of the underside of the HUD-code manufactured home is visible from any public street or any adjacent lot or property. The required skirting shall be of a color that is complementary to the color of the HUD-code manufactured home;

(5) All lots must have a minimum of 1 acres;

(6) The correct address of the property shall be placed on the HUD-code manufactured home so that the address is visible from the street on which the HUD-code manufactured home is addressed; and

(7) A wood or masonry privacy fence at least six (6) feet in height must be installed if the HUD-code manufactured home is installed and placed upon a property that is adjacent to city-owned property or a business or commercial property.

(e) A HUD-code manufactured home placed and installed as permitted by this article shall, within sixty (60) days of the placement and installation of the HUD-code manufactured home, comply with the requirements of subsection (d) [(e)] of this section. A failure to comply with subsection (d) [(e)] of this section shall be deemed to be a violation of this article.

Sec. 3.04.010 HUD-code manufactured home maintenance regulations

(a) HUD-code manufactured homes placed and installed within the city must be maintained as required in this section.

(b) The exterior surface of the HUD-code manufactured home and the skirting must be kept clean so as to prevent the buildup of mildew or staining that affects the appearance and coloring of the HUD-code manufactured home.

(c) Damage incurred to the HUD-code manufactured home that affects the exterior appearance of the HUD-code manufactured home must be repaired by the owner or occupant within 30 days of the damage being incurred.

(d) Missing panels or sheeting forming the exterior wall of the HUD-code manufactured home or the skirting required by these regulations must be repaired or replaced by the occupant or owner of the HUD-code manufactured home within 30 days of the defect or damage. Repairs and replacement of panels or skirting must adequately match the coloring of the remainder of the HUD-code manufactured home or the skirting.

Sec. 3.04.011 Manufactured home parks and manufactured home subdivisions

Manufactured home parks and manufactured home subdivisions are prohibited within the city.

Sec. 3.04.012 Nonconforming mobile homes and HUD-code manufactured homes

(a) Mobile homes and HUD-code manufactured homes placed and installed on a property or lot within the city for residential use on or before December 1, 2020, will not be subject to the requirements of this article. Except such nonconforming mobile homes and HUD-code manufactured homes shall be subject to the maintenance regulations set forth under section 3.04.010 of this article and otherwise to the extent the application of this article is necessary for the health and safety of an occupant or the health and safety of adjacent property or an occupant of adjacent property.

(b) Any discontinued use or abandonment of the HUD-code manufactured home or damage that results in the loss or degradation of the HUD-code manufactured home, or otherwise renders the HUD-code manufactured home an unsuitable or unsafe structure to occupy for residential purposes, shall be deemed a termination of any nonconforming use. Discontinued use or abandonment of the HUD-code manufactured home shall be presumed if utilities to the HUD- code manufactured home are terminated and remain disconnected for a period of at least thirty (30) days, or if the occupants have constructed a permanent residence upon the property in which the HUD-code manufactured home is located.

(c) Upon the determination of the code enforcement officer that a nonconforming use for a HUD-code manufactured home has discontinued or has been terminated, the owner or occupant shall, within five (5) days of written notification from the code enforcement officer, cease use and occupancy of the HUD-code manufactured home.

(d) This section shall not apply to the replacement of a HUD-code manufactured home due to loss by fire or by natural disaster provided such HUD-code manufactured home was in compliance with this article on the date of the loss.

ARTICLE 3.05 SIGNS[16]

Division 1. In General

Sec. 3.05.041 Purpose

(a) To preserve and promote the public health, safety, and welfare of the citizens of the city.

(b) To maintain and enhance the visual environment, and to preserve the right of citizens to enjoy the city's scenic beauty.

(c) To improve pedestrian and traffic safety.

(d) To minimize the possible adverse effect of billboards on nearby public and private property.

Sec. 3.05.042 Definitions

[16] **State law reference–**Authority of municipality to regulate signs, V.T.C.A., Local Government Code, ch. 216.

Abandoned billboard. A billboard which has carried no message for more than 180 days or which no longer identifies a bona fide business, lessor, service, owner, product, or activity, date, or time of past event, and/or for which no legal owner can be found. The definition shall also include any billboard structure that no longer supports the billboard for which it was designed.

Administrator. The designated government official whose responsibility it is to administer the provisions of this division. These activities may include, but are not limited to, reviewing applications for billboard permits, corresponding and/or meeting with applicants, issuing and denying billboard permits, inspecting billboards, and interpreting and enforcing the provisions of this division.

Architectural, scenic, or historic area. An area of special control that contains unique visual or historic characteristics or whose natural beauty requires special regulations to ensure that all billboards displayed within the area are compatible with the area.

Billboard. A billboard is an off-premises object, device, display, sign, or structure, or part thereof, displayed outdoors or visible from a public way, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location, or to express a point of view, by any means, including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations, or projected images. Each substantially different face of a billboard structure shall constitute a separate billboard. Billboards do not include on-premises commercial or political signage, nor small commercial or noncommercial signs temporarily placed in residential lawns by residents, owners, contractors, or realtors, or by or on behalf of political candidates or issues.

Billboard area. The facing of a billboard, including copy, insignia, background, structural supports, and border and trim. The measurement shall be determined by the smallest rectangle inclusive of all letters and images. The structural supports shall be excluded if they do not constitute a major part of the billboard or if the structure is not used to identify or attract attention to the business or product.

Billboard plaza. An area of special control which city council designates as appropriate for the display of billboards.

Changeable copy. A copy that changes at intervals of more than once every six seconds.

Commercial billboard. A billboard which identifies goods or services that are not sold on the premises where the billboard is located.

Directional sign. A sign erected and maintained by local officials within the public right-of-way, to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services, and points of scenic, historical, cultural, recreational, educational or religious interest. Such signs shall conform to all applicable state regulations regarding the placement of billboards in public rights-of-way.

Flashing illumination. A light source which, in whole or in part, physically changes in light intensity or gives the appearance of such change at intervals of less than six seconds.

Height. The vertical distance measured from grade at the edge of the adjacent right-of-way to the highest point of the billboard.

Illegal billboard. A billboard that was constructed in violation of regulations that existed at the time it was built.

Indirect illumination. A light source not seen directly.

Internal illumination. A light source that is concealed or contained within the billboard and becomes visible in darkness through a translucent surface.

Movement. Physical movement or revolution up or down, around, or sideways that completes a cycle of change at intervals of less than six seconds.

Nonconforming billboard. A billboard that was lawfully erected and maintained at the effective date of this division, or any amendment thereto, that does not conform to the regulations of the district in which it is located.

Political billboard. A billboard that advertises a candidate or an issue which is to be voted on in a local, state, or federal election.

Premises. The contiguous land in the same ownership or control, which is not divided by a street.

Scenic roadside. Scenic roadsides include those land areas within the municipal limits which lie within the viewshed of either side of the outermost edge of any of the roads, which are of uncommon visual importance or scenic attractiveness.

Spacing. Spacing of billboards shall be the minimum distance between outdoor advertising billboard structures measured along the nearest edge of the pavement between points directly opposite the billboards along each side of the highway and shall apply to outdoor advertising billboard structures located on both sides of the highway involved.

Structure. Anything built that requires a permanent location.

Viewshed. An area visible from the road that provides vistas over water or across expanses of land, such as farmland, woodlands, coastal wetlands, mountaintops, or ridgelines.

Sec. 3.05.043 General standards

(a) New billboards.

(1) No new billboards shall be erected within the political boundaries of the city, except in billboard plazas in designated areas of special control pursuant to section 3.05.046.

(2) Such new billboards as may be permitted by this division shall conform to the height, size, lighting, and spacing requirements prescribed by this division, as modified by the designation of any area of special control in which the billboard is located.

(b) Height. All billboards shall be no greater than 25 feet in height.

(c) Size. All billboards shall be no greater than 150 square feet in area. Except for exempted billboards in section 3.05.045, only one billboard shall be permitted on each billboard structure.

(d) Lighting. No billboard shall be so illuminated that it:

(1) Interferes with the safety of aircraft flight in the vicinity of the billboard.

(2) Interferes with the use and enjoyment of property of any adjacent landowners.

(3) Allows the illumination source to be directly visible from any right-of-way or adjoining property.

(e) Spacing and location. (All measurements shall be made parallel to the roadway between perpendiculars extended from the billboard locations in question.)

(1) Spacing. Within the limits of the city, no billboard shall be erected within one thousand feet of an existing billboard on either side of the highway.

(2) Designated scenic roadsides. No billboards shall be permitted in areas designated as scenic roadsides.

(3) Minimum setbacks. All billboards and billboard structures must be located at least 20 feet from any property line and placed so as not to pose a visibility or other hazard to vehicular traffic in the vicinity of the sign.

(f) Areas of special control. Areas of special control established under section 3.05.046 may have regulations more or less restrictive than those of this section, consistent with the character of the area of special control.

Sec. 3.05.044 Prohibited billboards

The following are expressly prohibited unless specifically stated otherwise in this division:

(1) Off-premises billboards, except in billboard plazas or designated areas of special control.

(2) Animated and moving billboards: Off-premises billboards employing movement, including, but not limited to, changeable copy signs, pennants, flags, banners, streamers, propellers, discs, and searchlights.

(3) Flashing billboards: Off-premises billboards that include lights which flash, blink, or turn on and off intermittently, not including time and temperature signs.

(4) Glaring billboards: Off-premises billboards employing direct, indirect, internal, flashing, or other illumination with light sources or reflectivity of such brightness that constitute a hazard to ground or air traffic or a nuisance, as determined by the administrator.

(5) Inflatable billboards and objects: Including, but not limited to, balloons.

(6) Roof billboards: Off-premises billboards which are erected or painted on a roof, or which extend in height above the roofline of the building on which the sign is erected.

(7) Simulated traffic signs and obstructions: Any sign which may be confused with or obstruct the view of any authorized traffic sign or signal, obstruct the sight distance triangle at any street or highway intersection, or extend into the public right-of-way.

Sec. 3.05.045 Exemptions

The following signs do not require permits or fee payments under part II of this division but must meet the other requirements of this division:

(1) Traffic-control signs.

(2) Traffic flow informational signs.

(3) Directional signs.

(4) Temporary signs.

(5) Safety control signs.

Sec. 3.05.046 Areas of special control

(a) The city council, by ordinance and following notice and hearing, may designate any of the following areas of special control:

(1) Architectural, historic, or scenic areas or scenic roadsides.

(2) Billboard plazas.

(b) The administrator shall maintain and shall continually revise a map of the city on which the administrator shall indicate the boundaries of all designated areas of special control.

(c) The city council shall adopt special regulations for billboards in areas of special control which shall be consistent with the character of the area of special control.

Sec. 3.05.047 Construction and maintenance standards

All billboards shall be designed, constructed, and maintained in accordance with the following standards:

(1) All billboards shall comply with applicable provisions of the building code and the electrical code of the city at all times.

(2) All billboards regulated by this division shall be constructed of permanent materials and shall be permanently attached to the ground, by direct attachment to a rigid wall, frame, or structure.

(3) All billboards shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code, at all times.

Sec. 3.05.048 Nonconforming billboards

(a) Continuance. Each nonconforming billboard and billboard structure shall be allowed to be displayed for three (3) years from the adoption of this division, to provide a reasonable opportunity for the owner to benefit from the investment made in the billboard.

(b) Removal. Nonconforming billboards and billboard structures shall be removed at the owner's or

lessor's expense under the following circumstances:

(1) Not later than three (3) years from the date of the adoption of this division, if not brought into compliance with this division.

(2) The billboard is abandoned.

(3) The billboard becomes damaged or dilapidated to 50% or more of its physical structure or economic value.

Sec. 3.05.049 Protection of First Amendment rights

Any billboard, display, or device allowed under this division may contain, in lieu of any other copy, any otherwise lawful noncommercial message, including any political message, that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this division.

Secs. 3.05.050–3.05.080 Reserved

Division 2. Administration, Enforcement and Permits

Sec. 3.05.081 Enforcement officer

All administration and enforcement of this division shall be primarily implemented by the designated code enforcement officer or, in the absence of a code enforcement officer, the city administrator (the "administrator"). The administrator shall have the responsibility and full authority to administer and enforce all provisions of this division, other than those provisions specifically reserved for the authority of the city council or a review board designated by the council. Anyone who wishes to report a billboard that may be in violation of this division should do so to the administrator.

Sec. 3.05.082 Permit required

All billboards, except as otherwise provided in section 3.05.045 of this division, shall require a billboard permit prior to being constructed, reconstructed, moved, altered, placed, or repaired. Billboard permits shall be issued by the administrator.

Sec. 3.05.083 Permit application requirements

All applications for billboard permits for the erection or relocation of a billboard shall be submitted to the administrator and shall contain or have attached at a minimum the following information in either written or graphic form:

(1) Application date.

(2) Name, address, and telephone number of the billboard owner and, if different, the owner of the land on which the billboard will be erected.

(3) Address of the property where the billboard or billboard structure will be erected.

(4) Signature(s) of the billboard owner and, if different, the owner of the land on which the

billboard will be displayed.

(5) Location of the billboard on the property in relation to public rights-of-way, lot lines, buildings, sidewalks, streets, zoning districts, other existing billboards, and intersections.

(6) General description of structural design and construction materials of the billboard, including height, perimeter, and area dimensions, means of support, methods of illumination if any, and any other significant aspect of the proposed billboard.

(7) Any other information requested by the administrator in order to carry out the purpose and intent of these regulations.

Sec. 3.05.084 Permit fees

Each application for a billboard permit shall be accompanied by the applicable fees, which shall be the same as the fee for a building permit.

Sec. 3.05.085 Completeness of permit application

Within five (5) working days of receiving an application for a billboard permit, the administrator shall review it for completeness. If the administrator finds that it is complete, the application shall then be processed. If the administrator finds that it is incomplete, s/he shall, within such five (5) day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this division.

Sec. 3.05.086 Issuance or denial of permit

All billboard permits shall be dated and numbered in the order of their issuance. Within ten (10) working days of the submission of a complete application for a billboard permit, the administrator shall either:

(1) Issue the billboard permit, if the billboard that is the subject of the application conforms in every respect with the requirements of this division; or

(2) Deny the billboard permit, if the billboard that is subject of the application fails in any way to conform with the requirements of this division. In case of a rejection, the administrator shall specify in the rejection the section or sections of this division or applicable plan with which the billboard is inconsistent.

Sec. 3.05.087 Inspection of construction; correction of deficiencies

Any person installing, structurally altering, or relocating a billboard for which a permit has been issued shall notify the administrator upon completion of the work. The administrator shall then conduct an inspection within seven (7) working days. If the construction is substantially complete but not in full compliance with this division and applicable codes, the administrator shall give the owner or applicant notice of the deficiencies and shall allow an additional thirty (30) days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse.

Sec. 3.05.088 Lapse of permit

A billboard permit shall lapse if the billboard is an abandoned billboard, or if the permittee's business

license lapses, is revoked, or is not renewed. A billboard permit shall lapse if the use of the billboard is discontinued for a period of one hundred eighty (180) days or more. A billboard that was constructed or maintained in conformance with a permit under this division, but for which the permit has lapsed, shall be in violation of this division.

Sec. 3.05.089 Assignment of permit

A current and valid billboard permit shall be freely assignable to a successor, as owner of the property where the billboard is located or of the leasehold of the billboard, subject to filing such application as the administrator may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

Sec. 3.05.090 Injunctive relief

The administrator, upon finding that any provision of this division or any condition of a permit issued under this division is being violated, is authorized to institute legal proceedings to enjoin violations of this division.

Sec. 3.05.091 Investigation of complaints; revocation of permit

The administrator shall investigate any complaints of violations of this division and may revoke a permit if there is any violation of the provisions of this division or there was misrepresentation of any material facts in either the application or plans.

Sec. 3.05.092 Appeals

Any person applying for a billboard permit who is denied a permit or disagrees with any ruling by the administrator may appeal to the city council. The city council may review or overturn the ruling, but may not issue a billboard permit. The findings of the city council are then remitted back to the administrator.

Sec. 3.05.093 Business tax

All new and existing billboards subject to this division shall be taxed at a rate to be established by the governing body of the municipality, not to exceed two percent of the gross annual revenue produced by the billboard.

Sec. 3.05.094 Expiration of permit

If an approved billboard is not erected within a period of 12 months from the date the permit was originally issued, the permit shall expire and become null and void.

Sec. 3.05.095 Violations; penalty

A person who violates the provisions of this division or the conditions of a permit shall be guilty of a civil violation. Each day of the violation constitutes a separate offense subject to a fine in accordance with the general penalty provided in section 1.01.009 of this code. Such persons shall also be liable for court costs and reasonable attorney fees incurred by the local jurisdiction.

Sec. 3.05.096 Removal of illegal billboards

The administrator may remove or order the removal at the expense of the billboard owner or lessor of any illegal billboard and any billboard, other than a nonconforming billboard governed by section 3.05.048, not in compliance with the provisions of this division.

Sec. 3.05.097 Removal of billboards posing immediate peril

If the administrator shall find any billboard which poses an immediate peril to persons or property, the billboard shall be removed. If the administrator cannot locate the billboard owner or lessor for immediate removal of the billboard, he shall remove or order the removal of the billboard at the expense of the billboard owner or lessor.

ARTICLE 3.06 SWIMMING POOLS

Division 1. Generally

Secs. 3.06.001–3.06.030 Reserved

Division 2. Barriers Around Residential Swimming Pools[17]

Sec. 3.06.031 Definitions

Barrier. A fence, dwelling wall, non-dwelling wall, or a combination of fences and walls that completely surrounds a swimming pool and obstructs access to the swimming pool.

Indoor swimming pool. A swimming pool that is totally contained within a building and surrounded on all four sides by the walls of a building.

Outdoor swimming pool. A swimming pool that is not an indoor swimming pool.

Portable spa. A non-permanent structure intended for recreational bathing in which all controls and water-heating and water-circulating equipment are an integral part of the product and that is cord-connected and not permanently electrically wired.

Residential. Premises that are located on the premises of a detached one- or two-family dwelling or a one-family townhouse not more than three stories high.

Swimming pool. A structure that is intended for swimming or recreational bathing and that contains water over 24 inches deep, including an in-ground, above-ground, or on-ground swimming pool, hot tub, or spa.

Sec. 3.06.032 Violations; penalty

(a) Any person that violates, neglects, or refuses to comply with, or that resists the enforcement of,

[17] **State law references–**Swimming pool enclosures, V.T.C.A., Local Government Code, sec. 214.101 et seq.; pool yard enclosure for multiunit rental complex, property owners' association, etc., V.T.C.A., Health and Safety Code, ch. 757.

any of the provisions of this division shall be fined not less than zero dollars ($0.00) nor more than five hundred dollars ($500.00) if found guilty. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such. The city may also bring suit for injunction against any person that shall violate or threaten to violate any of the provisions of this division, in order to prevent a continued violation or such threatened violation. If any damage to property occurred as a result of the violation of any section of this division, the court may order restitution be paid for such damage.

(b) The fine schedule shall be as follows:

(1) First offense may not exceed two hundred dollars ($200.00).

(2) Second offense shall not be less than fifty dollars ($50.00) nor more than three hundred fifty dollars ($350.00).

(3) Third offense shall not be less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00).

(4) Subsequent offenses shall not exceed five hundred dollars ($500.00) per offense.

Sec. 3.06.033 Applicability; exemptions

(a) This division applies only to a swimming pool that is located on the premises of a detached one- or two-family dwelling or of a one-family townhouse not more than three stories high.

(b) This division does not apply to a portable spa if it has a safety cover that complies with American Society of Testing Materials Standard ASTM F1346-91.

Sec. 3.06.034 Barrier required

An outdoor residential swimming pool shall have a barrier that complies with sections 3.06.035 through 3.06.039.

Sec. 3.06.035 Height and location

(a) The top of a barrier for an outdoor residential swimming pool shall be at least 48 inches above the grade as measured on the side of the barrier that faces away from the swimming pool.

(b) The vertical clearance between the grade and the bottom of the barrier may not exceed 4 inches as measured on the side of the barrier that faces away from the swimming pool.

(c) If the top of the pool structure is above the grade, such as an above-ground pool, the barrier may be at ground level or mounted on top of the pool structure.

(d) If a barrier is mounted on top of a pool structure, the vertical clearance between the top of the pool structure and the bottom of the barrier may not exceed 4 inches.

Sec. 3.06.036 Openings, indentations, or protrusions

(a) An opening in a barrier for an outdoor residential swimming pool may not be of a size that would allow that would allow [sic] the passage of a sphere that is 4 inches in diameter.

(b) A solid barrier that does not have an opening, including a masonry or stone wall, may not contain indentations or protrusions other than normal construction tolerances and tooled masonry joints.

Sec. 3.06.037 Barrier composed of horizontal and vertical members

(a) If a barrier for an outdoor residential swimming pool is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches:

(1) The horizontal members shall be located on the side of the fence facing the swimming pool;

(2) Spacing between the vertical members may not exceed 1-3/4 inches in width;

(3) Spacing within decorative cutouts may not exceed 1-3/4 inches in width.

(b) If a barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches or more:

(1) Spacing between the vertical members may not exceed 4 inches;

(2) Spacing within decorative cutouts may not exceed 1-3/4 inches in width.

Sec. 3.06.038 Chain-link fences

The mesh size for a chain-link fence that forms a barrier for an outdoor residential swimming pool may not exceed 1-1/4 inches square unless the fence has slats fastened at the top or bottom of the fence that reduce the openings to not more than 1-3/4 inches.

Sec. 3.06.039 Barrier composed of diagonal members

If a barrier for an outdoor residential swimming pool is composed of diagonal members, such as a lattice fence, the opening formed by the diagonal members may not exceed 1-3/4 inches.

Sec. 3.06.040 Gates

(a) A gate that provides access to an outdoor residential swimming pool shall comply with sections 3.06.035 through 3.06.039 and shall be equipped to accommodate a locking device.

(b) A gate shall have a self-latching device. In addition, a pedestrian access gate shall open outwards away from the swimming pool and shall be self-closing.

(c) If the release mechanism of a self-latching device is located less than 54 inches from the bottom of the gate:

(1) The release mechanism shall be located on the side of the gate facing the swimming pool and at least three inches below the top of the gate;

(2) The gate and barrier may not have an opening greater than 1/2 inch within 18 inches of the release mechanism.

Sec. 3.06.041 Wall forming part of barrier

(a) This section applies to:

(1) A wall of a dwelling that serves as part of a barrier for an outdoor residential swimming pool;

(2) Each wall surrounding an indoor residential swimming pool.

(b) A door that gives direct access to a swimming pool through the wall shall be equipped with an alarm that:

(1) Produces an audible warning when the door and its screen, if present, are opened;

(2) Sounds continuously for at least 30 seconds immediately after the door is opened;

(3) Has a minimum sound pressure rating of 85 dB(A) at 10 feet;

(4) Has a sound that is distinctive from other household sounds such as smoke alarms, telephones, and doorbells;

(5) Automatically resets under all conditions;

(6) Is equipped with manual means, including touchpads or switches, to temporarily deactivate the alarm for a single for a single [sic] opening from either direction.

(c) The alarm deactivator required under subsection (b)(6) of this section may not allow the deactivation to last more than 15 seconds. The deactivation touchpads or switches shall be located at least 54 inches above the threshold of the door.

(d) Subsections (b) and (c) of this section do not apply if the swimming pool has a power safety cover that complies with American Society of Testing Materials Standard ASTM F 1346- 91.

Sec. 3.06.042 Above-ground pool ladders or steps

(a) If an above-ground pool structure is used as a barrier or the barrier is mounted on top of the pool structure and the means of access is a ladder or steps, the ladder or steps shall be:

(1) Capable of being secured, locked, or removed to prevent access;

(2) Surrounded by a barrier that meets the requirements of sections 3.06.035 through 3.06.04

(b) If the ladder or steps are secured, locked, or removed, any opening created may not be of a size that would allow the passage of a sphere that is four inches in diameter.

Sec. 3.06.043 Structures used for climbing barriers

A barrier for a residential swimming pool may not be located in a way that allows the use of a permanent structure, equipment, or other similar object to climb the barrier.

Sec. 3.06.044 Permits

There shall be obtained from the city a permit that allows the permit holder permission to install a swimming pool. The permit shall be obtained prior to construction and the permit holder shall be given a copy of this division in order to know the requirements for installing a swimming pool. The price of this permit shall be as adopted by the city council.

Sec. 3.06.045 Time limit for compliance

There shall be allowed a period of time for current owners of swimming pools to construct a barrier around their pools. This time period shall be 6 months from the date of adoption of this division.

ARTICLE 3.08 ADDRESS NUMBERS

Sec. 3.08.001 Penalty

Any person, corporation, or firm who fails to comply with this article shall be fined an amount in accordance with the general penalty provided in section 1.01.009 of this code. Each day the property remains in violation shall constitute a separate offense.

Sec. 3.08.002 Numbering system; issuance of numbers

The McLennan County 911 Services shall issue house numbers to each residence within the city limits. These shall be the official address numbers of each residence.

Sec. 3.08.003 Variances

If a resident prefers another number to the number he is issued, he may apply to the city council for a variance. Such appeal shall be made in writing, shall be submitted at least four business days prior to a city council meeting, and shall be considered by the city council at such a meeting. It shall be within the authority of the city council to grant a variance.

Sec. 3.08.004 Posting of numbers

Property owners are required to post their house numbers so that they are visible from the road. Numbers shall be a minimum of three (3) inches in height, and four- to six-inch reflective numbers are recommended. This number shall be placed on the front of the residence, at least four feet and no more than fifteen feet above ground level, and shall be unobstructed. It shall be the duty of the property owner, whether an individual, firm, company, or corporation, to cause the correct numbers to be posted.

ARTICLE 3.09 MOVING OF BUILDINGS OR HEAVY MACHINERY

Sec. 3.09.001 Permit required; issuance; bond; notice to utility companies

When any person, firm or corporation shall desire to move any house, building or heavy machinery over any public street, alley, sidewalk or other public grounds of the city, such person, firm or corporation shall apply to the city administrator for a written permit to move same subject to the provisions of this

division. It shall be the duty of such person, firm or corporation, at the time of making an application to the city administrator, to present to the city administrator a good and sufficient bond signed by such person, firm or corporation as principal and by two (2) or more good and sufficient sureties or some solvent surety company in the sum of one thousand dollars ($1,000.00), payable to the city and conditioned that said principal and sureties will pay to the city, and/or to any person who may be injured or damaged by the principal or his agent, such sum or sums as will be sufficient to cover all damages occasioned by the moving of any such building, house or heavy machinery, to any streets, alleys, bridges, sidewalks, trees, culverts, hydrants, pavement, telephone and telegraph wires or electric wires in the city as well as to other property belonging to the city or any person. It shall be the duty of the city administrator to issue written permission as aforesaid to applicants to move any building, house or heavy machinery, who shall comply with the provisions of this division, granting them the right to move such building, house or heavy machinery over such route or routes as the city administrator in his discretion shall determine. Such person, firm or corporation shall give notice in writing to the telephone, telegraph and electric light companies at least six (6) hours before it shall become necessary for said companies to cut down, raise or displace any of their wires to facilitate such move, and shall compensate such telephone, telegraph and electric light companies for time and materials necessarily expended in cutting down, raising or displacing such lines and in the repair of such damages, all at a reasonable rate, such rate, in the event of disagreement, to be arbitrated by the city council.

Sec. 3.09.002 Permit fee

The fee to be paid to the city for a house moving permit shall be in the amount adopted by the city council.

ARTICLE 3.10 STREETS, SIDEWALKS AND PUBLIC RIGHTS-OF-WAY[18]

Division 1. Generally

Sec. 3.10.001 Curb, gutter, driveway, sidewalk, parking lot and drainage installations

It shall be unlawful for any person to construct, reconstruct, or repair any sidewalk, driveway, parking lot, curb, gutter, or drainage facility in the city without first obtaining a permit. Such work shall be constructed in accordance with city specifications. There shall be no charge for the permit. The owner of the abutting property on which such concrete driveway, sidewalk, or curb and gutter has been constructed shall have the option of withholding the payment for such work until the contractor shall present a certificate from the city administrator approving said construction as having been satisfactorily completed in accordance with city specifications. Any concrete driveway, sidewalk, or curb and gutter not approved by the city administrator because of any defective or faulty material or workmanship shall be removed by the contractor free of cost or expense to the owner or the city, and the work area restored to a condition approximating the natural condition existing prior to the beginning of the work.

Secs. 3.10.002–3.10.030 Reserved

Division 2. Excavations

[18] **State law references–**Municipal streets, alleys, etc., V.T.C.A., Transportation Code, ch. 311; use of municipal streets and sidewalks for public conveniences and amenities or for private uses, V.T.C.A., Transportation Code, ch. 316.

Sec. 3.10.031 Permit required; fee

It shall be unlawful for any person, firm, entity or corporation to make any excavation or embankment in any street, alley, or public easement in the city without first obtaining a permit from the city. The fee for such permit shall be in the amount adopted by the city council. The permit shall specify the date and time of day of proposed excavation. Public utility companies may perform emergency work prior to obtaining a permit, but it shall be necessary for any such utility company to obtain a permit within twenty-four (24) hours following such work or the next day the city hall is open for business. Utility companies operating under a city franchise shall not be required to pay a permit fee.

Sec. 3.10.032 Warning devices, barricades, etc.

Any person, firm, or corporation making any excavation or embankment in any street, alley, or public easement in the city shall provide, erect, place, and maintain all warning signs, lighting devices, and barricades and channelizing devices required in part VI, Traffic Controls for Street and Highway Construction and Maintenance Operation, of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways.

Sec. 3.10.033 Restoration of work areas

Upon completion of any work involving excavation in any street, alley, or public easement in the city, the person, firm, or corporation making such excavation shall remove all equipment, men, materials, and debris as soon as possible and restore the street and premises in as good a condition as existed prior to the excavation. All construction work must be done in accordance with the city standards. Failure to restore such streets or premises shall be considered a misdemeanor.

Secs. 3.10.034–3.10.060 Reserved

Division 3. Culverts

Sec. 3.10.061 Authority

This division is adopted pursuant to the police powers and authority given general law cities by the constitution, codes and general laws of the state, including but not limited to chapter 51 of the Texas Local Gov't. Code.

Sec. 3.10.062 Purpose; applicability

The purpose of this division is to provide for public health and general welfare, the efficient and effective provision of city services and the protection of the environment and natural resources of the community. From and after the passage of this division all occupancies and uses within the city shall conform to the following rules and regulations.

Sec. 3.10.063 Penalty

Any person who shall violate any of the provisions of this division, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine in accordance with the general penalty provided in section 1.01.009 of this code. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the

other remedies provided herein.

Sec. 3.10.064 Additional remedies

All remedies cited herein are in addition to and not in lieu of all remedies permitted to the city by law.

Sec. 3.10.065 Enforcement

The civil and criminal provisions of this division shall be enforced by the persons or agencies designated by the city, including but not limited to the code enforcement officer or his designee. It shall be a violation of this division to interfere with a person authorized to enforce this division, while that person is performing his or her duties.

Sec. 3.10.066 Policy and requirements for driveway culverts

The property owner must purchase the required driveway culvert. The culvert shall be reinforced concrete or ADS plastic or equivalent, smooth interior corrugated polyethylene pipe, and shall be preapproved by city staff after being provided with specifications of the pipe proposed. If reinforced concrete pipe is used, all joints must be sealed with RAM-NEK, Quik-Seal, or equivalent. The diameter and length of the culvert shall be determined by the county engineer, director of public works, or designee on a case-by-case basis. The city, or county through interlocal agreement, shall lay the culvert at the proper grade and backfill (place and compact backfill material on each side of the culvert and approximately four inches cover on top) at the property owner's expense. It shall be the property owner's responsibility to place the base and surface on the driveway.

Sec. 3.10.067 New concrete driveways

If a concrete driveway is poured on top of the driveway culvert, a construction joint must be installed at least one foot beyond the edge of each side of the culvert. On any non-curbed street, any concrete poured in that portion of the driveway extending from the front property line out to the city street must stop at least one foot from the edge of the street. The city will then provide and install asphalt to fill that last foot. The owner shall furnish all materials and labor necessary for the construction of new driveways.

Sec. 3.10.068 Existing driveways

(a) Maintenance. It shall be the property owner's responsibility to maintain the existing driveway. For culvert blockages or drainage problems not attributable to the condition or size of the culvert, the cost of any such repair to an existing driveway or driveway culvert shall be borne by the city.

(b) Insufficient or damaged culverts. If the city deems a driveway culvert insufficient or non-operational due to culvert degradation or insufficient size of the culvert to the degree that the condition of such culvert creates a risk of flooding of adjacent property or public streets or right- of-way, the city shall require the property owner to replace the culvert at the property owner's expense with a new culvert with a length and diameter as approved by the city engineer, director of public works, or designee.

(c) Repair or replacement of culvert by city. If the city has to replace the culvert due to damage or the insufficient size of the culvert, the cost of the replacement culvert shall be borne by the property owner. If the city does repair or replace an existing driveway culvert for a reason which the city has maintenance responsibility, the city will also repair the driveway to a condition at least as good as it was. All other driveway maintenance shall be the responsibility of the property owner.

Sec. 3.10.069 Repair of driveway after excavation work or repair of culvert

Should it be necessary to excavate across a driveway or perform any type of construction on a driveway, either by the city or by one of its contractors, the city or its contractor will reconstruct the driveway to at least as good as it was. If the city has to replace the culvert due to existing deficiencies, the cost of the culvert shall be borne by the property owner or lessee. Any repouring of the concrete driveway due to repair of culverts shall be at the expense of the property owner.

Sec. 3.10.070 Landscape culverts

Any drainage structure installed to enable the property owner to aesthetically close an open ditch within the street right-of-way must comply with this section. The culvert shall be ADS plastic or equivalent, smooth interior corrugated polyethylene pipe, and shall be preapproved by city staff after being provided with specifications of the pipe proposed. The diameter of the culvert shall be determined by the city engineer, the director of public works, or his designee. The city will not set or backfill landscape culverts. The landscape culvert backfill and adjacent property shall be sloped to drain to the surface grate inlets and shall be covered completely with block sod to prevent erosion. The cost of any such repair or maintenance to a landscape culvert shall be borne by the owner or lessee of abutting property. The city retains the right to remove any existing landscape culverts which are causing a drainage problem.

Secs. 3.10.071–3.10.090 Reserved

Division 4. Network Nodes and Network Support Poles

Sec. 3.10.091 Purpose

The purpose of this division is to establish policies and procedures for the placement of node support poles in the right-of-way and network nodes in the public right-of-way and on service poles within the city's jurisdiction, which will provide public benefits and will be consistent with the preservation of the integrity, safe usage, and visual qualities of the city public right-of-way and the city as a whole.

Sec. 3.10.092 Intent

In enacting this division, the city is establishing uniform standards to address issues presented by network nodes, including, without limitation, ensuring that network nodes or node support poles do not adversely affect:

(1) Use of streets, sidewalks, alleys, parkways and other public ways and places;

(2) Vehicular and pedestrian traffic;

(3) The operation of facilities lawfully located in public right-of-way or public property;

(4) The ability of the city to protect the environment, including the prevention of damage to trees;

(5) The character of residential and historic areas, and city parks, in which network nodes may be installed; and

(6) The rapid deployment of network nodes to provide the benefits of wireless services.

Sec. 3.10.093 Definitions

All terms used in this division, not specifically defined herein, have the meaning provided in chapter 284 of the Texas Local Government Code.

Applicable law. Chapter 284 of the Texas Local Government Code.

Applicant. Any person who submits an application and is a network provider.

Application. A request submitted by an applicant:

(1) For a permit to collocate network nodes;

(2) To install a transport facility; or

(3) Approve the installation, replacement, or modification of a pole.

City code. Those ordinance provisions relevant to use of the public right-of-way where compliant with applicable law.

Code enforcement authority. Refers to the city's code enforcement officer or his designee.

Day. Refers to a calendar day.

Person. An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the city.

Routine maintenance:

(1) Work in the public right-of-way that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way;

(2) Replacing or upgrading a network node or pole with a node or pole that is substantially similar in size or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; or

(3) The installation, placement, maintenance, operation, or replacement of micro network nodes that are strung on cables between existing poles or node support poles, in the public right-of-way.

Technical grounds. In light of prevailing industry and engineering standards, reasons of insufficiency of capacity, safety, reliability and/or generally applicable engineering purposes consistent with applicable law and city code.

Sec. 3.10.094 Permitted use; application for permit; fees

(a) Permitted use. Collocation of network nodes and the placement of node support poles, meeting the parameters set forth in section 3.10.096 below and in applicable law, shall be a permitted use. No zoning

or land use review shall apply, subject to the requirements in section 3.10.096.

(b) Permit required. No person shall place a network node, transport facility or node support pole in the public right-of-way, without first filing a permit application and obtaining a permit therefor, except as otherwise provided in this division.

(c) Permit application. All permit applications filed pursuant to this division shall be on a form, paper or electronic, provided by the city. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(d) Application requirements. The permit application shall be made by the network provider or its duly authorized representative and shall contain the following:

(1) The applicant's name, address, telephone number, and e-mail address.

(2) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application.

(3) Construction and engineering drawings and information confirming that the construction will be consistent with city code.

(e) Routine maintenance and replacement. A permit application shall not be required for:

(1) Routine maintenance; or

(2) The replacement of a node with another node that is substantially similar.

(f) Information updates. Any amendment to information contained in a permit application shall be submitted in writing to the city within 30 days after the change necessitating the amendment.

(g) Application fees. All applications for permits pursuant to this division shall be accompanied by fees in the amount established by city council.

Sec. 3.10.095 Action on permit applications

(a) Review of applications. The city shall review applications for network nodes, node support poles and transport facilities in light of their conformity with applicable law and city code and shall issue such permits on nondiscriminatory terms and conditions subject to the following requirements:

(1) Within 30 days of receiving an application for a network node or node support pole, or 10 days for a transport facility, the city shall determine and notify the applicant whether the application is complete; or, if incomplete, the city must specifically identify the missing information in such notification. There shall be no fee charged for completion and resubmittal of an application.

(2) The city shall make its final decision to approve or deny a complete application no later than:

(A) 21 days after receipt of a complete application for a transport facility;

(B) 60 days after receipt of a complete application for a network node; and

(C) 150 days after receipt of a completed application for a new node support pole.

(3) The city shall advise the applicant in writing of its final decision, and, if denied, the basis for that denial, including specific provisions of city code or applicable law on which the denial was based, and send the documentation to the applicant on or before the day the city denies the application. The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application fee. The city shall approve or deny the revised application within 90 days of receipt of the amended application. The subsequent review by the city shall be limited to the deficiencies cited in the original denial.

(4) If the city fails to act on an application within the review period specified in this section 3.10.095, the application shall be deemed approved.

(5) An applicant seeking to collocate network nodes may, at the applicant's discretion, file a consolidated application and receive permits for up to 30 network nodes. Provided, however, the city's denial of any node within a single application shall not affect other nodes submitted in the same application. The city shall grant permits for any and all nodes in a single application that it does not deny, subject to the requirements of this section.

(b) Review of eligible facilities requests. Notwithstanding any other provision of this division, the city shall approve and may not deny applications for eligible facilities requests within sixty (60) days according to the procedures established under 47 CFR 1.40001(c).

Sec. 3.10.096 Maximum height and other requirements for network nodes in right-of- way

(a) Maximum size of permitted use. Collocation of permitted use network nodes in the public right-of-way shall be subject to the size limitations specified in chapter 284.003 of the Local Government Code.

(b) Undergrounding provisions. A network provider shall comply with nondiscriminatory undergrounding requirements, including applicable city ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing above- ground structures in a public right-of-way without first obtaining zoning or land use approval. This requirement or restriction shall not be interpreted to prohibit a network provider from replacing an existing structure.

(c) Historic areas and design districts. Subject to the permit application approval time frames in section 3.10.095, a network provider must obtain advance approval from the city before collocating new network nodes or installing new node support poles in any areas zoned or designated as a historic district or as a design district if the district has decorative poles. Such installations shall be subject to the design and aesthetic standards of such areas.

(d) Installation in municipal parks and residential areas. A network provider may not install a new node support pole in a public right-of-way without the city's discretionary, nondiscriminatory, written consent of the code enforcement authority if the public right-of-way is located in a municipal park or is adjacent to a street or thoroughfare that is (i) not more than 50 feet wide, and (ii) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions. A network provider shall comply with private deed restrictions and other private restrictions when installing network nodes in parks and residential areas.

(e) Zoning. A network provider seeking to construct, replace or modify a pole or node in the public right-of-way that exceeds the height or size limits contained in this section shall be subject to applicable zoning requirements.

Sec. 3.10.097 Effect of permit

(a) Authority granted. A permit from the city authorizes an applicant to undertake only certain activities in accordance with this division, and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the public right-of-way.

(b) Time of installation. A network provider shall begin the installation for which a permit is granted not later than six months after final approval and shall diligently pursue the installation to completion. Provided, however, the city may place a longer time limit on completion or grant reasonable extensions of time as requested by the network provider.

(c) Right to occupy. Once a network provider has collocated a network node or placed a node support pole pursuant to a permit, the provider shall be permitted to continue to maintain such collocation or such pole unless required to remove or relocate under the terms of this division.

(d) Interference with network nodes. The city will not grant a permit to any person to install any network node or other wireless facility if the city knows or has reason to know that such person's use of such network node or other wireless facility may in any way adversely affect or interfere with the use and operation of an existing and operational network node for which the city has previously issued a permit.

Sec. 3.10.098 Removal, relocation, or modification of network nodes in right-of-way

(a) Notice. Within 90 days following written notice from the city, a network provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any network node or node support pole within the public right-of- way whenever the city has determined that such removal, relocation, change or alteration is reasonably necessary for the construction, repair, maintenance, or installation of any city improvement in or upon, or the operations of the city in or upon, the public right-of-way.

(b) Emergency removal or relocation of facilities. The city retains the right and privilege to disconnect or move any network node located within the public right-of-way of the city, as the city may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. If circumstances permit, the city shall notify the network provider and allow the network provider an opportunity to move its own facilities prior to the city disconnecting or removing a facility and shall notify the network provider after disconnecting or removing a network node or node support pole.

(c) Abandonment of facilities. Upon abandonment of a network node or node support pole within the public right-of-way, the network provider shall notify the city within 90 days. Following receipt of such notice, the city may direct the network provider to remove all or any portion of a network node or node support pole if the city, or any of its departments, determines, subject to city code, that such removal is necessary to protect public health, safety, and welfare.

Sec. 3.10.099 Public right-of-way rate

(a) Annual rate. Once a network provider has installed and made operational a network node in the public right-of-way, the network provider shall pay to the city compensation for use of the public right-of-way in the amount established by city council to be paid annually per node in the city public right-of-way.

(b) Ceasing payment. A network provider is authorized to remove its facilities at any time from the public right-of-way and cease paying the city compensation for use of the public right-of-way following removal and notification to the city of such removal.

Sec. 3.10.100 Attachment to city-owned service poles

A network provider shall be permitted to attach network nodes to city-owned service poles, consistent with applicable law and city code and subject to the requirements specified herein.

(1) Permit. A network provider shall obtain a permit, pursuant to the terms of this division, prior to collocating network nodes on service poles.

(2) Make ready work. A network provider shall be responsible for costs for make ready work on city service poles to which the provider seeks to place a network node.

(3) Technical limitations. In the event the city determines, based upon technical grounds, that inadequate space exists on a service pole to accommodate the proposed network node, such pole may be replaced by the network provider, at the network provider's expense, with a service pole with adequate space to accommodate the proposed network node.

(4) Facilities rearrangements. If another provider would have to rearrange or adjust any of its facilities to accommodate a new network node, the city shall use reasonable efforts to work with the affected providers to coordinate such activity. All make ready work shall comply with NESC, and other applicable codes. The applicant shall not be responsible for any third-party costs, including those of other network providers, to adjust existing attachments that are noncompliant with the NESC and other applicable codes at the time of the application.

(5) Service pole attachment fee. The rate to collocate a network node on a service pole in the public right-of-way shall be in the amount established by city council per pole per year. Subject to the provisions of section 3.10.101, such compensation together with the application fee and the public right-of-way rate specified in section 3.10.099 shall be the sole compensation that the network provider shall be required to pay to the city.

(6) Ceasing payment. A network provider is authorized to remove its facilities at any time from a service pole in the public right-of-way and cease paying the attachment fee to the city upon notification to the city that the facilities have been removed.

Sec. 3.10.101 Transport facilities

Installation of transport facilities, including applicable compensation to the city for such facilities, shall be governed by section 284.055 of the Texas Local Government Code.

Sec. 3.10.102 Design manual

A network provider shall comply with the city's design manual, if any, in place on the date a permit

application is filed in relation to work for which the city has approved a permit application. The city's design manual may not conflict with applicable law and must be competitively neutral.

CHAPTER 4

BUSINESS REGULATION

ARTICLE 4.01 GENERAL PROVISIONS

Reserved

ARTICLE 4.02 ALCOHOLIC BEVERAGES[19]

Sec. 4.02.001 License and permit fees

The city hereby levies a fee in the amount adopted by the city council, and as set out in the state Alcoholic Beverage Code, charged to premises authorized to sell alcoholic beverages within the city. Such city fees shall be collected by the City Secretary and deposited into the city general fund at the time the state permits, and licenses are issued or renewed.

State law references–Local fee authorized on alcoholic beverage permits, V.T.C.A., Alcoholic Beverage Code, sec. 11.38; local fee authorized on alcoholic beverage licenses, V.T.C.A., Alcoholic Beverage Code, sec. 61.36.

Sec. 4.02.002 Sale near church, school, or hospital

The sale of alcoholic beverages by a dealer whose place of business is within three hundred (300) feet of a church, public school, or public hospital as measured in V.T.C.A., Alcoholic Beverage Code, section 109.33 is hereby prohibited.

State law reference–Sales near church, school, or hospital, V.T.C.A., Alcoholic Beverage Code, sec. 109.33.

ARTICLE 4.03 PEDDLERS, VENDORS, AND ITINERANT MERCHANTS[20]

Sec. 4.03.001 Interpretation

This 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 citizens of the city, and all of the provisions hereof shall be construed for the accomplishment of that purpose.

Sec. 4.03.002 Definition

An itinerant merchant or itinerant vendor as the terms are used in this article shall be held to be any person, firm, company, partnership, corporation, or association engaged in any activity mentioned in section 4.03.003 hereof. An itinerant merchant or itinerant vendor is a not a youth or adult member of a

[19] **State law references–**Regulation of alcoholic beverages generally, V.T.C.A., Alcoholic Beverage Code; local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code, sec. 109.31 et seq.

[20] **State law reference–**Authority of municipality to license, tax, suppress, prevent, or otherwise regulate peddlers, hawkers and pawnbrokers, V.T.C.A., Local Government Code, sec. 215.031.

religious or tax-exempt charitable organization registered with the State of Texas and the Internal Revenue Service.

Sec. 4.03.003 License required; carrying license

It shall be unlawful for any person to go from house to house or from place to place in the city soliciting, selling, or taking orders or offering to sell or take orders for goods, wares, merchandise, services, photographs, newspapers, magazines or subscriptions to newspapers or magazines, without having first applied for and obtained a license to do so from the city administrator. It shall also be unlawful to sell or solicit in the city as aforesaid without carrying such license while engaged in such soliciting or selling.

Sec. 4.03.004 Application for license

Any person desiring to go from house to house or from place to place in the city to sell or solicit orders for goods, wares, merchandise, services, photographs, newspapers, magazines or subscriptions to newspapers or magazines shall make written application to the city administrator for a license to do so, which application shall show the name and address of applicant, the name and address of the person, firm or corporation, if any, that he or she represents, and the kind of goods offered for sale, and whether such applicant upon any such sale or order shall demand, accept or receive payment or deposit of money in advance of final delivery, and the period of time such applicant wishes to sell or solicit in the city.

Sec. 4.03.005 Bond

The application mentioned in section 4.03.004 hereof shall be accompanied by a bond in the penal sum of one thousand dollars ($1,000.00) signed by the applicant and signed, as surety, by some surety company authorized to do business in the state, 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 of said bond at the time of delivery and that may be discovered by such purchaser or customer within thirty (30) days after delivery, and which bond shall be for the use and benefit of all persons, firm or corporations that may make any purchase or give any order to the principal on said bond, or to an agent or employee of the principal.

Sec. 4.03.006 License fees; duration of license

The license fee for an itinerant merchant or itinerant vendor shall be in the amount adopted by the city council. Provided, however, when any person, firm, company, partnership, corporation, or association is engaged in any activity mentioned in subsection 4.03.003 hereof through one (1) or more agents or employees, such person, firm, company, partnership, corporation, or association shall, in addition, pay a license fee for each agent or employee so engaged, all of which licenses shall be valid for one (1) year from the date of their issuance. The fees herein provided for shall be used for the purpose of defraying expenses incident to the issuing of said license.

Sec. 4.03.007 Exceptions

The provisions of this article shall not apply to sales made to local dealers by commercial travelers or sales agents in the usual course of business, nor to sales made under authority and by order of law, nor to vendors of farm or dairy products.

Sec. 4.03.008 Registration of persons engaged in interstate commerce

(a) Registration required. The provisions of this article shall not apply to persons engaged in interstate commerce as that term is herein defined; provided, however, that it shall be unlawful for persons engaged in interstate commerce to go from house to house or place to place in the city without having first registered with the city administrator, securing the certificate of registration, and paying the registration fee herein provided.

(b) Registration information.

(1) Each registrant shall provide the city administrator with the following information when registering:

(A) Name, home address, and local address, if any, of the registrant.

(B) Name and address of the person, firm or corporation if any, that he or she represents or for whom or through whom orders are to be solicited or cleared.

(C) Nature of the articles or things which are to be sold or for which orders are to be solicited.

(D) Whether the registrant, upon any sale or order, shall demand or receive or accept payment or deposit of money in advance of final delivery.

(E) The period of time which the registrant wishes to solicit or sell in the city.

(2) The registrant, at the time of the registration, as herein provided for, shall submit for inspection of the city administrator written proof of his identity, which may be in the form of an automobile operator's license, identification letter or card issued to the registrant by the person, firm or corporation for whom or through whom orders are to be solicited or cleared.

(c) Issuance of certificate; fee; duration. When any such person so engaged in interstate commerce shall have submitted the above required information to the city administrator, said official shall issue a certificate of registration under his hand and the seal of the city stating that the registrant has duly complied with this article. Upon the issuance of such certificate by the city administrator, each such registrant shall pay to the city administrator a registration fee in the amount adopted by the city council. The registration fee herein provided for shall be used for the purpose of defraying expenses incident to the issuing of said registration certificates. Such certificates shall be valid for one (1) year from the date of their issuance.

(d) Definition. The term "interstate commerce" means soliciting, selling, or taking orders for or offering to take orders for goods, wares, merchandise, services, photographs, newspapers, magazines or subscriptions to newspapers or magazines, which, at the time the order is taken, are in another state or will be produced in another state and shipped or introduced into this city in the fulfillment of such orders.

Sec. 4.03.009 Selling on streets, alleys or sidewalks prohibited

It shall be unlawful for any person to display, sell or offer to sell or take orders for any products or services on the streets, alleys, or sidewalks of the city. Provided, however, that merchants of the city

shall be allowed a space on the sidewalk not exceeding twenty-four (24) inches to extend from the wall or front of their place of business on which merchandise may be displayed.

ARTICLE 4.05 CARNIVALS, CIRCUSES AND SHOWS[21]

Division 1. Generally

Sec. 4.05.001 Exceptions

This article shall not be applicable to locally sponsored charitable or civic affairs given for purely charitable or civic purposes.

Sec. 4.05.002 Location restrictions

No person, firm, corporation, or association of persons shall build, erect, maintain or keep any tent show or canvas enclosure nor maintain or operate any show, theater, menagerie or performance within a canvas enclosure or tent, or any open-air exhibition, free or otherwise, within the city, within two hundred (200) feet of any occupied private residence, or any hotel, boarding house, or hospital, nor within five hundred (500) feet of any church, nor within the fire limits of the city.

Secs. 4.05.003–4.05.030 Reserved

Division 2. Permit

Sec. 4.05.031 Required

It shall be unlawful for any person, corporation or any other entity or organization to conduct, operate or assist in conducting or operating any theatrical performance, medicine show, carnival, tent show or circus without first having obtained a permit as herein provided.

Sec. 4.05.032 Filing of application

Any person desiring to hold, conduct or maintain any theatrical performance, medicine show, carnival, tent show or circus within the city shall make application in writing to the chief of police for a permit to hold such theatrical performance, medicine show, carnival, tent show or circus within the city, at least ten (10) days prior to the date said show is to be given.

Sec. 4.05.033 Application requirements

The application for permit shall be made under oath by the person who either owns or shall be responsible for such presentation within the city and shall contain the following:

(1) The name and permanent address of the person making such application.

(2) The names and permanent address of the owners of the show sought to be presented.

[21] **State law reference–**Authority of municipality to regulate exhibitions, shows, amusements, carnivals, etc., V.T.C.A., Local Government Code, sec. 215.032.

(3) The name, age, and permanent address of all participants therein.

(4) A list by name and description of all shows, rides, booths, and other attractions operated in connection therewith.

(5) A statement of any admission charges to be made.

(6) A description of the property where such proposed show is to be located.

(7) The dates and numbers of performances to be given, including the hours during which such show is to be opened.

Sec. 4.05.034 Fee

No permit shall be granted until the fees therefor have been paid. Such fees shall be in the amount adopted by the city council.

Sec. 4.05.035 Investigation; issuance or denial

(a) The chief of police shall make an investigation after the filing of such application to determine whether or not the proposed performance is in conflict with any of the provisions of this article or other ordinances of the city, or the laws of this state.

(b) If the chief of police determines that a permit should be denied, his decision may be appealed to the city council by filing a request for a hearing with the city secretary.

Sec. 4.05.036 Revocation

All permits granted under this article shall be subject to revocation by the chief of police or the city council should it be ascertained that there was a mistake made in issuing such permit or that it is being given in violation of this article or other ordinances of the city or the laws of the state, or that there has been a misrepresentation or concealment of any material fact concerning the character or quality of the medicine show, carnival, tent show, circus, or theatrical performance.

CHAPTER 5

FIRE PREVENTION AND

PROTECTION

ARTICLE 5.01 GENERAL PROVISIONS

Sec. 5.01.001 Reserved

ARTICLE 5.02 FIRE MARSHAL

Sec. 5.02.001 Office created

The office of fire marshal is hereby created. Such office shall be independent of other city departments, the fire marshal reporting directly to the mayor and city council. Such office shall be filled by appointment by the mayor, by and with the consent of the city council.

Sec. 5.02.002 Duty to investigate fires

The fire marshal shall investigate the cause, origin and circumstances of every fire occurring within the city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall begin within twenty-four (24) hours, not including Sunday, of the occurrence of such fire. The fire marshal shall keep in his office a record of all fires, together with all facts, statistics, and circumstances, including the origin of the fires and the amount of the loss, which may be determined by the investigation required by this article.

Sec. 5.02.003 Taking of testimony; duty when evidence indicates crime

The fire marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony, on oath, of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with the attempt to commit the crime of arson, or of conspiracy to defraud, or criminal conduct in connection with such fire, he shall cause such person to be lawfully arrested and charged with such offense or either of them, and shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

Sec. 5.02.004 Power to summon witnesses and require production of evidence

The fire marshal shall have the power to summon witnesses before him to testify in relation to any matter which is by the provisions of this article a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto. The fire marshal is hereby

authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

Sec. 5.02.005 Misconduct of witnesses

Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of said fire marshal, or who fails or refuses to produce any book, paper or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of said investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a misdemeanor, and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted.

Sec. 5.02.006 Investigations may be private

All investigations held by or under the direction of the fire marshal may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

Sec. 5.02.007 Authority to enter and examine buildings where fire has occurred

The fire marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this article, to enter upon and examine any building or premises where any fire has occurred, and other buildings and premises adjoining or near the same, which authority shall be exercised only with reason and good discretion.

Sec. 5.02.008 Preventive investigations

The fire marshal, upon complaint of any person having an interest in any building or property adjacent, and without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within the city, and it shall be his duty to periodically enter upon and make, or cause to be entered and made, a thorough examination of all mercantile, manufacturing, and public buildings, together with the premises belonging thereto. Whenever he shall find any building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind whatsoever, including chimneys, flues, and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, or combustible, inflammable and refuse materials, or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firemen or occupants, he shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of said building or premises. Provided, however, that if said owner or occupant deems himself aggrieved by such order, he may, within five (5) days, appeal to the mayor, who shall investigate the cause of the complaint, and unless by his authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. At the end of each month the fire marshal shall report to the state fire marshal all existing hazardous conditions, together with separate reports on each fire in the city during the month.

Sec. 5.02.009 Maintaining fire hazard

(a) Any owner or occupant of the building or other structure or premises who shall keep or maintain the same when, for want of repair, or by reason of age or dilapidated condition, or for any cause, it is especially liable to fire, and which is so situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that fire would endanger other persons or their property therein, shall be deemed guilty of a misdemeanor.

(b) Any owner or occupant of any building or other structure or premises who shall keep or maintain the same with an improper arrangement of a stove, range, furnace, or other heating appliance of any kind whatever, including chimneys, flues and pipes with which the same may be connected, so as to be dangerous in the matter of fire, or health, or safety of persons or property of others; or who shall keep or maintain any building, other structure or premises with an improper arrangement of a lighting device or system, or with a storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, inflammable materials, or refuse, or with any other condition which shall be dangerous in character to the persons, health or property of others, or which shall be dangerous in the matter of promoting, augmenting or causing fires, or which shall create conditions dangerous to firemen, or occupants of such building, structure or premises other than the maintainer thereof, shall be guilty of a misdemeanor.

(c) No prosecution shall be brought under the provisions of subsections (a) and (b) above until the order provided for in section 5.02.008 be given and the party notified shall fail or refuse to comply with the same.

ARTICLE 5.03 FIRE PREVENTION CODE

Sec. 5.03.001 Adopted

There is hereby adopted, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Standard Fire Prevention Code recommended by the Southern Building Code Congress International, being particularly the 1985 edition thereof, and the whole thereof, save and except exhibit A, Supplemental Administrative Provisions, and such portions as are hereinafter deleted, modified or amended by provisions of this Code of Ordinances. A copy of the code has been and now is filed in the office of the city secretary, and the same is hereby adopted and incorporated as fully as if set out at length herein.

Sec. 5.03.002 Amendments

Section 101.4 of the Standard Fire Prevention Code is hereby revised to read as follows:

101.4 Fire prevention department.

1. There is hereby established a department to be called the fire prevention department, and the person in charge shall be known as the fire official. The fire marshal shall be the fire official referred to in the Standard Fire Prevention Code.

2. The fire official shall enforce the provisions of this code and all state laws under his jurisdiction pertaining to the prevention, suppression or extinguishing of fires. The fire official shall not have the powers of a peace officer, and when such powers may be

necessary in carrying out the duties and responsibilities of the position, he then shall request assistance from the city chief of police, his representative or any peace officer having jurisdiction.

Section 102.1 of the Standard Fire Prevention Code is hereby revised to read as follows:

102.1 Right of entry.

1. The fire official or his authorized representative may at reasonable times have free access and right of entry to any building, whether completed or under construction, or to any property, for the purpose of making an inspection or investigation to enforce any of the provisions of this code. However, in the event the property owner or occupant of the premises or their representative(s) should refuse to voluntarily allow the fire official free access and right of entry to said premises, the fire official or his authorized representative shall be required to contact the city chief of police, his representative, any peace officer having jurisdiction or the municipal judge to obtain the needed authority to gain entry. The fire official shall not have the right of entry unless the fire official shall act in concert with said peace officers or under due legal process.

2. No person, owner or occupant of any building or premises shall fail, after proper credentials are displayed, to permit entry into any building or onto any property by the fire official or his authorized agent, acting in concert with said peace officers or under due legal process, for the purpose of inspections pursuant to this code. Any person violating this provision shall, upon conviction, be deemed guilty of a misdemeanor.

Section 105.1 of the Standard Fire Prevention Code is hereby revised to read as follows:

105.1 Board of adjustments and appeals. The city council shall act as the board of adjustments and appeals. Whenever in the Standard Fire Prevention Code a reference is made to the board of adjustments and appeals, it shall be interpreted to mean the city council.

Section 105.2 of the Standard Fire Prevention Code is hereby amended to read as follows:

105.2 Appeals. Any person who feels aggrieved by the decision of any official seeking to enforce provisions of the fire prevention code as amended by the city Code of Ordinances may appeal such decision to the city council.

ARTICLE 5.04 BURNING[22]

Division 1. Generally

Sec. 5.04.001 Open burning prohibited; exceptions

The following provisions are applicable to open burning within the city:

(1) General prohibition. Outdoor burning of any kind is hereby prohibited anywhere within the

[22] **State law references–**Texas Clean Air Act, V.T.C.A., Health and Safety Code, ch. 382; regulation of outdoor burning by state, V.T.C.A., Health and Safety Code, sec. 382.018; authority of municipality for abatement of nuisances and to control and abate air pollution, V.T.C.A., Health and Safety Code, sec. 382.113.

corporate limits of the city, except as may be permitted herein. This prohibition includes burning household trash, furniture, electrical insulation, treated and untreated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphalt materials, chemical wastes, natural and synthetic rubbers, garbage of any form, or municipal solid waste, including grass, leaves, and branch trimmings.

(2) Exceptions. Outdoor fires are allowed for cooking or pleasure, provided such fire is built and maintained in a pit that fully contains the fire, or a fireproof container such as a barbeque pit or chimenea, made of brick, stone, metal, or other fireproof material in such a manner as to prevent said fire from escaping. The fire shall be limited to a maximum of 3 feet in diameter and 2 feet in height and should not be left unattended at any time.

Secs. 5.04.002–5.04.030 Reserved

Division 2. Prescribed Burning for Cleanup Purposes

Sec. 5.04.031 Definitions

Cleanup. The removal of debris from property for the purposes of improving the property's appearance and its impact on the health and safety of the environment.

Prescribed burn. The controlled application of fire to naturally occurring vegetative fuels under specified environmental conditions and confined to a predetermined area, following appropriate planning and precautionary measures, and having the approval of the city fire marshal or designee.

Sec. 5.04.032 Location

Prescribed burning shall be allowed only within the city limits. Prescribed burning shall not be allowed within 500 feet of commercial property.

Sec. 5.04.033 Policy

It is lawful to use prescribed burning as a method of cleanup, provided due precautions have been taken. It is the duty of the fire marshal or his/her designee to ascertain, prior to the beginning of such a burn, that safety may be maintained at all times. Furthermore, if conditions change or the situation deteriorates during the course of the burn, the fire marshal or his/her designee may order the burn to cease.

Sec. 5.04.034 Permit required; fee

Individuals wishing to undertake a prescribed burn for cleanup purposes must notify the city by purchasing a permit from city hall at least five days prior to the day of the burn. Such permit shall be given at a cost in the amount adopted by the city council.

Sec. 5.04.035 Approval on day of burn; time limits; attendant

After procuring a permit, the individual must receive approval from the fire marshal or designee on the day of the burn in order that conditions may be evaluated before burning. For example, the fire marshal may deny a permit holder's permission to burn if weather conditions are unfavorable, if toxic materials are included in the material to be burned, if the amount of material to be burned exceeds the amount the fire marshal or designee deems safe, or for other reasons of safety. If a person who has obtained a permit

is denied approval to burn, the permit shall continue to be valid until conditions are favorable and the fire marshal or designee authorizes the burn. Burning shall not commence within 1 hour after sunup and shall cease at least 1 hour prior to sundown. Burning shall be attended at all times, and a water source shall be available at the site for the duration of the burn.

Sec. 5.04.036 Safety conditions

Before authorizing a person to proceed with a prescribed burn, the fire marshal or designee must ascertain to the best of his/her ability that safety will not be jeopardized by the procedure. Safety conditions to be considered include but are not limited to the following: distance of material to be burned from other flammable material, proximity to dwellings or other structures, relative dryness or dampness of conditions, presence and strength of wind, presence of a dousing material on-site, size of the material to be burned, composition of the material to be burned, and the ability of the fire department to respond if needed.

Sec. 5.04.037 Responsibility remains with person conducting burn

The authorization of a person to proceed with a prescribed burn shall in no way constitute a recommendation to burn. The fire marshal or designee merely establishes that certain minimum conditions are met in order that the procedure may be deemed legal. The person conducting the burn retains full responsibility for any consequences of his/her action.

ARTICLE 5.05 FIREWORKS

Sec. 5.05.001 Reserved

CHAPTER 6

HEALTH AND SANITATION

ARTICLE 6.01 GENERAL PROVISIONS[23]

Reserved

ARTICLE 6.02 SMOKING[24]

Sec. 6.02.001 Smoking prohibited in city hall and library buildings

No smoking will be allowed in the city hall.

ARTICLE 6.03 PROPERTY MAINTENANCE AND LITTERING[25]

Division 1. Generally

Sec. 6.03.001 Authority

This article is adopted pursuant to the police powers and authority given general law cities by the constitution, codes, and general laws of the state, including but not limited to chapter 51 of the Texas Local Gov't. Code, chapter 217 of the Texas Local Gov't Code, the Texas Health and Safety Code, and chapter 311 of the Texas Transportation Code.

Sec. 6.03.002 Purpose; applicability

The purpose of this article is to provide for public health and general welfare, the efficient and effective provision of city services and the protection of the environment and natural resources of the community. From and after the passage of this article all occupancies and uses within the city shall conform to the following rules and regulations.

Sec. 6.03.003 Definitions

For the purposes of this article, the following terms, phrases, words, and their derivations shall have the meaning ascribed to them in this section; provided that, unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage, and so as to give this article its most reasonable application:

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[23] **State law references–**Authority to enforce laws to protect public health, V.T.C.A., Health and Safety Code, sec. 121.003; local regulation of sanitation, V.T.C.A., Health and Safety Code, ch. 342; minimum standards of sanitation and health protection, V.T.C.A., Health and Safety Code, ch. 341.

[24] **State law reference–**Smoking tobacco in certain public places or conveyances, V.T.C.A., Penal Code, sec. 48.01.

[25] **State law references–**Municipal regulation of sanitation, V.T.C.A., Health and Safety Code, sec. 342.001 et seq.; authority of city to define and declare nuisance, V.T.C.A., Local Government Code, sec. 217.002; general provisions relating to municipal streets, V.T.C.A., Transportation Code, ch. 311.

Brush. All uncultivated shrubs, bushes, and small trees.

Building. Any structure built for the support, shelter, use or enclosure of persons, animals, chattels, or property of any kind.

Code enforcement officer. The individual appointed to enforce the provisions of this article and who has a certificate of registration or training certificate in accordance with state law.

Earth and construction materials. Earth, rocks, bricks, concrete, other similar materials, and waste materials resulting from construction or remodeling.

Garbage. Rubbish, trash, kitchen and household waste, ashes, bottles, cans, rags, paper, food, food containers, lawn trimmings, tree trimmings, hedge trimmings, leaves, grass, weeds, and refuse, and all decayable wastes, including animal and vegetable matter.

Graffiti. Visual markings including but not limited to symbols, words, figures, inscriptions, designs, drawings, or messages on a building, structure, wall, fence, sign, residence, property, street, curb, sidewalk, gutter, alley, or other surface using paint, ink, marker, etching device, engraving device, or any other implement meant to be permanent in nature or difficult to remove and made without the consent of the owner or authority under the law.

Hazardous waste. Solid or liquid waste, in any amount, which is defined, characterized, identified or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law, or waste, in any amount, which is regulated under federal or state law, including motor oil and radiator, engine crankcase, transmission or differential fluid, gasoline, paint, paint cans, toxic or corrosive materials or any material found harmful to personnel or equipment as determined by the director of public works.

Junk. All worn-out, worthless and discarded material, in general, including but not limited to scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, rags, glass, paper, cordage, cloth, rubber, rope, tinfoil, bottles, old cotton, machinery, tools, construction materials, appliances, furniture, fixtures, utensils, boxes or crates, pipe or pipe fittings, automobile or airplane tires, dismantled motor vehicles, boats, boat trailers, boathouses or travel trailers or parts thereof, or other manufactured goods or odds and ends that are worn-out, worthless, deteriorated, obsolete, discarded material or other wastes, especially those that are unusable in their existing condition.

Litter. Any quantity of uncontainerized paper, metal, plastic, glass, or miscellaneous solid waste which may be classed as trash, debris, rubbish, refuse, garbage, or junk not placed in a solid waste container.

Lot. Any tract, block or other parcel of land, or portion thereof, located within the city limits.

Motor vehicle. Every vehicle, car, boat or similar vehicle that is, or was originally, designed to be self-propelled.

Person. An individual human, partnership, co-partnership, firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural when indicated by the context.

Premises. real property.

Refuse. See "Garbage."

Rubbish. All refuse, junk, rejected tin cans, old vessels of all sorts, useless articles, abandoned pipe, waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, combustible waste, pulp and other products used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, textiles and objects of all sorts, and in general all litter. The words "any and all objectionable or unsanitary matter," not included within the meaning of the other terms as herein used, means those which are liable to produce or tend to produce an unhealthy, unwholesome, or unsanitary condition to the general locality where the same are situated.

Sewage or wastewater. A combination of waterborne wastes from residences, business buildings, institutions, and commercial and industrial establishments, together with such ground, surface and storm waters as may be present.

Solid waste. Household garbage and refuse and commercial garbage and refuse, brush cuttings and weeds.

Solid waste service. The collection and hauling of residential and business solid waste, e.g., garbage, trash, and refuse, for disposal at a state licensed landfill, and the actions and services directly related thereto or necessary for the provision of such services to consumers or customers in the city.

Structure. Includes what is defined as "building" as set forth in this article, but shall also mean any type of constructed formation that is attached to real property.

Trash. See "Garbage."

Unwholesome matter. All stagnant water, filth, carrion, impure matter, and any condition liable to produce, harbor or spread disease or germs or cause noxious, foul and offensive odors, including foodstuffs or byproducts thereof of any animal nature, or any fruit, vegetable or other thing which may become tainted, diseased, fermented or decaying or otherwise unwholesome or unclean.

Waste. Rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural, commercial, or industrial activities.

Weeds. All rank and uncultivated vegetation growth or matter that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests.

Secs. 6.03.004–6.03.030 Reserved

Division 2. Littering[26]

Sec. 6.03.031 Littering by pedestrians and motorists prohibited

(a) It shall be unlawful for any person to throw, discard, place, or deposit litter in any manner or

[26] **State law reference–**Texas Litter Abatement Act, V.T.C.A., Health and Safety Code, ch. 365.

amount on any public or private property within the corporate limits of the city, except in lawfully provided containers.

(b) In prosecuting the owner of a motor vehicle for violating subsection (a), proof that the litter originated from the particular vehicle described in the complaint, together with proof that the defendant named in the complaint was at the time of such violation the registered owner of said vehicle, shall constitute in evidence a presumption that the registered owner was the person who committed the violation.

(c) It shall be the duty of every person distributing handbills, leaflets, flyers, or any other advertising and information material to take whatever measures that may be necessary to keep such materials from littering public or private property.

(d) To facilitate proper disposal of litter by pedestrians and motorists, publicly patronized or used establishments shall provide, regularly empty, and maintain in good condition adequate containers that meet standards prescribed by the city. This requirement shall be applicable to, but not limited to, fast food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, and public institutions.

Sec. 6.03.032 Vehicles transporting loose materials

(a) It shall be unlawful for any person, firm, corporation, institution, or organization to transport any loose cargo by truck or other motor vehicle within the corporate limits of the city unless said cargo is covered and secured in such manner as to prevent depositing of litter on public and private property.

(b) Subsection (a) shall also apply to the owner or operator of the truck or other vehicle.

(c) In prosecuting a person, firm, corporation, institution, organization, or owner or operator of a truck or other vehicle under subsection (a), proof that the cargo was not adequately covered and secured shall constitute in evidence a presumption of a violation of this section.

State law reference–Transportation of loose materials, V.T.C.A., Transportation Code, ch. 725.

Sec. 6.03.033 Loading and unloading operations

(a) Any owner or occupant of an establishment or institution at which litter is attendant to the packing and unpacking and loading and unloading of materials at exterior locations shall provide suitable containers for the disposal and storage of such litter and shall make appropriate arrangements for its collection.

(b) Further, it shall be the duty of the owner or occupant under subsection (a) to remove any litter that has not been containerized at the end of each day.

Sec. 6.03.034 Responsibility to keep property clean

(a) The owner, agent, occupant, or lessee of private property shall keep the exterior free of litter, junk, refuse and unwholesome matter. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped at locations such as fence and wall bases, grassy and planted areas, borders, embankments, and other lodging points.

(b) Owners, agents, occupants, or lessees of private property that faces city sidewalks and strips between streets shall keep such sidewalks and strips free of litter.

(c) It shall be unlawful for a person under this section to sweep or push litter from sidewalks and strips into streets. Owners, agents, occupants, or lessees of private property must pick up and put sidewalk and strip sweepings into household or commercial solid waste containers.

(d) Nonresident owners of vacant lots or other vacant property shall appoint a resident agent to keep that lot or other property free of litter.

Sec. 6.03.035 Dumping refuse or other material

It shall be unlawful for any person to dump refuse, garbage, rubbish, junk, or any other material, including, but not limited to, cement or any earth or construction materials, on or near city streets, private property, parks, parking lots, or commercial or public buildings, or on adjoining highways and rights-of-way; provided, however, the owner or resident of private property may deposit a reasonable amount of refuse or garbage on his or her private [property] for soil composting purposes, so long as such is done in a manner that prevents the deposit from being blown by the wind or strewn or scattered by animals.

State law reference–Illegal dumping, V.T.C.A., Health and Safety Code, sec. 365.012.

Sec. 6.03.036 Issuance of citation

If an officer charged with the enforcement of this article shall determine that a person has violated any provision of this division, such officer may issue a citation without prior notice or a right to cure or abate the violation.

Secs. 6.03.037–6.03.060 Reserved

Division 3. Miscellaneous Restrictions and Prohibitions

Sec. 6.03.061 Harboring insects

It shall be unlawful for any person owning or having supervision or control of any lot or tract of land, or portion thereof, occupied or unoccupied, within the city limits to allow or permit any insect to harbor on said premises.

Sec. 6.03.062 Trees obstructing street or sidewalk or causing other hazard

It shall be unlawful for any person owning or having supervision or control of any lot or tract of land, or portion thereof, occupied or unoccupied, within the city limits to allow trees to grow to a height that is less than thirteen (13) feet, six (6) inches above the pavement of a roadway, or a height that is less than eight (8) feet above a sidewalk, obscures a motorist's or pedestrian's view of any street intersection, sign or traffic-control device, hinders or impairs the passing of a motorist or pedestrian, or causes or creates a hazard that could reasonably cause property damage or personal injury.

Sec. 6.03.063 Graffiti

It shall be unlawful for any person owning or having supervision or control of any lot or tract of land, or portion thereof, occupied or unoccupied, within the city limits to allow the existence of graffiti that is visible from a public right-of-way, visible from any public property, or visible from the private property

of another person. Any graffiti existing on any property within the city shall be promptly removed by the owner, supervisor, or person having control of such property, whether occupied or unoccupied, within 10 days or less after the occurrence, with the city administrator having discretion to shorten the time period due to the content of the graffiti.

Sec. 6.03.064 Encroachment or obstructions on sidewalk; allowing weeds, trash, etc., to accumulate on street or sidewalk

It shall be unlawful for any person owning or having supervision or control of any lot or tract of land, or portion thereof, occupied or unoccupied, within city limits to allow an encroachment or obstruction on any sidewalk, or to allow weeds, unclean matter, or trash to accumulate on the street, sidewalk, ditch or gutter in front of a person's premises.

Secs. 6.03.065–6.03.090 Reserved

Division 4. Nuisances and Offensive Conditions on Private Property

Sec. 6.03.091 Prohibited conduct

It shall be unlawful for an owner, occupant, lessee or renter of any lot or parcel of ground within the city limits (herein cumulatively referred to as "owner" or "occupant") to:

(1) Fail to maintain such property:

(A) Free of accumulations of brush, earth and construction materials, garbage, litter, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matter and any other objectionable, unsightly, or unsanitary matter of whatsoever nature;

(B) Free and clear from weeds and tall grass from the line of such property, including the sidewalks, to the established curb line next adjacent thereto;

(C) Free of drain holes and depressions in which water collects or to fail to regrade any lots, grounds or yards or any other property owned or controlled by the owner or occupant which shall be unwholesome or have stagnant water thereon, or which from any other cause is in such condition as to be liable to produce disease;

(D) Free from filth, carrion or other impure or unwholesome matter of any kind, on any portion of the property under the owner's or occupant's control, including any house, building, establishment, lot, yard or ground owned or occupied, especially any such filth, carrion or other impure or unwholesome matter that exudes any noxious, foul or offensive odor that is detectable past or beyond the boundary of the property upon which the matter is located;

(E) Free of discharge of sewage or hazardous wastes into the soil or subsurface soil without proper containment thereto; or

(F) In any manner that is inconsistent with this article;

(2) Suffer, allow, or permit any person to bring or transport onto the property any filth, carrion, decaying animal or vegetable matter, or other impure or unwholesome matter of any kind that

exudes any noxious, foul or offensive odor that is detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant; or

(3) Operate or conduct any business or activity on the property in a manner that causes or results in any noxious, foul or offensive odor that originates on the property, or that emanates from any source that such owner or occupant has suffered, allowed or permitted to come onto the property, being detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant.

Sec. 6.03.092 Declaration of nuisance; duty to abate

Whenever brush, earth or construction materials, garbage, litter, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matter and any other objectionable, unsightly, or unsanitary matter of whatsoever [kind] shall exist, covering or partially covering the surface of any lot or parcel of any real estate situated within the city, or when any of said lots or parcels of real estate as aforesaid shall have the surface thereof filled or partly filled with holes or be in such condition that the same holds or is liable to hold stagnant water therein, or if from any other cause shall be in such condition as to cause disease, or produce, harbor or spread disease or germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome or obnoxious, or shall contain unwholesome matter of any kind or description, or any other conduct prohibited hereby occurs upon any lot or parcel in the city, the same is hereby declared to constitute a public nuisance, the prompt abatement of which is hereby declared to be a public necessity. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property.

Sec. 6.03.093 Noxious odors

If the owner or occupant of any lot or parcel of land within the city shall suffer, allow or permit any spoiled, rotting or decaying animal or vegetable matter to be on the property, and such spoiled, rotting or decaying animal or vegetable matter shall cause or result in a noxious, foul or offensive odor being detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant, the same is hereby declared to be and constitute a public nuisance. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property.

Sec. 6.03.094 Storage of garbage, hazardous wastes and other unwholesome materials

All garbage, sewage, hazardous wastes, and other unwholesome materials of any kind shall be stored in containers to prevent such materials from dispersing beyond the storage location, seepage into the ground, or permitting the escape of noxious, foul or offensive odors into the air across the boundaries of the owner’s or occupant’s property to another property.

Sec. 6.03.095 Limitation on height of grass and weeds; accumulation of brush

It shall be unlawful for any person who shall own or occupy any lot or lots within the city limits to allow weeds and/or grass to grow on such lot or lots to a height of more than six (6) inches and to allow or permit brush to grow or to accumulate on any such lot or lots. Weeds and/or grass of a height exceeding six (6) inches on any lot or lots within the city limits is declared a nuisance. The growth or accumulation of brush on any lot or lots within the city limits in violation of this section is declared a nuisance. Provided, however, this section shall not apply to property used for the growing of agricultural crops or grass as a crop, if such property has not been platted into lots.

Sec. 6.03.096 Discharge of sewage or hazardous waste

Any person or persons who shall allow or permit sewage or hazardous wastes to discharge into the ground or subsurface soil, which shall have the effect of causing odors or obnoxious, unhealthy and unwholesome conditions to exist, is declared to have caused a public nuisance and shall be in violation of this article.

Sec. 6.03.097 Evidence of responsibility for discharge of sewage or hazardous waste

In any prosecution charging a violation of this article governing the discharge of sewage and hazardous waste, proof that the particular sewage or toxic wastes described in the complaint was discharged into the ground or subsurface soil in violation of section 6.03.096, together with proof that the defendant named in the complaint was, at the time of such discharge, the registered owner or occupant of such lot or lots, shall constitute in evidence a prima facie presumption that the registered owner or occupant of such lot or lots was the person who discharged such sewage or toxic wastes when such violation occurred.

Secs. 6.03.098–6.03.130 Reserved

Division 5. Enforcement; Abatement by City

Sec. 6.03.131 Right to abate dangerous conditions

Whenever an immediate danger to the health, life or safety of any person exists as a result of garbage, rubbish, junk, trash, unwholesome matter, sewage or toxic waste discharge, storage of airtight containers in an unsafe location, or weeds which have grown to a height, at any point on the property, of greater than 48 inches, the city may abate the nuisance without notice to the owner. In the event the city abates the nuisance under this section, the city shall forward notice to the owner within seven (7) days after the date the city abates such nuisance in the manner set forth in section 6.03.133 of this division.

Sec. 6.03.132 Right to inspect

The code enforcement officer or designee is authorized to inspect any property within the corporate limits of the city, at any reasonable time, subject, however, to the requirements for obtaining the permission of the occupant, or obtaining a warrant for the entry and inspection of private residences.

Sec. 6.03.133 Violations and notices

(a) If the code enforcement officer charged with the enforcement of this article, or his designee, or the chief of police or his designee, shall determine that a person has violated any provision of this article, notice of the violation shall be served on the owner of the property, in writing, describing the violation. The owner of the property shall be allowed ten (10) days after the date of delivery of notice to abate the described violations and comply with the terms of this article. If the owner or occupant fails to cure or correct all of the violations described in the notice, the code enforcement officer, or his designee, shall cause a complaint to be filed with the city municipal court and cause a summons to be issued, or a peace officer shall [issue] a citation for the violation of this article.

(1) Such written notice as required under this section may be provided by:

(A) Personal delivery of notice or by certified mail return receipt requested addressed to the owner as listed in the county appraisal district records. If the notice is mailed and

returned as "refused" or "unclaimed," the notice shall be considered delivered.

(2) If personal service cannot be obtained:

(A) By publication in the local newspaper at least once in a newspaper of general circulation in the city or the county;

(B) By posting notice on or near the front door of a building located on the property; or

(C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

(b) If the code enforcement officer or his designee charged with the enforcement of this article shall determine that a situation exists which immediately affects or threatens the health, safety and well-being of the general public, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner and/or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.

(c) If code enforcement officer or his designee charged with enforcement of this article determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the city council may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare. In such event, the city may prosecute an action in any court of competent jurisdiction to recover its costs.

(d) If any owner or occupant shall fail or refuse to remedy any of the conditions prohibited by this article within ten (10) days after notice to do so, the city may do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made to the owner(s) of the property, and such charge shall be a personal liability of such owner to the city.

(e) Notices required pursuant to this article shall be in writing. Such notices may be served upon such owner and/or occupant as follows: in person by an officer or employee of the city; by letter addressed to such owner or occupant at his/her post office address; or, if personal service may not be had, or the owner or occupant's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city or by posting a notice on or near the front door of each building on the property upon which the violation relates, or, if no building exists, by posting notice on a placard attached to a stake driven into the ground on the property to which the violation relates. The notice shall state "Sanitary Improvements," "To Whom It May Concern" and a brief statement of the violation(s). Service of the notice by any one of the above methods, or by a combination thereof, shall be deemed sufficient notice.

(f) If an owner is mailed a notice in accordance with subsection (e) 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 as delivered.

(g) Notices provided by mail or by posting as set forth in subsection (e) may provide for year- round abatement of the nuisance and inform the owner that, should the owner commit any other violation of the same kind that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may abate the violation at the owner's expense and

assess the costs against the property.

(h) Persons littering, in violation of division 2 of this article, or causing or creating a prohibited nuisance in the presence of a person authorized to enforce this article, may be cited or a complaint filed for such violation without notice of the violation, or warning, and such citation or complaint shall be filed in the municipal court of the city.

Sec. 6.03.134 Assessment of costs; appeals

In addition to any other remedy provided in this article and cumulative thereto, the code enforcement officer, after giving to the owner of the property ten (10) days' notice in writing, as provided in section 6.03.133, may cause any of the work or improvements mentioned in this article to be done at the expense of the city, and charge the utility bill of the property on which such work or improvements are done, and cause all of the actual cost to the city to be assessed on the real estate or lot on which such expenses occurred; provided that the owner of any such real estate may appeal to the city council from the order of the code enforcement officer by filing a written statement with the code enforcement officer within ten (10) days after receipt of the notice provided for above, stating that such real estate complied with the provisions of this article before the expiration of a ten (10) day period. The city council shall set a date, within thirty (30) days from the date of the appeal, for hearing the appeal to determine whether the real estate complied with the provisions of this article before the expiration of such ten (10) day period. The authority of the code enforcement officer to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending. If it shall be determined by the city council that the premises complied with the provisions of this article before the expiration of the ten (10) day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such work was done.

Sec. 6.03.135 Collection of city's expenses; cost of abatement constitutes lien

Cumulative of the city's remedy by fine, as set forth herein, the city may do such work or cause the same to be done to remedy such condition to remove such matter from such owner's premises at the city's expense and charge the same to the utility bill of such property and assess the same against the real estate or lot or lots upon which such expense is incurred.

(1) Expenditures plus ten (10) percent per annum interest on the expenditures from the date of such payment by the city shall be added to the next billing cycle for utility bills for the real estate or lot or lots, if not already paid. Payment shall be due and payable in full by the owner or occupant at the time of payment of such utility bill. If the property is unoccupied, no utilities shall be furnished to the property where the work occurred until such obligation, as herein set out, payable to the city for abatement of any nuisance described herein is paid in full.

(2) Upon filing with the county clerk of a statement by the city secretary or designee of such expenses, the city shall have a privileged lien upon said real estate or lot or lots, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten (10) percent per annum interest on the amount from the date of such payment so made by the city.

(3) The city may, additionally, institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter.

Sec. 6.03.136 Enforcement officers

The civil and criminal provisions of this article shall be enforced by the persons or agencies designated by the city, including, but not limited to, the county sheriff's department, the city police department, the building official, and the code enforcement officer. It shall be a violation of this article to interfere with a code enforcement officer, or other person authorized to enforce this article, in the performance of his or her duties.

Sec. 6.03.137 Penalty

Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine in accordance with the general penalty provided in section 1.01.009 of this code. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

Sec. 6.03.138 Additional remedies

All remedies cited herein are in addition to and not in lieu of all remedies permitted to the city by law.

CHAPTER 7

RESERVED

CHAPTER 8

OFFENSES AND NUISANCES

ARTICLE 8.01 GENERAL PROVISIONS[27]

Sec. 8.01.001 Abandoned refrigerators and freezers

It shall be unlawful to abandon a refrigerator or freezer within the city without removal of the door or doors, or using the option of placing a lock or locks on said doors. To abandon means to leave outdoors and unattended.

State law reference–Regulation of abandoned refrigerators, freezers, and similar containers, V.T.C.A., Health and Safety Code, sec. 756.011 et seq.

Sec. 8.01.002 Blocking drainage ditch

(a) It shall be unlawful to place or cause to be placed any items or materials into the main drainage ditches of the city, or to allow any items or materials from adjoining drainage ditches to be carried into the main drainage ditches by rainwater runoff.

(b) Any person, business or corporation found to be guilty of the provisions of this section as specified in subsection (a) by a court of competent jurisdiction may be fined in accordance with the general penalty provided in section 1.01.009 of this code plus all associated court costs.

Sec. 8.01.003 Possession of open container of alcoholic beverages within public view

(a) Prohibition. It shall be unlawful for a person to possess an open container which contains any amount of alcoholic beverage within public view in the city and the extraterritorial jurisdiction of the city.

(b) Applicability.

(1) This section does not apply to persons that are on private property with the owner's consent.

(2) This section will not replace or supersede any of the state Alcoholic Beverage Code.

(c) Reasonable suspicion. If an officer has reasonable suspicion that a person may be in violation of this section, the officer may approach the subject to determine if the subject is in violation.

(d) Definitions. As used herein:

Extraterritorial jurisdiction. Any property outside the city limits that is owned or operated by

[27] **State law references–**Authority of governing body to adopt ordinance, rule or police regulation for the good government, peace, or order of municipality, V.T.C.A., Local Government Code, sec. 51.001; authority of city to define and declare nuisance, V.T.C.A., Local Government Code, sec. 217.002; nuisances and general sanitation, V.T.C.A., Health and Safety Code, sec. 341.011 et seq.

the city. Also property owned by the city and operated by a private entity with permission of the city.

Open container. A bottle, can or other receptacle that contains any amount of alcoholic beverage and that is open, that has been opened, that has a broken seal, or the contents of which are partially removed.

Owner consent. Consent by the city, or a representative for the city, for public property, and consent by the owner/operator, or representative for the owner/operator, of private property.

Possession. In the possession of a person or within reasonable proximity of a person which would constitute reasonable belief that it was the person's.

Private property. Any property in the city and the extraterritorial jurisdiction of the city (GC 29.003) owned or operated by a business, private entity, or person.

Public property. Any property of the city and the extraterritorial jurisdiction of the city (GC 29.003) held for public use by the city, which will also include sidewalks and any thoroughfare.

Public view. Can be observed by the public.

(e) Penalty. Any person in violation of this section shall be deemed guilty of a misdemeanor and can be fined in any sum in accordance with the general penalty provided in section 1.01.009 of this code plus court costs.

ARTICLE 8.02 MINORS

RESERVED

ARTICLE 8.03 NOISE[28]

Sec. 8.03.001 Intent and general policy

It is hereby declared to be the policy of the city to minimize the exposure of the citizens to the physiological and psychological harm of excessive noise and to protect, promote, and preserve the public health, comfort, convenience, safety, and welfare. It is the express intent of the city to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens; promotes the use, value, and enjoyment of property; and preserves the quality of the environment. (Ordinance 2012-07-09, sec. 1, adopted 7/9/12)

Sec. 8.03.002 Definitions

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

[28] **State law references–**Authority of municipality to restrain or prohibit the ringing of bells, blowing of horns, hawking of goods, or any other noise, V.T.C.A., Local Government Code, sec. 217.003; disorderly conduct, V.T.C.A., Penal Code, sec. 42.01

A-weighted sound level. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Daytime hours. The hours between 7:00 a.m. on one day and 10:00 p.m. the same day.

Decibels. The intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the slow meter response, as specified by the applicable publications of the American National Standards Institute or its successor body.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.

Emergency work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, or which is otherwise necessary to restore property to a safe condition following a fire, accident, or natural disaster, or which is required to protect persons or property from exposure to danger, or which is required to restore public utilities.

Nighttime hours. The hours between 10:00 p.m. on one day and 7:00 a.m. on the following day.

Nonresidential property. Any real property within the limits of the city which is not included in the definition of residential property as defined in this section.

Person. Any individual, association, partnership, or corporation.

Property line. The line along the ground surface, and its vertical extension, which separates the real property owned, leased, or occupied by one person from that owned, leased or occupied by any other person, and the imaginary line which represents the legal limits of property of any person who owns, leases or otherwise occupies an apartment, condominium, hotel or motel room, office or any other type of occupancy.

Public right-of-way. Any street, avenue, boulevard, highway, road, thoroughfare, sidewalk, alley, or any other property that is owned or controlled by a governmental activity.

Residential property. Any real property developed and used for human habitation, and which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, unless the premises are actually occupied and used primarily for purposes other than human habitation.

Sound level meter. An instrument that includes a microphone, amplifier, RMS detector, integrator, or time averager, output meter, and weighting network used to measure sound pressure levels.

Sound nuisance. Sound which either exceeds the maximum permitted sound level specified in Texas Penal Code section 42.01(c)(2) or otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of persons with ordinary sensibilities within the limits of the city.

Texas Penal Code section 42.01(c)(2). A noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance.

Sec. 8.03.003 Penalty

Any person, firm, association of persons, company, corporation, or their agents violating or failing to comply with any of the provisions of this article shall be fined upon conviction not less than $100.00 or more than $2,000.00, and each day any violation or noncompliance continues shall constitute a separate and distinct offense. (Ordinance 2012-07-09, sec. 8, adopted 7/9/12)

Sec. 8.03.004 Maximum permissible sound levels

(a) No person shall conduct, permit, or allow any activity or sound source to produce sound that is discernible beyond the property lines of the property on which the sound is being received that when measured as provided in this article exceeds the applicable decibel level listed below for the property on which the sound is received:

(1) Residential property:

(A) Eighty-five decibels (85 dB(A)) during daytime hours; or

(B) Eighty decibels (80 dB(A)) during nighttime hours.

(2) Nonresidential property: During either daytime or nighttime hours, eighty-five decibels (85 dB(A)).

(b) The decibel levels set forth in this section apply to the property where the sound is being received. Any sound that when measured at the property where the sound is being received exceeds the decibel levels set forth in this article is a violation of this article. Evidence that an activity or sound source produces a sound that exceeds the decibel levels specified in this article, when measured at the site where the sound is being produced, if available, shall be prima facie evidence of sound nuisance which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the city in violation of this article.

Sec. 8.03.005 General prohibition

(a) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continue or permit the continuance of any sound which exceeds the maximum permitted sound levels specified or otherwise unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

(b) The acts enumerated in the following sections of this article, among others, are declared to be sound nuisances which are unreasonably loud, irritating, disturbing or excessive sounds in violation of this article, but such enumeration shall not be deemed to be exclusive.

Sec. 8.03.006 Specific prohibitions

The following sounds are hereby determined to be specific noises which can constitute a noise disturbance, and violations are hereby defined:

(1) Noisy vehicles generally. The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded or in such a manner so as to create loud and unreasonable grating, grinding, rattling, squealing, screeching or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.

(2) Amplified sound from motor vehicle. The production or reproduction of sound from amplification equipment contained in or mounted on a motor vehicle that produces sound in excess of limits set forth in this article, when measured at or near 30 feet from the nearest external point on the vehicle, or otherwise produces noises which are unreasonably loud, irritating, or disturbing, is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article.

(3) Animals. The keeping of any animal which barks, whines, howls, crows, cackles, or makes any noise excessively and continuously, and the noise disturbs a person of ordinary sensibilities, is hereby prohibited, and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by the animal or bird is within the permissible levels specified in this article.

(4) Refuse collection. The collection of garbage, waste or refuse during nighttime hours in any residential area, or within 300 feet of any residential area.

(5) Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any burglar or civil defense alarm, whistle or similar stationary emergency signaling device for more than 5 minutes during any consecutive 60- minute period except for the sound caused in the performance of emergency or public service work, including public utility operations, acting to protect the health, safety, or welfare of the community.

Sec. 8.03.007 Defenses

The following defenses shall apply to any offense established in this article:

(1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency;

(2) The sound was produced by an authorized emergency vehicle;

(3) The sound was produced by emergency work necessary to restore public utilities, or to restore property to a safe condition, or to protect persons or property from imminent danger, following a fire, accident, or natural disaster;

(4) The sound was generated:

(A) At a lawfully scheduled stadium event;

(B) By a parade and spectators and participants on the parade route during a permitted parade;

(C) By spectators and participants at any outdoor event, fun run, race, festival, or concert which is sponsored, cosponsored, or permitted by the city;

(D) By a governmental entity, as defined by Tex. Local Government Code section 271.021(2);

(5) The sound was generated as authorized under the terms of a permit issued under a city ordinance;

(6) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower or any other similar device used during daytime hours and which device did not produce a sound exceeding the maximum permissible sound level on residential property when measured from the nearest residential property where the sound is being received and was used for the maintenance or upkeep of the property on which it was used; and/or

(7) The sound was produced by the operation of any air conditioning unit which did not produce a sound exceeding the maximum permissible sound level as designated for the residential property and nonresidential property, when measured at or near 15 feet from the air conditioning unit producing the sound being measured.

Sec. 8.03.008 Methods of sound measurement

Whenever portions of this article prohibit sound over a certain decibel limit, measurement of the sound shall be made with a type 1 or type 2 calibrated sound level meter utilizing the A- weighting scale and the slow meter response specified by the American National Standards Institute (ANSI S-1.4 1984/1985A). Noise levels shall be measured in decibels and A-weighted. The unit of measurement shall be designated as dB(A). Meters shall be maintained in calibration and good working order. Calibrations shall be employed which meet ANSI S-1.4 1984 prior to and immediately after every sampling of sound. Measurements recorded shall be taken as to provide proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the sound measured. A windscreen for the microphone shall be used. (Ordinance 2012-07-09, sec. 7, adopted 7/9/12)

ARTICLE 8.04 OFFENSIVE ODORS

Sec. 8.04.001 Definition

Odor. A distinctive smell, especially an unpleasant one.

Sec. 8.04.002 Penalty

Penalties for those found guilty of violating this article by a court of competent jurisdiction shall be fined in accordance with the general penalty provided in section 1.01.009 of this code.

Sec. 8.04.003 General prohibition

(a) It shall be unlawful for any person to create or cause any unreasonably noxious, unpleasant, or strong odor which causes material distress, discomfort, or injury to persons of ordinary sensibilities in the immediate vicinity thereof.

(b) It shall be unlawful for any person to create or use any odor, stench or smell of such character, strength, or continued duration as to substantially interfere with the comfortable enjoyment of private homes by persons of ordinary sensibilities.

Sec. 8.04.004 Specific prohibitions

The following acts or conditions, among others, are declared to be odor nuisances in violation of this

article, but such enumeration shall not be deemed to be exclusive:

(1) Offensive odors from cow lots, hog pens, fowl coops and other similar places where animals are kept or fed which disturb the comfort and repose of persons of ordinary sensibilities;

(2) Offensive odors from trucks or trailers that transport livestock;

(3) Offensive odors from privies and other similar places;

(4) Offensive odors from the use or possession of chemicals or from industrial processes or activities which disturb the comfort and repose of persons of ordinary sensibilities;

(5) Offensive odors from smoke from the burning of trash, rubbish, rubber, chemicals or other things or substances; or

(6) Offensive odors from stagnant pools allowed to remain on any premises or from rotting garbage, refuse, offal, or dead animals on any premises.

ARTICLE 8.05 WEAPONS[29]

Sec. 8.05.001 Discharge of firearms

(a) Definition.

Firearm. Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Reference title 10, chapter 46, section 46.01(3) of the Texas Penal Code.

(b) Prohibition; exceptions. It shall be unlawful to discharge any firearm within the corporate limits of the city, except as provided:

(1) By certified police or security personnel in the performance of their duties.

(2) By animal control personnel appointed or directed by the city council or city administrator.

(3) By a private citizen in the course of protecting and preserving his life or property.

(4) By a gunsmith who holds a current federal firearms license in an enclosed area that has been approved by the city chief of police.

(5) By a private citizen on a parcel of land that is ten (10) acres or more.

(c) Penalty. If a person is found to be guilty of this section by a court of competent jurisdiction, that person may be fined in any amount from $10.00 (ten dollars) to $500.00 (five hundred dollars) plus any

[29] **State law references**–Authority of municipality to regulate the discharge of firearms, V.T.C.A., Local Government Code, sec. 217.003; authority of municipality regarding firearms and explosives, V.T.C.A., Local Government Code, sec. 229.001; limitation of authority to prohibit discharge of firearms or other weapons in extraterritorial jurisdiction, V.T.C.A., Local Government Code, sec. 229.002; disorderly conduct, V.T.C.A., Penal Code, sec. 42.01; weapons, V.T.C.A., Penal Code, ch. 46.

applicable court costs or fees.

State law reference–Authority of municipality to regulate the discharge of firearms, V.T.C.A., Local Government Code, sec. 217.003.

Sec. 8.05.002 Paint Ball, Pellet and BB guns

(a) Definitions.

Child. Anyone under the age of 17 years of age, as defined in Family Code section 51.02, at the time of the offense.

Paint Ball, Pellet or BB gun. In this section, a paint ball, pellet, or BB gun means any device designed, made, or adapted to expel a projectile, such as, but not limited to, a paint ball, a BB, pellet, or dart, through a barrel by the use of energy generated by, but not limited to, air, compressed air, compressed gas, CO2 or mechanical spring.

(b) Offenses. A person may not carry, possess, or discharge a pellet or BB gun that is loaded with a projectile in the chamber, barrel, or magazine of that device in the city limits.

(c) Exceptions.

(1) Procedures adopted under this section may not apply to the possession of a pellet or BB gun by a property owner on his own property as long as the pellet or BB gun is not discharged from such property onto anther's property or public place.

(2) This section shall not apply to the discharge of a pellet or BB gun for the reason of the exercise of the lawful prevention of crime, the lawful exercise of the right of self- defense, and/or the lawful protection of one's family and/or property.

(3) This section shall not apply to a peace officer while in the performance of their duties.

(d) Penalty; parental responsibility.

(1) Any person, firm or corporation violating any of the provisions or terms of this section shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine not less than $25.00 but not more than $500.00 plus court costs for each offense.

(2) Any parent, custodian, or legal guardian of a person under the age of 17 that allows that child to violate this section may be charged with the same offense as the child.

(e) Enforcement. The possession of a pellet or BB gun in plain view gives a peace officer or any authorized person probable cause to check the pellet or BB gun in the possession of a person that may be walking, standing, parked, or riding in the city limits, to see if the pellet or BB gun is in violation of any provision of this section. If a person is in violation of this section, the pellet or BB gun shall be confiscated by the officer or authorized person and held as evidence until the court decides to return or destroy the device.

ARTICLE 8.06 SEX OFFENDER RESTRICTIONS AND CHILD SAFETY ZONES[30]

Sec. 8.06.001 Purpose; intent

The city council finds that sex offenders who are required to register as a sexual predator under V.T.C.A., Texas Code of Criminal Procedure, chapter 62, present an extreme threat to the health, safety, and welfare of children. It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety, and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain registered sex offenders and sexual predators are prohibited from loitering or prohibited from establishing temporary or permanent residency. (Ordinance 2010-10-11A, sec. 1, adopted 10/11/10)

Sec. 8.06.002 Definitions

For the purposes of this article, the following terms, words, and the derivations thereof shall have the meaning given herein:

Child. Any person under the age of seventeen (17).

Childcare facility. A family day care home which provides regular care to no more than four (4) children under fourteen (14) years of age, excluding children related to the caretaker, and provides care after school hours for not more than six (6) additional elementary school children, but the total number of children, including those related to the caretaker, shall not exceed twelve (12) at any given time.

Childcare institution. A commercial day care center [that] provides regular care to any number of adults or children for less than twenty-four (24) hours a day.

Child safety zone. Public parks, private and public schools, public libraries, amusement arcades, video arcades, indoor and outdoor amusement centers, amusement parks, public or commercial and semi-private swimming pools, childcare facilities, childcare institutions, public or private youth soccer or baseball fields, crisis centers or shelters, skate parks or rinks, public or private youth centers, movie theaters, bowling alleys, scouting facilities and offices for child protective services.

Database. The state department of public safety's sex offender database or the sex offender registration files maintained by the sex offender registration officer of the city police department.

Loiter. Standing, [or] sitting idly, whether or not the person is in a vehicle or remaining in or around an area.

Park or playground. One of the following:

(1) Any land, including improvements to the land, that is administered, operated, or managed by the city for the use of the general public as a recreational area.

(2) City recreational areas include, but are not limited to, a conservation area, jogging trail, hiking trail, bicycle trail, recreational center, water park, swimming pool, soccer field or

[30] **State law references–**Establishment of child safety zone for sex offender on community supervision for sexual offenses against children, Tex. Code Crim. Proc. art. 42.12, sec. 13B; establishment of child safety zone for sex offender on community supervision for violent offenses, Tex. Code Crim. Proc. art. 42.12, sec. 13D.

baseball field.

Permanent residence. A place where the person abides, lodges, or resides for 14 or more consecutive days.

Places where children regularly congregate. Same as "Child safety zone."

Public way. Any place to which the public or a substantial group of the public has access, and includes, but is not limited to, streets, shopping centers, parking lots, transportation facilities, restaurants, shops, and similar areas that are open to the use of the public.

School. A private or public pre-school, private or public elementary school, or private or public secondary school.

Sex offender. An individual who has been convicted of or placed on deferred adjudication for a sexual offense involving a person under seventeen (17) years of age for which the individual is required to register as a sex offender under chapter 62, Texas Code of Criminal Procedure.

Temporary residence. A place where a person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate, during any calendar year, and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec. 8.06.003 Penalty

Any person, firm, corporation, agent, or employee thereof who violates any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof may be fined an amount in accordance with the general penalty provided in section 1.01.009 of this code as allowed by law. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such.

Sec. 8.06.004 Sex offender prohibitions

(a) It is an offense for a sex offender to establish a permanent residence or temporary residence within one thousand (1,000) feet of the real property comprising a school, child care facility, child care institution, park or playground or other places where children regularly congregate.

(b) It is an offense for a sex offender to knowingly enter a child safety zone.

(c) It is an offense for a sex offender to knowingly loiter on a public way within 300 feet of a child safety zone.

(d) A sex offender shall not, on each October 30th and 31st (or any other date set by the city for trick-or-treaters) between the hours of 4:00 p.m. and 11:00 p.m., leave an exterior porch light on or otherwise invite trick-or-treaters to solicit the premises.

Sec. 8.06.005 Renting real property to registered sex offender

It is unlawful to let or rent any place, structure or part thereof, manufactured home, trailer, or any other

conveyance with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to the terms of this article, if such place, structure, or part thereof, manufactured home, trailer, or other conveyance is located within 1,000 feet, as defined in section 8.06.006(d), from a child safety zone, as defined in section 8.06.002.

Sec. 8.06.006 Evidentiary matters

(a) If a sex offender that is prohibited from being in a child safety zone is found in a child safety zone by a police officer, the sex offender is subject to punishment in accordance with this article.

(b) It shall be prima facie evidence that this article applies to such a person if that person's record appears in/on the database and the database indicates that the victim was less than seventeen (17) years of age.

(c) The distance of three hundred (300) feet from a child safety zone shall be measured on a straight line from the closest boundary of the child safety zone.

(d) The distance of one thousand (1,000) feet from a place where children congregate shall be measured on a straight line from the closest boundary line of the sex offender's residence to the closest boundary line of the school, child care facility, child care institution, park or playground or other places where children regularly congregate.

(e) In the case of multiple residences on one property, measuring from the nearest property line of the residences to the nearest property line of the school, child care facility, child care institution, park or playground or other places where children regularly congregate.

(f) In cases of a dispute over measured distances, it shall be incumbent upon the person(s) challenging the measurement to prove otherwise.

(g) A map depicting the prohibited areas shall be created by the city and maintained by the city police department. The city shall review the map annually for changes. Said map will be available to the public at the city police department.

Sec. 8.06.007 Exceptions

(a) The person required to register in/on the database established the permanent residence or temporary residence and residency prior to the adoption of this article [and the residence] has been consistently maintained and the person has complied with all of the sex offender registration laws of the state prior to the date of the adoption of this article.

(b) The place where children regularly congregate, as specified herein, within one thousand (1,000) feet of the permanent or temporary residence of the person required to register on/in the database was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the state.

(c) The information on/in the database is incorrect, and, if corrected, this article would not apply to the person who was erroneously listed on/in the database.

(d) The person required to register on/in the database was a minor when he or she committed the

offense requiring such registration and was not convicted as an adult.

(e) The person required to register is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution located within one thousand (1,000) feet of the real property comprising a school, child care facility, child care institution, park or playground or other places where children regularly congregate.

(f) The person required to register is under eighteen (18) years of age or a ward under a guardianship, who resides with a parent or guardian.

(g) The person required to register has been exempted by a court order from registration as a sex offender under chapter 62, Texas Code of Criminal Procedure.

(h) The person required to register has had the offense for which the sex offender registration was required reversed on appeal or pardoned.

(i) The person's duty to register on/in the database has expired.

(j) Nothing in this provision shall require any person to sell or otherwise dispose of any real estate or home acquired or owned prior to the conviction of the person as a sex offender.

ARTICLE 8.07 RESTRICTED SMOKING MATERIALS AND PARAPHERNALIA

Sec. 8.07.001 Definitions

Restricted smoking material. Any substance, however marketed, which can reasonably be converted for smoking purposes, whether it is presented as incense, tobacco, herbs, spices or any blend thereof, if it includes any of the following chemicals or a comparable chemical:

(1) Salvia divinorum or salvinorin A; all parts of the plant presently classified botanically as Salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts;

(2) 2-1[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol (also known as CP47, 497) and homologues;

(3) (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a tetrahydrobenzo[c]chromen-1-ol (also known as HU-211 or Dexanabinol);

(4) 1-pentyl-3-(1-naphthoyl) indole (also known as JWH-018);

(5) 1-butyl-3-(1-naphthoyl) indole (also known as JWH-073); or

(6) 1-pentyl-3-(4-methoxy naphthoyl) indole (also known as JWH-081).

(7) Products containing some or all of the above substances are currently being marketed under the following commercial names: "K-2," "K-2 Summit," "K-2 Sex," "Genie," "Dascents," "Zohai," "Sage," "Spice," "KO Knock-Out 2," "Spice Gold," "Spice Diamond," "Yucatan Fire," "Solar Flare," "Pep Spice," "Fire n' Ice," " Blaze" "Red x Dawn" and "Salvia

Divinorum." Any product containing any of the chemical compounds set forth above shall be subject to the provisions of this article, regardless of whether they are marketed under alternative names.

Restricted smoking material paraphernalia. Any paraphernalia, equipment or utensil that is used or intended to be used in ingesting or inhaling illegal smoking materials, and may include:

(1) A metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;

(2) A water pipe;

(3) A carburetion tube or device;

(4) A smoking or carburetion mask;

(5) A chamber pipe;

(6) A carburetor pipe;

(7) An electric pipe;

(8) An air-driven pipe;

(9) A chillum;

(10) A bong; or

(11) An ice pipe or chiller.

Sec. 8.07.002 Purpose

The purpose of this article is to prohibit the sale or delivery of restricted smoking materials as defined within the city limits, and to prohibit the possession of restricted smoking materials within the city limits. Any form of delivery, to include a simple gift, constitutes a violation of this article. (Ordinance 2010-10-11B, sec. 2, adopted 10/11/10)

Sec. 8.07.003 Violations; penalty

(a) Any person who violates any provision of this article shall be guilty of a misdemeanor infraction, punishable by a fine not to exceed $500.00, and assessed court costs as provided by law.

(b) Every act in violation of this article shall constitute a separate offense.

(c) Unless otherwise specifically set forth herein, allegation and evidence of culpable mental state are not required for the proof of an offense of this article.

Sec. 8.07.004 Penalty for violation by firm or corporation

Any firm or corporation who violates any section of this article shall be deemed guilty of a misdemeanor,

and upon conviction thereof shall be fined any sum not in excess of $2,000.00, and assessed court costs as provided by law.

Sec. 8.07.005 Sale, delivery, offer or gift of restricted smoking material

It shall be unlawful for any person to sell, offer to sell, deliver to or give any restricted smoking material to any person.

Sec. 8.07.006 Use or possession of restricted smoking material

It shall be unlawful for any person to have in their possession or to use restricted smoking materials within the corporate limits of the city.

Sec. 8.07.007 Use or possession of paraphernalia

It shall be unlawful for any person to have in their possession any restricted smoking paraphernalia with the intent to use it to ingest, inhale or otherwise consume restricted smoking material. It is a violation of this section if a person is found in possession of restricted smoking paraphernalia and appropriate forensic testing is done on the paraphernalia showing traces of restricted smoking material are present on the restricted smoking paraphernalia.

Sec. 8.07.008 Defenses

(a) It shall be a defense to prosecution for a violation of this article if the use of the restricted smoking material is at the direction of or under a prescription issued by a licensed physician or dentist authorized to prescribe controlled substances within the state.

(b) It shall be a defense to prosecution under the terms of this article if an individual charged with a violation can provide proper and complete historic documentation that the use of such materials is a portion of a religious undertaking or activity of a religious denomination in which they have longstanding historic membership supported by documentation from clergy or a spiritual leader recognized by the state.

ARTICLE 8.08 ABANDONED OR JUNKED VEHICLES[31]

Division 1. Generally

Sec. 8.08.001 Applicability of state law

The Texas Transportation Code, chapter 683, as amended, is adopted by reference and the provisions of said chapter shall control and take precedence over any conflicting provisions of this article.

Sec. 8.08.002 Definitions

As used in this article, the following terms shall have the meaning indicated below:

[31] **State law reference–**Regulation of abandoned and junked motor vehicles, V.T.C.A., Transportation Code, sec. 683.001 et seq.

Abandoned motor vehicle. A vehicle that:

(1) Is inoperative and over five years old and is left unattended on public property for more than 48 hours;

(2) Has remained illegally on public property for a period of more than 48 hours;

(3) Has remained on private property without the consent of the owner or person in control of the property for more than 48 hours; or

(4) Has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours.

Antique auto. A passenger car or truck that is at least 25 years old.

Collector. The owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

Demolisher. A person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Garagekeeper. An owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.

Junked vehicle. Any vehicle that is designed to be self-propelled, and that:

(1) Displays an expired license plate or does not display a license plate if the vehicle is required to be registered under chapter 502 of the Texas Transportation Code; or

(2) Is:

(A) Wrecked, dismantled, partially dismantled, or discarded; or

(B) Inoperable and has remained inoperable for a continuous period of more than:

(i) 72 consecutive hours, if on public property; or

(ii) 30 consecutive days, if on private property.

Motor vehicle. Any motor vehicle subject to registration pursuant to the Certificate of Title Act, chapter 501, Texas Transportation Code.

Motor vehicle collector. A person owning one or more antique or special interest vehicles and acquires, collects, or disposes of any antique or special interest vehicle or part of any antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Outboard motor. An outboard motor subject to registration under chapter 31, Parks & Wildlife Code.

Police department. The city police department and any other law enforcement agency as defined in

section 683.001, Texas Transportation Code.

Special interest vehicle. A motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

Storage facility. A garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

Watercraft. A vessel subject to registration under chapter 31, Texas Parks & Wildlife Code.

Sec. 8.08.003 Enforcement

The administration of this article shall be the responsibility of the police department or the code enforcement officer; provided that the chief of police, code enforcement officer, or such other salaried, full-time employee of the city as designated by the city administrator is authorized to administer and supervise the procedures, sections and provisions of this article applying to abandoned and junk vehicles. Whoever is so authorized may enter upon private property for the purposes specified in this article to examine motor vehicles or parts thereof, to obtain information as to the identity of motor vehicles and to remove or cause the removal of a motor vehicle or parts thereof declared to be a nuisance pursuant to this article. Upon request by the officer designated pursuant to this section, the municipal court may issue orders necessary to the enforcement of this article.

Sec. 8.08.004 Effect on other statutes or ordinances

Nothing in this article shall affect statutes that permit immediate removal of vehicles left on public property that obstruct traffic or otherwise create a imminent threat to health and safety.

Sec. 8.08.005 Storage fees

The police department shall be entitled to charge and collect reasonable storage fees for abandoned and junked vehicles removed and stored pursuant to this article. Such fees shall be established by the city council and, absent the city council having established such fees, the police department. Such fees may be charged beginning the day the vehicle is taken into custody as follows: (i) for a period of up to ten (10) days prior to the date of the mailing of written notice pursuant to this article; and (ii) beginning on the day after written notice is mailed until the vehicle is reclaimed or disposed of pursuant to this article. If any such vehicle is stored with a garagekeeper, the police department shall not charge an additional fee for any day that the garagekeeper charges a fee.

Sec. 8.08.006 Penalty

Any person convicted of violating any provision of this article shall be guilty of a misdemeanor and shall be subject to a fine in an amount in accordance with state law, and each day of such violation shall be a separate violation.

Secs. 8.08.007–8.08.030 Reserved

Division 2. Abandoned Vehicles

Sec. 8.08.031 Authority to take possession

The police department is authorized to take into custody any abandoned motor vehicle, watercraft or outboard motor found on public or private property. The police department may use personnel, equipment and facilities of the police department or other personnel, equipment, and facilities provided by contract with the city to remove, preserve, and store an abandoned motor vehicle, watercraft, or outboard motor taken into custody of the police department.

Sec. 8.08.032 Notice of impoundment

(a) When information exists sufficient to permit notice of impoundment of an abandoned motor vehicle, watercraft, or outboard motor to the owner and lienholder, notice shall be given by mail to the registered owner and lienholder as follows:

(1) The police department shall send notice of abandonment to each registered owner and lienholder showing of record pursuant to the Certificate of Title Act, chapter 501, Texas Transportation Code, or, as applicable, chapter 31, Parks & Wildlife Code.

(2) Such notice shall be given within ten (10) days after the date the motor vehicle, watercraft or outboard motor is taken into custody, or the date the police department receives a report of abandonment.

(3) The notice shall be by certified mail, return receipt requested, specifying the year, make, model and identification number of the item, set forth the location of the facility where the item is being held, and inform the owner and any lienholder of the right to reclaim the item not later than the 20th day after the date of the notice, on payment of all towing, preservation, storage and/or garagekeeper charges.

(4) The notice shall state that the failure of the owner or lienholder(s) to exercise the right to reclaim the item within the time provided shall be deemed a waiver of all right, title, and interest in the item and their consent to the sale of the item at a public auction.

(b) If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in a newspaper of general circulation in the city shall be made within ten (10) days from the date the item was taken into custody, or from the date the report of abandonment was received. The published notice shall be sufficient if it contains the information otherwise required to be included in the notice by mail. A list of motor vehicles, watercraft or outboard motors may be included in the same publication.

Sec. 8.08.033 Use of unreclaimed vehicle by police department

(a) Provided that a garagekeeper's lien has not attached to the vehicle, if an abandoned motor vehicle has not been reclaimed as provided in section 8.08.032 hereof, the police department may use such abandoned motor vehicle for police department purposes if such use is cost-effective.

(b) If the police department discontinues use of the abandoned motor vehicle, the police department shall auction such abandoned motor vehicle as provided herein.

Sec. 8.08.034 Sale at auction; disposition of proceeds of sale

(a) If an abandoned motor vehicle, watercraft or outboard motor has not been reclaimed within twenty (20) days after the date of notice and payment of all towing, preservation and storage charges resulting from its impoundment, the police department shall sell the item at a public auction. Proper notice of the public auction shall be given and, in the event a vehicle is to be sold in satisfaction of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of such auction.

(b) The police department shall furnish a sales receipt for each vehicle to the purchaser thereof at the public auction.

(c) The proceeds shall be applied first to reimburse the police department for the expenses of the auction, costs of towing, preserving and storing the vehicle, and all notice and publication costs, and any remainder from the proceeds of the sale shall be held for the owner of the vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in a special fund with the city treasurer which shall remain available for the payment of auction, towing, preserving, storage and all notice and publication costs which result from placing other abandoned vehicles in custody, whenever the proceeds from a sale of such other abandoned motor vehicles are insufficient to meet these expenses and costs. In the event the special fund on deposit with the city treasurer accumulates to in excess of $1,000.00, the city council may transfer the balance of such fund, that exceeds $1,000.00, to the general fund for use by the police department as budgeted.

Sec. 8.08.035 Vehicles abandoned in storage facility

(a) The police department, upon receipt of a report from a garagekeeper that a motor vehicle has been deemed abandoned pursuant to section 683.031, Texas Transportation Code, shall follow the notification procedures set forth in section 8.08.032 herein for the giving of notice to owners and lienholders of abandoned vehicles, except that custody of the vehicle shall remain with the garagekeeper until after the notification requirements have been satisfied.

(b) A fee in the amount adopted by the city council shall accompany the report of the garagekeeper and such fee shall be retained by the police department receiving the report and used to defray the cost of notification or other costs incurred in the disposition of such vehicles, and such fee shall be deposited in the general fund of the city.

(c) Abandoned vehicles left in storage facilities, which are not reclaimed after notice is given in accordance with this article, shall be taken into custody by the police department and sold at auction, as in the cases of other abandoned motor vehicles. The proceeds of the sale shall first be applied to the garagekeeper's charges for servicing, repair, and storage, provided the garagekeeper properly notified the police department within seven days of the abandonment; however, the police department shall retain an amount of two percent (2%) of the gross proceeds of the sale for each vehicle auctioned, but in no event shall it retain less than ten dollars ($10.00), to be used to defray expenses of custody, auction, and storage fees accrued according to section 8.08.005.

(d) The police department shall not take custody of a motor vehicle, watercraft, or outboard motor more than thirty-one days after the notices are sent according to section 8.08.032. After the thirty-first day, the storage facility having custody of the abandoned vehicle shall dispose of the vehicle pursuant to the requirements of chapter 70, Property Code, as amended.

Sec. 8.08.036 Disposal to demolisher

The police department is authorized to apply to the state department of transportation for authority to sell, give away or dispose of any abandoned motor vehicle in its possession to a demolisher in accordance with the provisions of chapter 683, Texas Transportation Code.

Secs. 8.08.037–8.08.060 Reserved

Division 3. Junked Vehicles

Sec. 8.08.061 Junked vehicles declared public nuisance

Section 683.072, Texas Transportation Code, declares that junked vehicles that are located in any place where they are readily visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, reduce the value of private property, invite vandalism, create fire hazards, constitute an attractive nuisance creating a hazard to the health and safety of minors, and produce urban blight adverse to the maintenance and continuing development of the city, and are a public nuisance. The city council hereby adopts such findings and declarations, and declares that junked vehicles are a public nuisance.

Sec. 8.08.062 Maintaining public nuisance; penalty

It shall be unlawful for any person to maintain a public nuisance, as defined in section 8.08.061 above, within the city. Any person found guilty of maintaining a public nuisance as defined in section 8.08.061 shall be guilty of a misdemeanor and be subject to a fine in accordance with the general penalty provided in section 1.01.009 of this code for each offense and, upon the municipal court finding any person guilty of maintaining a public nuisance as defined in section 8.08.061, the court shall order removal and abatement of the nuisance.

Sec. 8.08.063 Abatement procedures

The police department or the code enforcement officer, when desiring to remove and dispose of junked vehicles from private property, public property, or public rights-of-way, shall comply with the following procedures:

(1) A written notice stating the nature of the public nuisance on private property and that it must be removed and abated within ten (10) days of the date the letter was mailed, and further stating that any request for a hearing must be made before the expiration of said ten (10) day period, shall be mailed, by certified mail with a five (5) day return receipt requested or personal delivery, to the last known registered owner of the junked vehicle, any lienholder of record and the owner or the occupant of the private premises whereupon such public nuisance exists. If the notice is returned undelivered by the United States Postal Service, official action to abate such nuisance shall be continued to a date not less than ten (10) days from the date of such return.

(2) The requirements of subsection (1) above shall also apply to the case of a public nuisance on public property and similar notice shall be sent to the owner or the occupant of the public premises and to the owner or the occupant of the premises adjacent to the public property whereupon such public nuisance exists.

(3) If sufficient information is not available to determine the registered owner of the nuisance, after reasonable effort to locate the owner, notice may be placed on the nuisance.

(4) Once a vehicle has been removed under the provisions of this section, it shall not be reconstructed or made operable.

(5) If the vehicle is not removed or otherwise brought into compliance, a public hearing will be held after the expiration of ten (10) days or more after mailing or personal deliver of notice to abate the nuisance. A hearing will be held prior to the removal of the vehicle, or part thereof, as a public nuisance, before the presiding judge or any associate judge of the municipal court for the city. At the hearing, the junked motor vehicle is presumed to be inoperable, unless demonstrated by the owner to be operable. Should the presiding judge find that such vehicle is a public nuisance as defined herein, he/she shall enter an order requiring the removal of the vehicle or part thereof from the public or private property or public right-of-way where it is situated, and such order shall include a description of the vehicle, the identification number, and the license number of the vehicle, if available. Any aggrieved city officer, owner or lienholder may appeal any such decision of the chief of police to the city council.

(6) The police department shall give notice to the state department of transportation within five (5) days after the date of the removal of a junked vehicle by the department, identifying the vehicle or part thereof.

(7) The administration of the procedures of this section shall be carried out by regularly salaried, full-time employees of the city, except that the removal of vehicles or parts thereof from property may be accomplished by any other duly authorized person, including authorized wrecker service operators acting at the direction of the city.

(8) If the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided, in addition to any other procedure authorized by this article, a complaint may also be filed in municipal court for the violation of maintaining a public nuisance; provided that such notice shall not be a requirement for any such complaint being filed in municipal court.

Sec. 8.08.064 Exceptions

The procedures set forth in these regulations shall not apply to a vehicle, or part thereof, which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; a vehicle, or any part thereof, which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or an antique and special interest vehicle stored by a collector on his property; provided that the vehicle and outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.

Sec. 8.08.065 Tarping or covering vehicle

Tarping or covering a vehicle, or any part thereof, shall not be considered as sufficient screening or concealment of a vehicle, or any part thereof, from public view. Tarping or covering a vehicle that is in violation of the junked and abandoned motor vehicle regulations is not permitted; a vehicle, or any part thereof, covered, or tarped shall not be considered as in compliance with the junked and abandoned

motor vehicle regulations.

Sec. 8.08.066 Disposal; relocation of vehicle

Junked vehicles or parts thereof may be disposed of by removal to a scrap yard, a demolisher or any to suitable site operated by a city or county for processing as scrap or salvage. Relocation of a junked vehicle, for which a notice has been issued under or the procedures provided in this article have been otherwise initiated, to another location shall have no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

CHAPTER 9

PERSONNEL

ARTICLE 9.01 GENERAL PROVISIONS

Sec. 9.01.001 Emergency actions by officers, agents, or employees of city

Every officer, agent, or employee of the city, while responding to emergency situations, is hereby authorized to act in such a reasonable and prudent manner as to most effectively deal with the emergency. This provision shall prevail over every other ordinance of the city, and to the extent to which the city has the authority to so authorize over any other law establishing a standard of care in conflict with this section. Neither the city nor the employee shall be liable for any failure to use ordinary care in such emergency.

Sec. 9.01.002 Texas Municipal Retirement System

The specific ordinances providing for participation in the Texas Municipal Retirement System, as adopted by the city, are not included in this chapter, but they are hereby specifically saved from repeal and shall be maintained on file in the office of the city secretary.

State law reference–Texas Municipal Retirement System generally, V.T.C.A., Government Code, ch. 851 et seq.

Sec. 9.01.003 Nondiscrimination policy

The city will comply with the Civil Rights Act of 1964 (P.L. 88-352) and subsequent amendments, and will not discriminate in its policies because of race, color, creed, or national origin, religion, sex, handicap or age. However, it must be recognized that in observance of certain job classifications and performance of the duties of certain positions, qualifications must be set that may limit or restrict in certain cases the field of applicants to those who qualify for that particular position. It is also recognized, by virtue of certain state laws, these restrictions be placed on positions that require certain educational and experience qualifications. It is also the policy of the city to comply with the equal employment opportunity legislation and shall be cited as an equal opportunity employer.

Sec. 9.01.004 Mileage reimbursement for representatives of city traveling in personal vehicles

The city council does hereby set the mileage reimbursement rate for the city to equal the rate established by the Internal Revenue Service for the same period of time in which the travel occurs.

ARTICLE 9.02 OFFICERS AND EMPLOYEES[32]

Division 1. Generally

[32] **State law references–**Other municipal officers in type A municipality, V.T.C.A., Local Government Code, sec. 22.071 et seq.; residency requirements for municipal employees, V.T.C.A., Local Government Code, sec. 150.021.

Sec. 9.02.001 Chain of command; appointment and removal of employees

(a) Authority.

(1) The city administrator shall be appointed by and be subordinate to the city council.

(2) The city council shall appoint a chief of police and a city secretary. These positions shall be subordinate to the city administrator. The city administrator shall not have the authority to remove the chief of police or the city secretary from office; however, the city administrator may place the chief of police or city secretary on administrative leave as a disciplinary measure or as a precautionary measure prior to recommendation of removal or removal from office by the city council as per the Texas Local Government Code.

(3) The city administrator shall have the authority to appoint/remove all other city employees unless otherwise provided by state law or city ordinance.

(4) The city administrator shall have the authority to delegate the authority to appoint/remove employees to department heads as needed. The department heads shall consist of the city secretary, chief of police, public works director/supervisor, and librarian.

(5) The city council shall appoint/remove the municipal judge. The municipal judge shall be subordinate to the city administrator with the same stipulations as the chief of police and city secretary in subsection (a)(2) of this section.

(6) The police department shall consist of a chief of police, and may have captains, lieutenants, sergeants, regular police officers, detectives and reserve police officers as needed.

(7) The city administrator shall have final authority on all financial and budgetary matters concerning all city departments.

(b) Violations. Any employee found to be in violation of this section may be terminated from employment with the city.

Sec. 9.02.002 Job descriptions

The job descriptions for the city administrator, city clerk, chief of police and other employees of the city are not included herein, but shall be maintained on file and available for public inspection in the office of the city secretary.

Sec. 9.02.003 Administrative aides

(a) Duties. Duties of a specific administrative aide shall be specified by the city council at the time of his or her appointment.

(b) Salary and benefits. Salary and any benefits of an administrative aide shall be specified by the city council at the time of his or her appointment.

(c) Employment status. An administrative aide is a regular employee of the city and is subject to the terms of its personnel policies, unless and except insofar as such policies conflict with terms of employment specifically set by the city council as outlined above.

Secs. 9.02.004–9.02.030 Reserved

Division 2. City Administrator

Sec. 9.02.031 Reserved

Secs. 9.02.037–9.02.060 Reserved

Division 3. City Secretary

Sec. 9.02.061 Position established; appointment; compensation; bond

The position of city secretary is hereby established. The city secretary shall perform the duties prescribed by V.T.C.A., Local Government Code, section 22.073, and shall perform such other duties as may be required by law, ordinance, resolution, or order of the city council. The city secretary shall be appointed by the city council for an indefinite period and shall be subject to discharge at the will of the city council. The city secretary shall receive such compensation as the city council shall fix from time to time by ordinance or resolution and shall furnish such surety bond as may be required by the city council by ordinance or resolution, the premium to be paid by the city.

ARTICLE 9.03 POLICE

Secs. 9.03.001–9.03.030 Reserved

CHAPTER 10

SUBDIVISION REGULATION

ARTICLE 10.01 GENERAL PROVISIONS

RESERVED

ARTICLE 10.02 SUBDIVISION ORDINANCE[33]

Sec. 10.02.001 Interpretation, purpose, and enforcement

(a) Interpretation. In the interpretation and application of the provisions of this article, it is the intention of the city that the principles, standards, and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions in the city and in its extraterritorial jurisdiction; and, where other ordinances of the city are more restrictive in their requirements such other ordinances shall control.

(b) Authorization. The procedure and standards for the development, layout, and design of subdivisions of land within the corporate limits and within the extraterritorial jurisdiction of the city are authorized by V.T.C.A., Local Government Code, chapter 42 and V.T.C.A., Local Government Code, chapter 212. The extraterritorial jurisdiction of the city is now one-half (1/2) mile from the corporate limits. The requirements of this article shall be extended into any and all areas of extraterritorial jurisdiction as may now or hereafter exist.

(c) Subdivision defined. The term "subdivision" shall be interpreted to mean the division of a parcel of land into two (2) or more lots or tracts for the purpose of transfer of ownership; the dedication of streets, alleys, or easements; or for use for building development. The term includes resubdivision and, when appropriate to the context, shall relate either to the process of subdividing or to the land subdivided. The terms "subdivider" and "developer" are synonymous and are used interchangeably and shall include any person, partnership, firm, association, corporation, and/or any officer, agent, employee, servant, and trustee thereof who does or participates in the doing of, any act towards the subdivision of land within the intent, scope, and purview of this article.

(d) Subdivisions to be approved by city council. All property not subdivided into lots, blocks, and streets within the city shall hereafter be laid out under the direction of the city council, and no other subdivision will be recognized by the city. Prior to the consideration of the plat by the city council, the city administrator will check the plat for compliance with these regulations and in consultation with the city engineer, make recommendations to the city council.

(e) Plat required. It shall be unlawful for any owner or agent of any owner, to lay out, subdivide, or plat any land into lots, blocks, and streets within the city which has not been laid off, subdivided, and

[33] **State law references**–Regulation of subdivision and property development, V.T.C.A., Local Government Code, ch. 212; extraterritorial jurisdiction of municipalities in counties that regulate subdivisions, V.T.C.A., Local Government Code, sec. 242.001; extension of subdivision rules to extraterritorial jurisdiction, V.T.C.A., Local Government Code, sec. 212.003; recording of plats, V.T.C.A., Property Code, sec. 12.002.

platted according to these regulations.

(f) City not to perform work unless requirements are met. No officer or employee of the city shall perform or cause to perform, any work upon any street or in any addition or subdivision of the city, unless all requirements of these regulations have been complied with by the owner of said addition or subdivision.

(g) City to withhold improvements until plat approved. The city hereby defines its policy to be that the city will withhold improvements of any nature whatsoever including water service and maintenance of streets until the final subdivision plat has been approved by the city council. No improvements shall be begun within the subdivision, nor any contracts made until this final plat approval has been given.

(h) Approval of final plat required prior to permits. No building, plumbing, or electrical permit shall be issued by the city for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein have not been complied with in full.

(i) Prior buildings and plats not affected. The provisions of this article shall not be construed to prohibit the issuance of permits for any lots upon which a residence building exists and was in existence prior to adoption of these regulations, nor to prohibit the repair, maintenance, or installation of any street or public utility services for, to, or abutting any lot, the last recorded conveyance of which prior to adoption of these regulations was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to the adoption of these regulations.

(j) Plats under review at time of adoption of this article. Plats or subdivisions which have received preliminary approval by the city council within 30-days prior to the effective date of these regulations shall be excepted from the requirements of this article; provided, that the final plat of such subdivision is approved and filed for record within one hundred eighty (180) days after the effective date of these regulations, or within one (1) year after the approval date of the preliminary plat, whichever is greater.

Sec. 10.02.002 Variances

(a) Authorized. The city council may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the city council shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings hereinbelow required, the city council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivisions, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and welfare. No variance shall be granted unless the city council finds all of the following:

(1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of his land.

(3) The granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area.

(4) The granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this article.

(b) Finding and granting. Such finding of the city council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the city council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety, and welfare may be secured, and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

Sec. 10.02.003 Preliminary conference

Prior to the filing of a preliminary plat, the subdivider shall meet with the city administrator or other official designated by the city council to familiarize himself with the city's development regulations. At the preliminary conference, the subdivider may be represented by his land planner, engineer, or surveyor.

Sec. 10.02.004 Preliminary plat

(a) Preparation of preliminary plat. The subdivider shall cause to be prepared a preliminary plat by a registered professional engineer in accordance with this section.

(b) Subdivider to file four copies of preliminary plat. The subdivider shall file four (4) copies of the preliminary plat with the city secretary at least fourteen (14) days prior to the date at which formal application for the preliminary plat approval is made to the city council. The city administrator shall provide for review of the plat by appropriate officials in accordance with procedures established by the city council.

(c) Filing and review fees. Such plat shall be accompanied by a filing fee in the amount adopted by the city council.

(d) Formal application. Formal application for preliminary plat approval shall be made by the subdivider in writing to the city council at an official meeting, not less than fourteen (14) days after filing the preliminary plat with the city secretary.

(e) Preliminary plat valid for six (6) months. Approval of the preliminary plat, if granted, shall be binding for not longer than six (6) months after the date of approval of the preliminary plat unless the final plat has been approved and recorded within the six (6) month period.

(f) Preliminary plat standards. The preliminary plat shall be drawn to a scale of one hundred feet (100') to one inch (1"), and shall show on it or on accompanying documents, the following:

(1) The proposed name of the subdivisions.

(2) North point, scale, and date.

(3) The names and addresses of the subdivider and of the subdivider's engineer.

(4) The tract designation, approximate acreage, and other description according to the real estate records of McLennan County, and designation of the proposed uses of land and proposed deed restrictions within the subdivision.

(5) The boundary line (accurate in scale) of the tract to be subdivided.

(6) Contours with intervals of five feet (5') or less, referred to sea level datum.

(7) The names of adjacent subdivisions or the names of record owners of the adjoining parcels of unsubdivided land.

(8) The location, widths, and names of all existing or platted streets or other public ways within or adjacent to the tract, existing permanent buildings, and other important features, such as section lines, political subdivisions, or corporate lines.

(9) All parcels of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision. Building setback lines shall also be shown.

(10) A topography and drainage map of plat. Also incoming drainage rational formula showing frequency, concentration time and runoff factor and quantity.

(11) The layout and widths of proposed streets, alleys, and easements, including lot and block identification and street names.

(12) The location, size, and approximate depth of all existing utilities shall be shown.

(13) The proposed plan for location and size of utility lines and fire hydrants to be constructed in the subdivision.

(14) The following certificate shall be placed on the preliminary plat:

APPROVED FOR PREPARATION OF FINAL PLAT SUBJECT TO CONDITIONS ENUMERATED IN GHOLSON CITY COUNCIL MINUTES OF THIS DATE

_____
Date

_____
Mayor

(g) Conditional approval. The conditional approval of the preliminary plat by the city council does not constitute in any manner the acceptance of the subdivision nor the improvements placed therein, but is merely an authorization to proceed with the preparation of the final plat. The action of the city council shall be noted on two (2) copies of the preliminary plat, referenced, and attached to any conditions determined. One (1) copy shall be returned to the developer and the other copy retained as a permanent record of the city.

(h) No construction work to begin prior to approval of final plat. No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat by the city council.

(i) City council to act within thirty days. Within thirty (30) days after the preliminary plat is formally filed, the city council shall conditionally approve or disapprove such plat or conditionally approve it with modifications.

Sec. 10.02.005 Final plat

(a) Final plat to be filed. Four (4) copies and one (1) reproducible copy of the final plat shall be submitted by the subdivider only after all changes and alterations shown on the preliminary plat have been made. Final plats shall be filed with the city administrator at least fourteen (14) days prior to the city council meeting at which approval is requested. The city administrator shall provide for review of the final plat by appropriate officials in accordance with procedures established by the city council.

(b) Filing fee. Such plat shall be accompanied by a filing fee in the amount adopted by the city council. No action by the city council shall be valid until the filing fee has been paid. This fee shall not be refunded should the subdivider fail to make formal application for final plat approval or should the plat be disapproved.

(c) Formal application. Formal application for final plat approval shall be made by the subdivider in writing to the city council at an official meeting, not less than fourteen (14) days after filing the final plat with the city secretary.

(d) Final plat standards. The final plat shall be drawn to a scale of one hundred feet (100') to one inch (1") and shall, in addition to all requirements for the preliminary plat, show on it or be accompanied by the following:

(1) The exact location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within the subdivision, intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, area, and central angle, degree of curvature, tangent distance, and length of all curves where appropriate.

(2) The exact location, dimensions, description and name of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements, or other rights- of-way, blocks, lots, and other sites within the subdivision with accurate dimensions, bearing or deflecting angles with radii, area, and central angles, degree of curvature, tangent distance, and length of all curves where appropriate.

(3) The accurate location, material, and approximate size of all monuments.

(4) Plans and specifications for water, sewer, paving, and drainage improvements proposed for the subdivision.

(5) All deed restrictions that are to be filed with the plat shall be shown on or filed separately with the plat.

(6) Statement that all taxes have been paid up to current date and for all previous years.

(7) Two (2) copies of final plat showing a plan and profile of proposed sanitary and storm sewers, with grades and pipe sizes indicated.

(8) Two (2) copies of final plat showing a plan of the proposed water distribution system showing pipe sizes and the location of valves and fire hydrants.

(9) Two (2) sets of plans and specifications for paving and drainage.

(10) Owner's acknowledgment of the dedication to public use of all streets, alleys, parks, and other public places shown on such final plat.

(11) A certification by the engineer, responsible for the preparation of the final plat and supporting data, attesting to its accuracy.

(12) A waiver of claim for damages against the city occasioned by the establishment of grades or the alteration of the surface of any portion of existing streets and alleys to conform to the grades established in the subdivision.

(13) The following certificate shall be placed on the final plat:

THE CITY COUNCIL OF GHOLSON, TEXAS ON _____, 20___, VOTED AFFIRMATIVELY TO ADOPT THIS PLAT AND APPROVE IT FOR FILING OF RECORD

_____
Date

_____
Mayor

(e) Approval of portion of final plat. If desired by the subdivider and approved by the city council, the final plat may constitute only that portion of the approved preliminary plat which he proposes to record and develop. However, such portion shall conform to all the requirements of this article.

(f) City council to act within thirty days. Within thirty (30) days after the final plat is formally filed, the city council shall approve or disapprove such plat. If the final plat is disapproved, the city council shall inform the subdivider in writing of the reasons such action is taken.

(g) Construction and recording of final plat. After the final plat has been finally approved and the subdivider has constructed all the required improvements and such improvements have been approved, and a maintenance bond filed as hereinafter provided, or after the plat has been finally approved and the subdivider has filed an escrow deposit sufficient to pay for the costs of all improvements as determined by the city in lieu of completing construction, the city secretary shall upon written consent of the subdivider cause the final plat to be recorded with the county clerk of McLennan County. The recordation fee shall be paid by the subdivider. The subdivider shall notify the city administrator in writing prior to commencement of construction and upon completion of construction. The subdivider shall provide inspection service through his engineer to insure that construction is being accomplished in accordance with plans and specifications approved by the city.

Sec. 10.02.006 Resubdivision

(a) Resubdivision of previously platted property. Property shall not be resubdivided which has been previously platted by a common dedication except with the consent of all directly affected property owners.

(b) Replat to meet requirements. The replat of the subdivision shall meet all the requirements for a new subdivision that may be pertinent, as provided herein. It shall show the existing property being resubdivided. No preliminary plat will be required on replats.

(c) Consent of utility companies. The consent of all utility companies that provide service to the area being resubdivided must be obtained.

(d) Notification requirement for certain replats.

(1) A replat without vacation of the preceding plat must conform to the requirements of this section if:

(A) 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

(B) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

(2) Notice of the hearing required under section 212.014 of the Local Government Code shall be given before the 15th day before the date of the hearing by:

(A) Publication in an official newspaper or a newspaper of general circulation in the county in which the city is located; and

(B) By written notice, with a copy of subsection (3) attached, forwarded by the municipal authority responsible for approving plats 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 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 boundaries of the city.

(3) 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 municipal planning commission or governing body, or both. 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 city planning commission or governing body, or both, prior to the close of the public hearing.

(4) In computing the percentage of land area under subsection (3), the area of streets and alleys shall be included.

(5) Compliance with subsections (3) and (4) is not required for approval of a replat of part of a preceding 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 in the legally recorded restrictions applicable to the plat.

State law references–Replatting without vacating preceding plat, V.T.C.A., Local Government Code, sec. 212.014; additional requirements for certain replats, V.T.C.A., Local Government Code, sec. 212.015.

Sec. 10.02.007 Maintenance bond

Upon completion of all improvements in accordance with city specifications and standards, and their acceptance by the city, the developer or his contractor shall furnish the city with a maintenance bond executed by a corporate surety holding a permit from the State of Texas to act as surety or other surety acceptable to the city. The amount shall equal ten percent (10%) of the contract cost of all improvements and shall be in effect one (1) year from date of completion and acceptance by the city.

Sec. 10.02.008 Unavailability of public water and/or sewage utilities

If a proposed subdivision is located beyond the drainage area of an approved sewage collection system or beyond the service area of an approved water distribution system the subdivider shall be required to furnish, with his preliminary plat, satisfactory evidence, including (but without limitation) the results of soil tests and borings, and statements from local and state health authorities, water engineers, and other proper officials, that water satisfactory for human consumption may be obtained from surface or subsurface water sources on the land and that soil conditions are such that satisfactory sewage disposal can be provided by the use of approved septic tanks or developer installed sewage treatment systems. Construction of private utilities shall be in accordance with Texas Commission on Environmental Quality standards.

Sec. 10.02.009 Standards and specifications

(a) General standards.

(1) Each lot shall front upon a public street and provide for a minimum lot size of two hundred and seventeen thousand eight hundred (217,800) square feet. If (a) heirs or beneficiaries jointly owning a piece of land or (b) relatives by affinity or the first degree of consanguinity desire to subdivide a lot into individual lots between themselves, then the lots may have a minimum lot size of one hundred and eight thousand nine hundred (108,900) square feet. The terms “consanguinity” and “affinity” have the meaning, determination, and computation, found in Texas Government Code, Chapter 573, Subchapter B.

(2) The lot width of the area affronting a public street shall not be less than two hundred (200) feet. The term “Lot Width” means the mean horizontal distance between side lot lines, as measured in a straight line perpendicular to a line parallel to the street line.

(3) Survey monuments shall be placed at all corners of boundary lines of a subdivision.

(4) The city shall specify any areas required for the allocation of parks and other public spaces that are essential to the proper development of the area.

(5) All services for utilities shall be made available for each lot in such a manner that it will not be necessary to disturb any curb, gutter, street pavement, or drainage structures when connections are made.

(6) The developer shall furnish the city with one (1) set of “as built” plans for all paving, drainage structures, water mains, and sewer mains within sixty (60) days after completion of construction.

(7) Block lengths and widths shall be provided at such intervals as to best serve traffic

adequately and to meet existing streets, or to comply with customary subdivision practices.

(8) All utility lines that pass under a street or alley shall be installed before the street or alley is paved.

(b) Streets.

(1) All streets shall have a minimum right-of-way width of fifty (50) feet.

(2) Existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.

(3) Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provisions for the proper projection of streets into such unsubdivided areas.

(4) Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

(5) Half streets shall be prohibited.

(6) Street intersections shall be as nearly at right angles as practicable.

(7) Dead-end streets shall be prohibited except as short stubs to permit future expansion.

(8) Cul-de-sacs shall not exceed four hundred (400) feet in length, and shall have a minimum of right-of-way radius of fifty (50) feet.

(9) Curbs shall be installed by the subdivider on both sides of all interior streets and on the subdivision side of all streets forming part of the boundary of the subdivision.

(10) Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.

(11) Streetlights shall be installed by the subdivider at all street intersections and at all adjacent intersections.

(12) Street name signs shall be installed by the city at the developer's expense at all intersections within or abutting the subdivision.

(13) All street improvements shall be in accordance with the standard specifications and construction details of the city.

(14) All street improvements will be accomplished at the expense of and by the developer.

(c) Alleys. Alleys shall have a minimum width of fifteen (15) feet. Dead-end alleys shall be avoided. Alleys shall be constructed in accordance with standard specifications and construction details of the city.

(d) Utility easements. Easements at least fifteen (15) feet in width shall be provided wherever necessary for utilities.

(e) Sidewalks. Sidewalks, when required, shall be concrete and have a width of not less than four (4) feet and thickness of not less than four (4) inches. Sidewalks shall be constructed one (1) foot from the property line within the street right-of-way.

(f) Parking area. Adequate off-street paved parking areas shall be provided for lots set aside or planned for business uses.

(g) Lot markers. Lot markers shall be one-half (1/2) inch reinforcing bar, eighteen (18) inches long, or approved equal, and shall be placed at all lot corners flush with the ground, or countersunk if necessary, in order to avoid being disturbed.

(h) Drainage installations.

(1) An adequate storm sewer system consisting of inlets, pipes, and other underground and above-ground drainage structures with approved outlets shall be constructed where the runoff of stormwater and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. The subdivider shall submit data and plans for drainage facilities as directed by the city and under policies for storm drainage installation for the city.

(2) Underground storm drains shall be designed to accommodate a five-year frequency storm with adequate overload relief for a twenty-five (25) year storm. Design of all bridges, culverts, and open channels are to be based on a twenty-five (25) year frequency.

(3) All drainage improvements shall be constructed at developer's expense.

(i) Public water system.

(1) Water system extensions shall be designed to provide for a domestic supply of at least two hundred fifty (250) gallons per capita per day, delivered at a minimum pressure of forty-two (42) pounds per square inch.

(2) All mains installed within a subdivision must be as large as those to which connected and must extend to the borders of the subdivision, as required for future extensions of the system, regardless of whether or not such extensions are required for service within the subdivisions.

(3) Fire hydrants shall be provided at locations such that all areas of development are located within a five hundred (500) foot radius from a fire hydrant and served by a six (6) inch or larger main.

(4) No more than thirty (30) three-fourths (3/4) inch service connections shall be served from any four (4) inch main.

(5) Two (2) inch mains shall only be permitted in dead-end locations not subject to future extensions and shall serve no more than six (6) three-fourths (3/4) inch service connections.

(6) All water system extensions shall be constructed in accordance with the standard specifications and construction details of the city.

(7) All water system installations shall be constructed at developer's expense unless oversizing of mains is required by the city and the city agrees to participate in the cost of oversizing. The developer shall be responsible for making any arrangements with contiguous property

owners for pro rata share in the cost by the developer.

(j) Public sewer system.

(1) No sewer lateral shall be smaller than six (6) inches in diameter and must be as large as that to which connected. All sewers shall be designed with hydraulic slopes sufficient to give mean velocities when flowing full or half full of not less than two
(2) feet per second, nor more than five (5) feet per second. Manholes shall be constructed at all changes in grade, alignment, or size of sewer, and at all intersections of other sewers, except service sewers.

(2) All sewer mains installed within a subdivision must extend to the borders of the subdivision, as required for future extensions of the collection system, regardless of whether or not such extensions are required for service within the subdivision.

(3) All sewer system installations shall be constructed according to city design standards.

(4) All sewer system installations shall be constructed at developer's expense.

Sec. 10.02.010 Liability of city under article

Neither the city nor any authorized agent acting under the terms of this article shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this article.

Sec. 10.02.011 Conflicting ordinances

Whenever the standards and specifications in this article conflict with those contained in another ordinance, the most stringent or restrictive provision shall govern.

CHAPTER 11

TAXATION

ARTICLE 11.01 GENERAL PROVISIONS

RESERVED

ARTICLE 11.02 PROPERTY TAX[34]

Sec. 11.02.001 Participation in appraisal district; property tax administration

The city hereby provides for participation in the McLennan County Appraisal District. The appraisal district shall be authorized to perform all appraisal and assessment functions required under the state Property Tax Code. The city shall retain collection functions. Property tax administration shall be in accordance with the state Property Tax Code subject to the local options permitted under said code as provided for herein.

State law reference–Appraisal districts, V.T.C.A., Tax Code, sec. 6.01 et seq.

Sec. 11.02.002 Due date; penalties and interest on delinquent taxes

The property taxes levied by the city council each year shall become due on the first (1st) day of October of each year for which the levy is made and shall become delinquent on the following first day of February. Penalties and interest for delinquent taxes shall incur in accordance with section 33.01 of the state Property Tax Code.

State law reference–Delinquency date for payment of taxes, V.T.C.A., Tax Code, sec. 31.02.

Sec. 11.02.003 Collection of delinquent taxes

(a) Whenever any accounts for delinquent taxes owed the city are given to its tax attorney for collection on or after July 1 of the year they become delinquent, the city shall be entitled to, and shall collect, an additional penalty of fifteen percent (15%) of the delinquent taxes and penalty (including any interest owed) due on each delinquent property at the time of collection, either before or after suit and/or foreclosure sale, as provided by section 33.07 of the state Property Tax Code.

(b) In addition to the collection expenses provided for in subsection (a) of this section, whenever a delinquent tax suit is filed, the city shall be entitled to recover reasonable expenses, subject to the approval of the court, that are incurred by the city in determining the name, identity, and location of necessary parties and in procuring necessary legal descriptions of the property on which a delinquent tax is due, as provided by section 33.48(a)(3) of the state Property Tax Code.

State law references–Contract with attorney for collection of taxes, V.T.C.A., Tax Code, sec. 6.30; imposition of

[34] **State law references–**Property Tax Code, V.T.C.A., Tax Code, ch. 1 et seq.; authority of municipality to impose property taxes, V.T.C.A., Tax Code, sec. 302.001.

penalty for collection of delinquent taxes, V.T.C.A., Tax Code, secs. 33.01, 33.07, 33.08.

Sec. 11.02.004 Residence homestead exemption for elderly persons

In addition to other exemptions provided for in the state Property Tax Code, the city hereby exempts five thousand dollars ($5,000.00) of the appraised value of the residence homestead of any individual who is sixty-five (65) years of age or older as provided for in section 11.13 of the state Property Tax Code. Applications for exemption shall be filed in accordance with sections
11.43 and 11.431 of the state Property Tax Code.

State law reference–Residence homestead tax exemptions, V.T.C.A., Tax Code, sec. 11.13.

ARTICLE 11.03 SALES AND USE TAX[35]

Sec. 11.03.001 Sales tax elections

Ordinances calling elections as well as those certifying election results for the imposition of sales and use taxes are on file in the office of the city secretary. (Ordinance adopting 2018 Code)

Sec. 11.03.002 Tax on sale of gas and electricity for residential use

The city, by majority vote of the city council, hereby votes to retain the taxes authorized by the Local Sales and Use Tax Act (V.T.C.A., Tax Code, chapter 321) on the receipts from the sale, production, distribution, lease, or rental of, and the use, storage or other consumption of, gas and electricity for residential use, as authorized by section 6 of House Bill No. 1, Acts 1978, 65th Legislature, Second Called Session.

State law reference–Authority of municipality to impose tax on sales of gas and electricity, V.T.C.A., Tax Code, sec. 321.105.

[35] **State law reference–**Authority of municipality to impose local sales and use tax, V.T.C.A., Tax Code, ch. 321.

CHAPTER 12

TRAFFIC AND VEHICLES

ARTICLE 12.01 GENERAL PROVISIONS[36]

Sec. 12.01.001 Uniform act and state motor vehicle laws adopted

For the purpose of regulating traffic on the streets, alleys, and thoroughfares of the city, there is hereby adopted the state Uniform Act Regulating Traffic on Highways, codified as article 6701d, Vernon's Annotated Civil Statutes, and all other state motor vehicle laws, which act and laws, together with the provisions contained in this chapter, shall be controlling in the regulation of traffic in the city. A violation of said act or any state motor vehicle law for which the municipal court has jurisdiction shall constitute and be punishable as a violation of this Code of Ordinances.

Editor's note–Since adoption of this provision, the regulations contained in the Uniform Act Regulating Traffic on Highways (V.T.C.S., article 6701d) have been recodified and are now located in V.T.C.A., Transportation Code.

Sec. 12.01.002 Riding bicycles, skateboards, etc., on sidewalks in downtown area

(a) Prohibition. Riding of bicycles, skateboards, scooters, or other wheeled recreational devices on sidewalks in the downtown area is hereby prohibited.

(1) Wheeled recreational devices shall refer to all devices propelled by the device itself or by a person riding the device, and include but are not limited to bicycles, skateboards, and scooters. This definition excludes strollers, wagons, and other devices pushed by a walking person. Wheeled recreational devices, when pushed by a walking person, are not prohibited by this section.

(2) Sidewalks in the downtown area shall refer to all sidewalks, steps, and ramps located on Main Street, between Sixth Street and First Street.

(b) Penalty. Persons found violating this section shall be guilty of a misdemeanor and may be fined, at the officer's discretion, in an amount in accordance with the general penalty provided in section 1.01.009 of this code.

Sec. 12.01.003 Use of engine brakes prohibited

(a) Prohibition. Vehicles may not employ the use of engine brakes within the corporate limits of the city.

(b) Penalty. Any person found guilty of using engine brakes within the corporate limits of the city by the city municipal court may be liable for a fine of not less than $50.00 (fifty dollars) and not more than $500.00 (five hundred dollars) per violation.

[36] **State law references–**Rules of the road, V.T.C.A., Transportation Code, title 7, subtitle C, ch. 541 et seq.; powers of local authorities regarding traffic and vehicles, V.T.C.A., Transportation Code, sec. 542.202; limitation on local authorities regarding traffic and vehicles, V.T.C.A., Transportation Code, sec. 542.203.

ARTICLE 12.02 TRAFFIC-CONTROL DEVICES[37]

Sec. 12.02.001 Conformance with manual

All traffic-control devices including signs, signals, and markings (pavement and/or curb) installed or used for the purpose of directing and controlling traffic within the city shall conform with the manual and specifications adopted by the state transportation commission as provided in V.T.C.A., Transportation Code, section 544.001. All signs, signals and markings erected or used by the city must conform to the manual and specifications adopted under V.T.C.A., Transportation Code, section 544.001. All existing traffic-control devices and those erected in the future by the city being consistent with the manual and specifications, state law and this section shall be official traffic-control devices.

State law reference–Adoption of sign manual and specifications, V.T.C.A., Transportation Code, sec. 544.001.

Sec. 12.02.002 Unauthorized devices

(a) No person shall place, maintain, or display upon or in view of any highway, street, or alley any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(b) No person shall place or maintain, nor shall any public authority permit upon any highway, street, or alley any traffic sign or signal bearing thereon any commercial [advertising].

(c) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance, and the city administrator is hereby empowered to remove the same or cause it to be moved without notice.

(d) This section shall not be deemed to prohibit the erection upon private property adjacent to highways, streets, or alleys of signs giving useful directional information and of a type that cannot be mistaken for official signs, when erected in accordance with city sign regulations.

State law reference–Display of unauthorized signs, signals, or markings, V.T.C.A., Transportation Code, sec. 544.006.

Sec. 12.02.003 Tampering

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device, sign, or signal or any railroad sign or signal or any inscription, shield, or insignia thereof, or any street name sign or any part thereof.

State law reference–Interference with traffic-control devices or railroad signs or signals, V.T.C.A., Transportation Code, sec. 544.005.

Sec. 12.02.004 Installation

[37] **State law references–**Authority to place and maintain traffic-control devices, V.T.C.A., Transportation Code, sec. 542.202(1); traffic signs, signals, and markings, V.T.C.A., Transportation Code, ch. 544.

(a) After the adoption of this Code of Ordinances, the city council shall, by ordinance, direct the location of all future traffic-control signs, signals, and markings. The city administrator shall have the duty of erecting or installing upon, over, along, or beside any highway, street, or alley, signs, signals, and markings, as are necessary to enforce such ordinances, or causing the same to be erected, installed, or placed, in accordance with this chapter and consistent with the Manual on Uniform Traffic Control Devices. Said traffic-control devices shall be installed immediately upon authorization by the city council, or as soon as such specific device, sign, or signal can be procured.

(b) Whenever the city administrator has erected and installed any official traffic-control device, sign, or signal at any location in the city, or has caused the same to be done under his direction, in obedience to this chapter and the Manual on Uniform Traffic Control Devices, the city administrator shall thereafter file a report with the city secretary, in writing, stating the type of traffic-control device, sign, or signal, and when and where the same was erected and installed. The city secretary shall file and maintain such report of the city administrator among the official papers of the city.

Sec. 12.02.005 Prima facie evidence of authorized installation

It being unlawful for any person other than the city administrator, acting pursuant to an ordinance of the city, to install or cause to be installed any signal, sign, or device purporting to direct the use of the streets or the activities on those streets of pedestrians, vehicles, motor vehicles, or animals, proof, in any prosecution for a violation of this chapter or any traffic ordinance of the city, that any traffic-control device, sign, signal, or marking was actually in place on any street shall constitute prima facie evidence that the same was installed by the city administrator pursuant to the authority of this chapter and of the ordinance directing the installation of such device, signal, or marking.

Sec. 12.02.006 Obedience

The driver of any vehicle, motor vehicle, or animal shall obey the instructions of any official traffic-control device, sign, signal, or marking applicable thereto placed in accordance with this chapter, unless otherwise directed by a law enforcement officer, subject to the exceptions granted the driver of an authorized emergency vehicle as provided for in the state motor vehicle laws.

State law reference–Compliance with traffic-control device, V.T.C.A., Transportation Code, sec. 544.004.

Sec. 12.02.007 Emergency installation

The city administrator or his designee is hereby empowered to install or erect temporary barricades and traffic-control devices to protect the public in case of emergencies and special situations. It shall be unlawful for unauthorized vehicles to pass through a barricaded work area or to fail to comply with temporary traffic-control devices.

Sec. 12.02.008 Ratification of existing devices

All traffic-control signs, signals, devices, and markings placed or erected prior to the adoption of this Code of Ordinances and in use for the purpose of regulating, warning, or guiding vehicles or pedestrian traffic are hereby affirmed, ratified, and declared to be official traffic-control devices, provided such traffic-control devices are not inconsistent with the provisions of this chapter or state law.

ARTICLE 12.03 OPERATION OF VEHICLES[38]

Sec. 12.03.001 Exhibitions of acceleration

(a) Prohibition.

(1) It shall be unlawful for the operator of any motor vehicle to engage in an exhibition of acceleration.

(2) As used herein, the term "exhibition of acceleration" includes either:

(A) Proceeding from a stopped position at a rate of acceleration that constitutes an unreasonable risk that the operator could lose control of the vehicle;

(B) While a motor vehicle is in motion, suddenly accelerating at a rate that could cause the operator to lose control of the vehicle; or

(C) While the motor vehicle is not in motion and the operator causes any or all of the wheels to rotate in a manner that would cause the tires to spin that could cause the operator to lose control of the vehicle.

(b) Exceptions. If the operator is participating in a drag race or a contest of speed or acceleration to compete with time or another vehicle, it will be included under section 545.420 of the Transportation Code and not included in this section.

(c) Penalty. Any person found in violation of any provision of this section shall, upon conviction, be fined in the amount in accordance with the general penalty provided in section 1.01.009 of this code plus court costs for each event.

Sec. 12.03.002 Reserved.

ARTICLE 12.04 SPEED LIMITS[39]

Sec. 12.04.001 Generally

(a) No person shall drive a motor vehicle on any street, alley, or highway in the city limits at a speed greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering a highway or street in compliance with legal requirements, and it shall be the duty of all persons to use due care.

(b) If any person shall operate or drive any motor vehicle or other vehicle within the corporate limits of the city on any street or highway at a greater speed than thirty (30) miles per hour, or in an alley at a greater speed than fifteen (15) miles per hour, it shall be prima facie evidence of violation of this section, unless a special speed limit has been established and signs are erected designating another speed limit.

[38] **State law reference**–Operation and movement of vehicles, V.T.C.A., Transportation Code, ch. 546.

[39] **State law references**–Authority to establish or alter prima facie speed limits, V.T.C.A., Transportation Code, sec. 542.202(12); speed restrictions, V.T.C.A., Transportation Code, sec. 545.351 et seq.; authority of municipality to alter speed limits, V.T.C.A., Transportation Code, sec. 545.356.

State law references–Maximum speed requirement, V.T.C.A., Transportation Code, sec. 545.351; prima facie speed limits, V.T.C.A., Transportation Code, sec. 545.352.

Sec. 12.04.002 Procedure for establishing special speed limit

Whenever the city shall determine upon the basis of an engineering and/or traffic investigation that the thirty (30) miles per hour speed limit on streets and highways hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place, or upon any part of any street or highway, the mayor shall, upon authorization by the city council by appropriate ordinance, establish such special speed limit as shall be effective at all times when appropriate signs giving notice thereof are erected at such intersection or other place or part of said highway or street.

Sec. 12.04.004 Park and playground zones

It shall be unlawful for any person driving or in control of a motor or other vehicle to drive same at a greater rate of speed than fifteen (15) miles per hour in any street of the city which at the time of such act shall be within an area designated as a park and playground zone and within the portion of such street between the signs marking same as a park and playground zone.

Sec. 12.04.005 Hospital zones

It shall be unlawful for any person driving or in control of a motor or other vehicle to drive same at a greater rate of speed than twenty (20) miles per hour in any street of the city which at the time of such act shall be within an area designated as a hospital zone and within the portion of such street between the signs marking same as a hospital zone.

Sec. 12.04.006 School zones

It shall be unlawful for any person driving or in control of a motor or other vehicle to drive same at a greater rate of speed than twenty-five (25) miles per hour in any street of the city which at the time of such act shall be within an area designated as a school zone and within the portion of such street between the signs marking same as a school zone.

Sec. 12.04.007 Driving at slow speed

No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law, or at the direction of a law enforcement officer.

State law reference–Minimum speed regulations, V.T.C.A., Transportation Code, sec. 545.363.

ARTICLE 12.05 PARKING[40]

Sec. 12.05.001 Definitions

[40] **State law references–**Authority to regulate parking, V.T.C.A., Transportation Code, sec. 542.202(2); stopping, standing, and parking, V.T.C.A., Transportation Code, sec. 545.301 et seq.

The term "motor and other vehicles" as used in this article shall be held to include automobiles, trucks, vans, tractors, buses, trailers, and wagons. By the terms "park" and "parking" as used in this article is meant the stopping and remaining stationary of any motor or other vehicle within the classes above referred to for longer than two minutes at a time, whether occupied or unoccupied by the driver, owner, or some other occupant.

Sec. 12.05.002 Blocking alley

It shall be unlawful for the driver or person or persons in control of any motor or other vehicle to park such motor or other vehicle in such position as to block any alley within the city, except where such parking is necessary for loading or unloading such vehicle.

Sec. 12.05.003 Parking where prohibited by signs

It shall be unlawful for any person or persons driving or in control of any motor or other vehicle to stop or park same at any point where such parking is prohibited by signs erected for such purpose, at points designated as loading zones except for the purpose of loading or unloading, or at points where signs restrict parking to certain hours except within the hours designated.

Sec. 12.05.004 Designation of parking spaces for disabled persons

Any downtown merchant in the city may establish, in accordance with V.T.C.A., Transportation Code, chapter 681, up to two (2) suitable parking spaces directly in front of said merchant's store front for the exclusive use of motor vehicles transporting persons who are disabled as defined in such statute. Unauthorized use of such designated parking spaces or areas shall be penalized as provided by the aforesaid V.T.C.A., Transportation Code, chapter 681.

State law reference–Privileged parking for persons with disabilities, V.T.C.A., Transportation Code, ch. 681.

ARTICLE 12.06 REMOVAL OF VEHICLES[41]

Sec. 12.06.001 Authorized

A police officer is authorized to remove, or cause to be removed, a vehicle or other property of any description from a street or public property to a place designated by the city council when:

(1) The vehicle or property is left unattended upon a bridge or viaduct or in a tunnel or underpass;

(2) The vehicle is illegally parked so as to block the entrance to any private driveway;

(3) The vehicle is found upon a street, and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant issued charging that the vehicle has been unlawfully taken from the owner;

(4) The officer has reasonable grounds to believe that the vehicle has been abandoned as defined by state law;

[41] **State law reference–**Removal of unlawfully stopped vehicle, V.T.C.A., Transportation Code, sec. 545.305.

(5) A vehicle upon a street is so disabled that its normal operation is impossible or impractical and the person or persons in charge of the vehicle are incapacitated by reason of physical injury or other reason to such an extent as to be unable to provide for its removal or custody, or are not in the immediate vicinity of the disabled vehicle;

(6) An officer arrests any person driving or in control of a vehicle for an alleged offense;

(7) The vehicle is standing, parked, or stopped in any portion of a street and the officer has reason to believe that the vehicle constitutes a hazard or interferes with the normal function of a governmental agency, or the safety of the vehicle is imperiled.

Sec. 12.06.002 Redemption of vehicle by owner

A vehicle removed and towed pursuant to the provisions of this article shall be kept at the place designated by the city council until application for redemption is made [by the owner] or his authorized agent, who will be entitled to possession of the vehicle upon payment of costs of towing and storage.

Sec. 12.06.003 Abandoned vehicles

The chief of police, or his designee, shall follow the procedures contained in the state Abandoned Motor Vehicle Act in:

(1) Notifying the registered owner of the motor vehicle and all lienholders.

(2) Selling or disposing of the motor vehicle.

State law reference–Regulation of abandoned and junked motor vehicles, V.T.C.A., Transportation Code, sec. 683.001 et seq.

ARTICLE 12.07 PARADES AND DEMONSTRATIONS

Division 1. Generally

Secs. 12.07.001–12.07.030 Reserved

Division 2. Permit

Sec. 12.07.031 Required

A person or organization promoting or sponsoring a parade or demonstration involving the proposed use of a street, sidewalk, city park or other place held by the city for public use shall apply for and obtain a permit for such use from the city council.

Sec. 12.07.032 Application

The application must be on a form provided by the city and must be filed with the city secretary not less than ten (10) nor more than sixty (60) days before the proposed date of the parade or demonstration, and must:

(1) Contain the name and address and telephone number of the applicant;

(2) If the applicant is an organization, contain the name, address and telephone number of a person acting for the organization and responsible for the parade or demonstration;

(3) Indicate the proposed date of the parade or demonstration and the hour at which it will begin and approximate hour at which it will end;

(4) If for a parade, indicate the proposed starting point, route, and termination point;

(5) If for a demonstration, indicate the place of the demonstration and the area to which it will be confined;

(6) Indicate the approximate number of persons and the kinds and [number of] vehicles expected to participate;

(7) Provide any additional information requested by the city council reasonably necessary for a fair determination as to whether a permit should be issued; and

(8) Be signed by the applicant or by the person named as acting for an applicant which is an organization.

Sec. 12.07.033 Issuance

The city council shall consider each application, giving the applicant an opportunity to be heard, and shall issue a permit to an applicant whose application complies with this article.

Sec. 12.07.034 Waiver of filing deadline

In an emergency and for good cause stated in the application, a person or organization may file an application less than ten (10) days before the proposed date of the parade or demonstration. Except for the time of filing, the application must comply with section 12.07.032 of this article. The city council shall consider the application at its next regular or a specially called meeting after the application is filed, giving the applicant an opportunity to be heard, and shall issue a permit based on the standards set out in this article if:

(1) The late filing was not due to a lack of diligence on the part of the applicant; and

(2) The short notice does not unreasonably prejudice the city in preparing for the parade or demonstration.

Sec. 12.07.035 Sponsoring parade or demonstration without permit

A person who promotes or sponsors a parade or demonstration that involves use of a street, sidewalk, city park or other place held by the city for public use, which parade or demonstration occurs without a permit having been issued, is guilty of a misdemeanor.

Sec. 12.07.036 Participating in parade for which no permit issued

A person who participates in a parade or demonstration on a street, sidewalk, city park or other place held by the city for public use for which no permit has been issued is guilty of a misdemeanor.